



REBECCA OTTO
STATE AUDITOR

STATE OF MINNESOTA OFFICE OF THE STATE AUDITOR

SUITE 500
525 PARK STREET
SAINT PAUL, MN 55103-2139

(651) 296-2551 (Voice)
(651) 296-4755 (Fax)
state.auditor@state.mn.us (E-mail)
1-800-627-3529 (Relay Service)

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Joint Powers Fire Departments and Fire Districts: What You Need to Know

By Rebecca Otto, State Auditor

The sharing of fire services among local units of government may provide opportunities to improve the level of services provided to residents while keeping costs under control. A 2010 report entitled, "A Blueprint for Shared Services, Fire and Rescue Shared Services Task Force" details these types of arrangements and the different forms that they take. One model for sharing fire services is the use of joint powers agreements. This article will focus on what you need to know when joint powers agreements are used for sharing fire services.

The Joint Powers Agreement – Getting it Right

Because joint powers agreements are legal documents, local governments entering into them for fire services should work with their attorneys for assistance in drafting the agreements. Getting it right the first time will help to avoid problems down the road.

First, the agreement must state its purpose, and how the purpose will be accomplished. For example, the agreement may specify that one of the parties to the agreement will provide services on behalf of the other participating local governments.

To avoid confusion later, the Office of the State Auditor (OSA) recommends that joint powers agreements for fire services explain how municipal contributions to fire relief associations will be paid, and how relief association bylaws and benefit changes will be approved.

State law also requires that joint powers agreements contain certain provisions in the event of dissolution. For example, the agreement must provide for the disposition of any property acquired as a result of the joint exercise of power. It must also require that any surplus moneys remaining after the dissolution be returned to the parties to the agreement in proportion to their contributions.

As a matter of best practices, local governments that have a joint powers agreement in place for fire services should review the agreement on a regular basis. The agreement should be modified

if circumstances affecting the agreement have changed since the agreement was first adopted.

Joint Powers Board

The joint powers agreement may create a new, separate entity. A joint powers board may be created to operate the new entity. If so, the board must be representative of the parties to the agreement.

A joint powers board may be structured in a number of different ways. For example, some boards serve only as “advisory” boards, requiring most decisions made by the board to be ratified by the governing bodies of the parties to the agreement. Some boards are granted significant independent authority to run the day-to-day operations of the joint powers entity, but they must obtain specific authority from the parties to the agreement for such things as setting budgets, setting rates/fees, or purchasing land, facilities or equipment. Finally, some boards are granted broad authority to make independent decisions. The joint powers agreement should clearly spell out the authority granted to the joint powers board.

Handling Public Funds

The joint powers agreement might provide that one of the parties to the agreement will act as the fiscal agent for the entity. In that case, the joint powers entity would not handle public funds. Instead, public funds would be handled by the local unit of government serving as the fiscal agent.

If the joint powers agreement gives the joint powers board the authority to disburse public funds, the joint powers entity must handle the funds in the same way that local governments handle their funds. Under Minnesota law, the disbursement of funds by a joint powers entity must “agree as far as practicable with the method provided by law for the disbursement of funds by the parties to the agreement.” The joint powers entity must also follow the local government’s contracting and purchasing requirements.

For example, the joint powers board should require that claims be itemized, just as local governments require itemized claims. All claims should be approved by the joint powers board prior to payment, just as claims are approved by a city council or town board prior to payment. More than one signature should be required on checks issued by the joint powers entity, just as more than one signature is required on checks issued by a local government.

For more information on claims approval and multiple signatures on a check, go to the OSA’s website at www.auditor.state.mn.us. Go to “Local Officials,” and click on “Avoiding Pitfalls.” You will find information on the claims approval process and the multiple signature requirement under “Disbursement Process.”

Do We Have to Have an Audit?

The joint powers entity may be subject to audit requirements. A Minnesota law passed in 2008 requires “special districts” to have annual audits if the special district’s annual revenue is greater

than a threshold dollar amount. A fire district or fire department created through a joint powers agreement has a special or limited purpose, and is generally funded, at least in part, by property tax revenues or other public funds. Therefore, it is a “special district” if:

- It is not included in a city, county or town financial report as a component of that local government; and
- It is governed by 1) people directly elected to the governing board; 2) people appointed to the governing board by local elected officials; 3) local elected officials who serve on the board by virtue of their elected office; or 4) a combination of these selection methods.

If the joint powers entity meets the definition of a “special district,” the entity’s joint powers agreement, and any other documents relating to the governance of the entity, must be filed with the OSA within 60 days of adoption.

A “special district” also needs an annual audit if it meets the annual revenue threshold level, which gets released by the OSA each year at the beginning of February. The 2009 audit threshold was revenues of \$185,000. The 2010 audit threshold will be available on the OSA’s website in early February. If the special district’s annual revenue is less than or equal to the threshold amount, an audit is required at least once every five years, and financial statement reporting forms must be filed with the OSA for years when the special district is not audited. The financial statements and audits must be completed, presented to the entity’s governing board, and filed with the OSA within 180 days after the end of the entity’s fiscal year.

Conclusion

Joint powers agreements allow collaboration and the sharing of services among local units of government. However, because public funds are involved, entities created by joint powers agreements are subject to many of the same requirements as any local government. Understanding these requirements will help the joint powers entity safeguard public funds and avoid needless pitfalls down the road.