

**Examination of Certain Policies, Procedures, Controls, and  
Financial Activity of the Southeast Bullitt Fire Protection District**



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**ADAM H. EDELEN**  
**AUDITOR OF PUBLIC ACCOUNTS**

January 15, 2015

David E. Blakeman, Sr., Chairman  
Southeast Bullitt Fire Protection District  
1974 Belmont Road  
Lebanon Junction, Kentucky 40150

RE: Findings and Recommendations

Dear Chairman Blakeman:

We have completed our Examination of Certain Policies, Procedures, Controls, and Financial Activity of the Southeast Bullitt Fire Protection District (District). This examination was initiated due to a citizen's concerns expressed to this office. The examination period, unless otherwise specified, was January 1, 2010 through September 30, 2014.

To address the concerns presented to this office, we requested and examined various records, including District and Department Board meeting minutes, District and Department expenditure reports as presented to the District Board, general warranty deeds, and District loan records. In addition to the various records examined, auditors also interviewed most of the current District Board members, the Fire Chief, the District and Department attorney, the CPA currently engaged to perform a financial statement audit of the Department, and the CPA who performed the financial statement audits for the District for fiscal years 2008 through 2011 and 2013.

The report presents eight findings and several recommendations to strengthen the District's management, controls, and oversight practices. Due to the issue and recommendations addressed in Finding 4 of this report, we are referring this report finding to the Department for Local Government for review and further consideration. In addition, the report will be shared with the Kentucky Legislature as certain recommendations involve potential legislation.

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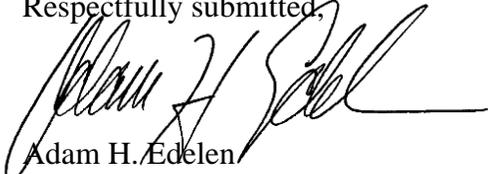
AN EQUAL OPPORTUNITY EMPLOYER M/F/D



Chairman Blakeman  
January 15, 2015  
Page 2

The Auditor of Public Accounts requests a report from the District on the implementation of the examination recommendations within sixty (60) days of the completion of the final report. If you wish to discuss this report further, please contact me or Brian Lykins, Executive Director of the Office of Technology and Special Audits.

Respectfully submitted,

A handwritten signature in black ink, appearing to read 'Adam H. Edelen', with a long horizontal flourish extending to the right.

Adam H. Edelen  
Auditor of Public Accounts



## **Examination of Certain Policies, Procedures, Controls, and Financial Activity of the Southeast Bullitt Fire Protection District**

### **Examination Objectives**

On October 3, 2014, the Auditor of Public Accounts (APA), in response to concerns expressed to this office regarding specific transactions and other activity of the Southeast Bullitt Fire Protection District (District), initiated an examination of specific issues involving the District. To accomplish the examination, the APA developed the following examination objectives:

- Analyze records and make additional inquiries relating to the recent transfer of property between the District and the Southeast Bullitt Volunteer Fire and Rescue Department, Inc. (Department) to determine whether public assets were misappropriated.
- Analyze records and make inquiries to determine whether public funds were expended for the purpose of bonus payments and to establish retirement accounts of \$1 million or more to personally benefit the Department's Fire Chief.

The purpose of this examination was not to opine on the financial statements or to duplicate work of routine annual financial statement audits. Further, while specific issues addressed as part of the examination involved the Department, a non-profit corporation with which the District has contracted to provide fire protection services, the scope of this examination was to address the concerns presented to this office and not to examine financial transactions or other records of the Department. Unless otherwise indicated, the examination period for this engagement was January 1, 2010 through September 30, 2014.

Though the scope of the examination specifically related to the District, a number of matters came to the auditor's attention during the examination, which resulted in findings impacting not only the District, but also the Department and the potential for future state legislation to address certain issues identified in the report.

As of this report date, a number of issues involving the District and the Department continue to be discussed among various parties, including District and Department legal counsels. These continued discussions create a fluid situation involving aspects of a number of issues addressed in this report. These issues include the District contract for fire protection services, the status of the Fire Chief's position on the District Board, and the disposition of assets.

### **Background**

In January 1979, the District was created as a fire protection district authorized through Kentucky Revised Statute (KRS) Chapter 75. Shortly after it was organized, the District began contracting with the Department, as authorized by KRS 75.050 to provide fire protection services in southeast Bullitt County.

The District Board consists of seven members as required by KRS 75.031. The membership of the seven-member Board includes two members elected by property owners in the District, two elected by the firefighters from its membership, and three appointed by the Bullitt County Judge/Executive.

During the examination period, the two individuals elected by the firefighters as their District Board representatives were the Fire Chief, who serves as the Vice-Chair for the Department Board, and the Department Board Chair. On December 4, 2014, subsequent to the examination period, the Fire Chief resigned his elected position on the District Board after serving on the District Board since 1999.

### **Financial Information**

The District operates on a fiscal year beginning July 1 and ending June 30 of the following year. According to the FY 2013 District financial audit statement report, revenues totaled \$831,189 and operating expenditures were \$778,029. The ending cash balance for the District for fiscal year (FY) 2013 was \$271,016.

The primary source of revenue for the District comes from tax receipts. The Board is authorized by KRS 75.040 to levy an annual property tax, not to exceed “ten cents (\$0.10) per one hundred dollars (\$100) of valuation as assessed for county taxes.” According to District Board meeting minutes and District audited financial statement audits, the District has maintained the maximum tax rate allowable on personal and tangible property since at least 2008.

The primary expense of the District is its contract for fire protection services with the Department. Payments to the Department are made bi-annually by the District Board, typically in July and January each fiscal year. According to District financial reports and minutes, the District Board approved a total of \$3,940,000 in payments to the Department for contract fire protection services from July 1, 2010 through July 30, 2014.

### **Department**

According to its Articles of Incorporation, on file with the Kentucky Secretary of State’s Office, the Department was incorporated on August 2, 1979 under the authority of KRS Chapter 273. Two months after the Department formed, it entered into an agreement with the District on November 5, 1979 to provide fire protection services to the Southeast portion of Bullitt County. Despite rumors, the Kentucky Secretary of State records document that the Department was not organized by the current Fire Chief or other current Department Board membership. The Chief himself did not join the Department until 1990.

The Department’s Articles of Incorporation prohibit any part of the income of the Department to “inure the benefit of any member, trustee, director, officer of the Corporation, or a private individual.”

According to the Department, its primary source of revenues is derived from the contract with the District. In addition, the Department receives revenues from insurance claims, state aid provided through the Kentucky Commission on Fire Protection Personnel Standards and Education (Fire Commission), and interest on accounts.

The balance of Department bank accounts totaled over \$2.7 million as of October 31, 2014. These balances increased by over \$546,000 since calendar year (CY) ending 2013 when the Department bank balances were almost \$2.2 million.

### **Findings and Recommendations**

#### **Finding 1: The District Board continues to levy property taxes at the highest allowable statutory rate without conducting an analysis of the actual costs necessary to provide fire protection service to District property owners.**

According to KRS 75.040, the District Board has the authority to levy an annual property tax, not to exceed “ten cents (\$0.10) per one hundred dollars (\$100) of valuation as assessed for county taxes.” Though the District is authorized to levy taxes to defray operational expenses, within the guidelines of KRS 75.040, the District has levied taxes on property in the District at the maximum allowed by statute without conducting an analysis of the actual costs or future needs associated with providing fire protection services to District residents. Based on District records examined and interviews with District representatives, auditors found the tax rates levied by the District Board have remained unchanged for a number of years, dating back to at least 2008. While the tax rate levied by the District Board has remained at the maximum for years, the decision to keep the rate the same year after year appears to have been decided by the District Board without any formal analysis of the needs of the District and the Department with which the District contracts to provide fire protection services. According to information provided by the Department, bank balances for all Department bank accounts totaled over \$2.7 million as of October 31, 2014. These balances have grown by over \$546,000 since CY ending 2013 when the Department bank balances were almost at \$2.2 million.

**Recommendations:** We recommend the District Board perform an annual in-depth financial analysis to determine the appropriate level of taxation based on current and future operational needs. This financial analysis should take into account not only current District and Department spending, but should also include identifying inefficiencies in an attempt to reduce future spending. Also, we recommend the District Board formally document its analysis and related discussions to ensure transparency and accountability to the public. In addition, the District Board should discuss with its attorney the status of its potential legal liabilities. Further, we recommend the Kentucky legislature consider legislation requiring fire district boards, as well as other taxing authorities, to perform a formal analysis of the anticipated revenues, expenditures, and other reasonable financial considerations necessary to operate a district for the following fiscal year prior to determining the tax rate levied for the next fiscal year. We recommend any potential legislation require a uniform process be followed by a district to ensure a comparable, standard financial analysis is performed when determining the

financial needs of a district. We further recommend any potential legislation require this analysis to be presented during a public district board meeting, with the vote to approve the tax rate levied for the following year in a subsequent public district board meeting. This would allow time for board members to evaluate and discuss the rate necessary to operate a district and provide an opportunity for taxpayers to question the board. We also recommend the District Board Chair ensure more timely reporting of District and Department expenditure reports to District Board members. Expenditure reports should be provided to each District Board member days in advance of monthly Board meetings to allow Board members sufficient opportunity to review the reports and be prepared to discuss any questions or concerns Board members may have related to spending. We recommend the review of these reports be documented in the Board meeting minutes.

**Finding 2: The District Board purchased property without first obtaining an appraisal to determine an appropriate purchase price.**

On August 8, 2011, the District Board voted unanimously to authorize the Fire Chief, as its Board Chair, to purchase two properties on behalf of the District for a total of \$798,000. The purchased properties were to be used by the Department as the building site for a new business office and fire station. The purchase price for the land was negotiated by the Fire Chief months before the District authorized the Chief to purchase the properties and without an appraisal to determine whether the purchase price was appropriate. Though the District is not required by state statute or by District policy to obtain an appraisal before purchasing property, the practice of obtaining an appraisal is simply a sound financial practice, which provides for additional protection when purchasing property with taxpayer funds. An appraisal of property gives the buyer an official independent and fair assessment of the property's value upon which to base an offer.

**Recommendations:** We recommend the District Board develop a formal written procurement policy. In developing a procurement policy, we recommend the District Board consider adopting a policy similar to the model procurement code. While the District's procurements are limited at this time to mainly a few professional services, there is no guarantee that this will continue and the District should be prepared with established spending guidelines to ensure consistent and fair procurement practices are followed. Once a policy is developed, and finalized in writing, the policy should be distributed to all Board members and to those responsible within the District for purchasing with a copy maintained in the official records of the District.

Once a policy is established, we also recommend the District Board revise its contract to require the Department to procure goods and services in compliance with the policies established by the District Board. This will assist District Board members in providing additional oversight of the use of the taxpayer funds paid to the Department. We recommend the District Board ensure that appraisals are obtained prior to purchase of real property. The District Board should develop, as part of its procurement policies, a requirement for appraisals to be obtained before negotiating the purchase price of real estate. We recommend the District Board consider adopting a policy similar to that followed by the Commonwealth in the procurement of real property, including the requirement to obtain two appraisal for land estimated to cost over \$200,000. The policy should also require that price negotiations begin with, at most, the lowest appraised value. We further recommend, the Department Board adopt its own procurement policies that, at a minimum, adhere to the District's procurement policies. The policies developed by the Department would not take precedent over the policies of the District when spending public funds nor should they contradict or negate the District's policies but rather the Department policies should be developed to supplement the District policies, as determined necessary.

**Finding 3: Though it reasonably appears a conflict of interests exists, statutory language does not seem to prohibit the Chief and other Department management from representing Department personnel or serving as an officer on the District Board.**

Since 1990, Department employees have voted for the same individual to serve as a member of the District Board while also serving as the Chief of the Fire Department, created under KRS Chapter 273. In approximately 2000, the Fire Chief was selected by the District Board to serve as its Chairman. This relationship continued until December 4, 2014, when the Fire Chief resigned as Chair of the District Board. Though it reasonably appears this relationship constitutes a conflict of interest, statutory language does not seem to prohibit the Fire Chief, or other Department management, from representing the Department personnel on the District Board or from serving as its Chairman.

**Recommendations:** We recommend state legislators study the provisions of KRS Chapter 75, and consider revising those statutes to provide restrictions in those instances where a fire district contracts with a fire department for fire protection services to preclude members of the contracting department's management, including department fire chiefs, from being eligible to

serve on fire protection district boards, or, at a minimum, as officers of district boards. A clear delineation between the management of each organization is imperative. Further, we recommend state legislators consider revising these statutory provisions to address the authority of a district board to transfer ownership of property to a department with which a district contracts to provide public fire protection services. Until such time as the statute(s) are revised, and in an effort to immediately address what reasonably appears to be a conflict, we recommend the District Board explore the legality of implementing a policy to disallow members of Department management to serve as officers of the District Board. This would not restrict the Department firefighters from electing members of management as their representatives on the District Board, but would provide some degree of separation between the management of the District and Department.

**Finding 4: The Department is not registered as a Special Purpose Governmental Entity, though it meets the criteria established under KRS Chapter 65A.**

Auditors found the Department under contract to provide fire protection services to the District since 1979 has not registered as a Special Purpose Governmental Entity (SPGE) with the Kentucky Department for Local Government (DLG), as required by KRS 65A.020. Based on information provided by the Department and research performed by this office, including an analysis of existing state statutes, the Department should be registered as a SPGE. As such, the Department, which has received over \$ 4.4 million in public funds since January 2010 through its contract with the District, is required to annually file certain financial reports with DLG, including financial statement audits under certain conditions, as required in KRS Chapter 65A. Annual SPGE financial filings foster transparency and accountability for the public funds it receives.

**Recommendations:** We recommend the Department Board contact the appropriate DLG representatives and discuss the need for the Department to report as a SPGE, as defined by KRS 65A.010, and as required of certified fire departments by KRS 75.430(1). Documentation and other information needed for review by DLG should be provided in an expedited manner to resolve the matter promptly. If determined to be a SPGE, the Department Board should register and file the appropriate financial information with DLG. If determined not to be an SPGE because it is not a certified fire department, we recommend the Fire Commission take appropriate action to recover the training aid the Department has inappropriately

received. This finding will be referred to DLG and the Fire Commission for its consideration and action.

**Finding 5: The Department awarded \$5,200 in annual Christmas bonuses to employees and select volunteers.**

Between November 8, 2010 and November 11, 2013, the Department Board approved \$5,200 in Christmas bonus payments to the Chief, other Department personnel, and select volunteers. While the Department is a non-profit corporation formed under KRS Chapter 273, the Department provides public services through the use of public tax funds collected by the District. Use of public funds by an entity to award bonuses to Department volunteers and personnel is questionable.

