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December 24, 2014

Nalio D'Orazio, Chairman
Members of the Board of Commissioners
Nesconset Fire District
25 Gibbs Pond Road
Nesconset, NY 11767

Report Number: 2014M-317

Dear Chairman D'Orazio and Members of the Board of Commissioners:

The Office of the State Comptroller works to identify areas where fire district officials can improve their operations and provide guidance and services that will assist them in making those improvements. Our goals are to develop and promote short-term and long-term strategies to enable and encourage fire district officials to reduce costs, improve service delivery and account for and protect their entity's assets.

In accordance with these goals, we conducted an audit of the Nesconset Fire District (District), which addressed the following question:

- Did employees properly earn Length of Service Award Program service credit for responding to calls as volunteer firefighters?

The results of our audit have been discussed with District officials and their comments, which appear in Appendix A, have been considered in preparing this report. District officials agreed with our findings and recommendation and indicated they planned to initiate corrective action.

Background and Methodology

The District is a district corporation of the State, distinct and separate from the Town of Smithtown and Suffolk County in which it is located. An elected five-member Board of Fire Commissioners (Board) governs the District and is responsible for the District's overall financial management and for overseeing its Length of Service Award Program (LOSAP). The District's 2014 operating budget is \$2,637,672, funded primarily with real property taxes. As of December 31, 2013, the

District's LOSAP assets totaled \$1,399,722 and its contribution for the 2013 service award program year was \$251,945.

The Nesconset Fire Department (Department) is a not-for-profit organization whose volunteer firefighters (members) provide approximately 15,000 District residents with fire protection and emergency services over an area of approximately six square miles. Members participate in the District's LOSAP and 113 members received annual service credit for the year ending December 31, 2013. Six of these members are also District employees.

We examined the District's internal controls over its LOSAP for the period January 1, 2013 through July 31, 2014. We interviewed District officials and key employees and reviewed LOSAP records, attendance records for Department responses and employee time records. We conducted our audit in accordance with generally accepted government auditing standards. 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.

Audit Results

The District sponsors and funds a defined benefit LOSAP, which is intended to facilitate recruitment and retention of active volunteer firefighters by providing them with a monthly pension-like benefit based upon their years of District firefighting service. Generally, upon reaching the entitlement age of 55, participants in the District's LOSAP receive a benefit of \$20 a month for each year of firefighting service, with a maximum benefit of \$800 a month, for life. A year of firefighting service must be credited to an active volunteer firefighter (volunteer) each year after the volunteer earns 50 service award points. Points must be granted for performing certain activities in accordance with a system established by the LOSAP's sponsor in compliance with New York State General Municipal Law (GML). Under GML, the District may grant 25 points to volunteers for responding to the minimum number of fire calls (i.e., all calls "other than emergency rescue and first aid squad calls [ambulance calls]"), and an additional 25 points for responding to the minimum number of emergency medical service (EMS) calls (i.e., "emergency rescue and first aid squad [ambulance] calls"). For either type of call, GML requires a volunteer to respond on a minimum number of calls, dependent on the number of calls the sponsor's fire department responds to annually.¹ However, when a volunteer is also a paid employee of the District, GML prohibits that individual from earning points for activities performed during that individual's regularly scheduled work hours.

The District did not prevent employees serving as volunteers from earning points for responding to calls during their regularly scheduled work hours. In 2013, the District used a procedure where employees who were also volunteers would sign in for calls and other LOSAP-eligible activities

¹ For example, if the fire department responds annually to 500 or fewer fire calls, then a volunteer must respond to at least 10 percent of the fire calls to receive the points. The same percentages apply to EMS calls.

using an alternative badge number² when those activities occurred during regularly scheduled work hours. Although this procedure allowed the District’s LOSAP computer program to identify which activities were performed during work hours and, therefore, ineligible for points, these employees still earned points for all calls in which they participated. In November 2013, the District changed its procedure to require that employees also serving as volunteers no longer have an alternative badge number. The new procedure requires them to clock out of work in order to sign into a call and then make up the missed work hours by the end of the pay period. However, this new procedure still did not prevent these employees from earning LOSAP points for activities performed during their regular work hours.

Due to this weakness, we reviewed LOSAP and call attendance reports from January through March 2014 for the District’s five employees with regularly scheduled work hours who also serve as volunteers.³ As shown in Figure 1, we found that these employees attended between 41 and 89 percent of fire and EMS calls during their regularly scheduled work hours.

