



# Town of Gorham

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## Distribution of Foreign Fire Insurance Tax Proceeds

2025M-106 | March 2026

# Contents

- Audit Results . . . . . 1**
  - Audit Summary . . . . . 1
  
- FFI Tax Proceeds Distribution: Finding and Recommendations . . . . . 3**
  - Finding 1 – Town officials did not properly distribute FFI tax proceeds. . . . . 3
  - Recommendations . . . . . 5
  
- Appendix A: Profile, Criteria and Resources. . . . . 6**
  
- Appendix B: Response From Town Officials. . . . . 8**
  
- Appendix C: Audit Methodology and Standards. . . . . 9**

# Audit Results

## Town of Gorham



| Audit Objective  | Audit Period                    |
|--|---------------------------------|
| Did Town of Gorham (Town) officials properly distribute foreign fire insurance (FFI) tax proceeds?   | January 1, 2023 – July 23, 2025 |
| Understanding the Audit Area   |                                 |
| <p>Town officials should properly distribute FFI tax proceeds to ensure that local fire departments receive the financial support they need. This helps maintain the safety and morale of firefighters, who play a crucial role in protecting the community. FFI tax proceeds can be used for various purposes that benefit the membership, such as purchasing equipment, funding social functions and supporting community initiatives. If funds are not distributed correctly, some departments may receive less than they are entitled to, impacting their operations and resources. Proper distribution can help ensure accountability and avoid legal issues.</p> <p>The Town Supervisor (Supervisor) is the chief executive and financial officer and is responsible for the day-to-day financial operations including the allocation and distribution of FFI tax proceeds. The Town disbursed FFI tax proceeds totaling \$11,401 in calendar years 2023 and 2024.</p> |                                 |

## Audit Summary

Town officials did not properly distribute the 2023 and 2024 FFI tax proceeds in accordance with New York State Insurance Law (Insurance Law) and relevant case law.

The bookkeeper miscalculated the allocation of FFI tax proceeds among the Gorham Fire District (District), Crystal Beach Volunteer Fire Department (Department) and the Rushville Hose Company (Company) that provide fire protection within the Town because she mistakenly used an inaccurate pro-rata allocation formula. The bookkeeper combined all FFI tax proceeds received by the Town and allocated the FFI tax proceeds based on the Town's fire protection contract amounts paid to the Department and Company and on the District's budgeted appropriations. However, the District should not have been included in the calculation for the FFI tax proceeds. Instead, in accordance with Insurance Law and relevant case law, the bookkeeper should have used a pro-rata allocation formula to calculate the FFI tax proceeds disbursement based on the number of active members in the Department and Company.<sup>1</sup> Moreover, neither the Supervisor nor the current Board reviewed the FFI

<sup>1</sup> See New York State Office of the State Comptroller legal opinion Number 89-53.

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tax proceeds allocation calculation made by the bookkeeper to help ensure the FFI tax proceeds were being accurately distributed to each of the recipients. As a result, the Department received \$681 more than its pro-rata share and the Company received \$4,076 less than its pro-rata share of the FFI tax proceeds sent to the Town for the fire protection district. The District also received a total of \$3,395 of these funds, which it was not entitled to. The miscalculation was also due, in part, to the Town receiving FFI tax proceeds which we determined should have been distributed directly to the treasurer of the District.

The report includes five recommendations that, if implemented, could improve the Town's FFI tax proceeds distribution. Town officials agreed with our findings and indicated they plan to initiate corrective action.

We conducted this audit 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. Our methodology and standards are included in Appendix C.

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 provided to our office within 90 days, pursuant to Section 35 of the New York State 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 the CAP available for public review in the Town Clerk's office.

# FFI Tax Proceeds Distribution: Finding and Recommendations

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Town officials are responsible for distributing FFI tax proceeds in accordance with Insurance Law. Insurance Law provides that FFI tax proceeds are generated from a tax, generally at a rate of 2 percent, that is imposed on the premiums of fire insurance policies written by certain out-of-state insurers against loss or damage by fire on property located in the State. In general, the out-of-state insurer will collect and remit FFI tax proceeds to the New York State Department of Financial Services (DFS), which distributes the proceeds to the proper recipients. In the absence of a special act stating otherwise, the statute states that FFI tax proceeds should be distributed to fire departments and companies for the use and benefit of the membership.