**Recommendations:** We recommend the Department Board expand its motion to refrain from awarding bonuses to any individuals, including volunteers. We further recommend the Department Board take additional measures to ensure bonus payments are not paid in the future by incorporating the moratorium into Department policy to formally communicate in its policies that bonus payment are not allowed. Once developed, the policy should be formalized in writing, maintained in the official records of the Department, and distributed to all Board members.

**Finding 6: The Chief's spouse was awarded \$63,000 as payment for services despite no official report or record of hours worked.**

Between November 8, 2010 and November 11, 2014, the Department Board awarded the Department Chief's spouse a total of \$63,000 as payment for secretarial and bookkeeping services. While Department records indicate that the payments made to the Chief's spouse were reported to the federal government for tax years 2010 through 2013 as 1099 miscellaneous income, the Department awarded these annual payments to the Chief's spouse without requiring documentation of the hours worked by the Chief's spouse throughout the year. Without requiring documentation of the hours worked, the Department Board is not effectively ensuring proper use of its funds and has no way determine whether the amount of the annual payments made to the Chief's spouse were appropriate.

**Recommendations:** We recommend the Department Board further discuss the hiring of the Chief's wife and consider this apparent conflict of interests. If the Board continues the contract employment of the Chief's wife, we recommend the Board ensure strong segregation of duties and reporting be implemented to ensure an alternative line of reporting for the Chief's spouse so that any management decisions related to employment, work performance, or salary and benefits are not directly influenced by the Chief. If this contract employment continues, we further recommend, in

addition to the Board action taken on November 11, 2014, that the Department Board establish a formal written contract with the contractor documenting the conditions of employment and expectations of the position. Any contract entered into should specify the services the contractor will perform and the terms of the contract including the rate of pay and the required number of hours to be worked in exchange rate of pay. The contract should include specific language requiring a detailed timesheet or invoice to substantiate the work performed before payment is made to the contractor and specify the party responsible for overseeing the all aspects of the contract, including performance.

**Finding 7: The Department has not established a formal performance evaluation process.**

During the examination, it came to the auditor's attention that the Department has not established a formal annual performance evaluation process. According to the Department's attorney, the Department did recently conduct personnel performance evaluations; however, the action was not taken due to a pre-existing policy but, rather, in response to inquiries regarding evaluations made by the APA.

**Recommendations:** We recommend the Department Board develop a formal performance evaluation process. This process should require the evaluation of each Department employee by their immediate supervisor, with an annual evaluation of the Department Fire Chief performed by the Department Board. If the Fire Chief continues to serve on the Department Board, the Fire Chief should abstain from participating in his own evaluation. Further, we recommend this evaluation process be used as part of a larger formal compensation structure. If a formal compensation structure does not already exist, we recommend the Department Board work with its attorney to establish a fair and equitable compensation structure for its employees and volunteers. Certain elements should be included when establishing a fair and equitable compensation structure, including but not limited to: position descriptions detailing required candidate qualifications, job duties, and expectations; position levels and corresponding salary or hourly pay ranges; and, performance incentives. Finally, we would recommend the Department Board continue to work with its attorney to strengthen existing policies or to develop others to ensure the policies are thorough and comprehensive. As part of that process, we recommend the Department Board consider the *Auditor of Public Accounts Recommendations for Public and Nonprofit Boards*, which may be found on the APA website at <http://auditor.ky.gov>. The recommendations contained within that document will assist the Board in

developing and implementing additional organizational policies.

**Finding 8: Neither the District nor the Department has a formal written contract for legal services.**

During the examination, auditors were advised that neither the District nor the Department has established a formal written contract for legal services with its attorney. According to the attorney whose firm has provided legal services to both the District and Department since 2006, the services provided by the firm have been limited. However, in discussion with the attorney, additional legal services have been requested in light of recent public inquiries. A formal contract with the attorney will strengthen expenditure oversight by ensuring a process is established to determine who has the authority to request attorney services, the type of services to be performed, the rate at which services will be invoiced, the detail required for invoicing, any expenses to be paid, and other items that should be specifically identified.

**Recommendations:** We recommend both the District Board and Department Board ensure any agreement it enters into is documented in a formal written contract. As recommended in Finding 6, any contracts entered into should specify the services the contractor will perform and the terms of the contract including the hourly rate or fixed amount charged for contracted services. The contract should include specific language requiring detailed invoices from a contractor to include a description of the work performed, the number of hours associated with each work step, and the rate at which services are being charged. If services are performed by individuals at various levels of responsibility or authority within the organization, the rates charged for those working at the various levels should also be specified. Terms involving specific expenses that may be paid should also be included in the contract terms. In addition, a policy should be adopted to identify the Board committee responsible for reviewing and approving the contract invoices.



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## Chapter 1

# Introduction and Background

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### Scope and Objectives for Examination

On October 3, 2014, the Auditor of Public Accounts (APA), in response to concerns expressed to this office regarding specific transactions and other activity of the Southeast Bullitt Fire Protection District (District), initiated an examination of specific issues involving the District. To accomplish the examination, the APA developed the following examination objectives:

- Analyze records and make additional inquiries relating to the recent transfer of property between the District and the Southeast Bullitt Volunteer Fire and Rescue Department, Inc. (Department) to determine whether public assets were misappropriated.
- Analyze records and make inquiries to determine whether public funds were expended for the purpose of bonus payments and to establish retirement accounts of \$1 million or more to personally benefit the Department's Fire Chief.

The purpose of this examination was not to opine on the financial statements or to duplicate work of routine annual financial statement audits. Further, while specific issues addressed as part of the examination involved the Department, a non-profit corporation with which the District has contracted to provide fire protection services, the scope of this examination was to address the concerns presented to this office and not to examine financial transactions or other records of the Department. Unless otherwise indicated, the examination period for this engagement was January 1, 2010 through September 30, 2014.

To address the concerns presented to this office, we requested and examined various records, including District and Department Board meeting minutes, District and Department expenditure reports as presented to the District Board, general warranty deeds, and District loan records. In addition to the various records examined, auditors also interviewed most of the current District Board members, the Fire Chief, the District and Department attorney, the CPA currently engaged to perform a financial statement audit of the Department, and the CPA who performed the financial statement audits for the District for fiscal years (FY) 2008, 2009, 2010, 2011, and 2013.

Though the scope of the examination specifically related to the District, a number of matters came to the auditor's attention during the examination, which resulted in findings impacting not only the District, but also the Department and the potential for future state legislation to address certain issues identified in the report. Our findings and recommendations resulting from this examination are presented in Chapter 2 of this report.

As of this report date, a number of issues involving the District and the Department continue to be discussed among various parties, including District and Department legal counsels. These continued discussions create a fluid situation involving aspects of a number of issues addressed in this report. These issues include the District contract for fire protection services, the status of the Fire Chief's position on the District Board, and the disposition of assets.

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## Chapter 1

# Introduction and Background

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### **District Background**

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In January 1979, the District was created as a fire protection district authorized through Kentucky Revised Statute (KRS) Chapter 75. Shortly after it was organized, the District began contracting with the Department, as authorized by KRS 75.050 to provide fire protection services in southeast Bullitt County.

### *Governance*

The District Board consists of seven members as required by KRS 75.031. The membership of the seven-member Board includes two members elected by property owners in the District, two elected by the firefighters from its membership, and three appointed by the Bullitt County Judge/Executive.

During the examination period, the two individuals elected by the firefighters as their District Board representatives were the Fire Chief, who serves as the Vice-Chair for the Department Board, and the Department Board Chair. On December 4, 2014, subsequent to the examination period, the Fire Chief resigned his elected position on the District Board after serving on the District Board since 1999.

### **Financial Information**

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### *Revenues and Expenditures*

The District operates on a fiscal year beginning July 1 and ending June 30 of the following year. According to the FY 2013 District financial audit statement report, revenues totaled \$831,189 and operating expenditures were \$778,029. The ending cash balance for the District for FY 2013 was \$271,016.

The primary source of revenue for the District comes from tax receipts. The Board is authorized by KRS 75.040 to levy an annual property tax, not to exceed “ten cents (\$0.10) per one hundred dollars (\$100) of valuation as assessed for county taxes.” According to District Board meeting minutes and District audited financial statement audits, the District has maintained the maximum tax rate allowable on personal and tangible property since at least 2008.

The primary expense of the District is its contract for fire protection services with the Department. The contract does not specify a specific payment amount owed to the Department for the fire protection services, but rather states:

The District agrees to pay the net proceeds of the Fire Protection tax revenue collected from all persons, firms and corporations with the District, save necessary and reasonable operating expenses of the District, to the Volunteer Fire Department, which funds shall be used by the Volunteer Fire Department for the provision of the fire protection services, equipment and facilities necessary thereto.

Payments to the Department are made bi-annually by the District Board, typically in July and January each fiscal year. According to District financial reports and minutes, the District Board approved a total of \$3,940,000 in payments to the Department for contract fire protection services from July 1, 2010 through July 30, 2014.

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## Chapter 1

# Introduction and Background

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### *Fixed Assets*

The District audited financial statements for FY 2013 report that \$1,026,648 in land was deleted from the District fixed assets. The CPA performing the District financial statement audit stated that this transaction was reported to reflect property transferred from the name of the District into the name of the Department.

On May 6, 2013, general warranty deeds confirm the District transferred ownership of two properties to the Department valued at a total of \$798,000. The properties were originally purchased by the District in August 2011. The difference between the value of these two properties and the value of land deleted from the District fixed assets in FY 2013 was identified to auditors by the District's CPA as a property purchased in 2009, which was added to the financial statements of the District. Based on research performed by this office including a review of Department meeting minutes, it appears the property was erroneously reported as an asset of the District. The Department purchased the property in 2009 for \$248,644 and the Bullitt County Property Valuation Administrator records document that the property was placed in the name of the Department when purchased.

### **Department**

According to its Articles of Incorporation, on file with the Kentucky Secretary of State's Office, the Department was incorporated on August 2, 1979 under the authority of KRS Chapter 273. Two months after the Department formed, it entered into an agreement with the District on November 5, 1979 to provide fire protection services to the Southeast portion of Bullitt County. Despite rumors, the Kentucky Secretary of State records document that the Department was not organized by the current Fire Chief or other current Department Board membership. The Chief himself did not join the Department until 1990.

The Articles of Incorporation state that the purpose of the Department is to:

operate a volunteer fire department, promoting public safety by rendering fire fighting services, by rendering fire prevention services and education therefore, and by providing rescue services, all of which services are to be rendered and performed on a not-for-profit basis.

The Department's Articles of Incorporation prohibit any part of the income of the Department to "inure the benefit of any member, trustee, director, officer of the Corporation, or a private individual." Further, the Articles of Incorporation state that in the event of dissolution,

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## Chapter 1 Introduction and Background

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no member shall be entitled to any distribution or division of its remaining property or its proceeds, and the balance of all monies and other property received by the Corporation from any source, after the payment of all debts and obligations of the Corporation, shall be used or distributed exclusively for purposes within the intendment of such 501 (c) of the Internal Revenue Code as the same now exists, or as it may be amended from time to time.

### *Finances*

According to the Department, its primary source of revenues is derived from the contract with the District. In addition, the Department receives revenues from insurance claims, state aid provided through the Kentucky Commission on Fire Protection Personnel Standards and Education (Fire Commission), and interest on accounts.

Table 1 shows the breakdown of Department revenue received each calendar year (CY) through the Department contract with the District. As can be seen in Table 1, Department revenue from its contract with the District declined significantly between CY 2011 and CY 2012. The reason for the decline in CY 2012 revenue was due to the District and Department agreeing to allow the District Board to utilize the Department's January payment to assist the District in paying off a \$1 million loan the District had originally taken out to assist the Department in purchasing property for new station construction. See Finding 2 in Chapter 2 for further description of these events.

**Table 1: Annual contract payments received between January 1, 2010 and September 30, 2014 by the Department through its contract with the District.**

<b>Calendar Year</b>	<b>2010</b>	<b>2011</b>	<b>2012</b>	<b>2013</b>	<b>2014</b>
<b>Total annual payment received</b>	\$ 1,150,000	\$ 1,350,000	\$ 450,000	\$ 700,000	\$ 790,000

Source: APA based on District and Department meeting minutes from January 1, 2010 through September 30, 2014.

According to information provided by the Department, the balance of Department bank accounts totaled over \$2.7 million as of October 31, 2014. These balances increased by over \$546,000 since CY ending 2013 when the Department bank balances were almost \$2.2 million.

During a review of Department Board meeting minutes from January 1, 2010 through September 2014, auditors found Department budgets as reported to the Department Board for CY 2010 through 2014. Table 2 summarizes by expenditure account, the Department budgets for CY 2011 through 2014.

## Chapter 1 Introduction and Background

**Table 2: Department Budgets for CYs 2010 through 2014.**

Account	Account Description	CY 2010	CY 2011	CY 2012	CY 2013	CY 2014
1000	Mortgages	\$ -	\$ -	\$ -	\$ -	\$ -
1100	Vehicle Purchases	35,000	150,000	-	-	46,000
1101	Vehicle Payments	-	-	-	-	-
2001	Phone	6,000	4,500	4,800	7,000	7,000
2002	Electric	15,000	15,000	14,000	16,000	15,000
2003	Propane/Natural Gas	35,000	20,000	20,000	12,000	11,000
2004	Water	3,500	1,200	1,200	1,400	1,300
3000	Insurance	27,000	24,000	25,000	28,000	29,000
4000	Gasoline/Fuel	32,000	15,000	16,000	16,000	15,000
5000	Construction	150,000	2,000	1,200,000	200,000	32,000
5001	Building Maintenance/Supplies	N/A	N/A	N/A	15,000	1,000
5002	Furniture/Fixtures	N/A	N/A	N/A	15,000	3,000
6000	Equipment Purchase (Gear/Uniforms)	20,000	20,000	20,000	20,000	12,000
6001	Miscellaneous Equipment Purchases	20,000	20,000	20,000	20,000	6,000
6002	Equipment Purchase (Repairs/Maintenance)	10,000	10,000	8,000	7,500	6,000
6003	Radio/Pager (Repairs/Purchases)	10,000	10,000	8,000	3,000	200
7000	Miscellaneous Operating Expenses	20,000	15,000	15,000	10,000	6,000
7001	Firemen Expense Reimbursement	18,000	15,000	15,000	15,000	12,000
8000	Mechanical Services	20,000	10,000	10,000	5,000	5,000
8001	EMT/Rescue Expenses	500	500	500	500	-
8002	Departmental Meetings	4,000	3,000	3,000	2,000	2,000
8003	Repeater Fees	-	-	-	-	-
9000	Administrative Services	18,000	18,000	15,000	15,000	15,000
9001	Professional Fees	30,000	20,000	20,000	12,000	15,000
9002	Payroll Expenses	200,000	200,000	225,000	275,000	275,000
9003	Contingency Fund	5,000	5,000	5,000	5,000	-
	<b>Total Annual Budget</b>	<b>\$679,000</b>	<b>\$578,200</b>	<b>\$1,645,500</b>	<b>\$700,400</b>	<b>\$514,500</b>

Source: APA Based on Department budget reports contained within Department Board meeting minutes between January 1, 2010 through September 2014.

