



Town of Ulster

Fire Protection Services

Report of Examination

Period Covered:

January 1, 2013 — March 31, 2015

2015M-177



Thomas P. DiNapoli

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State of New York Office of the State Comptroller

Division of Local Government and School Accountability

November 2015

Dear Town 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 Town Board governance. Audits also can identify strategies to reduce costs and to strengthen controls intended to safeguard Town assets.

Following is a report of our audit of the Town of Ulster, entitled Fire Protection Services. 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 New York State General Municipal Law.

This audit's results and recommendations are resources for Town 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 Town of Ulster (Town), located in Ulster County, encompasses 28.9 square miles and serves about 12,300 residents. The Town provides various services for its residents, including water and sewer, street maintenance and repair, justice court, fire protection and general government support. The Town's 2015 budget of \$17.7 million was funded primarily with real property taxes, State aid, sales tax and water and sewer user fees.

The Town is governed by the Town Board (Board), which is composed of five elected members consisting of the Town Supervisor (Supervisor) and four Board members. The Board is the legislative body responsible for managing Town operations. The Supervisor, as chief fiscal officer, is responsible for receiving, disbursing and maintaining custody of Town moneys, including establishing adequate controls to safeguard resources. The Town paid approximately \$283,000 to provide residents fire protection within the Town's fire protection districts.

New York State Town Law (Town Law) empowers towns to ensure all residents have fire protection services which can be provided either by a fire district or through creation of a fire protection district. Although the term "fire protection district" is similar to "fire district," these entities represent different ways of managing fire protection. While a fire district is a separate unit of government, run by elected commissioners, a fire protection district is a geographic service area within a town, established for the purpose of fire protection. Towns contract for fire protection services within these districts at the expense of the property owners in that district. The Town levies property tax in areas of the Town served by fire protection districts. The Town paid the East Kingston Volunteer Fire Company \$214,376 and the Bloomington Fire Company \$69,000 for fire protection services in 2014.

Objective

The objective of our audit was to determine if the Board is monitoring the fire companies that provide fire protection services to the Town's fire protection districts. Our audit addressed the following related question:

- Did Town officials ensure that fire protection services were properly contracted for and monitored?

Scope and Methodology

We examined Board oversight for the period January 1, 2013 through March 31, 2015. We extended our scope period back to January 2011

to analyze contracts between the Town and fire companies providing fire protection services to the fire protection districts.

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 are included in Appendix C of this report.

**Comments of
Local Officials and
Corrective Action**

The results of our audit and recommendations have been discussed with Town officials, and their comments, which appear in Appendix A, have been considered in preparing this report. Town officials generally agreed with our findings and indicated they plan to initiate corrective action. Appendix B includes our comment on an issue Town officials raised in their 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 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 Clerk's office.

Fire Protection Services

Town Law requires the Board to provide for fire protection for residents within an established fire district. The Town may contract with any city, village, fire district or incorporated fire company for fire protection and emergency services. The Board cannot enter into a contract until it has held a public hearing. The contract may be for an original term of one calendar year or less and can be renewed on the same basis each year thereafter for another year without any further public hearing. The contract can be terminated if one of the contracting parties notifies the other in writing on or before August 20 that it elects to terminate the contract on December 31 of that year. The contract term cannot exceed five years.

As stewards of public funds, Board members are responsible for making decisions that are in the best interests of the Town and taxpayers they serve. Accordingly, when the Town contracts with providers for fire protection services, it is the Board's responsibility to ensure that the amount to be paid to the service provider is fiscally prudent and in compliance with the law. An important part of this process is the review of each service provider's annual budget, financial records and reports to ensure that only the necessary amount of real property taxes will be raised to fund services. The Board is also responsible for signing and approving contractual agreements for fire protection services and passing a resolution to document its approval. Written contracts help ensure that the Town's interests are protected by clearly defining the level and cost of the services to be provided and conditions for payments.

