



LaGrange Fire District Board Oversight

Report of Examination

Period Covered:

January 1, 2012 — December 13, 2013

2014M-127



Thomas P. DiNapoli

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State of New York Office of the State Comptroller

Division of Local Government and School Accountability

August 2014

Dear Fire District Officials:

A top priority of the Office of the State Comptroller is to help local government officials manage government resources efficiently and effectively and, by so doing, provide accountability for tax dollars spent to support government operations. The Comptroller oversees the fiscal affairs of local governments statewide, as well as compliance with relevant statutes and observance of good business practices. This fiscal oversight is accomplished, in part, through our audits, which identify opportunities for improving operations and Board of Commissioners governance. Audits also can identify strategies to reduce costs and to strengthen controls intended to safeguard local government assets.

Following is a report of our audit of the LaGrange Fire District, entitled Board Oversight. This audit was conducted pursuant to Article V, Section 1 of the State Constitution and the State Comptroller's authority as set forth in Article 3 of the General Municipal Law.

This audit's results and recommendations are resources for local government officials to use in effectively managing operations and in meeting the expectations of their constituents. If you have questions about this report, please feel free to contact the local regional office for your county, as listed at the end of this report.

Respectfully submitted,

*Office of the State Comptroller
Division of Local Government
and School Accountability*

Introduction

Background

The LaGrange Fire District (District) is located in the Town of LaGrange, Dutchess County. The District is a district corporation of the State, distinct and separate from the Town, and is governed by an elected five-member Board of Fire Commissioners (Board). The District covers 40 square miles and serves about 15,730 residents. The District's fire department has 30 paid (career) staff and 59 volunteer members. The District provides services for fire suppression, motor vehicle accidents, specialty rescue, emergency medical services (EMS), public safety education and services by mutual agreement with surrounding municipalities. The Board is responsible for the overall financial management of the District, including establishing appropriate internal controls to ensure that assets are properly safeguarded and that financial transactions are executed in accordance with statutory and managerial authorization. The Board also has the power to levy taxes on real property in the District.

The District Treasurer (Treasurer) is responsible for the receipt, custody, disbursement and accounting of District funds and for preparing monthly and annual financial reports, including the annual report to the Office of State Comptroller (OSC). The Board appoints the Treasurer annually. The District's budget was \$5,495,522 for 2012 and \$5,283,539 for 2013, funded primarily with real property taxes.

Objective

The objective of our audit was to examine internal controls over the District's operations. Our audit addressed the following related question:

- Did the Board establish oversight of the District's financial activities to properly account for and safeguard District assets?

Scope and Methodology

We examined the Board's oversight for the period January 1, 2012 through December 13, 2013.

We conducted our audit in accordance with generally accepted government auditing standards (GAGAS). More information on such standards and the methodology used in performing this audit is included in Appendix C of this report.

Comments of District Officials and Corrective Action

The results of our audit and recommendations have been discussed with District officials and their comments, which appear in Appendix A, have been considered in preparing this report. District officials disagreed with various findings, but indicated they have taken some

corrective action and will prepare a corrective action plan. Appendix B contains our comments on issues raised in the District's response.

The Board has the responsibility to initiate corrective action. A written corrective action plan (CAP) that addresses the findings and recommendations in this report should be prepared and forwarded to our office within 90 days, pursuant to Section 35 of the General Municipal Law. For more information on preparing and filing your CAP, please refer to our brochure, *Responding to an OSC Audit Report*, which you received with the draft audit report. We encourage the Board to make this plan available for public review in the Secretary's office.

Board Oversight

The Board is responsible for managing and overseeing the District's fiscal affairs and safeguarding its resources. These responsibilities include establishing a system of internal controls, including policies and procedures to provide reasonable assurance that cash and other resources are safeguarded, that Commissioners complete required training and that the office of Treasurer is properly established. The Board should also ensure that benefits provided to District members are properly monitored.

The Board needs to improve its oversight, including establishing appropriate internal controls over District activities. The Board inappropriately paid \$990 to the Board Chair for service rendered, did not adopt written policies and procedures for cash receipts and disbursements and did not adopt a travel policy. The Board also did not properly monitor the life insurance benefits provided to members, resulting in the improper coverage of paid firefighters under the volunteer firefighters' policy, did not have District financial records audited for 2011 and 2012 as required by law and improperly retained an independent contractor to perform the duties of the Treasurer, without a surety bond or written contract.