Table 3 is a summary of Department expenditures as reported in monthly financial reports provided to the District Board between January 1, 2010 and September 30, 2014. As is seen in Table 3, the highest expense categories for the Department each year typically appear to be construction and payroll. In 2014, the amount expended only represents expenses through September 30, 2014.

## Chapter 1 Introduction and Background

**Table 3: Annual Department Expenditures by Expense Category for CYs 2010 through September 2014.**

Account	Expense Category	CY 2010	CY 2011	CY 2012	CY 2013	CY 2014 thru September 2014
1000	Mortgages	\$ -	\$ -	\$ -	\$ -	\$ -
1100	Vehicle Purchases	96,419.00	41,857.00	-	15.00	44,076.48
1101	Vehicle Payments	-	-	-	-	-
2001	Phone	4,037.20	4,678.82	4,644.81	6,861.44	4,839.13
2002	Electric	10,030.21	13,918.83	12,821.34	13,381.56	8,841.00
2003	Propane/Natural Gas	9,188.48	8,536.37	3,932.97	9,717.51	13,317.74
2004	Water	867.65	892.28	1,201.92	1,127.30	957.00
3000	Insurance	21,937.80	23,046.29	25,839.61	27,969.60	28,258.65
4000	Gasoline/Fuel	12,806.23	13,599.17	13,868.40	12,907.25	9,311.91
5000	Construction	228,722.09	119,159.16	1,359,880.37	195,479.56	1,500.00
	Building					
5001	Maintenance/Supplies	N/A	N/A	N/A	3,192.51	1,664.46
5002	Furniture/Fixtures	N/A	N/A	N/A	3,391.28	-
	Equipment Purchases					
6000	(Gear/Uniforms)	5,685.48	12,292.00	1,361.00	8,968.99	2,913.78
	Miscellaneous					
6001	Equipment Purchases	62,529.33	5,749.12	19,994.37	8,295.96	9,947.09
	Equipment					
6002	(Repairs/Maintenance)	5,391.12	5,291.12	4,253.78	6,885.13	3,153.86
	Radio/Pager					
6003	(Repairs/Purchases)	9,653.50	3,789.28	4,785.00	1,273.21	-
	Miscellaneous					
7000	Operating Expenses	7,115.91	10,151.74	7,205.91	5,029.03	3,773.92
	Firemen Expense					
7001	Reimbursement	14,752.00	11,888.00	10,337.00	10,024.00	-
8000	Mechanical Services	550.31	1,776.39	880.46	4,155.15	3,180.94
	EMT/Rescue					
8001	Expenses	-	-	-	-	261.24
8002	Departmental Meetings	2,194.17	2,305.20	1,122.71	1,612.00	-
8003	Repeater Fees	-	-	-	-	-
9000	Administrative Services	11,100.00	12,250.00	12,250.00	14,500.00	-
	Professional Fees					
9001		-	-	7,500.00	4,765.00	1,610.00
9002	Payroll Expenses	188,529.91	206,667.49	224,724.90	225,101.59	156,843.77
9003	Contingency Fund	-	-	-	-	18,600.00
	<b>Total Annual Spending</b>	<b>\$691,510.39</b>	<b>\$597,848.26</b>	<b>\$1,716,604.55</b>	<b>\$564,653.07</b>	<b>\$313,050.97</b>

Source: APA Based on Department expenditure reports provided to the District between January 1, 2010 through September 30, 2014.

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## Chapter 1

# Introduction and Background

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Table 4 summarizes the total budget and actual Department expenditures presented in Tables 2 and 3 for CY 2010 through September 2014. As is evidenced in Table 4, actual spending by the Department exceeded the Department budget in CY 2010 through 2012, the most significant overage occurred in CY 2012. In Tables 5 through 7, the expenditures for individual Department budget line items are presented to identify where the most significant budget overages actually occurred.

Based on Tables 5 through 7, it appears the most significant variance between budget to actual expenditures for CY 2010 through 2012 occurred under the Department construction line item, Account 5000. The Department's budgeted construction account was exceeded by \$78,722, \$117,159, and \$159,880 for CY 2010, CY 2011, and CY 2013, respectfully. During those years, Department Board meeting minutes document the Department constructed two new stations.

Actual Department expenditures for CY 2014 presented in Tables 3 and 4 are only through September 2014, so it cannot be determined whether Department spending will meet or exceed the 2014 Department annual budget.

**Table 4: Summary analysis of total Department Budget to Actual Expenditures for CYs 2010 through September 2014**

	<b>CY 2010</b>	<b>CY 2011</b>	<b>CY 2012</b>	<b>CY 2013</b>	<b>CY 2014</b>
<b>Budget</b>	\$679,000	\$578,200	\$1,645,500	\$700,400	\$514,500
<b>Actual</b>	691,510	597,848	1,716,605	564,653	313,051
<b>Difference</b>	<b>\$(12,510)</b>	<b>\$(19,648)</b>	<b>\$(71,105)</b>	<b>\$135,747</b>	<b>\$201,449</b>

Source: APA Based on Department budget reports contained within Department Board meeting minutes and Department expenditure reports provided to the District between January 1, 2010 through September 2014.

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**Table 5: CY 2010 Budget to Actual Department Expenditures by Expense Account.**

<b>Account</b>	<b>Expenses</b>	<b>CY 2010 Budget</b>	<b>CY 2010 Actual</b>	<b>Variance</b>
1000	Mortgages	\$ -	\$ -	\$ -
1100	Vehicle Purchases	35,000	96,419	(61,419)
1101	Vehicle Payments	-	-	-
2001	Phone	6,000	4,037	1,963
2002	Electric	15,000	10,030	4,970
2003	Propane/Natural Gas	35,000	9,188	25,812
2004	Water	3,500	868	2,632
3000	Insurance	27,000	21,938	5,062
4000	Gasoline/Fuel	32,000	12,806	19,194
5000	Construction	150,000	228,722	(78,722)
6000	Equipment Purchases (Gear/Uniforms)	20,000	5,685	14,315
6001	Miscellaneous Equipment Purchases	20,000	62,529	(42,529)
6002	Equipment (Repairs/Maintenance)	10,000	5,391	4,609
6003	Radio/Pager (Repairs/Purchases)	10,000	9,654	347
7000	Miscellaneous Operating Expenses	20,000	7,116	12,884
7001	Firemen Expense Reimbursement	18,000	14,752	3,248
8000	Mechanical Services	20,000	550	19,450
8001	EMT/Rescue Expenses	500	-	500
8002	Departmental Meetings	4,000	2,194	1,806
8003	Repeater Fees	-	-	-
9000	Administrative Services	18,000	11,100	6,900
9001	Professional Fees	30,000	-	30,000
9002	Payroll Expenses	200,000	188,530	11,470
9003	Contingency Fund	5,000	-	5,000
	<b>Totals</b>	<b>\$ 679,000</b>	<b>\$691,510</b>	<b>\$ (12,510)</b>

Source: APA Based on Department budget reports contained within Department Board meeting minutes and Department expenditure reports provided to the District between January 1, 2010 through December 2010.

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**Introduction and Background**

**Table 6: CY 2011 Budget to Actual Department Expenditures by Expense Account.**

<b>Account</b>	<b>Expenses</b>	<b>CY 2011 Budget</b>	<b>CY 2011 Actual</b>	<b>Variance</b>
1000	Mortgages	\$ -	\$ -	\$ -
1100	Vehicle Purchases	150,000	141,857	8,143
1101	Vehicle Payments	-	-	-
2001	Phone	4,500	4,679	(179)
2002	Electric	15,000	13,919	1,081
2003	Propane/Natural Gas	20,000	8,536	11,464
2004	Water	1,200	892	308
3000	Insurance	24,000	23,046	954
4000	Gasoline/Fuel	15,000	13,599	1,401
5000	Construction	2,000	119,159	(117,159)
6000	Equipment Purchases (Gear/Uniforms)	20,000	12,292	7,708
6001	Miscellaneous Equipment Purchases	20,000	5,749	14,251
6002	Equipment (Repairs/Maintenance)	10,000	5,291	4,709
6003	Radio/Pager (Repairs/Purchases)	10,000	3,789	6,211
7000	Miscellaneous Operating Expenses	15,000	10,152	4,848
7001	Firemen Expense Reimbursement	15,000	11,888	3,112
8000	Mechanical Services	10,000	1,776	8,224
8001	EMT/Rescue Expenses	500	-	500
8002	Departmental Meetings	3,000	2,305	695
8003	Repeater Fees	-	-	-
9000	Administrative Services	18,000	12,250	5,750
9001	Professional Fees	20,000	-	20,000
9002	Payroll Expenses	200,000	206,667	(6,667)
9003	Contingency Fund	5,000	-	5,000
	<b>Totals</b>	<b>\$578,200</b>	<b>\$597,848</b>	<b>\$(19,648)</b>

Source: APA Based on Department budget reports contained within Department Board meeting minutes and Department expenditure reports provided to the District between January 1, 2011 through December 2011.

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**Introduction and Background**

**Table 7: CY 2012 Budget to Actual Department Expenditures by Expense Account.**

<b>Account</b>	<b>Expenses</b>	<b>CY 2012 Budget</b>	<b>CY 2012 Actual</b>	<b>Variance</b>
1000	Mortgages	\$ -	\$ -	\$ -
1100	Vehicle Purchases	-	-	-
1101	Vehicle Payments	-	-	-
2001	Phone	4,800	4,645	155
2002	Electric	14,000	12,821	1,179
2003	Propane/Natural Gas	20,000	3,933	16,067
2004	Water	1,200	1,202	(2)
3000	Insurance	25,000	25,840	(840)
4000	Gasoline/Fuel	16,000	13,868	2,132
5000	Construction	1,200,000	1,359,880	(159,880)
6000	Equipment Purchases (Gear/Uniforms)	20,000	1,361	18,639
6001	Miscellaneous Equipment Purchases	20,000	19,994	6
6002	Equipment (Repairs/Maintenance)	8,000	4,254	3,746
6003	Radio/Pager (Repairs/Purchases)	8,000	4,785	3,215
7000	Miscellaneous Operating Expenses	15,000	7,206	7,794
7001	Firemen Expense Reimbursement	15,000	10,337	4,663
8000	Mechanical Services	10,000	880	9,120
8001	EMT/Rescue Expenses	500	-	500
8002	Departmental Meetings	3,000	1,123	1,877
8003	Repeater Fees	-	-	-
9000	Administrative Services	15,000	12,250	2,750
9001	Professional Fees	20,000	7,500	12,500
9002	Payroll Expenses	225,000	224,725	275
9003	Contingency Fund	5,000	-	5,000
	<b>Totals</b>	<b>\$1,645,500</b>	<b>\$1,716,605</b>	<b>\$(71,105)</b>

Source: APA Based on Department budget reports contained within Department Board meeting minutes and Department expenditure reports provided to the District between January 1, 2012 through December 2012.

**Findings and Recommendations**

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**Finding 1: The District Board continues to levy property taxes at the highest allowable statutory rate without conducting an analysis of the actual costs necessary to provide fire protection service to District property owners.**

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According to KRS 75.040, the District Board has the authority to levy an annual property tax, not to exceed “ten cents (\$0.10) per one hundred dollars (\$100) of valuation as assessed for county taxes.” Though the District is authorized to levy taxes to defray operational expenses, within the guidelines of KRS 75.040, the District has levied taxes on property in the District at the maximum allowed by statute without conducting an analysis of the actual costs or future needs associated with providing fire protection services to District residents.

Based on District records examined and interviews with District representatives, auditors found the tax rates levied by the District Board have remained unchanged for a number of years, dating back to at least 2008. While the tax rate levied by the District Board has remained at the maximum for years, the decision to keep the rate the same year after year appears to have been decided by the District Board without any formal analysis of the needs of the District and the Department with which the District contracts to provide fire protection services. According to information provided by the Department, bank balances for all Department bank accounts totaled over \$2.7 million as of October 31, 2014. These balances have grown by over \$546,000 since CY ending 2013 when the Department bank balances were almost at \$2.2 million.

District Board members interviewed and District Board meeting minutes reviewed between January 1, 2010 and September 2014 indicated that no formal financial analysis or discussion of the financial needs of the District or Department occurred prior to approving the tax rates for the upcoming year. Several Board members stated that the Board would simply be notified during its meeting that it was time to update the tax rates and then a motion would be made to keep the rates the same as last year. The District Board members then approved the tax rates unanimously. Three District Board members, including the Department Fire Chief, who served as the District Board Chair until he resigned from this position on December 4, 2014, stated that the rates were considered to be consistent with neighboring Fire Districts. Whether the rates are consistent with other area taxing districts should not be a consideration when establishing the District tax rate. Rather, the tax levied by the District Board, according to statute, is to be used to defray operational costs; therefore, the current and future costs of operation should be the primary concern of Board members when voting on a tax rate.

District Board members interviewed noted that though no formal financial analysis was performed prior to levying the annual tax rate, District Board members did receive monthly Department expenditure reports summarizing the Department's spending month by month. Through interviews, auditors learned that while District Board members were provided Department expenditure reports at monthly District Board meetings, the reports were not distributed to members prior to Board meetings and that most did not retain a copy to review later, which limited the Board members' opportunity to perform any potential review of Department spending to the length of each monthly meeting. District Board meeting minutes do not document significant discussions during monthly meetings of Department expenses, revenues, or future operational need. Though it appears District Board members may receive some information regarding Department spending, receipt of this information does not constitute a sufficient financial analysis for the purpose of determining use of funds or the appropriate rate of tax to be levied on District property owners.

Three of the six District Board members interviewed stated they believed the Department could continue to operate with less tax revenue if tax rates were lowered by the District Board, while another District Board member stated "honestly I don't know" whether the Department could operate with less tax revenue. The former Board Chair and another District Board member noted that the District had some ongoing legal matters which caused concerns related to future revenues and expenses. Impact of such legal matters on District revenues was noted in the District's FY 2013 financial statement audit, which stated, "due to changes in the District's boundaries resulting from annexation by a local municipality, revenues for the years ending June 30, 2013 and later have been reduced by approximately \$500,000 annually." The attorney currently representing both the District and Department stated that the many ongoing legal matters involving the District and Department "make it impossible to determine with any specificity the exposure the Department and the District have." The attorney indicated, however, that in the worst case scenario he would estimate legal liabilities would be under \$100,000.

