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Article for *Minnesota Fire Chief*

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### **Donations and Fundraisers** *Who Wears Which Hat?*

*By Rebecca Otto, State Auditor*

The Office of the State Auditor has recently received several inquiries from local officials about municipal fire department purchasing and fundraising issues. One recurring question has concerned relative roles of a city council or town board and a Fire Relief Association, especially around the issue of donations.

#### **Background**

City and towns are public entities. Municipal fire departments are departments of city or town government. They are controlled and governed by the municipality's appropriate governing body – the city council or the town board of supervisors.

Minnesota law also addresses Volunteer Firefighters Relief Associations. The law states:

A relief association is a governmental entity that receives and manages public money to provide retirement benefits for individuals providing the governmental services of firefighting and emergency first response.

Relief associations are usually organized as non-profit corporations. They are managed by boards of trustees, the membership of which is also mandated by statute.

Unlike city councils and town boards, volunteer firefighters' relief association boards of trustees do not govern fire departments.

#### **City Council and Town Board Acceptance of Donations**

The city council or town board has discretion to either accept or reject donations for any purpose, including donations for the municipal fire department. Minnesota law does prescribe the manner in which donations must be accepted. A city council or town board must accept donations by a resolution adopted by a two-thirds majority. The donor may want to limit the use of the funds so they can only be used for the fire department. Any conditions placed on

the gift by the donor must be documented in the resolution considered by the city council or town board.

Once a piece of equipment is donated to the city or town it becomes public property. The city or town will need to maintain the equipment and may need to insure the equipment and add it to the town's asset list. As a result, an entity preparing to make a donation should work with the city council or town board to determine whether the donation is one the city or town wants to accept. If a conflict arises about priorities for fire department purchases, the city council or town board makes the final decision.

### **Fire Relief Association Donations**

Every relief association has a special fund and may also have a general fund. A relief association's special fund is a restricted pension fund that may receive state and municipal money paid to the relief association. The special fund assets may only be spent for benefit payments and certain authorized administrative expenditures.

A relief association may also have a general fund for expenditures consistent with the relief association's bylaws. If permitted by the relief association's bylaws, a relief association may offer general fund money or equipment purchased with general fund money to the city council or town board as donations. The city council or town board decides whether donations for a municipal fire department are accepted, as described above. A relief association should not attempt to circumvent the city council or town board's authority by purchasing and installing fire department equipment without its approval.

### **Fire Relief Association Fundraisers**

If a fire relief association's bylaws permit it, the association may solicit donations or conduct fundraisers. In advertisements and solicitations, the association should identify itself as the entity conducting the solicitation or fundraiser and state the specific intended purpose for which funds are being raised.

If funds will be raised for specific types of fire department equipment, the city council or town board should be consulted first to make sure the equipment is what the council or board wants. Fundraising should not be used as a method of circumventing the city council or town board's authority to determine priorities for the municipal fire department.

Any advertisement or solicitation should state clearly whether a donation is to the relief association or to the city or town. Checks should be made payable to either the fire relief association or the municipality. Checks should not be made out to the fire department, or disputes may arise over ownership of the donated funds.

City and Township residents have traditionally been strong supporters of their municipal fire departments and relief associations, and have made many generous donations over the years. When issues arise over the roles of city councils and town boards and fire relief associations concerning donations, Minnesota law provides clear guidance.