Conflict of Interest

General Municipal Law (GML) limits the ability of municipal officers and employees to enter into contracts in which both their personal financial interests and their public powers and duties conflict. Unless a statutory exception applies, GML prohibits municipal officers and employees from having an interest in a contract with the municipality for which they serve when they also have the power or duty – either individually or as a board member – to negotiate, prepare, authorize or approve the contract; to authorize or approve payment under the contract; to audit bills or claims under the contract; or to appoint an officer or employee with any of those powers or duties.

We examined payments made to the District's Commissioners and found that the Board Chair (Chair) billed the District for service performed on a District vehicle. Although the District has a paid mechanic, the Chair billed the District for 11 hours at \$90 per hour to perform diagnostics on the vehicle. The Chair told us that the District's mechanic and a neighboring district's mechanic were unable to repair the vehicle; therefore, the Chair decided to take the vehicle to his own repair shop and submitted the voucher for payment. Given his position, the Chair has a prohibited interest in this transaction.

The invoice was initially submitted on December 20, 2012 under the Chair's business but the Board did not approve it for payment. The Chair then submitted it again for payment at two subsequent meetings, and the request was disapproved each time. On April 23, 2013, the Chair submitted the invoices once again, under his own name instead of the business name, and again the Board denied payment. Finally, on August 13, 2013, the Chair resubmitted the bill under his name with a written statement and the invoices. The Board held an open discussion of this reimbursement request, which was documented in the minutes. The payment was approved and was paid on August 15, 2013.

The District's payment to the Board Chair for these services raises questions as to the propriety of the transaction.

Policies and Procedures

GML requires that the Board adopt written policies and procedures for monitoring, controlling, depositing and retaining investments and for procurement. These policies and procedures should establish basic operating procedures tailored to the District's cash management objectives and address all aspects of financial reporting and recordkeeping, including the availability of accurate information on a timely basis.

The Board has not adopted policies and written procedures for cash receipts and disbursements or for travel, nor has it established standards or guidance for managing District finances and maintaining financial records.

Our review of the District's financial records found that a Commissioner was given a \$1,000 cash advance to attend a Fire Apparatus Expo held in Harrisburg, Pennsylvania in May 2010 and to purchase equipment. The voucher stated that receipts would be submitted upon return. However, the Commissioner did not submit a receipt to show how he spent the \$1,000, nor could he provide a list of equipment that was purchased. According to District officials, on advice of the District's attorney, the Commissioner was supposed to provide a sworn statement about the use of the \$1,000 to the Board, and the Board would drop all attempts to collect the money. The Treasurer told us that the Commissioner provided the written statement but could not locate the statement, and the Commissioner said he submitted a statement but never retained a copy. As of January 2014, the \$1,000 receivable was no longer on the District's books.

Without policies and procedures that are properly enforced, there is no assurance that the Board is approving and paying for legitimate claims.

Life Insurance – A fire district has legal authority to provide active volunteer firefighters with group life insurance. The District offers two different life insurance policies: one for volunteer firefighters and one for career firefighters. The career firefighters’ life insurance is provided in accordance with their bargaining unit contract. However, the Board has not established a formal policy for volunteers which describes the coverage and the eligibility requirement and no procedure for adding or removing volunteers from the insurance policy when they become inactive.

We reviewed the District’s monthly insurance bills paid during the audit period and found that, during 2012, 10 career firefighters were covered under both insurance policies. Therefore, the District paid an additional \$627 that was unnecessary. Board members said that the former secretary added the paid members to the volunteers’ policy, but they did not know why.

We also found that 12 inactive volunteers included on the January insurance policy were not eligible for coverage, resulting in an additional unnecessary cost of \$130 per volunteer for that month. Although these members were inactive, the secretary did not have any policy guidance for prohibiting their enrollment or for removing them from the policy.

The lack of written policies and procedures resulted in the District incurring an additional \$2,187 a year in unnecessary costs.

Annual Independent Audit

Fire districts with annual revenues of \$300,000 or more are required by law to obtain an annual independent audit of their records. In addition, GML requires a district’s Length of Service Award Program (LOSAP)¹ sponsor – in this case, the District – to obtain an annual independent audit. A copy of the audit must be provided to the program sponsor and to OSC. LOSAP audits must be completed within 270 days of the end of the sponsor’s fiscal year.

