



NEBRASKA AUDITOR OF PUBLIC ACCOUNTS

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Kent Sierks, Chairperson
Dunning Rural Fire District
41745 Evergreen Ln
Dunning, NE 68833

Dear Chairperson Sierks:

The Nebraska Auditor of Public Accounts (APA) has reviewed the audit waiver request received from the Dunning Rural Fire District (District) for the fiscal year ending 2020. **That request has been approved.**

While performing, pursuant to Neb. Rev. Stat. § 84-304 (2020 Neb. Laws, LB 781, § 8), the preliminary examination necessary to determine whether further audit work would be required or the audit waiver should be allowed, the APA noted certain internal control or compliance matters, or other operational issues, within the District.

The following information is intended to improve internal controls or result in other operational efficiencies.

Comments and Recommendations

1. “Donation” Trust Fund

During our review of the bank statements accompanying the District’s audit waiver request, the APA noted bank transfers from an account that was not included in the District’s budget. According to the District’s Secretary-Treasurer, that unidentified account is a “Donations” account, which the District intended to be completely separate from its other financial activity. However, per the Secretary-Treasurer, the account was set up under the District’s Federal tax identification number.

The APA obtained a copy of the minutes for the February 2, 2017, meeting of the Board of Directors (Board) of the District. At that meeting, the District created a “Trust Fund.” Specifically, the minutes contain the following:

Motion by A Zutavern, seconded by Crooker to establish the Dunning Rural Fire District Trust Fund, with the District’s current Treasurer acting as custodian, as allowed under Nebraska statute 35-901, for the purpose of supporting the fire department. Motion passed 4-0.

The above excerpt from the meeting minutes appears to be referencing Neb. Rev. Stat. § 35-901 (Reissue 2016), which provides, in relevant part, the following:

(1) For purposes of this section, volunteer department shall mean volunteer fire department or volunteer first-aid, rescue, or emergency squad or volunteer fire company serving any city, village, county, township, or rural or suburban fire protection district.

(2) Except as provided in subsection (4) of this section, each volunteer department may establish a volunteer department trust fund. All general donations or contributions, bequests, or annuities made to the volunteer department and all money raised by or for the volunteer department shall be deposited in the trust fund. The trust fund shall be under the control of the volunteer department, and the volunteer department may make expenditures from the trust fund as it deems necessary. The treasurer of the volunteer department shall be the custodian of the trust fund.

(Emphasis added.) As the above statutory language makes clear, § 35-901 applies strictly to a “volunteer fire department or volunteer first-aid, rescue, or emergency squad or volunteer fire company,” not to a Fire Protection District. While the volunteer entity may be serving a “rural or suburban fire protection district,” the statute authorizes the former, rather than the latter, to create a trust fund. Thus, the District’s declared reliance upon § 35-901 as supposed authority to establish the trust fund at issue appears to have been misguided.

Additionally, Neb. Rev. Stat. § 13-503(7) (Supp. 2019) of the Nebraska Budget Act (Act) defines the term “public funds” to mean “all money, including nontax money, used in the operation and functions of governing bodies.” Section 13-507(1) includes “rural or suburban fire protection district” in the definition of “governing body.” Regardless of the applicability of § 35-901, therefore, the trust account and the money therein should be reported in the District’s annual budget – especially when the account is set up under the District’s own Federal tax identification number.

Neb. Rev. Stat. § 13-504 (Cum. Supp. 2018) of the Act requires the governing body of each political subdivision to prepare a proposed budget statement that contains, among other things, the following information:

- Revenue from all sources for the immediately preceding fiscal year.
- Actual and estimated revenue from all sources for the current fiscal year, as well as the amount of the current fiscal year’s actual or estimated expenditures.
- An estimate of revenue from all sources for the immediately ensuing fiscal year.
- A uniform summary of the proposed budget statement, containing a “grand total” of all funds maintained by the governing body.
- An actual or unencumbered cash balance that includes “deposits and investments of the political subdivision as well as any funds held by the county treasurer for the political subdivision.”

Furthermore, pursuant to Title 41 Nebraska Administrative Code 1-002 (March 24, 1992), “Unless otherwise directed by State Statute, audits shall be performed and filed [with the APA] on an annual basis for all political subdivisions.” As permitted by both that same administrative regulation and Neb. Rev. Stat. § 84-304 (2020 Neb. Laws, L.B. 1003, § 186), rural and suburban fire districts may request an audit waiver in lieu of an audit, which should include activity and balances of all public funds.