Given the over \$2.7 million in funds held by the Department as of October 31, 2014, the consistently high taxation rate, and the lack of in-depth financial analysis performed by District Board members, questions exist as to whether the District Board takes seriously its function and responsibility to taxpayers. The public source of the funds collected by the District demands a higher level of accountability and transparency regarding the purpose and nature of the expenditure of these public funds. Simply contracting for fire protection services and, in essence, transferring the majority of taxpayer funds to the Department is not the extent of the District Board's responsibility. The District Board must take time to understand how its funds are used and place taxpayer needs and interests above that of the Department. Status quo in assessing tax rates is irresponsible and should not be acceptable to those providing such vital taxpayer services.

## Findings and Recommendations

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**Recommendations** We recommend the District Board perform an annual in-depth financial analysis to determine the appropriate level of taxation based on current and future operational needs. This financial analysis should take into account not only current District and Department spending, but should also include identifying inefficiencies in an attempt to reduce future spending. Also, we recommend the District Board formally document its analysis and related discussions to ensure transparency and accountability to the public. In addition, the District Board should discuss with its attorney the status of its potential legal liabilities.

Further, we recommend the Kentucky legislature consider legislation requiring fire district boards, as well as other taxing authorities, to perform a formal analysis of the anticipated revenues, expenditures, and other reasonable financial considerations necessary to operate a district for the following fiscal year prior to determining the tax rate levied for the next fiscal year. We recommend any potential legislation require a uniform process be followed by a district to ensure a comparable, standard financial analysis is performed when determining the financial needs of a district. We further recommend any potential legislation require this analysis to be presented during a public district board meeting, with the vote to approve the tax rate levied for the following year in a subsequent public district board meeting. This would allow time for board members to evaluate and discuss the rate necessary to operate a district and provide an opportunity for taxpayers to question the board.

We also recommend the District Board Chair ensure more timely reporting of District and Department expenditure reports to District Board members. Expenditure reports should be provided to each District Board member days in advance of monthly Board meetings to allow Board members sufficient opportunity to review the reports and be prepared to discuss any questions or concerns Board members may have related to spending. We recommend the review of these reports be documented in the Board meeting minutes.

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**Finding 2: The District Board purchased property without first obtaining an appraisal to determine an appropriate purchase price.**

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On August 8, 2011, the District Board voted unanimously to authorize the Fire Chief, as its Board Chair, to purchase two properties on behalf of the District for a total of \$798,000. The purchased properties were to be used by the Department as the building site for a new business office and fire station. The purchase price for the land was negotiated by the Fire Chief months before the District authorized the Chief to purchase the properties and without an appraisal to determine whether the purchase price was appropriate.

Though the District is not required by state statute or by District policy to obtain an appraisal before purchasing property, the practice of obtaining an appraisal is simply a sound financial practice, which provides for additional protection when purchasing property with taxpayer funds. An appraisal of property gives the buyer an official independent and fair assessment of the property's value upon which to base an offer. In state government, when the Commonwealth purchases property estimated to cost \$200,000 or more, two appraisals are required to be performed. The policy stipulates that an offer will then be made based on the appraisal value.

In discussing the District's purchase of the two properties with the Chief, he acknowledged that an appraisal of the properties was not performed prior to the District making the property purchases. The Chief stated that he originally offered \$248,000 to one property owner for a single 2.48 acre tract of land and \$500,000 to another property owner for two tracts of land, each being 2.48 acres, for a total of 4.96 acres. The Chief stated that he made those offers to the land owners based upon his personal opinion of the properties' values, stating that he was from that area and knew the prices for other properties selling in the area. The first property owner accepted the purchase offer; however, the second property owner did not initially wish to sell the property to the District, but called the Chief later with a counter offer of \$550,000, bringing the total for all 7.44 acres to \$798,000.

The Chief noted that prior to purchasing the 7.44 acres of land, the Department considered a different property that they would have paid the asking price of \$1,000,000 for 10 acres of land. According to District and Department Board meeting minutes from 2011, the Department decided that the 10 acres would require a significant amount of dozer work, and as such, the Department asked the District to purchase, on its behalf, the 7.44 acres of land. Though the Chief used this example as the price of other property in the area, he was unaware if the property owners of the 10 acres of land were basing that asking price on an appraisal.

While discussing the procurement of property with the Chief, he stated that he felt the District received a good deal on the property purchased as the bourbon trail was developing in the area and the property was level, making it easier to build upon. Auditors are making no judgment as to the actual fair market value of the land, but rather are questioning the process by which the District Board purchased the property. Given the public nature of the funds, the District Board should have taken steps to ensure it received accurate and impartial information about the value of the property before agreeing to the purchase price.

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## Chapter 2

# Findings and Recommendations

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It should also be noted that the property purchased by the District was the subject of an audit finding by the District's CPA in the FY 2011 financial statement audit. In the CPA FY 2011 audit report, finding 2011-2, the CPA questioned whether the District was complying with its contract for services with the Department by incurring debt and acquiring real estate when the contract calls for the District to pay "the net proceeds of the tax revenue collected" to the Department and the Department shall use those funds "for the provision of the fire protection services, equipment and facilities necessary thereto." In response to this finding, the District Board stated it agreed to not represent the Department in any future purchases and that the Department would negotiate their own transactions. In addition, the District subsequently transferred the property into the Department's name in May, 2013.

Though the District indicated that it would not represent the Department in future purchases, it does not negate the need for appraisals to be performed before purchasing land with taxpayer funds. Whether the purchase of land is completed in the future by the District or the Department, the source of the funds used for the purchase should be considered. Though there is a contract in place with the Department to provide the fire protection services, the District Board still has an obligation to ensure the best, most efficient use of taxpayer funds.

While making inquiries into the procurement process followed by the District to secure this property, auditors were informed by both the District CPA and the Chief that no known procurement policies exist at the District. The Chief was also unaware of any procurement policies at the Department. Procurement policies must be in place to establish guidelines by which the procurement of goods and services may be purchased with the use of taxpayer funds. While District expenditures are typically limited to professional services, such as attorney services, audit services, and the contracted services with the Department, policies provide a fair and consistent methodology by which funds can be expended and help an organization to obtain the best value for the items purchased.

Finally, it should be noted that concerns were expressed to this office that the Chief and property owners were related; however, both the Chief and one of the property owners interviewed, stated that there was no relation between the Chief and the property owners. Auditors were not aware of evidence to suggest otherwise.

## Findings and Recommendations

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***Recommendations*** We recommend the District Board develop a formal written procurement policy. In developing a procurement policy, we recommend the District Board consider adopting a policy similar to the model procurement code. While the District's procurements are limited at this time to mainly a few professional services, there is no guarantee that this will continue and the District should be prepared with established spending guidelines to ensure consistent and fair procurement practices are followed. Once a policy is developed, and finalized in writing, the policy should be distributed to all Board members and to those responsible within the District for purchasing with a copy maintained in the official records of the District.

Once a policy is established, we also recommend the District Board revise its contract to require the Department to procure goods and services in compliance with the policies established by the District Board. This will assist District Board members in providing additional oversight of the use of the taxpayer funds paid to the Department.

We recommend the District Board ensure that appraisals are obtained prior to purchase of real property. The District Board should develop, as part of its procurement policies, a requirement for appraisals to be obtained before negotiating the purchase price of real estate. We recommend the District Board consider adopting a policy similar to that followed by the Commonwealth in the procurement of real property, including the requirement to obtain two appraisal for land estimated to cost over \$200,000. The policy should also require that price negotiations begin with, at most, the lowest appraised value.

We further recommend, the Department Board adopt its own procurement policies that, at a minimum, adhere to the District's procurement policies. The policies developed by the Department would not take precedent over the policies of the District when spending public funds nor should they contradict or negate the District's policies but rather the Department policies should be developed to supplement the District policies, as determined necessary.

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**Findings and Recommendations**

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**Finding 3: Though it reasonably appears a conflict of interests exists, statutory language does not seem to prohibit the Chief and other Department management from representing Department personnel or serving as an officer on the District Board.**

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Since 1990, Department employees have voted for the same individual to serve as a member of the District Board while also serving as the Chief of the Fire Department, created under KRS Chapter 273. In approximately 2000, the Fire Chief was selected by the District Board to serve as its Chairman. This relationship continued until December 4, 2014, when the Fire Chief resigned as Chair of the District Board. Though it reasonably appears this relationship constitutes a conflict of interest, statutory language does not seem to prohibit the Fire Chief, or other Department management, from representing the Department personnel on the District Board or from serving as its Chairman.

As is required by KRS 75.031(1)(a), the District Board is comprised of seven members, two are elected representatives of the “firefighters of the district” who “shall be members of the district,” two are elected representatives of District property owners who live in the District, and three are appointed by the Bullitt County Judge/Executive. The statutory language does not restrict eligibility to prohibit the Fire Chief, who serves as the head of the Department, or other Department Board members, from being eligible for election to the District Board or from serving as its Chairman.

Until the Department Fire Chief recently resigned his position on the District Board, the firefighter representation on the District Board consisted for years of two members from the Department Board, the Chief and the Department Board Chair. Given the contract for fire protection services between the District and Department, this arrangement is concerning.

Though separate organizations, it does not appear that the roles and responsibilities of each organization have been clearly defined by each Board; as such, the actions taken by the District and Department Boards are at times indistinguishable. The best example would be the process by which the District and Department have handled property acquisition. In 2009, the District Board agreed to help the Department procure property to build a new fire station, referred to as Station III. To assist in this endeavor, the District took out two \$500,000 loans; however, the property was purchased by the Department as its Board determined it had sufficient funds to complete the project without use of the loans already obtained by the District. Rather than pay off the two loans, the District Board agreed to continue to retain the loans to assist the Department in purchasing another property to build a new fire station, referred to as Station II. The two separate loans held by the District were consolidated into a single \$1 million loan in August 2011, with the Department providing its money market account as collateral for the District’s loan. The CPA conducting the District’s FY 2011 financial statement audit addressed this arrangement in audit findings, 2011-2 (also, see Finding 2 of this report), and 2011-4. As reported in Finding 2 of this report, the property purchased by the District ultimately was then transferred into the name of the Department, removing the property as an asset of the District.

## Findings and Recommendations

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We believe the questionable business practices identified by the transactions described above are in part the result of the commonality that exists between the District and Department Board memberships. The similarity in management of the District and Department has caused the public, including at least one member of the District Board, to question the intent of certain District Board actions, such as the transfer of District property to the Department; again, however, state statutes do not appear to prohibit such activity.

In a letter dated October 6, 2014 to members of the Bullitt County Fiscal Court, the Department attorney addressed the concern expressed by one District Board member regarding the ability to transfer District property to the Department. See a copy of the letter in Exhibit 1. The attorney noted in his letter:

KRS 75.050 specifically allows fire protection districts to enter into contracts with incorporated non-profit fire departments for fire protection services and to pay over tax proceeds to such a corporation in return for the provisions of fire protection services. There is no legal or contractual requirement that fire protection district board members or trustees be separate from any association with the contracting corporation.

He further noted in his letter:

Consistent with the Department's Articles of Incorporation and its existence as a non-profit corporation organized for the public welfare, all the Department's assets are used for the promotion of public safety through the rendering of fire fighting services, fire prevention services and education, and rescue services. These services are rendered on a non-profit basis and all expenditures are subject to monthly monitoring by the District and annual audit. As a non-profit public welfare corporation organized under Chapter 273 of the Kentucky Revised Statutes, the Department is allowed to own property and equipment. In furtherance of securing the services of the Department, the District is legally entitled to transfer property to serve public purpose. This is a well-established principle of municipal law repeatedly recognized in Kentucky case law.

Given the authority of the District Board to establish the tax rate each year and the contract between the District and Department in which the Department receives the net proceeds of taxes collected, concern exists that the District Board has been lax in its responsibility to the taxpayers of the District as it may be placing the interests of the Department above that of the taxpayers. See Finding 1.

## Findings and Recommendations

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The CPA engaged by the District to perform financial statement audits for FYs 2008, 2009, 2010, 2011, and 2013 included within the notes of these District financial statements an advisement regarding the close relationship between the District and the Department. As reported in the District financial statement audit report in 2013, *Note 3 – Related Party Transactions* specifically states, in part:

The Southeast Bullitt Volunteer Fire and Rescue Department, Inc. (a non-profit corporation) has similar management and governance to the District and its operations, board meetings and policies are at times indistinguishable from those of the District. This situation has in the past resulted in difficulty distinguishing between the assets and liabilities of the two entities.

Due to the close relationship between the District and the Southeast Bullitt Volunteer Fire and Rescue Department, Inc. it is strongly recommended that those relying on these financial statements thoroughly familiarize themselves with the operation of the entity as well.

While the commonalities in board membership between these two organizations cause great concern and confusion, the ability for the management of the Department to serve as an officer of the District Board causes additional concern. By serving as the District Board Chair, the Fire Chief has been authorized to sign contracts and represent the District in various financial matters, including the contract for services with the Department through which he is employed and from which his wife has received payments for her volunteer services. See Finding 6.

Auditors believe lax business practices have been allowed to develop and continue within the District and Department for a number of years because of the close association, which has also increased the potential risks for abuse to exist. The current relationship between the District and Department Board members appears not to be prohibited by state statute, and the potential exists for such situations to occur in other fire districts across the state. For this reason, any measures to truly resolve the situation will require legislative action to protect not only the interests of taxpayers of this District, but taxpayers across the Commonwealth.

### ***Recommendations***

We recommend state legislators study the provisions of KRS Chapter 75, and consider revising those statutes to provide restrictions in those instances where a fire district contracts with a fire department for fire protection services to preclude members of the contracting department's management, including department fire chiefs, from being eligible to serve on fire protection district boards, or, at a minimum, as officers of district boards. A clear delineation between the management of each organization is imperative.

Further, we recommend state legislators consider revising these statutory provisions to address the authority of a district board to transfer ownership of property to a department with which a district contracts to provide public fire protection services.

Until such time as the statute(s) are revised, and in an effort to immediately address what reasonably appears to be a conflict, we recommend the District Board explore the legality of implementing a policy to disallow members of Department management to serve as officers of the District Board. This would not restrict the Department firefighters from electing members of management as their representatives on the District Board, but would provide some degree of separation between the management of the District and Department.

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**Finding 4: The Department is not registered as a Special Purpose Governmental Entity, though it meets the criteria established under KRS Chapter 65A.**

Auditors found the Department under contract to provide fire protection services to the District since 1979 has not registered as a Special Purpose Governmental Entity (SPGE) with the Kentucky Department for Local Government (DLG), as required by KRS 65A.020. Based on information provided by the Department and research performed by this office, including an analysis of existing state statutes, the Department should be registered as a SPGE. As such, the Department, which has received over \$ 4.4 million in public funds since January 2010 through its contract with the District, is required to annually file certain financial reports with DLG, including financial statement audits under certain conditions, as required in KRS Chapter 65A. Annual SPGE financial filings foster transparency and accountability for the public funds it receives.