Pursuant to Insurance Law, the recipient of the FFI tax proceeds generally is the treasurer or other fiscal officer of the fire company providing fire protection to the insured properties. In a multi-company fire protection district, FFI tax proceeds should be allocated between and among the fire companies proportional to the number of active members in each fire company.

Alternatively, if the fire company does not have a treasurer or other fiscal officer, which is typically the case when fire services are provided by a fire district, then pursuant to Insurance Law, the recipient of the FFI tax proceeds is the fiscal officer of the authority having jurisdiction and control of the fire department. Therefore, when a fire district is providing fire protection, the treasurer of the fire district should be the custodian of the FFI tax proceeds, as that individual is the fiscal officer of the authorities having jurisdiction and control of the fire department.<sup>2</sup>

More details on the criteria used in this report, as well as a resource we make available to local officials that can help officials improve operations (Figure 2), are included in Appendix A.

## Finding 1 – Town officials did not properly distribute FFI tax proceeds.

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DFS made two direct deposits of FFI tax proceeds into the Town’s bank account in each of the calendar years 2023 and 2024 totaling \$11,401. The DFS direct deposits of FFI tax proceeds into the Town’s bank account included the description “External Deposit DEPT FIN SVCS - 2% FIRE TX.” Given the absence of any further details regarding the direct deposits, we obtained documentation from DFS, which indicated that the two deposits of FFI tax proceeds were intended for the Gorham Town Fire Protection District 1 (Gorham FPD 1) and Gorham Town Fire Protection District 2 (Gorham FPD 2), totaling \$1,987 and \$9,414, respectively. However, Town officials told us that Gorham FPD 2 is the Town’s current and only fire protection district, with fire protection coverage provided by the Department and the Company. As for the area of the Town previously covered by the Gorham FPD 1, the Supervisor told us that fire protection for this area is now provided by the District. However, Town officials were unable to provide documentation supporting this assertion.

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<sup>2</sup> See New York State Office of the State Comptroller legal opinion Number 99-7.

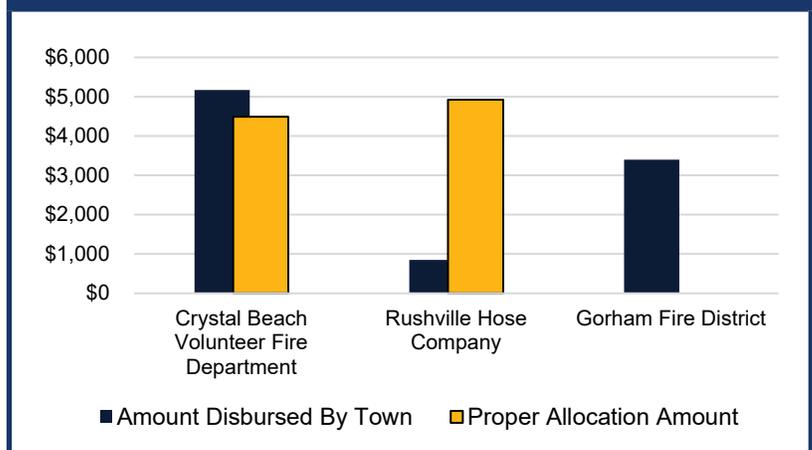
Under these circumstances, we determined that the Supervisor should have distributed the FFI tax proceeds received for Gorham FPD 1 (\$1,987) to the treasurer of the District. The distribution of the FFI tax proceeds to the Town, as opposed to the Town and District, may have been because Town officials did not inform DFS of its current fire protection structure. Moreover, neither the Supervisor nor the bookkeeper performed any further investigation, upon the Town receiving multiple deposits of the FFI tax proceeds, to help verify that the Town should be the recipient of both direct deposits.

