

Grand Gorge Fire District

Conflict of Interest and Claims Auditing

APRIL 2021



OFFICE OF THE NEW YORK STATE COMPTROLLER
Thomas P. DiNapoli, State Comptroller

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Report Highlights

Grand Gorge Fire District

Audit Objectives

Determine whether the Grand Gorge Fire District's (District) Board of Fire Commissioners (Board) ensured officials did not have prohibited interests in District contracts.

Determine whether claims were for appropriate District purposes and audited and approved prior to payment.

Key Findings

The Board did not ensure there were no prohibited conflicts of interest and allowed claims to be paid prior to audit and approval.

- The Board did not adopt a code of ethics, as required by law.
- A Commissioner had a prohibited interest in the contracts between the District and his snow plowing business.
- Contrary to New York State Town Law, the Treasurer paid certain claims totaling \$98,096 before Board audit and approval.

Key Recommendations

- Adopt a code of ethics and ensure that officials and employees are familiar with and follow the requirements of New York State General Municipal Law Article 18 as they relate to conflicts of interest.
- Audit and approve all claims before payment.

District officials agreed with our recommendations and indicated they have taken corrective action.

Background

The District is a district corporation of the State, distinct and separate from the Town of Roxbury (Town) in Delaware County. The District provides fire protection and emergency rescue services to the Town and, through a contractual agreement, part of the Town of Gilboa.

An elected five-member Board governs the District and is responsible for its overall financial management. The Board appoints a Treasurer who acts as the chief fiscal officer and is responsible for receiving, maintaining custody of, disbursing and accounting for District funds.

Quick Facts

2020 Budgeted Appropriations	\$190,875
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Disbursements Paid During Audit Period	\$300,580
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Residents Served	2,502
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Audit Period

January 1, 2019 – June 30, 2020

Conflict of Interest

How Should a Board Address Conflicts of Interest?

The New York State General Municipal Law (GML) requires the board to adopt a code of ethics setting forth for the guidance of its officers and employees the standards of conduct reasonably expected of them.¹ In addition, GML limits the ability of municipal officers and employees to enter into contracts in which their personal financial interests and public powers and duties conflict.² Unless a statutory exception applies, GML prohibits municipal officers and employees from having an interest in contracts with the municipality for which they serve when they have the power or duty – either individually or as a board member – to negotiate, prepare, authorize or approve the contract; authorize or approve payment under the contract; audit bills or claims under the contract; or appoint an officer or employee with any of those powers or duties. For this purpose, a “contract” includes any claim, account, demand against or agreement with the municipality. Municipal officers and employees have an interest in a contract when they receive a direct or indirect monetary or material benefit as a result of a contract with the municipality they serve.

The Board did not adopt a code of ethics...

A Commissioner Had a Prohibited Conflict of Interest

The Board did not adopt a code of ethics as required by law. Furthermore, a Commissioner is the owner of a local automotive service business, organized as a sole proprietorship, from which the District uses snow plowing and repair services. During our audit period, the District paid the business for seven invoices totaling \$1,878. Each invoice submitted by the Commissioner’s business for plowing services or repair work is an “agreement” and, thus, a “contract” for purposes of GML Article 18. As the sole owner of the business the Commissioner has an interest in each of the contracts because the Commissioner received a direct or indirect pecuniary (monetary) or material benefit as a result of the contracts. As a member of the Board, the Commissioner also has one or more of the powers and duties that can give rise to a prohibited interest, including the ability to authorize or approve contracts, authorize or approve payments under contracts, audit bills or claims under the contracts or appoint someone to perform that function.

GML provides an exception when a municipal officer or employee has an interest in the contract, provided the total consideration of all contracts in which the municipal officer or employee has an interest during the fiscal year does not exceed \$750.³ The total consideration of all the contracts in which the Commissioner had an interest during the 2019 fiscal year was \$1,128 and during the 2020 fiscal year (as of June 30, 2020) was \$750.⁴ Therefore, the exception

1 New York State General Municipal Law (GML) Section 806

2 GML Article 18

3 GML Section 802(2)(e)

4 The fiscal year is from January 1 through December 31.

found in GML applies to each contract during the 2020 fiscal year (as long as no additional contracts arise during the fiscal year), but does not apply to the contracts for the 2019 fiscal year.

Due to the Commissioner's prohibited interest in the contracts between the District and the business in 2019, we reviewed all the invoices submitted by the business during our audit period. Although our testing did not reveal any irregularities in pricing, when officials, in their private capacities, conduct business with the municipality for which they serve, the public may question the appropriateness of these transactions. Such transactions may create an actual conflict of interest or, at a minimum, the appearance of impropriety.

What Do We Recommend?

The Board should:

1. Adopt a code of ethics.
2. Ensure that all officials and employees are familiar with and follow the requirements of GML Article 18 as they relate to conflicts of interest.

Claims Auditing

What Is an Effective Claims Audit Process?

The board is responsible for managing and overseeing the district's financial activities and safeguarding its assets. The board must audit all claims before payment in accordance with New York State Town Law, with limited exceptions.⁵ The board may, by resolution, authorize payment in advance of audit for claims for public utility, postage, freight and express charges. However, the prepaid claims must be presented and audited by the board at its next regular meeting. Effective claims auditing procedures ensure that every claim against a district is subjected to a thorough and deliberate review, contains adequate supporting documentation and represents actual and necessary expenditures.

