



Town of Dover

Fire Protection and Ambulance Services

Report of Examination

Period Covered:

January 1, 2015 – September 30, 2016

2016M-413



Thomas P. DiNapoli

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State of New York Office of the State Comptroller

Division of Local Government and School Accountability

April 2017

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 Board 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 Town of Dover, entitled Fire Protection and Ambulance 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 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 Town of Dover (Town) is located in Dutchess County and encompasses approximately 56 square miles with a population of approximately 8,500 residents. The Town provides various services to its residents, including fire protection, ambulance services and general government support. The Town's 2016 adopted budget was almost \$4.7 million, which was funded primarily with real property taxes.

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 responsible for overseeing the Town's operations, finances and overall Town management. The Supervisor serves as the Town's chief fiscal officer and is responsible for receiving, disbursing and maintaining custody of Town money, including establishing adequate controls to safeguard resources.

A fire protection district is an area within a town established for the purpose of fire protection. Towns contract for fire protection services within these districts and levy property taxes to district residents to pay for it. The Town paid \$480,692 to a fire company for fire protection and secondary ambulance services and \$240,000 to an ambulance company for basic life support ambulance services in 2016. The Town's Deputy Supervisor is a Board member who is also the fire company's Deputy Treasurer.

Objective

The objective of our audit was to determine if the Board is monitoring the fire and ambulance companies that provide emergency services to the Town. Our audit addressed the following related question:

- Did Town officials ensure that fire protection and ambulance services were provided in accordance with contract terms and applicable laws?

Scope and Methodology

We examined Board oversight for the period January 1, 2015 through September 30, 2016. We extended our scope period back to January 2012 to review emergency service contracts and related Board actions.

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 B of this report. Unless otherwise indicated in this report, samples for testing were selected based on professional

judgment, as it was not the intent to project the results onto the entire population. Where applicable, information is presented concerning the value and/or size of the relevant population and the sample selected for examination.

**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 agreed with our recommendations and indicated they will take corrective action.

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 and Ambulance Services

New York State Town Law authorizes the Board to provide residents with fire protection and ambulance services. Towns may contract for such services which are paid by the levy of property tax. 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 emergency 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 contract. 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 approving contractual agreements and ensuring that service procurement is not influenced by favoritism. Written contracts help ensure that the Town's interests are protected by clearly defining the level and cost of the services to be provided. The Board should ensure that contracts are monitored to ensure that services are provided in accordance with contractual agreements. The contract may be for an original term of one calendar year and can be renewed annually up to five years without any further public hearing.

The Board needs to improve its oversight and ensure that the fire protection contract is in the residents' best interests and that emergency services are provided according to the contracts. The Town lacks assurance that the emergency service providers are meeting contracted terms and performing services as agreed.

Fire Protection Services

The Board has the responsibility to monitor the performance of emergency services contracts. Proper monitoring helps to ensure that control deficiencies are identified and corrected in a timely manner. Additionally, General Municipal Law (GML) requires towns to adopt a code of ethics. A code of ethics should prohibit the use of a public position for personal gain and provide standards for avoiding the appearance of impropriety.

Independence — 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. Municipal officers and employees are deemed to have an interest in the contracts of a corporation of which they are an officer, director or employee, or directly or indirectly own or control any stock.

In addition GML requires that any municipal officer or employee or their spouse who has, will have or later acquires an interest in any actual or proposed contract generally must publicly disclose the interest, in writing, to the municipal officer or employee's immediate supervisor and to the governing board of the municipality. The written disclosure must be part of the Board's minutes.

GML also requires Towns to adopt a code of ethics setting forth standards of conduct for its officers and employees with respect to disclosure of interests. Generally, a code of ethics may provide that a governing board member recuse himself or herself from participation in discussing and voting on a matter when there is the potential for an appearance of impropriety.

The Town contracts each year with a fire company to provide fire protection for the Town's fire protection district. We found that a Town Board member¹ also serves as the Deputy Treasurer for the fire company. As an officer of the fire company, the Board member is deemed to have an interest in each contract. The board member's interest in the contract is not prohibited by GML since there is an exception for contracts with not-for-profit corporations. However, the Board member is required to disclose his interest in the fire protection contract.

The Board member disclosed his interest to the Board in 2013 and 2014 and recused himself from voting on each of these contracts. However, there is no record of the Board member disclosing his interest in the 2015 and 2016 contracts. Moreover, there was no indication that the Board member recused himself from voting on each contract. The Board member told us that he was told that it was not necessary to recuse himself from voting on these contracts but could not recall who provided him with this information.

The Board member was required by GML to disclose his interest in the 2015 and 2016 fire protection contracts with the Town. In addition, although the Town's code of ethics does not provide for abstention and recusal, in our opinion the Board member should have recused himself from discussions and abstained from voting on these matters to avoid any appearance of partiality or self-interest.

¹ This individual also serves as Deputy Supervisor.

