



REBECCA OTTO  
STATE AUDITOR

# STATE OF MINNESOTA

## OFFICE OF THE STATE AUDITOR

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May 24, 2011

The Honorable Eugene Clark  
Mayor, City of Ogema  
P.O. Box 31  
Ogema, Minnesota 56569-0031

Dear Mayor Clark:

The Office of the State Auditor (OSA) is aware that the City of Ogema's Fire Department controls its own finances and maintains its own financial accounts. Because the Fire Department is a city fire department, the City, acting through the City Council, the City Clerk, and the City Treasurer, should control the Fire Department's financial affairs. In addition, the state fire aid received by the City should be maintained by the City in a special account that may only be used for certain purposes authorized by Minnesota law.

This letter will provide the City with guidance to bring the Fire Department's finances and the City's handling of state fire aid in compliance with Minnesota law.<sup>1</sup>

### **Control of Fire Department's Finances**

The Ogema Volunteer Fire Department is a city fire department. The Fire Department has a checking account and other financial accounts.<sup>2</sup> Fire Department revenue includes gaming funds. Fire Department disbursements are approved by the Fire Department members, and checks are signed by the Fire Chief and the Fire Department Treasurer. The City does not approve disbursements from the Fire Department's accounts.

A city council is required to have full control over a city's financial matters.<sup>3</sup> City funds are only to be paid upon an order drawn by the mayor, the city clerk, and the city treasurer.<sup>4</sup> Minnesota law requires that the underlying claims for disbursements of city

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<sup>1</sup> Additional guidance on the issues discussed in this letter is available on our website: [www.auditor.state.mn.us](http://www.auditor.state.mn.us). For example, we have "Avoiding Pitfalls" on the following topics: Donations to Fire Departments, Acceptance of Gifts to an Entity, Fire State Aid, and Fire Department Checking Accounts.

<sup>2</sup> The Fire Department Treasurer informed the OSA that the Fire Department has a checking account and certificates of deposit. The Fire Department accounts use the City's tax identification number.

<sup>3</sup> See Minn. Stat § 412.241 (2010).

<sup>4</sup> See Minn. Stat § 412.141 (2010); Minn. Stat § 412.271, subd. 1 (2010).

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funds be reviewed and allowed by the city council before the actual disbursements.<sup>5</sup> These controls apply to all city departments, including the fire department.

Donations to a city's fire department are actually donations to the city, with limitations on the way the donated funds may be used. A city council may accept gifts for its fire department in accordance with the terms prescribed by the donor. However, under Minnesota law, gifts must be accepted by a resolution approved by a two-thirds majority of the city council.<sup>6</sup> A city fire department does not have the authority to accept gifts for the fire department.

To provide the City and the Fire Department with further guidance, I have enclosed a copy of our Statement of Position on Fire Departments, Fire Relief Associations and Checking Accounts.

### **City's Receipt of State Fire Aid**

There is no relief association directly associated with the City's fire department. The City receives state fire aid and deposits the state fire aid in the City's General Fund.<sup>7</sup>

The City's financial reports submitted to this Office for 2007, 2008, and 2009, do not report the state fire aid as a separate City account. Nor do they report whether the state fire aid was expended or, if the funds were expended, how they were expended.<sup>8</sup> Both the City Clerk and the Fire Department Treasurer informed the OSA that at least some of the state fire aid has not been expended.<sup>9</sup> However, the annual reporting forms for cities without relief associations submitted by the City to the Pension Division of this Office report that the state fire aid received during 2007 through 2010 was expended each year on equipment purchases and/or maintenance, leaving the restricted fire fund balance at zero as of January 1, 2010, 2009, 2008, and 2007.

Enclosed is a copy of Minn. Stat. § 424A.08. The statute requires state fire aid received by cities with no relief association directly associated with the city's fire department to be deposited in a special account established by the city. The funds may only be used for the payment of:

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<sup>5</sup> See Minn. Stat. § 412.271, subd. 1 (2010).

<sup>6</sup> See Minn. Stat. § 465.03 (2010). Any conditions placed on the use of the gift should be fully described in the resolution.

<sup>7</sup> For 2007 through 2010, the City reported to the OSA that it received the following state fire aid: 2010 - \$4,517; 2009 - \$4,168; 2008 - \$4,722; and 2007 - \$5,434.

<sup>8</sup> The OSA had not received the City's 2010 financial report as of the date of this letter.

<sup>9</sup> The Fire Department Treasurer informed the OSA that the City owed the Fire Department for four to five years of state fire aid. The City Clerk informed the OSA that the only Fire Department expenses paid by the City were insurance-related, and those expenses were covered by payments the City received from towns for fire protection services. The City Clerk also informed the OSA that the City had possession of state fire aid funds.

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- 1) Certain fees, dues and assessments;
- 2) The cost of purchasing and maintaining needed fire department equipment;  
and
- 3) The cost of construction, acquisition, repair, or maintenance of buildings or other premises to house fire department equipment.

### **Recommendations**

The Office of the State Auditor recommends that all funds in the Fire Department's accounts be moved to accounts under the City's control. The Fire Department accounts should then be closed. All future disbursements for the Fire Department should be approved by the City Council. Only checks signed by the Mayor, City Clerk, and City Treasurer should be used to pay Fire Department claims.

The Office of the State Auditor also recommends that the City deposit state fire aid in a special City account established for that purpose and disburse the funds only for purposes authorized by law.

Please notify the Office of the State Auditor when the City makes these changes. More specifically, please provide this Office with documentation showing that:

- 1) The Fire Department funds have been transferred to a City account, and the Fire Department accounts have been closed; and
- 2) A special restricted fire fund has been created by the City for state fire aid.

If necessary, please submit a corrected Fire Protection Service Reporting Form for Municipalities without a Firefighter Relief Association for the Year Ended December 31, 2010, that accurately reflects any restricted state fire aid funds maintained by the City as of December 31, 2010.<sup>10</sup>

Thank you for your assistance in getting these matters resolved. If you have any questions, please feel free to contact me at 651-297-5853 or by email to Nancy.Bode@osa.state.mn.us.

Sincerely,

*/s/ Nancy J. Bode*

Nancy J. Bode  
Assistant Legal Counsel

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<sup>10</sup> A copy of the City's Reporting Form for the year ended December 31, 2010, previously filed with the OSA, is enclosed.

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Enclosures

cc. Ms. Mary Vasecka, City Clerk  
Mr. Franklin Rousu, City Treasurer  
Mr. Joe McArthur, City Fire Chief  
Mr. Don Dalve, Fire Department Treasurer