In 2013, legislators passed House Bill 1, codified as KRS Chapter 65A. Through this legislation, special districts were redefined as SPGEs, and include agencies that were not previously considered special districts. DLG, charged with implementing House Bill 1, assists in identifying organizations in the state that are SPGEs and that should be complying with the reporting requirements. To be considered a SPGE, an organization must meet the following criteria outlined in KRS 65A.010(9)(a):

“Special purpose governmental entity” or “entity” means any agency, authority, or entity created or authorized by statute which:

1. Exercises less than statewide jurisdiction;
2. Exists for the purpose of providing one (1) or a limited number of services or functions;
3. Is governed by a board, council, commission, committee, authority, or corporation with policy-making authority that is separate from the state and the governing body of the city, county, or cities and counties in which it operates; and
4. a. Has the independent authority to generate public funds; or  
b. May receive and expend public funds, grants, awards, or appropriations from the state, from any agency, or authority of the state from a city or county, or from any other special purpose governmental entity.

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## Chapter 2

# Findings and Recommendations

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Based on information reviewed, the Department meets the criteria established through KRS 65A.010. The jurisdiction of the Department is less than statewide, its articles of incorporation state that it exists to provide a limited number of public services; it is governed by its own separate board, and receives public taxes through semiannual payments as a result of its contract for services with the District, and state aid through the Fire Commission.

Furthermore, according to Fire Commission records, the Department has been a certified volunteer fire department since it was created pursuant to KRS Chapter 273 in 1979. Per KRS 75.410(2), “[i]n order to be recognized and certified, a volunteer fire department shall be organized pursuant to KRS 75.010, KRS 67.083, KRS Chapter 95, or KRS Chapter 273.” Given the fire Department was created under KRS Chapter 273 and meets the other criteria of a SPGE, it must comply with the statutory provisions for a SPGE. Certification as a volunteer fire department with the Fire Commission has allowed the Department to annually receive state aid through the Fire Commission. For 2010 through 2013, the Department has received \$33,000 in state aid from the Fire Commission.

KRS 75.430(1) states:

[e]ach recognized and certified fire department created pursuant to KRS Chapter 273 shall comply with the provisions of KRS 65A.010 to 65A.090.

Although the Department meets the criteria to be a SPGE, DLG records show that the Department is not registered as a SPGE, and DLG does not currently have on file any financial information required by KRS 65A.020 to be submitted by the Department as a SPGE. At the time of our initial inquiry relating to this matter, no contact had been made between the Department and DLG to discuss whether the Department should be reporting as a SPGE. Since that time, auditors have discussed the matter with both the Department attorney and representatives from DLG.

If Department management believes it is exempt from SPGE requirements because it disputes its status as a certified fire department, its receipt of state aid from the Fire Commission would be improper. Identification of the Department as a SPGE would place greater accountability and transparency on the organization regarding the use of public funds, which the Department receives semiannually through its contract with the District and through the Fire Commission as a certified volunteer fire department. Final determination of whether the Department is a SPGE is imperative given the nature of concerns expressed to this office and the need for organizations to be held accountable for the use of public funds in a meaningful and transparent manner.

**Findings and Recommendations**

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**Recommendations** We recommend the Department Board contact the appropriate DLG representatives and discuss the need for the Department to report as a SPGE, as defined by KRS 65A.010, and as required of certified fire departments by KRS 75.430(1). Documentation and other information needed for review by DLG should be provided in an expedited manner to resolve the matter promptly. If determined to be a SPGE, the Department Board should register and file the appropriate financial information with DLG. If determined not to be an SPGE because it is not a certified fire department, we recommend the Fire Commission take appropriate action to recover the training aid the Department has inappropriately received.

This finding will be referred to DLG and the Fire Commission for its consideration and action.

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**Finding 5: The Department awarded \$5,200 in annual Christmas bonuses to employees and select volunteers.**

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Between November 8, 2010 and November 11, 2013, the Department Board approved \$5,200 in Christmas bonus payments to the Chief, other Department personnel, and select volunteers. While the Department is a non-profit corporation formed under KRS Chapter 273, the Department provides public services through the use of public tax funds collected by the District. Use of public funds by an entity to award bonuses to Department volunteers and personnel is questionable.

According to the Kentucky Office of Attorney General (OAG) Opinion 83-432, the payment of a bonus to public employees is considered “a gift from an employer given out of his largesse”, and as such “it would be illegal under Kentucky Constitution, Section 3, as a grant of exclusive, separate public emolument or privilege—not in consideration of public service.” Though not reporting as a SPGE with DLG, as discussed previously in Finding 3, the Department operates as a public organization, providing public service, and operates primarily from public funds it receives through a contract with the District. Further KRS 75.050, relating to contract by fire district for fire protection states, in part:

The personnel and equipment of a contracting party, in going to and returning from a fire, or in answering and responding to a false fire alarm or call, and while endeavoring to extinguish fires within the area covered by the contract, shall be deemed and hereby is declared to be engaged in the exercise of a governmental function.

Based on these facts and the OAG opinion, we believe the annual bonus payments are not allowable.

**Findings and Recommendations**

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Per documentation provided by the Department through its attorney, the Chief made a motion to “no longer give a Christmas bonus to paid employees” during the Department Board meeting held on November 11, 2014. This motion was made after the Board was advised by its attorney that the practice of paying such bonuses should be discontinued and the motion was passed unanimously. While the Board appears to have taken appropriate action to cease the practice of awarding bonuses to paid personnel, the Board did not address awarding bonus payments to volunteers.

***Recommendations***

We recommend the Department Board expand its motion to refrain from awarding bonuses to any individuals, including volunteers. We further recommend the Department Board take additional measures to ensure bonus payments are not paid in the future by incorporating the moratorium into Department policy to formally communicate in its policies that bonus payment are not allowed. Once developed, the policy should be formalized in writing, maintained in the official records of the Department, and distributed to all Board members.

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**Finding 6: The Chief’s spouse was awarded \$63,000 as payment for services despite no official report or record of hours worked.**

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Between November 8, 2010 and November 11, 2014, the Department Board awarded the Department Chief’s spouse a total of \$63,000 as payment for secretarial and bookkeeping services. While Department records indicate that the payments made to the Chief’s spouse were reported to the federal government for tax years 2010 through 2013 as 1099 miscellaneous income, the Department awarded these annual payments to the Chief’s spouse without requiring documentation of the hours worked by the Chief’s spouse throughout the year. Without requiring documentation of the hours worked, the Department Board is not effectively ensuring proper use of its funds and has no way determine whether the amount of the annual payments made to the Chief’s spouse were appropriate.

Monthly Board meeting minutes document the Department Board’s approval of the annual payments to the Chief’s spouse. The language recorded each year in Department Board meeting minutes stated that the Chief’s spouse “does not charge the Fire Department for her secretarial/bookkeeping services” and then a motion is made by a Board member, seconded by another Board member and then approved by the Department Board. In all instances, someone other than the Chief made the motion and seconded the motion. In all but one instance, Department Board meeting minutes document that the Fire Chief abstained from the vote. Department Board meeting minutes from December 10, 2012, document that the Chief was present at the Board meeting and that all Board members approved the motion to compensate the Chief’s wife \$12,000 for services rendered throughout the year.

## Findings and Recommendations

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During a Department Board meeting on November 11, 2014, the Department Board voted to hire the Chief's wife "as the secretary/bookkeeper of the Fire Department as a contract employee starting January 1, 2015," with a salary of \$1,200 per month. The meeting minutes indicate that the Chief abstained from the vote. According to the Chief, the Department does not have policies pertaining to hiring of personnel but noted that the Department Board will always approve employment of personnel.

Though it appears that the Department Board was responsible for hiring the Chief's spouse, it is unclear how the Department will ensure proper supervision and oversight of this position so as to prevent a potential conflict of interest. Given that the Chief is considered the head of the organization according to the Department Rules and Regulations revised January 6, 2014, this matter appears to create an apparent conflict of interests and should be addressed further by the Department Board.

### ***Recommendations***

We recommend the Department Board further discuss the hiring of the Chief's wife and consider this apparent conflict of interests. If the Board continues the contract employment of the Chief's wife, we recommend the Board ensure strong segregation of duties and reporting be implemented to ensure an alternative line of reporting for the Chief's spouse so that any management decisions related to employment, work performance, or salary and benefits are not directly influenced by the Chief.

If this contract employment continues, we further recommend, in addition to the Board action taken on November 11, 2014, that the Department Board establish a formal written contract with the contractor documenting the conditions of employment and expectations of the position. Any contract entered into should specify the services the contractor will perform and the terms of the contract including the rate of pay and the required number of hours to be worked in exchange rate of pay. The contract should include specific language requiring a detailed timesheet or invoice to substantiate the work performed before payment is made to the contractor and specify the party responsible for overseeing the all aspects of the contract, including performance.

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### **Finding 7: The Department has not established a formal performance evaluation process.**

During the examination, it came to the auditor's attention that the Department has not established a formal annual performance evaluation process. According to the Department's attorney, the Department did recently conduct personnel performance evaluations; however, the action was not taken due to a pre-existing policy but, rather, in response to inquiries regarding evaluations made by the APA.

## Findings and Recommendations

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The Department would benefit from implementing an annual performance evaluation process as a component of a formal compensation structure. Evaluation results can be used in considering employee salary or wage rates, promotions, reprimand, as well as other personnel actions. It is our understanding that few Department policies exist and that additional department policies will be established.

**Recommendations** We recommend the Department Board develop a formal performance evaluation process. This process should require the evaluation of each Department employee by their immediate supervisor, with an annual evaluation of the Department Fire Chief performed by the Department Board. If the Fire Chief continues to serve on the Department Board, the Fire Chief should abstain from participating in his own evaluation.

Further, we recommend this evaluation process be used as part of a larger formal compensation structure. If a formal compensation structure does not already exist, we recommend the Department Board work with its attorney to establish a fair and equitable compensation structure for its employees and volunteers. Certain elements should be included when establishing a fair and equitable compensation structure, including but not limited to: position descriptions detailing required candidate qualifications, job duties, and expectations; position levels and corresponding salary or hourly pay ranges; and, performance incentives.

Finally, we would recommend the Department Board continue to work with its attorney to strengthen existing policies or to develop others to ensure the policies are thorough and comprehensive. As part of that process, we recommend the Department Board consider the *Auditor of Public Accounts Recommendations for Public and Nonprofit Boards*, which may be found on the APA website at <http://auditor.ky.gov>. The recommendations contained within that document will assist the Board in developing and implementing additional organizational policies.

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**Finding 8: Neither the District nor the Department has a formal written contract for legal services.**

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During the examination, auditors were advised that that neither the District nor the Department has established a formal written contract for legal services with its attorney. According to the attorney whose firm has provided legal services to both the District and Department since 2006, the services provided by the firm have been limited. However, in discussion with the attorney, additional legal services have been requested in light of recent public inquiries. A formal contract with the attorney will strengthen expenditure oversight by ensuring a process is established to determine who has the authority to request attorney services, the type of services to be performed, the rate at which services will be invoiced, the detail required for invoicing, any expenses to be paid, and other items that should be specifically identified.

## Findings and Recommendations

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***Recommendations*** We recommend both the District Board and Department Board ensure any agreement it enters into is documented in a formal written contract. As recommended in Finding 6, any contracts entered into should specify the services the contractor will perform and the terms of the contract including the hourly rate or fixed amount charged for contracted services. The contract should include specific language requiring detailed invoices from a contractor to include a description of the work performed, the number of hours associated with each work step, and the rate at which services are being charged. If services are performed by individuals at various levels of responsibility or authority within the organization, the rates charged for those working at the various levels should also be specified. Terms involving specific expenses that may be paid should also be included in the contract terms. In addition, a policy should be adopted to identify the Board committee responsible for reviewing and approving the contract invoices.

**EXHIBIT**





Jeffrey L. Freeman  
jfreeman@okoonlaw.com

October 6, 2014

The Honorable Melanie Roberts  
Bullitt County Judge Executive  
P.O. Box 768  
Shepherdsville, KY 40165

The Honorable Monica Robinson  
Bullitt County Attorney  
P.O. Box 1446  
Shepherdsville, KY 40165

Ruthie Ashbaugh, District One Magistrate  
Bob Hunt, District Two Magistrate  
Joseph Laswell, District Three Magistrate  
John Bradshaw, District Four Magistrate  
c/o Bullitt County Judge Executive  
P.O. Box 768  
Shepherdsville, KY 40165

VIA U.S. MAIL AND FACSIMILE: (502) 543-1577

Re: South East Bullitt Fire and Rescue Department, Inc.

Dear Ladies and Gentlemen:

This office represents the South East Bullitt Fire and Rescue Department, Inc. in various matters that relate to its association and contractual relationship with the South East Bullitt Fire Protection District. We recently became aware of a presentation made by District Board member, Dan Tibodeaux, at a meeting of the Bullitt County Fiscal Court on September 16, 2014 in which he accused the Department and its officers, along with certain District Board members, of misconduct and further opined that the District was engaged in illegal transactions with the Department. Mr. Tibodeaux's reckless statements were misinformed and contained gross inaccuracies, both legal and factual. Because of the inflammatory and slanderous nature of the accusations made by Mr. Tibodeaux on the public record, the Department is responding in writing through this office in an effort to clarify some of the more egregious misrepresentations.

In a dramatic oration, Mr. Tibodeaux made a variety of implied and overt accusations regarding the validity, conduct and legality of the Department. Repeatedly calling it a "private corporation", he insinuated that the Department was some kind of illegitimate artifice created by the current fire chief or his agents and was acting for the purpose of siphoning tax money, property and equipment from the District taxpayers for inappropriate objectives. Mr. Tibodeaux told the County Judge Executive, the members of the Fiscal Court and the audience that taxpayer

property and equipment were being “given away” leaving the county with “nothing”, while this “private corporation” was enriching itself at the public expense. Mr. Tibodeaux’s statements reflect an alarming ignorance of the facts and are irresponsible coming from a person in a fiduciary position with the District.

To begin, there should be no question about the legality of the formation of the South East Bullitt Fire and Rescue Department, Inc. The Department was legally and properly incorporated under the authority of the Kentucky Secretary of State on August 2<sup>nd</sup>, 1979 as a non-profit organization formed pursuant to KRS Chapter 273 and granted tax exempt status under Section 501(c)(4) of the Internal Revenue Code by the Internal Revenue Service in a letter dated March 18, 1980. The corporation is in good standing and the initiating corporate documents are public records available through the Secretary of State. Also of note – the current Fire Chief, Julius Hatfield, was not an originating officer, director or incorporator of the Department. He was not with the Department or District in 1979 and therefore any suggestion made by Mr. Tibodeaux that the “corporation” is an instrument created by the current Department Chief or District members for their own purposes is plainly absurd.

