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April 7, 2014

The Honorable Alan Cooley, Mayor
City of Villard
P.O. Box 7
Villard, Minnesota 56385

Mr. James Pfeninger, President
Villard Fire Department Relief Association
P.O. Box 22
Villard, Minnesota 56385

Dear Mayor Cooley and Mr. Pfeninger:

The Office of the State Auditor (“OSA”) reviewed fire state aid payments issued by the State of Minnesota to the City of Villard (“City”) for the years 2009 through 2012. The OSA found that the City failed to transfer fire state aid to the Villard Fire Department Relief Association (“Fire Relief”) in a timely manner, as required by Minnesota law. It also appears the Fire Relief did not promptly deposit fire state aid received from the City into the Fire Relief’s Special Fund.

This letter describes the findings from the OSA’s review, and provides the City and the Fire Relief with recommendations to improve the handling of fire state aid in the future.

Background

Minnesota law requires a city treasurer to transfer fire state aid received by a city to its relief association’s treasurer within 30 days of receipt.¹ Minnesota law also requires fire state aid to be deposited into the relief association’s special fund, which is the relief association’s restricted pension fund.² Under Minnesota law, the relief association’s treasurer, as the custodian of the assets of the special fund, must maintain adequate records documenting any transaction involving the assets or the revenues of the special fund.³

The OSA attempted to obtain documentation from the City and the Fire Relief showing that fire state aid had been deposited into the Fire Relief’s Special Fund. The City and the Fire Relief provided some, but not all, of the requested documentation. As a result, the OSA has not certified the Fire Relief as eligible for receipt of the 2013 fire state aid. In addition, the OSA sent letters dated February 27, 2014, to the City and to the Fire Relief, requesting documentation that would allow the OSA to determine how the fire state aid for the years 2009 through 2012 had been handled by the City and by the Fire Relief.

¹ Minn. Stat. § 69.031, subd. 5(a). If the relief association has not filed a financial report with the city, the city treasurer must delay transmission of the fire state aid until the complete financial report is filed. *Id.*

² Minn. Stat. § 424A.05, subd. 2.

³ *Id.*

Fire State Aid Findings

The OSA found that the City failed to transfer fire state aid to the Fire Relief within 30 days of receipt. It also appears the Fire Relief did not promptly deposit fire state aid received from the City into the Fire Relief's Special Fund. A summary of the various procedures used by the City and the Fire Relief in handling fire state aid for the years 2009 through 2012 is set forth below.

a. 2009 Fire State Aid

The State of Minnesota issued a fire state aid check dated September 30, 2009, to the City in the amount of \$6,204.⁴ The City deposited the check into a City account on November 27, 2009. In March 2012, after the OSA requested confirmation from the Fire Relief that it had received the 2009 fire state aid, the City issued a check to the Fire Relief in the amount of \$6,204 for the 2009 fire state aid. The Fire Relief attempted to deposit the check on October 23, 2013, but the check could not be negotiated because it was stale.⁵ After the OSA began this review, the City issued another check, dated March 11, 2014, to the Fire Relief in the amount of \$6,204. That check was deposited the next day into the Fire Relief Special Fund.⁶

b. 2010 Fire State Aid

The State of Minnesota issued a fire state aid check dated March 14, 2011, to the City in the amount of \$10,475. The City gave the check directly to the Fire Relief. The fire state aid check was not deposited into the Fire Relief Special Fund until December 14, 2011.

c. 2011 Fire State Aid

The State of Minnesota issued a check dated June 14, 2012, to the City in the amount of \$22,199, which included fire state aid in the amount of \$3,870.⁷ The City deposited the check into a City account on June 22, 2012. The City informed the OSA that it was unaware a portion of the check included fire state aid. After the OSA began this review, the City issued a check dated March 11, 2014, to the Fire Relief in the amount of \$3,870. The check was deposited the next day into the Fire Relief Special Fund.⁸

⁴ The fire state aid checks for the years 2009 through 2012 were made payable to: Villard City of, City Treasurer.

⁵ The City check stated that it was void after 60 days.