The District has annual revenues in excess of \$300,000 and sponsors a LOSAP. However, as of February 5, 2014, the District did not have the 2011 and 2012 audit reports from the CPA firm hired to perform the audit. The Board Chair told us that the former CPA wanted additional money to make certain adjustments on the 2010 audit; however, the Board did not want to pay the CPA the extra fee for the adjustments. The Board finally agreed to pay the additional charge which caused a delay in the completion of the report.

¹ The LOSAP provides municipally funded pension-like benefits for the recruitment and retention of active volunteer firefighters that took effect on January 1, 2008. The District participates in the program.

The District had engaged a new CPA to conduct the 2011 and 2012 audits. However, because the 2010 report was not completed, the new CPA could not perform the audit for the 2011 and 2012 fiscal years. Therefore, the Board and other interested parties could not consult the District's current financial statements to properly assess the District's financial activities or financial condition.

Treasurer

The office of fire district treasurer is elected, but may be appointive by resolution of the board of fire commissioners subject to voter approval. If the treasurer's office is appointive, the board must appoint a treasurer annually. Town law requires that the position of fire district treasurer be a public office; therefore, the duties of this position may not be performed by an independent contractor. A fire district, however, may hire consultants to assist in performing the duties of the treasurer. In addition, the law requires the treasurer, before entering upon the duties of that office, to give an official undertaking, conditioned for the faithful performance of duties, to keep, pay over and account for all moneys and property belonging to the fire district. A board may by resolution determine that such undertaking is to be executed by a surety company authorized to transact business in New York State and that the expense is to be charged to the fire district.

The District retained an independent contractor to perform the duties of the Treasurer, which was improper because, according to law, the Treasurer's duties may not be performed by an independent contractor. In addition, the District had no official undertaking from the Treasurer and no bond of surety as required by law and had no written contract between the Treasurer, as an independent contractor, and the District.

The Board was not aware of the legal requirements and the need for a contract. Because the Board did not properly select the individual for the position of Treasurer and did not have a surety bond as required, there is a risk that the District's liability could increase and the District could lose funds that may not be recovered in case of misconduct.

Commissioner Training

Effective January 22, 2007, all fire district commissioners are required to complete an OSC-approved training course within 270 days of taking office. The training must cover legal, fiduciary, financial, procurement and ethical responsibilities and such other topics as may be prescribed by the State Comptroller.

District Commissioners informed us that they have all taken the required training and provided the training certificates for two of the five Commissioners. However, there was no record for the other three Commissioners' training.

Without documentation of all five Commissioners' completed training, there is limited assurance that all the Commissioners are properly trained.

Recommendations

1. The Board should:
 - Establish and implement controls to ensure that the District does not enter into any contract in which an officer or employee has a prohibited interest.
 - Adopt written policies and procedures covering financial activities, including investments, cash receipts and disbursements, travel and travel reimbursement.
 - Develop and implement procedures to track volunteer firefighters' active/inactive status and to update the life insurance policy when necessary.
 - Ensure that an annual independent audit of the District's records is completed in a timely manner as required by law.
 - Confer with the District's legal advisor and take such steps as may be necessary to ensure that the Treasurer is a duly selected and qualified public officer, rather than an independent contractor, and to ensure that the Treasurer is bonded.
2. The Commissioners should take the required training and maintain documentation as a record that they took it.

APPENDIX A

RESPONSE FROM DISTRICT OFFICIALS

The District officials' response to this audit can be found on the following pages.

The response letter references two attachments. Since the purpose of these documents is sufficiently clear, they are not included here.



LA GRANGE FIRE DISTRICT

504 Freedom Plains Road • Poughkeepsie, NY 12603
Tel (845) 471-4693 • Fax (845) 452-3349



July 18, 2014



Office of the State Comptroller
33 Airport Center Drive, Suite 103
New Windsor, NY 12553

Dear [REDACTED]

Enclosed please find the signed comments, as drafted by the Chairman of the Board of Fire Commissioners, in regards to the preliminary draft findings of your recent audit. The Board will further review your recommendations and follow with a Corrective Action Plan, which will be submitted within the designated time frame.

Regards,

Bria Le
District Secretary

Cc: Board of Fire Commissioners



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Conflict of Interest

Chapter 2

Along with going to the District Mechanic and the neighboring District Mechanic, the vehicle was at the dealership three times for complaints and was no longer under warranty. The Chairman did not decide on his own to take this action, it was decided between the Chairman and the Deputy Chief along with two other commissioners.