Nor is there anything inappropriate or nefarious about the arrangement under which the District operates through its contract with the Department. KRS 75.050 specifically allows fire protection districts to enter into contracts with incorporated non-profit fire departments for fire protection services and to pay over tax proceeds to such a corporation in return for the provision of fire protection services. There is no legal or contractual requirement that fire protection district board members or trustees be separate from any association with the contracting corporation. The arrangement is common throughout the state and has been upheld in the courts.

Mr. Tibodeaux’s insinuation that this is some type of improper scheme to divert public assets is simply wrong. In fact, the State Auditor of Public Accounts, Adam Edelen, examined the contract between the District and the Department as recently as 2013 (pursuant to a complaint for an “anonymous citizen”) and found no impropriety in the contract. Mr. Edelen merely suggested changes to strengthen District oversight of Department expenditures, which were implemented.

Equally misguided are Tibodeaux’s concerns that property and equipment owned by or transferred to the Department are somehow misappropriations or have been diverted from public interest. Consistent with the Department’s Articles of Incorporation and its existence as a non-profit corporation organized for the public welfare, all of the Department’s assets are used for the promotion of public safety through the rendering of fire fighting services, fire prevention services and education, and rescue services. These services are rendered on a non-profit basis and all expenditures are subject to monthly monitoring by the District and annual audit. As a non-profit public welfare corporation organized under Chapter 273 of the Kentucky Revised Statutes, the Department is allowed to own property and equipment. In furtherance of securing the services of the Department, the District is legally entitled to transfer property to serve public purposes. This is a well-established principle of municipal law repeatedly recognized in Kentucky case law.

More importantly, the Department’s Articles of Incorporation explicitly guard against the diversion of any corporate income for private purposes, beyond reasonable compensation for services rendered. They further provide that if the Department is dissolved, its assets will not be distributed to its members, but shall be used or distributed exclusively for purposes consistent

with the Department's purpose as a 501(c) corporation. Additionally, KRS 273.303 requires that upon dissolution that the assets of the Department shall be transferred or conveyed to one or more domestic or foreign nonprofit corporations, societies, or organizations engaged in activities substantially similar to those of the dissolving corporation. Mr. Tibodeaux's public statement to the citizens that "you own nothing, the corporation owns everything..." is misleading and demonstrates a profound ignorance of the law. The assets of the Department are committed to the public welfare and will continue to be so used even in the event of the Department's dissolution.

Mr. Tibodeaux's uninformed statements wander perilously close to slanderous when he offers innuendo that the Department's administrative assistant (who is the wife of the Fire Chief) was the illegal recipient of a \$15,000.00 "Christmas bonus" and that the Chief is "sitting on a million dollar retirement fund" presumably financed by taxpayers. Both of these accusations are false. Joanne Hatfield was paid \$14,000.00 in 2013 in a lump sum for acting as the Department's sole administrative assistant – a position which she filled for many years on a completely volunteer basis and for which she has never received a regular salary. The payment for services rendered was approved by the Department and reported to the District. The Department does not have or maintain a retirement fund for the Chief or any of its officers. The Department's expenditures and finances are monitored by the District in accordance with the law and within legislative mandate and its audits are public records.

Mr. Tibodeaux's call for a lawsuit to be filed against the Department is without reasonable foundation in view of the clear authority supporting the propriety of the Department's actions and operation. Mr. Tibodeaux's overzealous condemnation of the District, the Department and its personnel without even educating himself as to the details of the corporate organization and controlling law suggests a personal agenda that is inconsistent with his stated motivation of looking out for the welfare of the citizens of the Fire Protection District. His efforts to lobby the Fiscal Court and county government to initiate frivolous and costly litigation that would expend taxpayer resources on both sides are irresponsible.

Whatever his motivations, or of those who have encouraged his tirade, there is no basis of support for the accusations he makes. The South East Bullitt Fire and Rescue Department, Inc. works hard to serve the District and protect the lives and property of its taxpayers. It is their sincere hope that the Fiscal Court recognizes and supports this mission and will not condone a misguided campaign that will only divert energy and resources from our mutual goals of public service.

Sincerely,



Jeffrey L. Freeman

JLF/kab

cc: South East Bullitt Fire and Rescue Department, Inc.  
Brian Lykins



**SOUTHEAST BULLITT FIRE PROTECTION DISTRICT RESPONSE**



**DAVID BLAKEMAN**  
1974 BELMONT ROAD  
LEBANON JUNCTION, KENTUCKY 40150

January 12, 2015

Executive Director Brian Lykins  
Office of Technology and Special Audits  
Auditor of Public Accounts  
209 St. Clair Street  
Frankfort, Kentucky 40601

Re: January 6, 2015 Draft Report of Examination of Certain Policies, Procedures, Controls and Financial Activity of the Southeast Bullitt Fire Protection District

Dear Executive Director Brian Lykins:

As Chairperson of the Board of Trustees of the Southeast Bullitt Fire Protection District, elected pursuant to KRS 75.031(3), on December 15, 2014, please accept this letter in response to your January 6, 2015 draft report of the Examination of Certain Policies, Procedures, Controls and Financial Activity of the Southeast Bullitt Fire Protection District, an audit initiated on October 3, 2014, upon discovery of questionable activities by a member of the Board of Trustees.

In order to ensure compliance with your instructions on confidentiality the draft report has not been shared with anyone except attorney Maurice A. Byrne, Jr., counsel for the Board, who offered legal advice in preparing the response.

Based upon my review and analysis of the Southeast Bullitt Fire Protection District twenty-eight (28) days ago upon being Chairperson and with the assistance of legal counsel retained on December 20, 2014, the Board of Trustees passed the attached five resolutions on January 2, 2015:

- (1) Resolution #1 Efficient Financial Support & Firefighter Protections;
- (2) Resolution #2 Declaring 7-8-13 Document Indefinite & Unenforceable;
- (3) Resolution #3 on Emergency Requiring 60 Day Fire Service Contract;
- (4) Resolution #4 to Advertise for Bids for Fire Service;
- (5) Resolutions #5 Full & Complete Accountability for past Finances and Legal Action to Restore Unaccounted Taxpayer Dollars.

In additional, at the Board of Trustees on January 12, 2015, I will propose and strongly recommend the adoption of the following policies in order to comply with Kentucky law and to correct each of the issues designated in your findings and covered by your recommendations.

**1. SEBFPD MUST JUSTIFY \$2.7-MILLION & HIGHEST TAX RATE**

(1A) 2014 COST/BENEFIT ANALYSIS BEFORE 2015 TAX RATE: Require the completion before July 1, 2015, a written analysis of Actual 2014 Costs and 2015-2016 Needs to provide fire protection district services to residents of Southeast Bullitt Fire Protection District.

(1B) REQUIRE 2014 COST/BENEFIT ANALYSIS IN CONTRACT BEFORE 7-1-2015: Require as a material provision of any KRS 75.050 contract for any contracted Fire Department to complete before 7-1-2015, a written analysis of Actual 2014 Costs and 2015-2016 Needs to provide fire protection district services to residents of Southeast Bullitt Fire Protection District.

(1C) 2008 to 2014 COST/BENEFIT ANALYSIS BEFORE 12-31-14: Require the completion before 12-31-2015, a written analysis of 2008 to 2014 Actual Costs and Tax Money Paid to Southeast Bullitt Volunteer Fire and Rescue Department, Inc. to provide fire protection district services to Southeast Bullitt Fire Protection District.

(1D) FINANCIAL ANALYSIS BY CORPORATION OF \$2.7-MILLION BANK BALANCE: Require completion before 12-31-2015, of a written analysis of \$2.7-millions in bank account of Southeast Bullitt Volunteer Fire and Rescue Department, Inc. ["Contract Fire Department"] funded by taxpayers of Southeast Bullitt Fire Protection District ["SEB FPD"].

(1E) ACCOUNTING FOR \$4,400,000 SEB FPD TAX MONEY PAID CORPORATION: Require Contract Fire Department to complete by 12-31-2015, a complete financial accounting for the Four Million Four Hundred Thousand Dollars (\$4,400,000) in taxpayer money received from 2010 to 2014 by the SEB FPD.

(1F) ANNUAL IN-DEPTH ANALYSIS OF TAXES & NEEDS: Require by July 1, 2015: (a) performance of a formal, written analysis of the anticipated revenues, expenditures, and other reasonable financial considerations necessary to operate a fire district for the following fiscal year prior to determine the tax rate levied for the next fiscal year; (b) identifying inefficiencies in an attempt to reduce future spending; (c) documentation of analysis and discussions to ensure transparency and accountability to the public; (d) consideration of potential legal liabilities; (e) presentation of the analysis during a public meeting of the SEB FPD Board of Trustees; (f) allow time for Board of Trustees members to evaluate and discuss the rate necessary to operate a district and provide an opportunity for taxpayers to question the board; (g) vote to approve the tax rate levied for the following year in a subsequent public SEB FPD meeting; (h) provide expenditure reports to each member of the Board of Trustees of the SEB FPD at least one (1) week before the required monthly KRS 75.260(1) meeting to allow Board of Trustees members sufficient opportunity to review the financial reports and be prepared to discuss any questions or concerns Board members may have related to spending; (i) review and discussion of the documented financial analysis at the Board of Trustees meeting shall be documented in the Board meeting minutes.

(1G) KRS 66.480 INVESTMENT POLICY: Require by February 9, 2015, a KRS 66.480 INVESTMENT POLICY, including: (1) General Policy; (2) Scope; (3) Investment Objectives; (4) Investment Authority; (5) Standards for Written Agreements Pursuant to Which Investments are to be Made; (6) Prudent Person Rule; (7) Authorized Investments; (A) Authorized Investment Instruments; (B) Limitations on Investment Transaction; (8) Diversification of Investments; (9) Authorized Investments; (10) Safekeeping and Custody; (11) Collateral; (12) Investment Reporting; (13) Audit; (14) Investment Policy Adoption.

## 2. SEBFPD MUST HAVE APPRAISAL BEFORE PURCHASE PROPERTY

(2A) ADOPTION OF FORMAL WRITTEN PROCUREMENT POLICY: Require the adoption of a formal written procurement policy, including establishing spending guidelines to ensure consistent and fair procurement practices are followed and legal consideration of: COMPETITIVE BID LAW REQUIRES FPD TO ADVERTISE FOR BIDS, Kentucky Fire Protection Districts (June 10, 2014), #5A eFIRE Legal Handbook; including: I Statutory Requirement to Advertise: (1) Bids for Materials & Services; (2) Purpose of Competitive Bidding; (3) KRS 424.260 Principle; (4) Contract Void If Not Bid; (5) Vendors Act at Peril If Not Ask; (6) Purchases & Exemptions must Be in Minutes; (7) Lack of Minutes May Void Action; (8) Impractical or Unwise; (9) Good Estimate Not Acceptable; II Bid Procedures and Criteria: (1) Advertisement; (2) Contents of Notice; (3) Specifications; (4) Single or Separate Bids; (5) Alternate Bids; (6) Consumption Period; (7) Time Limit of an Awarded Bid; (8) Lowest Price & Best Responsible Bidder; (9) Lowest Pari Materia Advertising; (10) Rejection of All Bids; (11) Burden on Contesting Party; III Exceptions: (1) Contractors Not Exempt; (2) Professional Services; (3) Management Services; (4) Banking and Insurance Services; (5) Fire District Contract Not Exempt; (6) Purchases Between Agencies Not Exempt; (7) State Purchase Contract; (8) Kentucky Competitive Bidding Statute; SALE OF SURPLUS PROPERTY REQUIREMENTS, Kentucky Fire Districts (September 27, 2014), #5B eFIRE Legal Handbook; including: (1) Optional Procurement Code; (2) Common Law Requirements; (3) Procurement Code Procedures; (4) Competitive Sealed Bidding; (5) must Receive Fair Market Value; (6) Reasonable Discretion; (7) Form for Sale of Surplus Property.

(2B) DISTRIBUTION OF WRITTEN PROCUREMENT POLICY: Require the distribution of the formal written procurement policy to all members of the Board of Trustees of SEB FPD and to those responsible within the SEB FPD for purchasing with a copy maintained in the official records of the SEB FPD.

(2C) REQUIRE CONTRACT TO REQUIRE COMPLIANCE WITH PROCUREMENT CODE: Require that the Board of Trustees of SEB FPD include in any KRS 75.050 contract for fire protection services the requirement that the contracted Fire Department to procure goods and services in compliance with the formal written procure policy of the SEB FPD and adopt it own procurement code that is at least as strict as the SEB FPD procurement code, but shall not contradict or negate the SEB FPD procurement code.

(2D) APPRAISAL BEFORE ANY PURCHASE OF REAL PROPERTY: Require Board of Trustees of SEB FPD to obtain an appraisal of real property prior to negotiating the purchase price of the real estate and the purchase of the real estate.

(2E) TWO (2) APPRAISALS OF REAL PROPERTY OVER \$200,000: Require Board of Trustees of SEB FPD to follow policy of Commonwealth of Kentucky in the procurement of real property, including the requirement to obtain two appraisals for land estimated to cost over \$200,000.

(2F) BEGIN NEGOTIATIONS WITH LOWEST APPRAISAL: Require Board of Trustees of SEB FPD to begin price negotiations for real property with, at most, the lowest appraised bid.

### 3. SEBFPD MUST PROHIBIT CONFLICTS OF INTEREST

(3A) PROHIBIT SEB FPD TRUSTEE SERVING WITH CONTRACT FIRE DEPARTMENT: Require the Board of Trustees of SEB FPD to prohibit any member of the Board of Trustees serving as the Chief, Command Officer, Firefighter, volunteer or employee of the Contract Fire Department or Fire Department that enters into a fire protection service KRS 75.050 contract with the SEB FPD.