The Town entered into a written contract with the Bloomington Fire Company (Bloomington) to provide fire protection services for the Eddyville Fire Protection District for the years 2012 through 2014.¹ The Town paid, on average, \$66,000 per year to Bloomington for the services. In January 2015, the Town extended the contract for an additional year, increasing the contract amount to \$72,000. Town officials told us that they did not review the financial records because Bloomington is in the process of becoming its own fire district. As a fire district, it would levy its own taxes to provide fire protection services, and the Eddyville Fire Protection District would be dissolved.

Contrary to Town Law, the Board does not have a current written contract with the East Kingston Fire Company (East Kingston) to provide fire protection services for the East Kingston Fire Protection

¹ The Town paid \$63,000 in 2012, \$66,000 in 2013 and \$69,000 in 2014 for the Eddyville Fire Protection District.

District. The last written contract with East Kingston was in 2003. Without a written contract establishing levels of and provisions for service, Town officials were unable to access East Kingston's financial records to determine whether the amount being paid was appropriate and necessary. Town officials told us that the Town rarely received any financial records from East Kingston to be used as a basis for determining the amount that should be paid annually for fire protection services. The Supervisor provided us with documentation indicating that the Town has been attempting to gather information regarding East Kingston's actual expenditures, staffing levels and training for the past two years to assess whether it is capable of providing the services the Town is paying it for.

We reviewed East Kingston's 2013 tax return and found that its expenses were \$141,737. The Town paid East Kingston \$210,176 in 2013, which was \$68,439² more than East Kingston's expenses.

Each Board member expressed concern over the level of services being provided by East Kingston. Some of these concerns included inadequate staffing levels, lack of training for firefighters and poor response rates to fires. As a result, on March 12, 2015, Town officials requested Ulster Hose Fire District No. 5 (District), a neighboring fire district, to be put on first dispatch for every fire call and to provide mutual aid to East Kingston. The Town did not enter into a contract with the District; instead, the District is working under the premise that East Kingston would assist the District if it needed help.

The lack of a written contract between the Town and East Kingston has limited Town officials' recourse when East Kingston does not provide the expected fire protection services to Town residents. By not ensuring that the Town has a valid contract with provisions for reviewing the service provider's operations, the Board has not fulfilled its oversight responsibility and may put Town residents at risk of loss of property, life and finances.

Recommendations

The Board should:

1. Comply with Town Law and enter into written contracts or detailed Board resolutions for fire protection services with all of its service providers. The contracts or resolutions should clearly stipulate the services to be provided and the basis for compensation.

² Based on the review of the 2013 proposed budget submitted by East Kingston to the Town of Ulster, it appears that \$35,000 was reserved for the intention of a vehicle replacement. Therefore, it appears that the \$68,439 of excess service costs includes the \$35,000 intended for vehicle replacement.

2. Review its fire protection service providers' financial information to ensure it is paying reasonable costs for these services.

APPENDIX A

RESPONSE FROM LOCAL OFFICIALS

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

Town of Ulster

James E. Quigley, 3rd
Supervisor

1 Town Hall Drive
Lake Katrine, N.Y. 12449

Telephone: (845) 382-2765
Fax: (845) 382-2769



October 1, 2015

Tenneh Blamah, Chief Examiner
Office of the State Comptroller
Division of Local Government and School Accountability
Newburgh Regional office
33 Airport Center Drive, Suite 103
New Windsor, New York 12553-4725

Ref: Report of Examination, Town of Ulster Fire Protection Services, Report Number 2015M-177

Dear Ms. Blamah,

This comment letter is being provided to fulfill the OSC requirements for the Town to respond to an OSC Audit Report. The comments contained herein are limited to the draft written audit report provided to the Town by e-mail on September 2, 2015 and the matters discussed during the exit interview conducted on September 16, 2015 by OSC Staff and the Town of Ulster Town Board.