Additionally, the bookkeeper miscalculated the allocation of the FFI tax proceeds to the three fire units that provide fire protection within the Town because she mistakenly used an inaccurate pro-rata allocation formula. The bookkeeper combined the two direct deposits and allocated the FFI tax proceeds based on the Town's fire protection contract amounts paid to the Department and Company and on the District's budgeted appropriations. However, the District should not have been included in the calculation for the FFI tax proceeds allocation distributed to Gorham FPD 2. Instead, in accordance with Insurance Law and relevant case law, the bookkeeper should have used a pro-rata allocation formula to calculate the FFI tax proceeds disbursement for Gorham FPD 2 based on the number of active members in the Department and Company.<sup>3</sup>

Because of the bookkeeper's miscalculation, the Department received \$681 more and the Company received \$4,076 less than their pro-rata shares of the funds received for Gorham FPD 2 over the two years we reviewed. Additionally, the District received \$3,395 of these funds that it was not entitled to (Figure 1).

The current Supervisor and the bookkeeper told us the Board did not review the bookkeeper's calculation of FFI tax proceeds allocation prior to approving the disbursements. The bookkeeper also told us that the Board did not provide her with any written policies or procedures to provide guidance for the allocation of FFI tax proceeds. The lack of written policies and procedures for FFI tax proceeds and review of the calculation for the allocation of the proceeds contributed to these errors occurring without detection.

**Figure 1: TFPD 2 Funds Disbursed by Town Officials vs. Proper Allocation Calculation (2023-24)**



<sup>3</sup> See supra, note 1.

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## Recommendations

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The Board should:

1. Adopt written policies and ensure officials establish procedures for the allocation and disbursement of FFI tax proceeds in accordance with Insurance Law and relevant case law.
2. Conduct a detailed review of the FFI tax proceeds allocation calculation prior to approving payments to the Department and Company.

The Supervisor and bookkeeper should:

3. Investigate the multiple direct deposits of FFI tax proceeds and determine whether the Town erroneously received a portion of the District's proceeds. If an error is identified, coordinate with DFS to resolve the misallocation.
4. Develop procedures for the allocation and disbursement of FFI tax proceeds in accordance with Insurance Law and relevant case law.
5. Use the correct pro-rata active member allocation when calculating the FFI tax proceeds distributions.

# Appendix A: Profile, Criteria and Resources

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## Profile

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The Town is located in Ontario County. Fire protection services within the Town are provided to approximately 4,100 residents through the establishment of a fire district and fire protection district. The Town is governed by an elected five-member Board composed of the Supervisor and four Board members. The current Supervisor took office on January 1, 2024. The bookkeeper assists the Supervisor with the Town's accounting functions, including calculating the FFI tax proceeds disbursements.

The District provides fire protection services for a portion of the Town. The remaining area of the Town, outside of the District, constitutes the Town's fire protection district, for which the Town contracts with the Department and the Company for fire protection services.

## Criteria – FFI Tax Proceeds Distribution

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In accordance with Insurance Law, FFI tax proceeds are generated from a tax, generally at a rate of 2 percent, that is imposed on the premiums of fire insurance policies written by certain out-of-state insurers against loss or damage by fire on property located in the State. In general, the out-of-state insurer will collect and remit FFI tax proceeds to DFS, which distributes the proceeds to the proper recipients.

Pursuant to Insurance Law, the recipient of the FFI tax proceeds generally is the treasurer or other fiscal officer of the fire department providing fire protection to the insured properties. When a fire department is composed of multiple fire companies, the FFI tax proceeds should be distributed amongst the fire companies proportional to the number of active members in each fire company. Therefore, in a multi-company fire protection district, FFI tax proceeds should be allocated between and among the fire companies proportional to the number of active members in each fire company.

Alternatively, if the fire department does not have a treasurer or other fiscal officer, which is typically the case when fire services are provided by a fire district, then pursuant to Insurance Law the recipient of the FFI tax proceeds is the fiscal officer of the authority having jurisdiction and control of the fire department. Therefore, when a fire district is providing fire protection, the treasurer of the fire district should be the custodian of the FFI tax proceeds as that individual is the fiscal officer of the authorities having jurisdiction and control of the fire department.<sup>4</sup> Although custody of the FFI tax proceeds is to be retained by the treasurer of the fire district, Insurance Law generally provides that the proceeds be used for the benefit of the department, as determined by the department's membership.