(3B) SEB FPD CODE OF ETHICS: Require the Board of Trustees of SEB FPD to adopt a code of ethics prohibiting any member of the Board of Trustees serving as the Chief, Command Officer, Firefighter, volunteer or employee of the Contract Fire Department or contacted Fire Department, based upon the legal standards in: NEW ETHICS LAW, #8 INDEX (April 17, 2013), eFIRE LEGAL HANDBOOK: I CODE OF ETHICS LEGAL FORMS: (1) (18#A) Metro Ethics Control JCFPD 3-21-13 (2) (18#B) FPDs may Adopt More Stringent Code; (3) (18#C) More Stringent Financial Disclosure; II ETHICS AND CONFLICT OF INTEREST: (1) Public Demand; (2) Ethical Conduct; III CONSTITUTIONAL PROHIBITIONS: (1) Conflict of Interest; (2) Incompatible Offices; IV KENTUCKY MODEL PROCUREMENT CODE: (1) Conflicts; (2) Optional: V CRITERIA TO CONSIDER: (1) Factual Circumstances of Each Case; (2) Public vs. Personal Interest; (3) Personal Profit; (4) Immediate and Definite Pecuniary Interest; (5) Relevant Factors to Consider; VI WHERE CONFLICT EXIST: (1) Mingling of Personal Interest; (2) Contract with Business Owned by Government Official; (3) Member Cannot Purchase from Agency; (4) Conflict by Relationship; (5) Owner of Business Regulated by Government Agency; (6) Strict Enforcement Against Officer; VIII NO CONFLICT OF INTEREST: (1) Commissioner's Bank Purchases Commission's Bonds; (2) Degree of Interest; (3) Community Benefits; (4) Competitive Bidding; (5) Temptation to Public Officer; (6) Employee of State Landlord Sells Insurance for Tenant; (7) Contract Before Appointment; VIII STANDARDS OF CONDUCT FOR TRUSTEES: (1) Standards for Trustees; (2) Action Voidable if Conflict; IX INCOMPATIBILITY OF OFFICES; X PROCEDURES WHEN CONFLICT ARISES.

(3C) PROHIBIT TRANSFER OF SEB FPD PROPERTY EXCEPT AT APPRAISED FMV: Prohibit the Board of Trustees from transferring, selling, or renting any SEB FPD real property or personal property except for at least its fair market value as determined by an appraisal for any property with a value of \$5,000 or more.

#### 4. SEBFPD CANNOT LEGALLY CONTRACT WITH ILLEGAL SPGE

(4A) PROHIBIT CONTRACT WITH KS 65A.020 SPGE NOT REGISTERED WITH DLG: Adopt a policy to prohibit the SEB FPD from entering into a KRS 75.050 contract with a KRS 273 CORPORATION CERTIFIED VOLUNTEER FIRE DEPARTMENT unless the Fire Department is registered as Special Purpose Governmental Agency ("SPGE") with the Kentucky Department for Local Government under KRS 65A.

#### 5. SEBFPD PROHIBITED FROM PAYING BONUSES

(5A) PROHIBIT ANY CONTRACT PAYMENTS OR SEB FPD MONEY FOR BONUSES: Adopt a policy to prohibit the SEB FPD Board of Trustee or any Contract Fire Department or Fire Department with a contract under KRS 75.050 with the SEB FPD from paying a bonus to any employee, volunteer, or any other person because such payment is prohibited by Kentucky Constitution §3, OAG 73-436, OAG 76-242; and OAG 79-611.

(5B) ACCOUNT FOR \$5,200 BONUSES 2010-13 CONTRACT FIRE DEPARTMENT: Require Contract Fire Department to complete by 1-31-2015, a financial accounting of Five Thousand Two Hundred Dollars (\$5,200) in taxpayer money paid by Contract Fire Department as bonuses to Chief, other Department personnel and select volunteers from taxpayer money received from the SEB FPD.

#### 6. SEBFPD MUST ACCOUNT FOR TAXES & ENTER LEGAL CONTRACT

(6A) ACCOUNTING FOR 2010-2014 \$63,000 TAX TO CORPORATION SPOUSE: Require Contract Fire Department to complete by 12-31-2015, a financial accounting of the Sixty-Three Thousand Dollars (\$63,000) paid by the Contract Fire Department between 2010 to 2014 to the spouse of the chief of the Contract Fire Department without any documentation of the hours worked by the chief's spouse throughout the year.

(6B) PROHIBIT CONFLICT OF INTEREST IN CONTRACT FOR FIRE SERVICE: Require the Contract Fire Department or any Fire Department under contract for fire protection services to strictly comply with the SEB FPD Code of Ethics which prohibits conflict of interest and requires a strong segregation of duties and reporting to ensure an alternative line of reporting for the chief's spouse so that nay management decisions related to employment work, performance, or salary and benefits are not directly influenced by the Chief.

(6C) KRS 75.050 CONTRACT REQUIREMENTS: Require that any contract considered by the SEB FPD document: (a) the conditions of employment and expectations of any position; (b) specify the services the contracted Fire Corporation or Fire Department will perform and the term of the contract, including rate of pay and the required number of hours to be worked in exchange rate of pay; ( c) specific language requiring a detailed time sheet or invoice to substantiate the work performed before payment is made to the contracted Contract Fire Department or Fire Department; (d) specifying the party responsible for overseeing all aspects of the contract, including performance.

(6D) KRS 75.050 CONTRACT INDEX: Require contract to include at least: (1) TERM OF FIRE PROTECTION & RESCUE CONTRACT; (2) FIRE PROTECTION SERVICES; (3) DUTIES & RESPONSIBILITIES OF CONTRACTED FIRE DEPARTMENT; (A) Fire Protection Services; (B) Rescue, First Response, Other Emergency Services; ( C) Mutual Aid with Area Fire Departments; (D) Cooperation & Coordination with Police; (E) Training for Firefighters; (F) Fire Prevention; (G) Maintain Buildings & Equipment; (H) Public Awareness & Education; (I) Professionalism & Respect; (J) 24/7 Fire & Rescue Coverage; (K) Standard Operation Procedures & Rules; (L) Prior Approval of \$10,000 Budget Changes; (M) Investigation of Fire; (N) Fire Inspections; (O) Access to Water; (P) Compliance with Kentucky Law; (Q) Chief Attend Southeast Bullitt FPD Board Meetings; ( R) Written Evaluation Report 90/180/270 Days; (S) Obligation to Keep Chairperson Informed; (4) ESSENTIAL REQUIREMENTS FOR CONTRACTED FIRE DEPARTMENT: (A) Ethics Code; (B) Internal Controls & Fiscal Oversight; ( C) Investment Policy' (D) Non-discrimination & Equal Employment Opportunity Policy; (E) Treasurer Bond, Workers Comp & Liability Insurance; (F) Budget G. Audit And/or Financial Statements; (H) Firefighters Bill of Rights & Political Restrictions; (I) Volunteer Firefighters Nominal Fees & Benefits; (J) Open Meetings & Records Policies; (K) Advertise for Bids for Purchases over \$20,000; (L) By-laws, Chiefs Contract, & Employee Handbook; (M) Legal Training for Board of Directors or Trustees; (N) DLG Registration & Compliance; (O) Fire Commission Certification & Incentive Pay Compliance; (P)

Compliance with Kentucky Fire Department Laws; (5) PAYMENT ON FIRE PROTECTION & RESCUE CONTRACT; (6) SEVERABILITY; (7) GOVERNING LAW; (8) MEDIATION; (9) ENTIRE FIRE PROTECTION & RESCUE CONTRACT.

#### 7. SEBFPD MUST PERFORM OBJECTIVE PERFORMANCE EVALUATIONS

(7A) FORMAL PERFORMANCE EVALUATION PROCESS: Require SEB FPD to immediately establish and schedule formal performance evaluation process based upon objective criteria and independent judgment, which requires the evaluation of each Firefighter, paid and volunteer, or employees by their immediate supervisor and annual evaluation of Fire Chief by Board of Trustees.

(7B) CONTRACT FIRE DEPARTMENT PERFORMANCE EVALUATIONS: Require any Contract Fire Department to establish and schedule formal performance evaluation process based upon objective criteria and independent judgment, which requires the evaluation of each Firefighter, paid and volunteer, or other employee or member, by their immediate supervisor and an annual evaluation of the Fire Chief performed by the governing body of Contract Fire Department.

(7C) SEB FPD CHIEF & OTHERS NOT PARTICIPATE IN OWN EVALUATION: Require SEB FPD to prohibit any Firefighter, paid and volunteer, other employee or members from participating in their own evaluation, whether indirectly or indirectly, or serving on the Board of Trustees that approves or conducts the evaluation.

(7D) CONTRACT CHIEF NOT PARTICIPATE IN OWN EVALUATION: Require Contract Fire Department to prohibit any Firefighter, paid and volunteer, or other employee or member, from participating in their own evaluation, indirectly or indirectly, or serving on the governing body of the Contract Fire Department that approves or conducts the evaluation.

(7E) FORMAL COMPENSATION STRUCTURE FOR EMPLOYEES & VOLUNTEERS: Require SEB FPD to establish a fair and equitable compensation structure for its employees and volunteers, including but not limited to: (a) position descriptions detailing required candidate (i) qualifications, (ii) job duties, and (iii) expectations; (b) position levels with corresponding salary or hourly pay ranges; and, (c) performance incentives.

(7F) STRENGTHEN PRESENT AND DEVELOP NEW NECESSARY POLICIES: Require SEB FPD to strengthen existing policies and develop others required by law to ensure policies are legal, thorough, and comprehensive.

(7G) ADOPT INTERNAL CONTROLS & FISCAL OVERSIGHT: Require SEB FPD to adopt the internal controls & fiscal oversight requirements recommended by the Kentucky Auditor of Public Accounts for Public Boards, including (1) Mission Statement; (2) Orientation New & Returning Trustees; (3) Diversity of Information Sources; (4) Minutes Document Budget Monitoring; (5) Compliance with Open Meeting Law; (6) Complaints & Feedback Procedures; (7) Internal Audit Function; (8) KRS 65.065 Audit; (9) Code of Ethics; (10) Financial Disclosure Policy; (11) Salary Ranges; (12) Employee Benefits; (13) Fire Chief & Employee Compensation; (14) Evaluation System; (15) Employee Leave; (16) Medical Leave; (17) Purchase of Goods & Services; (18) Budget Monitoring Procedures; (19) Monthly Payment Review; (20) Command Travel out of State Policy; (21) Travel Expense Policy; (22) Alternative to Credit Cards; (23) Credit Cards; (24) Justification for Gifts or Entertainment; (25) Employee Reimbursement; (26) Reimbursement for Command Staff; (27) Community Relations & Marketing Goals; (28) Vehicle Purchase Policy; (29) Public District Equipment; (30) Financial Records Integrity; (31) Equipment Inventory; (32) Computer Information System.

(7H) REQUIRE CONTRACT FIRE DEPARTMENT TO ADOPT SIMILAR POLICIES: Require Contract Fire Department to adopt following policies: (1) Formal Compensation Structure for Employees & Volunteers; (2) Strengthen Present and Develop New Necessary Policies; (3) Internal Controls & Fiscal Oversight.

8. SEBFPD MUST ADOPT WRITTEN CONTRACT FOR LEGAL SERVICES

(8A) FORMAL WRITTEN CONTRACT FOR LEGAL SERVICES: Require SEB FPD to establish a formal written contract for any agreement for legal counsel to strengthen expenditure oversight by ensuring process to determine: (1) who has the authority to request attorney services; (2) the type of legal services to be performed; (3) the rate at which legal services will be invoiced; (4) the rate at which legal services will be invoiced; (5) the detail for legal services invoicing; (6) any expenses to be paid; and, (7) other legal services that should be specifically identified.

(8B) FORMAL WRITTEN CONTRACT FOR ANY AGREEMENT: Require SEB FPD to enter into a formal written contract for any agreement it enters, which identifies: (1) who has the authority to request contract services; (2) the specific type of services the contractor will perform; (3) the hourly rate or fixed amount charged for contract services; (4) specific language requiring detailed invoices from a contractor to include: (a) description of the work performed, (b) number of hours associated with each work step; (c) number of hours associated with each workstep; (d) the rate at which services are being charged.

(8C) POLICY TO IDENTIFY COMMITTEE REQUIRED TO MONITOR CONTRACTS: Require SEB FPD to adopt a policy to identify the Board committee responsible for reviewing and approving the contract invoices.

(8D) REQUIRE CONTRACT FIRE DEPARTMENT TO ADOPT SIMILAR POLICIES: Require Contract Fire Department to adopt following policies: (1) Formal Written Contract for Legal Services; (2) Formal Written Contract for Any Agreement; (3) Policy to Identify Committee Required to Monitor Contracts.

Respectfully,



DAVID BLAKEMAN

Attachments

**RESOLUTION #1 EFFICIENT FINANCIAL SUPPORT & FIREFIGHTER PROTECTIONS**

**BOARD OF TRUSTEES  
SOUTHEAST BULLITT FIRE PROTECTION DISTRICT**

At a Special KRS 61.823 Meeting of the Board of Trustees of the Southeast Bullitt Fire Protection District held on the 2<sup>nd</sup> day of January, 2015, consisting of Chairperson David Blakeman; Trustee Buddy Greenwell; Trustee Charles Lucas II; Trustee Milford Hatfield, Sr.; Trustee Bruce Myers; Trustee Dan Thibodeaux; [\*Julius Hatfield\*: 12-4-14 resignation; (2) 1-4-15 report to County Judge-Executive]; with all members being present; and Notice of the Special KRS 61.823 Board of Trustees Meeting having been given and complying with KRS 61,823; and listing as part of the Agenda the following: (2) BOARD EFFICIENT FINANCIAL SUPPORT FOR FIRE SERVICE: IMMEDIATE BOARD ACTION TO PROVIDE KRS TREASURER BOND, PERSONNEL, AND MECHANISM TO EFFECT EXPEDITIOUS FIRE & RESCUE RESPONSES AND PROVIDE LEGAL PROTECTIONS FOR FIREFIGHTERS; the following motion was made by Trustee Dan Thibodeaux and seconded by Trustee Charles Lucas II:

**MOTION FOR EFFICIENT FINANCIAL SUPPORT & FIREFIGHTER TO ESTABLISH EFFICIENT FINANCIAL SUPPORT FOR THE FIRE SERVICE FOR THE TAXPAYERS, FAMILIES, AND BUSINESSES OF THE SOUTHEAST BULLITT FIRE PROTECTION DISTRICT, INCLUDING IMMEDIATE BOARD ACTION TO PROVIDE KRS TREASURER BOND, PERSONNEL, AND MECHANISM TO EFFECT EXPEDITIOUS FIRE & RESCUE RESPONSES AND PROVIDE LEGAL PROTECTIONS FOR FIREFIGHTERS, including:**

- (1) **BOND TO PROTECTION TAXES:** Approving the purchase of a BOND FOR THE TREASURER AND ANYONE HANDLING MONEY, as required by KRS 75.031(3), to be "conditioned upon the faithful discharge of the duties of his or her office, and the faithful accounting for all funds which may come into his possession as such treasurers."
- (2) **NEW BANK ACCOUNT & ADDRESS:** Approving the Chairperson David Blakeman opening up a new bank account, for the Board of Trustees with new check signers, authorized officials, statement address, for all funds; establishing a new post office mailing address; change address and contract person with the Department for Local Government; and all other reasonable measures to protect the taxpayers' funds of the Southeast Bullitt Fire Protection District.
- (3) **FIREFIGHTERS BILL OF RIGHTS:** Approving FIREFIGHTERS BILLS OF RIGHTS against unreasonable discipline and unreasonable repression of individual rights and views, based upon the DISCIPLINE PROCEDURES in KRS 75.130 and 75.140 and POLITICAL ACTIVITIES OF MEMBERS in KRS 75.150.