During the course of the exit interview the Town discussed the methodology used to calculate the excess of the Town's payment for 2013 of \$210,000 over the incurred expenses of the East Kingston Fire Company in the amount of \$145,407 resulting in a difference of approximately \$65,000. OSC staff has provided to the Town the audit worksheet containing the methodology and calculation. The Town concurs with the methodology applied and have provided comments on non-firematic expenses incurred by the Fire Company, which we believe will result in an increase of the difference to approximately \$68,000 representing 32% of the 2013 Budget.

See
Note 1
Page 10

The Town has calculated the excess of the Town's payment to the expenses incurred by the East Kingston Fire Company for the year ended December 31, 2014 using the Federal Form 990 provided by the Fire Company in August 2015. The results of the calculation are consistent with those found by the OSC for the years 2012 and 2013. The Town's position is that an excess of approximately 46% of the budget is excessive, notwithstanding a Town approved Capital Reserve payment of \$35,000. Adjusting for the approved Capital Reserve payment, the excessive payments represent approximately 29% of the 2014 budget.

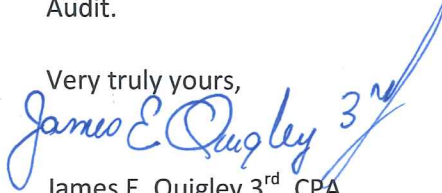
With the financial challenges faced by Local Governments in today's environment, the Town must evaluate all possible methods of delivering the expected services to our residents for the lowest possible costs. A review of the financial impact of adding the territory of the East Kingston Fire Protection District to the existing Ulster Number 5 Fire District results in a reduction to the Fire Protection District taxpayers of approximately 19% of the tax levy for the 2015 Tax Year.

"BUSINESS HUB OF ULSTER COUNTY"

The Town of Ulster agrees with the findings and recommendations presented in the Draft Audit Report and will prepare a Corrective Action Plan taking into consideration the Draft Audit Report findings and the facts cited above within the 90 day period allowed by the OSC.

The Town wishes to acknowledge the professionalism of the OSC staff in the completion of this Audit.

Very truly yours,



James E. Quigley 3rd, CPA
Supervisor

APPENDIX B

OSC COMMENT ON THE TOWN'S RESPONSE

Note 1

After our exit conference with Town officials, we amended the report to remove non-firematic expenses from our calculation.

APPENDIX C

AUDIT METHODOLOGY AND STANDARDS

Our overall goal was to assess the adequacy of internal controls put in place by Town officials for monitoring the fire protection districts that are providing fire protection services to the Town for the period January 1, 2013 through March 31, 2015. We extended our scope period back to January 2011 to analyze contracts between the Town and fire companies providing fire protection services to the fire protection districts.

To accomplish our audit objective and obtain valid audit evidence, we performed the following audit procedures:

- We interviewed Town officials and examined available records and reports to gain an understanding of the fire protection districts.
- We reviewed Board minutes from January 2013 through March 2015 for actions relevant to annual audits, budgeting and fire protection district monitoring.
- We reviewed the 2014 written contractual agreement with the Town and Bloomington for services provided to the Eddyville Fire Protection District to gain an understanding of Bloomington's responsibilities. We also obtained a copy of the 2015 written contractual agreements.
- We reviewed the 2003 written contractual agreement with the Town and East Kingston for services provided to the East Kingston Fire District, which was the last written contract with the Town, to gain an understanding of East Kingston's responsibilities.
- We reviewed the Supervisor's records, including emails with officials from the fire companies that are providing fire protection services to the Town.
- We reviewed an electronic version of the 2013 through 2015 proposed budgets prepared by the fire companies for the Town.

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 objective. We believe that the evidence obtained provides a reasonable basis for our findings and conclusions based on our audit objective.

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Andrew A. SanFilippo, Executive Deputy Comptroller
Gabriel F. Deyo, Deputy Comptroller

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