In light of the above, the trust account and all related financial activity should be reflected in the accounting records, including the annual budget filings and audit/audit waiver requests, of the District. The following table summarizes the balances and activity of this account.

	7/1/2019 to 6/30/2020
Beginning Balance	\$ 14,022.78
Total Deposits	\$ 15,698.55
Total Withdrawals	\$ (22,482.44)
Ending Balance	\$ 7,238.89

Moreover, expenditures out of the trust account must comply with the same statutory requirements that govern other District funds. The Local Government Miscellaneous Expenditure Act, which is found at Neb. Rev. Stat. § 13-2201 (Reissue 2012) et seq., places strict parameters upon certain expenditures of public funds by local governments, including rural and suburban fire protection districts.

A good internal control plan requires procedures to ensure the following: 1) The District relies upon the correct statutory authority to support its activities; and 2) all funds belonging to the District are included in any of its budget and audit/audit waiver filings with the APA.

Without such procedures, there is an increased risk of not only loss, misuse, or theft of District funds but also noncompliance with State statute.

We recommend the implementation of procedures to ensure the District relies upon the correct statutory authority to support its activities, and all funds belonging to the District are included in any of its budget and audit/audit waiver filings with the APA.

2. Payments Not Approved

The APA obtained a copy of the September 4, 2019, meeting minutes for the Board of Directors (Board) of the District. Those minutes fail to reflect the Board's approval of any District expenditures.

Per Neb. Rev. Stat. § 35-508(4) (Reissue 2016), Boards have the exclusive power to "manage and conduct the business affairs of the district." Accordingly, any expenditure of District funds requires express Board authorization.

Additionally, Neb. Rev. Stat. § 35-511 (Reissue 2016) provides, in relevant part, the following:

All donations, contributions, bequests, annuities, or borrowed money received by or on behalf of the district shall be deposited with the secretary-treasurer of the district and shall be drawn out only upon proper check. Such check shall be authorized by the board of directors and shall bear the signature of the secretary-treasurer and the countersignature of the president of such district.

(Emphasis added.) Properly discharging the above statutory duties necessarily entails proper financial management, which calls for the Board's approval of all expenditures prior to, or as soon thereafter as possible, the actual disbursement of District funds.

As a public body, moreover, the Board is subject to the provisions of the Open Meetings Act, which is set out at Neb. Rev. Stat. § 84-1407 (Reissue 2014) et seq. In particular, Neb. Rev. Stat. § 84-1413(1) (Cum. Supp. 2018) requires public bodies, including Boards, to "keep minutes of all meetings," showing, among other things, "the substance of all matters discussed."

Furthermore, a good internal control plan and sound business practices require procedures to ensure that the Board approves, in a timely fashion, all expenditures and business transactions of the District. Those same procedures should ensure also that the Board documents such approval in its meeting minutes, specifying the name of each payee, the exact amount of any disbursement, and the specific purpose of the payment.

Without such procedures, there is an increased risk for not only failure to comply with State statute but also loss or misuse of public funds.

We recommend the implementation of procedures to ensure the Board approves, in a timely fashion, all expenditures of District funds, and such approval is documented adequately in the Board's meeting minutes.

3. Lack of Dual Signatures

The APA obtained the monthly statements for the District’s bank accounts from its fiscal year 2020 audit waiver request. From those statements, the APA noted that all District checks written during the examination period contained only one signature.

Nebraska law requires both the Secretary-Treasurer and the President of the District to sign all checks approved by the Board. In particular, Neb. Rev. Stat. § 35-511 (Reissue 2016) states that those checks “shall bear the signature of the secretary-treasurer and the countersignature of the president of such district.”

In addition, good internal controls and sound accounting practices require procedures to ensure that District checks contain the statutorily required endorsements.

Without such procedures, there is an increased risk for not only failure to comply with State statute but also loss or misuse of public funds.

We recommend the Board implement procedures to require dual signatures, from both the Secretary-Treasurer and the President, on all District checks, as required by law.

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The preliminary planning work that resulted in this letter was designed primarily on a test basis and, therefore, may not bring to light all existing weaknesses in the District’s policies or procedures. Nevertheless, our objective is to use the knowledge gained during the performance of that preliminary planning work to make comments and suggestions that we hope will prove useful to the District.

This communication is intended solely for the information and use of the District and its management. It is not intended to be, and should not be, used by anyone other than those specified parties. However, this letter is a matter of public record, and its distribution is not limited.

If you have any questions, please contact **Dakota Christensen** at **402-499-8702** or **dakota.christensen@nebraska.gov**.

Sincerely,



Mark Avery, CPA
Assistant Deputy Auditor