⁶ The deposit totaled \$10,074 and included a City check disbursing \$3,870 to the Fire Relief for the 2011 fire state aid.

⁷ The aid check included \$18,329 in local government aid and \$3,870 in fire state aid (\$18,329 + \$3,870 = \$22,199). The Minnesota Department of Revenue ("DOR") informed the OSA that, after the OSA began this review, the City would be receiving a 2011 Minimum Fire State Aid payment in the amount of \$6,603 that DOR erroneously omitted.

⁸ The deposit totaled \$10,074 and included the City check disbursing \$6,204 to the Fire Relief for 2009 fire state aid.

d. 2012 Fire State Aid

The State of Minnesota issued a fire state aid check dated March 14, 2013, to the City in the amount of \$9,164.27. The City gave the check directly to the Fire Relief. On October 23, 2013, the Fire Relief attempted to deposit the check, but the check could not be negotiated because it was stale.⁹ The City returned the check to the State. The State cancelled the returned check and issued another check to the City, dated November 20, 2013, for the 2012 fire state aid. The City deposited the second check into a City account on December 5, 2013. The City issued a check dated December 12, 2013, to the Fire Relief in the amount of \$9,164.27. The check was deposited into the Fire Relief Special Fund on January 2, 2014.

Recommendations

The OSA recommends that the City comply with Minnesota law in the future. Fire state aid received by the City must be transferred to the Fire Relief's Treasurer within 30 days of receipt.¹⁰ Because the fire state aid checks are made out to the City, the OSA recommends that the City promptly deposit the fire state aid checks into a City account. The City should then promptly issue a City check to the Fire Relief for the fire state aid and document the date the Fire Relief Treasurer receives the check.¹¹

The OSA recommends that the Fire Relief promptly deposit fire state aid received from the City into the Fire Relief Special Fund. Failure to make timely deposits increases the risk of error and the risk of misappropriation of funds. In addition, a delay in a deposit causes the Fire Relief to lose interest and earnings on the funds. The OSA recommends that the Fire Relief Treasurer maintain adequate records documenting all transactions involving the fire state aid.

The OSA also recommends that both the Fire Relief and the City monitor whether the annual fire state aid has been received and handled in compliance with these recommendations.

Finally, the OSA recommends that, in the future, the City and the Fire Relief provide timely and complete information to any OSA request for information about fire state aid. Otherwise, the Fire Relief may not be certified as eligible for receipt of fire state aid, or certification may be delayed.

Conclusion

The OSA reviewed fire state aid payments issued to the City of Villard for the years 2009 through 2012. The OSA found that the City failed to transfer fire state aid to the Fire Relief

⁹ The State check stated that it had to be cashed within 120 days.

¹⁰ Minn. Stat. § 69.031, subd. 5(a). If the Fire Relief has not filed a financial report with the City, the City Treasurer must delay transmission of the fire state aid until the complete financial report is filed. *Id.*

¹¹ For example, the City could obtain and maintain a form signed by the Fire Relief Treasurer acknowledging the date the check was received from the City.

within 30 days of receipt. It also appears the Fire Relief did not promptly deposit fire state aid received from the City into the Fire Relief's Special Fund. The OSA provided recommendations to both the City and the Fire Relief for the future handling of fire state aid.

In compliance with Minn. Stat. §§ 6.495, 6.50, and 69.051, this letter is being filed with the City and County Attorneys, and the Legislative Commission on Pensions and Retirement. If you have any questions, please contact Terrilyn Diamond at (651) 297-7108 or by email at Terrilyn.Diamond@osa.state.mn.us.

Sincerely,

/s/ Terrilyn Diamond

Terrilyn Diamond, Attorney

cc: Villard City Council Members
Ms. Sandy Piekarski, City Clerk/Treasurer
Mr. Darrin Ogdahl, Conway, Deuth & Schmiesing, PLLP, City Auditors
Mr. Chad Gerdes, Fire Relief Treasurer
Mr. Lee Hockert, Fire Relief Auditor
Mr. Bruce Obenland, City Attorney
The Honorable Neil Nelson, Pope County Attorney
Mr. Lawrence A. Martin, Legislative Commission on Pensions and Retirement