Contract Compliance — The fire company contract requires the fire company to provide the Board with an annual financial statement of receipts and disbursements, along with a proposed budget, before the first official publicized Board meeting in September. Although not required, a periodic review of fire company response summary reports or logs could provide the Board with assurance that operations are meeting contracted terms and services are performed as expected.

Town officials did not receive annual financial statements from the fire company and did not review response logs to monitor fire company operations to ensure services are provided according to the contract. The fire company provides, as part of its proposed budget packet, a proposed budget summary, a vehicle replacement report and a breakdown of expended funds. The previous Supervisor accepted these documents as sufficient information and did not request any further documentation. Board members did not believe any additional information was needed due to the long-standing relationship with the fire company. Without annual financial statements and a review of response summary reports, the Board lacks assurance that Town funds are being spent appropriately and operations are meeting contract terms.

Ambulance Services

GML authorizes the Town to contract, on a town-wide basis, for general ambulance services. GML does not require the Town to have a public hearing before entering into a contract for ambulance service. However, holding a public hearing in these instances can enhance transparency for Town residents by providing a general description of the proposed contract. In addition, written contracts help ensure that the Town's interests are protected. Adequate monitoring helps verify that services are provided in accordance with contractual agreements.

The Board did not hold a public hearing for the ambulance contract. The lack of a public hearing reduced the Board's ability to explain and discuss proposed actions regarding the ambulance service. The Board told us that future public hearings will be held before entering into these types of contracts.

The ambulance contract stipulates that copies of all applicable license updates, modifications and renewals must be submitted to the Town, but the Town did not receive license renewals. According to Town officials, the Board did not request a copy of the renewals based on the Town's experience with the ambulance service. Without a record of the renewals, the Board cannot ensure that ambulance services are provided by properly licensed employees, increasing the Town's risk of liability.

Recommendations

The Board should:

1. Consider amending the Town's code of ethics to require that Board members who are officers of the fire company recuse themselves from voting on matters that they have an interest in.
2. Properly document in the Board minutes when members recuse themselves from a vote.
3. Consider holding a public hearing when entering into a new ambulance service contract.

Town officials should:

4. Ensure financial statements are provided as stated in the fire company contract.
5. Request and review fire company emergency response reports periodically.
6. Ensure that ambulance contract terms are followed and that license updates, modifications or renewals are provided to the Town as required.

APPENDIX A

RESPONSE FROM LOCAL OFFICIALS

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

The response letter includes a reference to related correspondence. We did not include these attachments, as they are not essential to the Town's response.



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LINDA S. FRENCH
Town Supervisor

February 27, 2017

Tenneh Blamah, Chief Examiner of Local Government
Office of the State Comptroller
Newburgh Regional Office
33 Airport Center Drive, Suite 103
New Windsor, NY 12553

Dear Ms. Blamah,

This letter serves as a reply to the Town of Dover Fire Protection and Ambulance Services audit covering the period of January 1, 2015 – September 30, 2016. We have taken your recommendations under consideration and the Town will be making the following adjustments:

- amending the Town's Code of Ethics to read: Any member of the Town Board that is an officer of the fire company must recuse themselves from voting on matters that they have an interest in
- Town Board meeting minutes will reflect that the Town Board member (name stated and position held at the fire company) has recused him/herself from the vote
- a public hearing will be held every time Dover enters into a new contract with a vendor, especially when entering into a new service contract with the ambulance provider
- the town will send a letter to the fire company requesting financial statements every quarter, as stated in the contract. We will also request a more accurate budget when the Town Board is in the process of doing the next year's budget and a written log of their emergency response reports every quarter
- the town will send a letter to the ambulance service provider requesting written logs of their response calls, on a quarterly basis; a list of all their drivers with license updates, modifications or renewals that are required according to the contract.

Please see the attached correspondence to the fire company and the ambulance service provider.

I was very pleased with the way this audit was handled; it was very thorough a very informative to myself and the other Town Board members. Both examiners were very professional and it was a pleasure to work with them.

Sincerely,

Linda S. French
Town Supervisor

APPENDIX B

AUDIT METHODOLOGY AND STANDARDS

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

- We interviewed appropriate Town officials and personnel to gain an understanding of the controls in place.
- We reviewed the Town's code of ethics and any disclosures of interests made by officials.
- We reviewed and analyzed fire and ambulance company contracts to determine whether the companies complied with contract terms. We examined Town Clerk files for emergency service contracts, which included copies of Board resolutions, public hearing advertisements and related documentation provided by the fire and ambulance companies.
- We reviewed fire company proposed budget packets provided by Town officials for sufficient documentation that Town funds are being spent appropriately and operations are meeting contract terms.
- We reviewed Town Board minutes to determine if the Board took proper actions regarding public hearings, resolutions and approvals.
- We reviewed Town financial records to determine if emergency services were properly paid per contract terms.

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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