



NEBRASKA AUDITOR OF PUBLIC ACCOUNTS

Charlie Janssen
State Auditor

Charlie.Janssen@nebraska.gov
PO Box 98917
State Capitol, Suite 2303
Lincoln, Nebraska 68509
402-471-2111, FAX 402-471-3301
auditors.nebraska.gov

January 29, 2021

Paul Wenninghoff, District Chairperson
Irvington Fire District 8
6707 Wenninghoff Rd
Omaha, NE 68122

Dear Chairperson Wenninghoff:

The Nebraska Auditor of Public Accounts (APA) has reviewed the audit waiver request received from the Irvington Fire District 8 (District) for the fiscal year ending 2020. **That request has been approved.**

However, as noted in **Comment and Recommendation Number 1** (“Payments to Volunteer Fire Department”), the District has entered into an agreement with the Irvington Volunteer Fire Department (Department), to provide significant funding to the Department. During fiscal year 2020, the District provided \$801,000 to the Department, which our office does consider these types of expenditures low-risk. Due to the Department receiving significant public funding during fiscal year 2020, being a non-profit corporation, an organization with little oversight, and expecting to receive over \$600,000 from the District in fiscal year 2021, **the APA has determined an audit will be required for the fiscal year ending June 30, 2021, for the Irvington Fire District 8 and the Irvington Volunteer Fire Department.**

For the District to have a complete audit filing with our office for fiscal year 2021, the District will need to file an audit report for both the District and Department by December 31, 2021.

Additionally, 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. Payments to Volunteer Fire Department

During our review of the bank statements accompanying the District’s audit waiver request, the APA noted that the District paid \$801,000 of District funds to the Department, a non-profit organization. The following table summarizes the payments to the Department.

Check #	Check Date	Cleared Date	Payee	Amount
2543	7/27/19	7/30/19	Irvington Volunteer Fire Dept.	\$ 200,250
2547	1/30/20	2/25/20	Irvington Volunteer Fire Dept.	\$ 200,250
2548	4/30/20	5/6/20	Irvington Volunteer Fire Dept.	\$ 200,250
2549	6/30/20	8/5/20	Irvington Volunteer Fire Dept.	\$ 200,250
Total				\$ 801,000

According to the District, the District enters into an agreement with the Department to provide funding for various services and expenses each year. The APA obtained a copy of the agreement entered into on October 1, 2020. Section 4 of this agreement states that the District will pay the Department \$612,000 during the agreement period, which is from October 1, 2020, through September 30, 2021.

4) (a) During the Term, DISTRICT shall pay FIRE DEPARTMENT an amount equal to 612,000 (_____.00) for performing the Services. The parties agree to explore the possibility of entering into a new Agreement for the consecutive twelve month period following the expiration of the Term. FIRE DEPARTMENT and DISTRICT agree to negotiate in good faith toward achieving a mutual agreement as to the terms of an Agreement, including without limitation, the amount to be paid by DISTRICT for performing the Services during such period. Such negotiations shall commence not later than the May 1 of the Term, and, unless mutually extended by the parties in their respective sole judgement and absolute discretion, shall terminate on the immediately following June 30. Nothing in this Agreement shall be construed to require the parties to achieve any such agreement. If the parties are not able to achieve agreement, then, notwithstanding anything contained in this Agreement to the contrary, the Term shall expire and terminate as set forth in this Agreement.

The Local Government Miscellaneous Expenditure Act (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.

Additionally, Neb. Rev. Stat. § 35-901(6) (Reissue 2016) requires the expenditure of all public funds by the Department to be approved by the “taxing authority supporting” it, namely the District, and properly published, as follows:

All expenditures of public funds as defined in the Nebraska Budget Act for support of a volunteer department or its purposes shall be submitted as claims, approved by the taxing authority supporting such department or its purposes, and published as required by law. All such claims shall be properly itemized for proposed expenditure or reimbursement for costs already incurred and paid except as may be otherwise permitted pursuant to section 35-106.

According to Neb. Rev. Stat. § 13-503(7) (Supp. 2019) of the Nebraska Budget Act, the term “public funds” means “all money, including nontax money, used in the operation and functions of governing bodies.” Any public funds received by the Department attach to the District to which it belongs – and, therefore, may be assumed to be used for the operation and function of that governing political subdivision. Consequently, such funds are subject to both the requirements of the Act and § 35-901(6).

Furthermore, good internal controls require procedures to ensure that any expenditure of funds by the District, whether directly or through a designated recipient thereof, is not only for a statutorily allowable purpose but also in accordance with the underlying objective of that disbursement. Thus, when a volunteer fire department – or, for that matter, any other entity or person – receives such funds, the District should have procedures for documenting their appropriate use.

Without such procedures, there is an increased risk for the improper, if not prohibited, use of District funds.

We recommend the District implement procedures for documenting the expenditure of public funds by it, whether directly or otherwise, to ensure the proper use of those monies.

2. 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.

3. Payments Not Approved

The APA obtained a copy of the September 17, 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.”

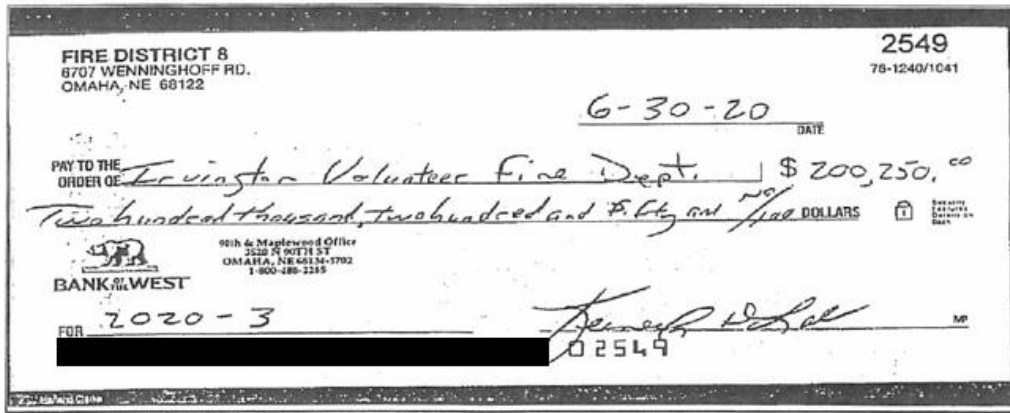
Furthermore, a good internal control plan and sound business practices require procedures to ensure that the Board approves, in a timely fashion, all expenditures and business transactions of the District. Those same procedures should ensure also that the Board documents such approval in its meeting 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.

4. Financial Activity

The District failed to include \$200,250 in its disbursements amount on the District’s audit waiver request and, therefore, the ending balance reported on the audit waiver was overstated by the same amount. The APA noted one check, shown below, that was written on June 30, 2020, and cleared in August 2020. As this was disbursed in June 2020, this check should have been included as a disbursement on the fiscal year ending 2020 audit waiver.



Check#: 2549 Amount: \$200,250.00
Date: 08/05/2020 CaptureSequence: 0

Good internal controls require procedures to ensure financial activity is reported accurately on the District's audit waiver request and other financial reports. When such procedures do not exist, there is an increased risk financial activity and balances will not be reported accurately.

We recommend the Board implement procedures to ensure financial activity is reported accurately on the District's audit waiver request and other financial reports.

* * * * *

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

cc: Irvington Volunteer Fire Department