Furthermore, a town board should adopt written policies and town officials should develop procedures to guide the proper allocation and distribution of FFI tax proceeds, which should include an adequate review of the allocation calculation and all supporting documentation prior to the disbursement of funds.

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<sup>4</sup> See supra, note 2.

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## Additional FFI Distribution Resources

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**Figure 2: OSC Publication**

OSC *Local Government Management Guide* available on our website to help officials understand and perform their responsibilities.

***Fiscal Oversight of the Governing Board***



<https://www.osc.ny.gov/files/local-government/publications/pdf/fiscal-oversight-responsibilities-of-the-governing-board.pdf>

In addition, our website can be used to search for audits, resources, publications and training for officials: <https://www.osc.ny.gov/local-government>.

# Appendix B: Response From Town Officials

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## TOWN OF GORHAM

*Dale C. Stell, Town Supervisor*

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February 28, 2026

Office of the State Comptroller  
Division of Local Government and School Accountability  
Rochester Region  
16 West Main Street Suite 522  
Rochester, NY 14614  
Attn: [REDACTED]

Dear [REDACTED]

Regarding the draft findings of the Town of Gorham Foreign Fire Insurance Tax Proceeds Audit, I am in complete agreement with your findings. We continued using the procedures used by previous administrations not recognizing that they were incorrect. The correct procedure will commence in 2026. We will soon put a correct procedure in writing and have our town council approve the resolution.

Sincerely,

Dale C. Stell,  
Gorham Town Supervisor  
Cc: Susan Cummings, Bookkeeper  
Darby Pettotte, Town Clerk

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# Appendix C: Audit Methodology and Standards

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We obtained an understanding of internal controls that we deemed significant within the context of the audit objective and assessed those controls. Information related to the scope of our work on internal controls, as well as the work performed in our audit procedures to achieve the audit objective and obtain valid audit evidence, included the following:

- We interviewed Town officials to gain an understanding of the allocation calculation, review and disbursement processes for FFI tax proceeds.
- We obtained FFI tax proceeds distribution documentation from DFS to identify the units associated with the two annual direct deposits of FFI tax proceeds received by the Town.
- We calculated the allocation percentages from the Company and Department active member listings to determine the pro-rata shares due to each unit for 2023 and 2024. We compared our allocation calculation for the Department and Company to the amounts paid to each by the Town.

We conducted this performance audit in accordance with generally accepted government auditing standards (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.

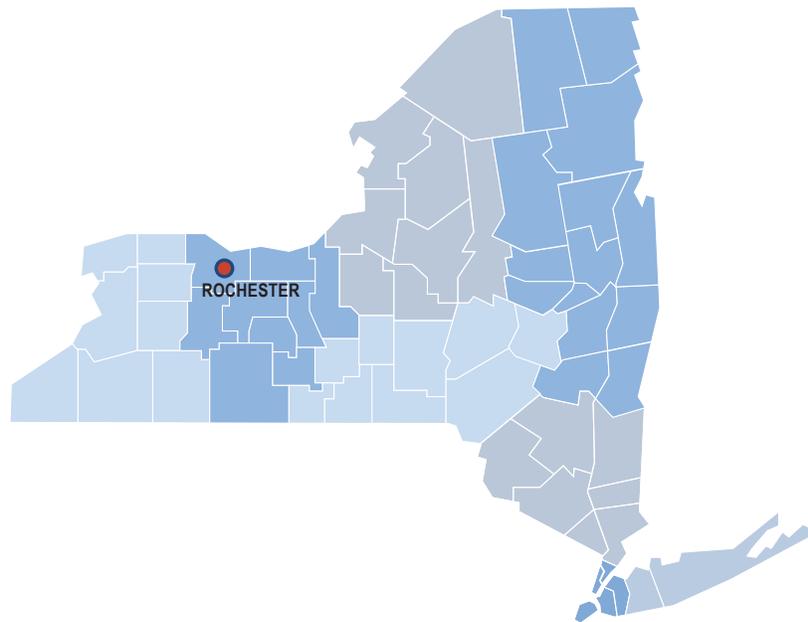
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