Figure 1: Calls Attended During Regularly Scheduled Work Hours

| | Fire Calls Attended During Regular Work Hours | Total Fire Calls Attended | % Fire Calls Attended During Regular Work Hours | EMS Calls Attended During Regular Work Hours | Total EMS Calls Attended | % EMS Calls Attended During Regular Work Hours |
|---------------|------------------------------------------------------|----------------------------------|--------------------------------------------------------|-----------------------------------------------------|---------------------------------|-------------------------------------------------------|
| Employee A | 41 | 65 | 63% | 30 | 42 | 71% |
| Employee B | 20 | 34 | 59% | 13 | 22 | 59% |
| Employee C | 25 | 28 | 89% | 12 | 21 | 57% |
| Employee D | 12 | 27 | 44% | 12 | 29 | 41% |
| Employee E | 33 | 40 | 83% | 17 | 23 | 74% |
| Totals | 131 | 194 | 68% | 84 | 137 | 61% |

Before the end of our audit, District officials amended procedures to prevent employees who also serve as volunteers from earning LOSAP points during their regularly scheduled work hours. However, by permitting these five employees to earn LOSAP points for responding to calls during their regularly scheduled work hours in our audit period, the District may have awarded each of them with 25 points for responding to calls when they did not meet the minimum requirements for that activity. As a result, these employees may not have attained the service award points needed that period to be credited with a year of firefighting service under the LOSAP.

² The alternative badge number would be the employee’s badge number with an additional digit. For instance, if the badge number was 1234, the employee would use 91234 when responding to calls during regularly scheduled work hours.

³ The sixth employee that also serves as a volunteer, the Secretary-Treasurer, works a flexible schedule and does not have “regularly scheduled” hours.

Recommendation

1. The District should implement standards and procedures to ensure that points are not awarded to employees also serving as active volunteer firefighters for calls and other activities attended during their normally scheduled work hours.

The Board has the responsibility to initiate corrective action. Pursuant to Section 181-b of the New York State Town Law, a written corrective action plan (CAP) that addresses the findings and recommendation in this report must be prepared and forwarded to our office within 90 days. To the extent practicable, implementation of the CAP must begin by the end of the next fiscal year. 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. The Board should make the CAP available for public review in the District Clerk's office.

We thank the officials and staff of the District for the courtesies and cooperation extended to our auditors during this audit.

Sincerely,

Gabriel F. Deyo

APPENDIX A

RESPONSE FROM FIRE DISTRICT OFFICIALS

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

Nesconset Fire District

BOARD OF FIRE COMMISSIONERS
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SECRETARY/TREASURER
KEVIN ZANFARDINO

DEPUTY TREASURER
ARTHUR RIVERS

December 9, 2014

Ira McCracken
Hauppauge Regional Office
NYS Office Building Room 3A10
Veterans Memorial Highway
Hauppauge NY 11788

Re: Nesconset Fire District Audit 2014M-317

Dear Ira McCracken:

This letter will serve as the Nesconset Fire District's response to the preliminary draft of the audit that was conducted by members of your audit team. The Board of Fire Commissioners of the Nesconset Fire District and its staff would like to commend the examiners from your agency for their professionalism and thank them for their recommendations.

Our board agrees with the audit findings and has accepted the recommendation that was set forth in the report. The board has already changed its system for awarding credit for alarms and drills to employees who are also volunteer firefighters, to insure that they are not awarded length of service award (LOSAP) credit during scheduled work hours. We have provided each employee with a second badge number that is to be used during working hours and this badge number will not be entitled to LOSAP credit. Our secretary will insure that the proper badge number is used during working hours by reviewing alarm times and comparing them to the work schedules. The Board of Fire Commissioners would like to note that the results of the 2014 LOSAP will not be affected due to retroactively going back and changing the awarding of credit based upon work schedules. We would also like to point out that an internal review of the 2013 call and drill history showed that the volunteer firefighters who were employees still would have attained the required 50 points if the dual badge system was in place. As mentioned above we accept the audit findings and have already made the changes necessary to insure LOSAP credit is not given during working hours. Thank you for your time and expertise with this matter.

Sincerely,

Nalio D'Orazio
Chairperson of the Board
Nesconset Fire District