See
Note 1
Page 14

Chapter 3

The invoice was submitted under the Chairman's own name due to the advice of counsel after an executive meeting was held and the matter was discussed. Of course, the Chairman was excused from those discussions. At that time the Board did not deny payment, it was tabled until the final board member could verify if the payment was permissible. That board member found, by many sources, for it to be permissible.

See
Note 1
Page 14

Policies and Procedures

Chapter 2

The District has adopted a Procurement Policy as well as a travel disbursements one as required at each reorganizational meeting of the year. (See the attached exerts from the Reorganizational Meeting minutes from January 2014.)

See
Note 2
Page 14

Chapter 3

As the Chairman was informed from discussions, the Commissioner was given a \$1000 cash advance to purchase equipment and to pay for travel and per diem (hotel and meals). The Chairman questions why the then secretary of the District did not file such a document in the proper method.

Life Insurance

The Board has been made aware of these findings and has since corrected the issue. The Board has also instructed to Secretary and the Bookkeeper to review this matter each and every month as new members are added and old ones are removed.

Annual Independent Audit

Chapter 2

What is missing from this report is that the Chairman also informed the investigator that the prior Board had not completed this audit. The present board was made aware of the incomplete audit when they noticed that additional monies were needed to obtain the final report. Yes, this was all a delay in the process.



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Treasurer

The District had retained an independent contractor, but appointed [REDACTED] as treasurer and she was duly sworn in as treasurer. The following year, [REDACTED] was appointed and duly sworn in as treasurer. So the Chairman objects to the findings that the Board did not properly select for the position of Treasurer. The District did not have a bond, but was insured for \$1.5 million each person.

See
Note 3
Page 14

Commissioner Training

The Chairman has found his certificate of training and a copy is attached.

See
Note 4
Page 14

Recommendations

The Board will review the recommendations and a CAP will follow.

Thank you,

Mark Christenson, Chairman
Board of Fire Commissioners

APPENDIX B

OSC COMMENTS ON THE DISTRICT'S RESPONSE

Note 1

A prohibited conflict of interest exists regardless of the decision having been made by the Chairman, the Deputy Chief and the two Commissioners.

Note 2

The Board has not adopted a travel policy. The only related item mentioned in the organizational meeting minutes is the setting of the mileage reimbursement rate. This does not constitute an adequate travel policy that addresses all relevant issues.

Note 3

By retaining an independent contractor to perform the Treasurer's duties, the Board was not in compliance with the law. Further, District officials did not provide evidence showing that the Treasurer was insured.

Note 4

The certificate was not made available during our fieldwork even though we made several attempts to obtain it. In addition, two other Commissioners' certificates were missing.

APPENDIX C

AUDIT METHODOLOGY AND STANDARDS

Our overall goal was to examine internal controls over the District's financial operations. To accomplish this, we performed an initial assessment of the internal controls so that we could design our audit to focus on those areas most at risk. During the initial assessment, we interviewed District officials, performed limited tests of transactions and reviewed pertinent documents such as District policies and procedures, Board minutes and financial records and reports.

After reviewing the information gathered during our initial assessment, we determined where weaknesses existed, and evaluated those weaknesses for the risk of potential fraud, theft and professional misconduct. We then decided upon the reported objective and scope by selecting for audit those areas most at risk. We selected cash receipts and disbursements, the Treasurer's office and Fire Commissioner training for further testing. To achieve our audit objective and obtain valid audit evidence, we performed the following procedures:

- We interviewed District officials and reviewed Board minutes to ascertain whether proper authorizations and approvals were given for all transactions.
- We interviewed District officials to gain an understanding of the District's policies and procedures, including those to control, record and monitor cash assets and transactions.
- We reviewed the Board minutes to determine if there were Board resolutions to establish reserve funds.
- We traced cash receipts from source documentation to the bank statements to determine if they were properly accounted for and deposited on a timely basis.
- We reviewed all bank statements for the audit period.
- We inquired to determine if the District had obtained an annual audit.
- We reviewed life insurance invoices for completeness.

We conducted this performance audit in accordance with GAGAS. Those standards require that we plan and perform the audit to obtain sufficient, appropriate evidence to provide a reasonable basis for our findings and conclusions based on our audit objectives. We believe that the evidence obtained provides a reasonable basis for our findings and conclusions based on our audit objectives.

APPENDIX D

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