**MOTION CARRIED by VOTE OF: 4 YES; 2 NO; 1 ABSTAIN;** as follows: **YES:** Chairperson David Blakeman; Charles Lucas II; Trustee Dan Thibodeaux; Trustee Buddy Greenwell; **NO:** Trustee Milford Hatfield, Sr.; [Julius Hatfield]. **ABSTAIN:** Trustee Bruce Myers.

**CERTIFICATION:**

I, DAVID BLAKEMAN member of Board of Trustees of the Southeast Bullitt Fire Protection District, hereby certify that the above motion and vote were adopted by the Board of Trustees of Southeast Bullitt Fire Protection District on January 2, 2015.

  
Member of Board of Trustees

**RESOLUTION #2 DECLARING 7-8-13 DOCUMENT INDEFINITE & UNENFORCEABLE**

BOARD OF TRUSTEES  
SOUTHEAST BULLITT FIRE PROTECTION DISTRICT

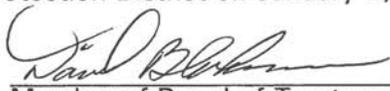
At a Special KRS 61.823 Meeting of the Board of Trustees of the Southeast Bullitt Fire Protection District held on the 2<sup>nd</sup> day of January, 2015, consisting of Chairperson David Blakeman; Trustee Buddy Greenwell; Trustee Charles Lucas II; Trustee Milford Hatfield, Sr.; Trustee Bruce Myers; Trustee Dan Thibodeaux; [\*Julius Hatfield\*: 12-4-14 resignation; (2) 1-4-15 report to County Judge-Executive]; with all members being present, and Notice of the Special KRS 61.823 Board of Trustees Meeting having been given and complying with KRS 61,823; and listing as part of Agenda the following: FIRE & RESCUE EMERGENCY RESPONSES: URGENT PRIORITY TO IMMEDIATELY EFFECT BEST POSSIBLE FIREFIGHTER FIRE & RESCUE EMERGENCY RESPONSES FOR PROTECTION OF COMMUNITY BY AGREEMENT &/OR MUTUAL AID; the following motion was made by Trustee Dan Thibodeaux and seconded by Trustee Charles Lucas II:

**MOTION TO DECLARE 7-8-13 DOCUMENT DATED 7-8-2013**, between the Southeast Bullitt Fire Protection District and the Southeast Bullitt Volunteer Fire and Rescue Department, Inc. stating that "The District agrees to pay the net proceeds of the Fire Protection tax revenue collected" and "which funds shall be used by the Volunteer Fire Department for the provision of the fire protection services, equipment and facilities necessary thereto," to "furnish fire protection services to the area included within the District, such services to be those normally provided by a District and comparable to services provided by a functioning Volunteer Fire Department" to "remain in full force and effect until terminated by either party after written notice to the other party of intention to terminate by the January 1 annual renewal date" is vague and unenforceable, for an indefinite period of time, and, based upon the attached Opinion of Legal Counsel Maurice A. Byrne, Jr. dated January 2, 2015, the **JULY 8, 2013 DOCUMENT DATED 7-8-2013 IS DECLARED UNENFORCEABLE**,

**MOTION CARRIED BY VOTE OF: 4 YES; 2 NO; 1 ABSTAIN**; as follows: **YES**: Chairperson David Blakeman; Charles Lucas II; Trustee Dan Thibodeaux; Trustee Buddy Greenwell; **NO**: Trustee Milford Hatfield, Sr.; [Julius Hatfield]. **ABSTAIN**: Trustee Bruce Myers.

CERTIFICATION:

I, DAVID BLAKEMAN member of Board of Trustees of the Southeast Bullitt Fire Protection District, hereby certify that the above motion and vote were adopted by the Board of Trustees of Southeast Bullitt Fire Protection District on January 2, 2015.

  
Member of Board of Trustees

**RESOLUTION #3 ON EMERGENCY REQUIRING 60 DAY FIRE SERVICE CONTRACT**

**BOARD OF TRUSTEES  
SOUTHEAST BULLITT FIRE PROTECTION DISTRICT**

At a Special KRS 61.823 Meeting of the Board of Trustees of the Southeast Bullitt Fire Protection District held on the 2<sup>nd</sup> day of January, 2015, consisting of Chairperson David Blakeman; Trustee Buddy Greenwell; Trustee Charles Lucas II; Trustee Milford Hatfield, Sr.; Trustee Bruce Myers; Trustee Dan Thibodeaux; [\*Julius Hatfield\*: 12-4-14 resignation; (2) 1-4-15 report to County Judge-Executive]; with all members being present, and Notice of the Special KRS 61.823 Board of Trustees Meeting having been given and complying with KRS 61,823; and listing as part of the Agenda the following: FIRE & RESCUE EMERGENCY RESPONSES: URGENT PRIORITY TO IMMEDIATELY EFFECT BEST POSSIBLE FIREFIGHTER FIRE & RESCUE EMERGENCY RESPONSES FOR PROTECTION OF COMMUNITY BY AGREEMENT &/OR MUTUAL AID; the following motion was made by Trustee the following motion was made by Trustee Charles Lucas II and seconded by Trustee Dan Thibodeaux:

**RESOLUTION AND CERTIFICATION OF EMERGENCY REQUIRING 60 DAY FIRE SERVICE CONTRACT**, based upon the attached: **RESOLUTION DECLARING 7-8-13 DOCUMENT INDEFINITE AND UNENFORCEABLE**; the Board of Trustees, by and through its Chairperson as chief executive officer of the Fire Protection District does hereby duly **CERTIFY AN EMERGENCY EXISTS**, a copy of this **CERTIFICATION OF EMERGENCY REQUIRING 60 DAY FIRE SERVICE CONTRACT** has been filed with the Board of Trustees, including its chief financial officer, that **FIRE PROTECTION AND RESCUE SERVICES ARE ESSENTIAL, MOST IMPORTANT, AND URGENT FOR CITIZENS, FAMILIES, AND BUSINESSES OF THE SOUTHEAST FIRE PROTECTION DISTRICT AND THAT AN IMMEDIATE FIRE PROTECTION & RESCUE CONTRACT IS REQUIRED IS MOST URGENT UNTIL A LONG TERM CONTRACT CAN BE ENTERED WITH SIXTY (60) DAYS.**

**MOTION CARRIED by VOTE OF: 5 YES; 0 NO; 2 ABSTAIN**; as follows: **YES**: Chairperson David Blakeman; Charles Lucas II; Trustee Dan Thibodeaux; Trustee Buddy Greenwell; Trustee Bruce Myers; **NO**: None; **ABSTAIN**: Trustee Milford Hatfield, Sr.; [Julius Hatfield].

**CERTIFICATION:**

I, DANIEL BLAKEMAN member of Board of Trustees of the Southeast Bullitt Fire Protection District, hereby certify that the above motion and vote were adopted by the Board of Trustees of Southeast Bullitt Fire Protection District on January 2, 2015.

  
Member of Board of Trustees

**RESOLUTION #4 TO ADVERTISE FOR BIDS FOR FIRE SERVICE**

BOARD OF TRUSTEES  
SOUTHEAST BULLITT FIRE PROTECTION DISTRICT

At a Special KRS 61.823 Meeting of the Board of Trustees of the Southeast Bullitt Fire Protection District held on the 2<sup>nd</sup> day of January, 2015, consisting of Chairperson David Blakeman; Trustee Buddy Greenwell; Trustee Charles Lucas II; Trustee Milford Hatfield, Sr.; Trustee Bruce Myers; Trustee Dan Thibodeaux; [\*Julius Hatfield\*: 12-4-14 resignation; (2) 1-4-15 report to County Judge-Executive]; with all members being present, and Notice of the Special KRS 61.823 Board of Trustees Meeting having been given and complying with KRS 61,823; and listing as part of the Agenda the following: ADVERTISE & EFFECT LEGAL KRS FIRE & RESCUE SERVICES: KRS REQUIRED ADVERTISEMENT FOR BIDS WITH NEW ARRANGEMENT FOR FIRE & RESCUE SERVICES EFFECTIVE FEBRUARY 2015, INCLUDING KRS TREASURER BONDING, ETHICS CODE, INVESTMENT POLICY, INTERNAL CONTROLS & FISCAL OVERSIGHT, FIREFIGHTERS BILL OF RIGHTS, FIREFIGHTER SUPPORT & PROTECTION, CHIEF CONTRACT, TRUSTEES LEGAL TRAINING, OPEN RECORDS & MEETINGS, BYLAWS, TRAINING ACCOUNTABILITY, PURCHASES & SALES, EMPLOYEE HANDBOOK, AND OTHER KRS LEGAL REQUIREMENTS; the following motion was made by Trustee Dan Thibodeaux and seconded by Trustee Charles Lucas II:

**MOTION TO ADVERTISE FOR BIDS FOR FIRE SERVICE** based upon the attached ADVERTISEMENT FOR BIDS and FIRE PROTECTION & RESCUE CONTRACT, for a term beginning March 1, 2015, and for twelve (12) months, or a limited term to be negotiated, with additional specifications, details, and the required, detailed FIRE PROTECTION & RESCUE CONTRACT may be obtained by email request sent to [mbyrne@mauricebyrne-attorney.com](mailto:mbyrne@mauricebyrne-attorney.com) or by contacting Chairperson of the Board of Trustees, David Blakeman, at telephone: (502) 543-3654 to review at the SOUTHEAST BULLITT FIRE PROTECTION DISTRICT office located at the SOUTHEAST BULLITT FIRE DEPARTMENT STATION located on State Highway 245 (Clermont Road), Shepherdsville, Kentucky 40165, between the hours of 10:00 a.m. and 3:00 p.m., Monday through Friday. A pre-bid conference to discuss details of the legal requirements for a bid will be held on Thursday, January 15, 2015, at 1:30 p.m. and all bids must be received by 12:00 noon, Friday, January 30, 2015, with both events to be held at the SOUTHEAST BULLITT FIRE DEPARTMENT STATION; and will be considered by the Board of Trustees for final action at its meeting on February 9, 2015. The SOUTHEAST BULLITT FIRE PROTECTION DISTRICT reserves the right to accept or reject any or all bids.

**MOTION CARRIED by VOTE OF: 5 YES; 1 NO; 1 ABSTAIN;** as follows: **YES:** Chairperson David Blakeman; Charles Lucas II; Trustee Dan Thibodeaux; Trustee Buddy Greenwell; Trustee Bruce Myers; **NO:** Trustee Milford Hatfield, Sr.; **ABSTAIN:** [Julius Hatfield].

CERTIFICATION:

I, DAVID BLAKEMAN member of Board of Trustees of the Southeast Bullitt Fire Protection District, hereby certify that the above motion and vote were adopted by the Board of Trustees of Southeast Bullitt Fire Protection District on January 2, 2015.

  
Member of Board of Trustees

**RESOLUTIONS #5 FULL & COMPLETE ACCOUNTABILITY FOR PAST FINANCES  
AND LEGAL ACTION TO RESTORE UNACCOUNTED TAXPAYER DOLLARS**

BOARD OF TRUSTEES  
SOUTHEAST BULLITT FIRE PROTECTION DISTRICT

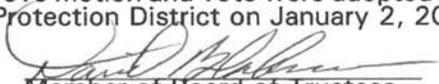
At a Special KRS 61.823 Meeting of the Board of Trustees of the Southeast Bullitt Fire Protection District held on the 2<sup>nd</sup> day of January, 2015, consisting of Chairperson David Blakeman; Trustee Buddy Greenwell; Trustee Charles Lucas II; Trustee Milford Hatfield, Sr.; Trustee Bruce Myers; Trustee Dan Thibodeaux; [\*Julius Hatfield\*: 12-4-14 resignation; (2) 1-4-15 report to County Judge-Executive]; with all members being present, and Notice of the Special KRS 61.823 Board of Trustees Meeting having been given and complying with KRS 61,823; and listing as part of the Agenda the following: (4) FULL & COMPLETE ACCOUNTABILITY OF ALL PAST FINANCES; and (5) LEGAL ACTION TO RESTORE ANY UNACCOUNTED TAXPAYER DOLLAR; the following motion was made by Trustee the following motion was made by Trustee Charles Lucas II and seconded by Trustee Dan Thibodeaux:

**MOTION FOR FULL & COMPLETE ACCOUNTABILITY FOR PAST FINANCES PAID TO SOUTH EAST BULLITT VOLUNTEER FIRE AND RESCUE DEPARTMENT, INC.,** including: (4) **FULL & COMPLETE ACCOUNTABILITY OF ALL PAST FINANCES:** EFFECT ABSOLUTE OPENNESS & COOPERATION WITH FIRE COMMISSION, DEPARTMENT FOR LOCAL GOVERNMENT, SHERIFF & FEDERAL LAW ENFORCEMENT, ATTORNEY GENERAL, LOCAL ELECTED OFFICIALS AND EXPEDITE IMMEDIATE RESOLUTION OF PAST ISSUES; (5) **LEGAL ACTION TO RESTORE ANY UNACCOUNTED TAXPAYER DOLLAR:** IMMEDIATELY INITIATE LEGAL ACTION TO ENJOIN ANY ILLEGAL USE OF TAXPAYER MONEY, OBTAIN FOR DISTRICT TAXPAYERS RETURN OF FIRE STATIONS, EQUIPMENT, AND OTHER PROPERTY; AND FULL ACCOUNTING FOR ALL TAXES & RECOVERY FOR ANY MISUSED; and, grants legal authority and directs that the Chairperson of the Board of Trustees, David Blakeman, take whatever action is necessary to accomplish as soon as possible a **FULL & COMPLETE ACCOUNTABILITY OF ALL PAST FINANCES** and determine as soon as possible what action can immediately be taken in cooperation with the Bullitt County Sheriff, Federal Bureau of Investigations, and United States Attorney; the Kentucky State Auditor; the Kentucky Department for Local Government; the Kentucky Fire Commission, and all other local, state, and federal law enforcement and regulatory agencies to obtain resolution of these issues as soon as possible.

**MOTION CARRIED by VOTE OF: 3 YES; 2 NO; 2 ABSTAIN;** as follows: **YES:** Chairperson David Blakeman; Charles Lucas II; Trustee Dan Thibodeaux; **NO:** Trustee Milford Hatfield, Sr.; [Julius Hatfield]; **ABSTAIN:** Trustee Bruce Myers; Trustee Buddy Greenwell; .

CERTIFICATION:

I, DAVID BLAKEMAN member of Board of Trustees of the Southeast Bullitt Fire Protection District, hereby certify that the above motion and vote were adopted by the Board of Trustees of Southeast Bullitt Fire Protection District on January 2, 2015.

  
Member of Board of Trustees