The Board did not approve or audit four months of claims before payment.

The Board Did Not Approve or Audit All Claims Before Payment

The Board did not approve or audit four months⁶ of claims before payment. We reviewed all 227 payments totaling \$300,580 made during our audit period and found that payments were supported by detailed receipts and for proper District purposes. However, the Treasurer paid 35 claims totaling \$98,096, which were not part of the District's prepayment resolution, prior to the Board's audit and approval. District officials told us that no meetings were held during these four months and, therefore, no abstracts were created. According to District officials, the Board allowed payments to be made so that District operations could continue, and the associated claims were audited and approved by the Board at the Board's next meeting. However, District officials were unable to provide us with any evidence that the Board audited the claims at the next Board meeting.

When the Board allows payments to be made prior to the audit of claims, there is an increased risk that payments may not be for the agreed upon products and services or may be for improper purposes.

What Do We Recommend?

The Board should:

3. Approve all claims before they are paid.

The Treasurer should:

4. Pay claims only after the Board has audited and approved them, unless appropriately authorized for prepayment.

⁵ New York State Town Law Section 176

⁶ August 2019, September 2019, April 2020 and May 2020. The April 2020 and May 2020 Board meetings did not take place due to the COVID-19 pandemic.

Appendix A: Response From District Officials

**Grand Gorge Fire District
PO Box 5
60753 St. Hwy 30
Grand Gorge NY 12434**

March 9, 2021

**TO: Binghamton Regional Office
Response to OSC Audit Report
Grand Gorge Fire District**

I am writing this letter in response to the OSC Audit Report (draft) for the Grand Gorge Fire District. We are in agreement with the audit.

Regarding our corrective plan,

Regarding our district having a *Code of Ethics*, please know that our district has completed a Code of Ethics and adopted it's Resolution at our annual Organizational Meeting on January 3, 2021. This was passed by unanimous vote.

Regarding a Commissioner having a *Prohibited Conflict of Interest*, our district adopted a Code of Ethics, and will ensure that all officials are familiar with the requirements of GML Art. 18.

Regarding *Claims Auditing*, the Board of Commissioners will approve all claims before they are paid. If meetings are rescheduled or canceled, the Treasurer will obtain, by signature, authorization to pay the claims.

Thank you.

Sincerely,

**Thomas Miner, Chairman
Grand Gorge Fire District**

Appendix B: Audit Methodology and Standards

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. To achieve the audit objectives and obtain valid audit evidence, our audit procedures included the following:

- We interviewed District officials and reviewed Board meeting minutes, including resolutions, to gain an understanding of District operations, policies and procedures.
- We obtained conflicts of interest forms from all Commissioners to determine if any Commissioner had a prohibited conflict of interest. We then reviewed all canceled check images to calculate the number of times and total dollar amounts a Commissioner-owned business was paid.
- We reviewed all bank statements, canceled check images (227 totaling \$300,580) and invoices to determine whether payments made were supported and for proper District purposes.
- We used a random number generator to select four months' (March 2019, November 2019, January 2020 and June 2020) abstracts to determine whether all payments listed were audited and approved by the Board prior to payment.

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

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.

The Board has the responsibility to initiate corrective action. Pursuant to Section 181-b of New York State Town Law, a written corrective action plan (CAP) that addresses the findings and recommendations 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 you 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.

Appendix C: Resources and Services

Regional Office Directory

www.osc.state.ny.us/sites/default/files/local-government/documents/pdf/2018-12/regional_directory.pdf

Cost-Saving Ideas – Resources, advice and assistance on cost-saving ideas

www.osc.state.ny.us/local-government/publications?title=&body_value=&field_topics_target_id=263196&issued=All

Fiscal Stress Monitoring – Resources for local government officials experiencing fiscal problems

www.osc.state.ny.us/local-government/fiscal-monitoring

Local Government Management Guides – Series of publications that include technical information and suggested practices for local government management

www.osc.state.ny.us/local-government/publications?title=&body_value=&field_topics_target_id=263206&issued=All

Planning and Budgeting Guides – Resources for developing multiyear financial, capital, strategic and other plans

www.osc.state.ny.us/local-government/resources/planning-resources

Protecting Sensitive Data and Other Local Government Assets – A non-technical cybersecurity guide for local government leaders

www.osc.state.ny.us/sites/default/files/local-government/documents/pdf/2020-05/cyber-security-guide.pdf

Required Reporting – Information and resources for reports and forms that are filed with the Office of the State Comptroller

www.osc.state.ny.us/local-government/required-reporting

Research Reports/Publications – Reports on major policy issues facing local governments and State policy-makers

www.osc.state.ny.us/local-government/publications?title=&body_value=&field_topics_target_id=263211&issued=All

Training – Resources for local government officials on in-person and online training opportunities on a wide range of topics

www.osc.state.ny.us/local-government/academy

Contact

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Tel: (518) 474-4037 • Fax: (518) 486-6479 • Email: localgov@osc.ny.gov

www.osc.state.ny.us/local-government

Local Government and School Accountability Help Line: (866) 321-8503

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