NSP Leveraging

EXHIBIT #1
COUNCIL MINUTES 03/23/2009

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NSP Overview

Finance Mechanisms

The line of credit will eliminate the need for jurisdictions to pay for the properties, environmental reviews and appraisals out-of-pocket while waiting for HUD reimbursement.

The NMTC funding will pay property maintenance costs while the property is held for rehab and sale.

The New Markets Tax Credit (NMTC) Program provides tax credits to corporate taxpayers who make Qualified Equity Investments (QEIs) in Community Development Entities (CDEs) which have received allocations of NTMCs from the U.S. Treasury Department.

By investing NSP and an equal amount of leverage loan funds in an NMTC structure, every NSP $1.00 will turn into approximately $2.50.

Abbreviated Process Flow*

Acquire foreclosed homes and other distressed real estate

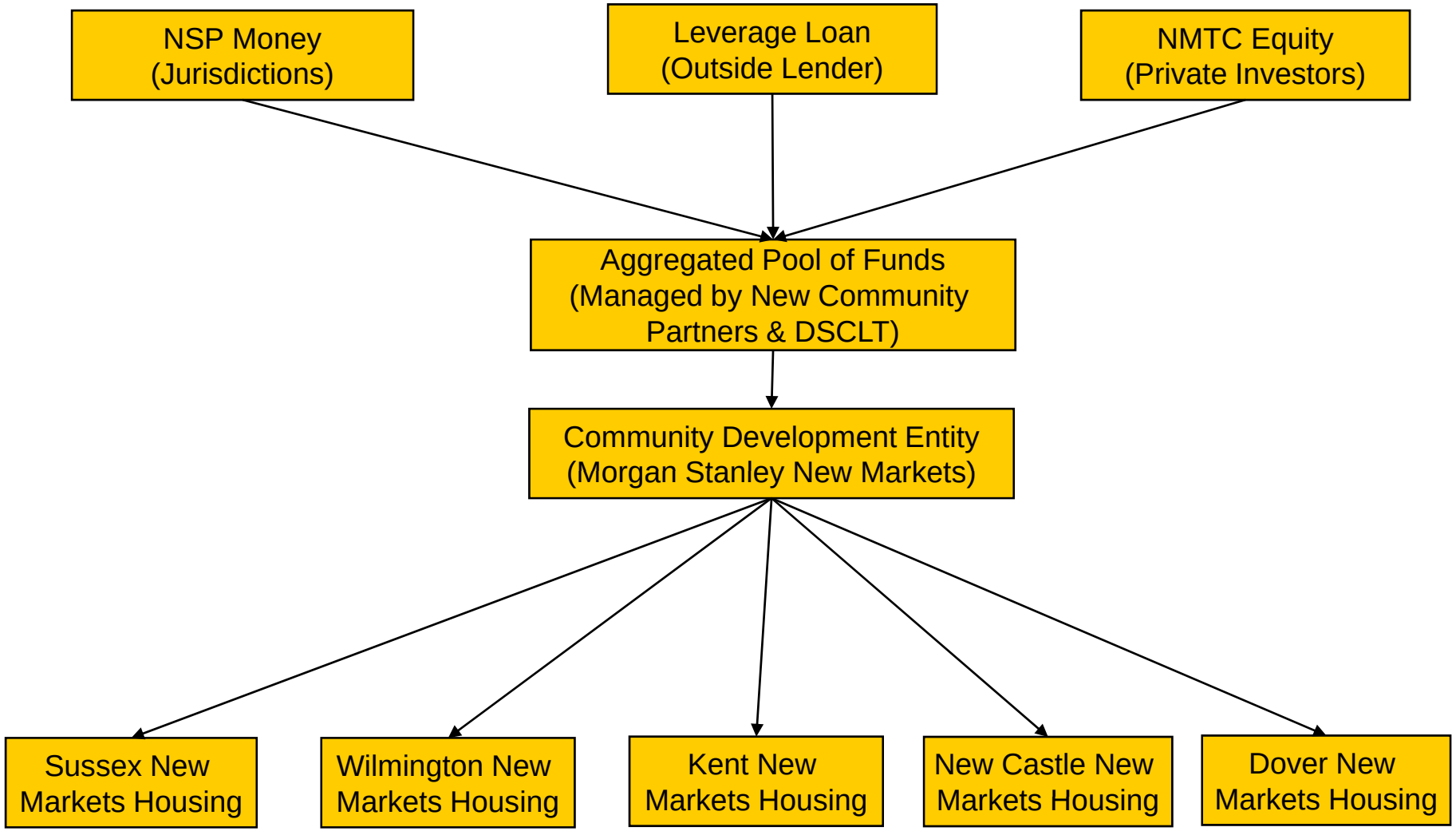
- Complete environmental review and appraisal
- Renovate as necessary for marketing & sales
- Sell the homes to qualified owner-occupants
- Achieve affordability for homebuyers through generally conforming first mortgages, second mortgages, second chance mortgages, lease to own options, etc.
- Use NSP funds as collateral for a line of credit of an equal amount
- Invest NSP and loan funds through an NMTC structure and generate additional equity
- Comply with NSP regulations

* 18 months to obligate funds

* 4 years to spend an amount equal to or greater than the initial NSP allocation

Flow of Money

Organization Structure and Flow of Money



Tasks Impacted by Structure

Described

Unleveraged NSP Structure

Jurisdiction Responsibilities

- Identification of Properties
  - Locating properties with support of realtors
  - Evaluating viability (walk-thru, general construction/make ready estimates)
  - Cost negotiations with owners
- Out-of-pocket expenses to be reimbursed
  - Environmental reviews
  - Appraisals
  - Title search
  - Settlement
  - Property maintenance and other holding costs
- No receipt of property taxes during ownership by jurisdiction
- No receipt of transfer taxes for sales
- Administration of all rehab work
- Responsible for all administrative paperwork
- Possible need for additional staff during NSP period
- Potential to hold and maintain properties during rehab and marketing period

Proposed Leveraged NSP / NMTC Structure

Shared Responsibilities (mainly 3rd Party)

- Line of credit used for all up-front expenses
  - Environmental review
  - Appraisal
  - Title search
  - Settlement
- New Market Tax Credit equity used for on-going expenses
  - General property maintenance including grass cutting
- Jurisdiction receives revenue during holding period
  - Property taxes paid by 3rd party entity
  - Transfer taxes paid by 3rd party entity
- Staffing ramp-up is absorbed by 3rd party entity
  - Experience doing CDBG reporting paperwork
  - Staff is more flexible in nature to be utilized only during NSP period, without need to carry beyond term
- Marketing, recruitment & training of buyers

Opportunities

1. Rapid deployment of 100% of NSP funds through financing mechanisms up front
   - Using private leverage funds enables a rapid acquisition of targeted properties
2. Partnerships with local non-profits, developers, and contractors
   - Project implementation will be done almost entirely by local partners
3. Long term ownership and management where necessary
   - DSCLT and partners will manage any rent-to-own properties, selected mortgage assets and all CLT properties
4. Non-profit marketing and sales
   - DSCLT and partners will co-broker the sales with local Realtors, charging lower fees than the industry
5. Homebuyer counseling and education
   - DSCLT will partner with local HUD approved counseling agencies and others to bring new homeowners into the buyer pool, ready them for homeownership, and monitor and assist them after they purchase a house; CLT homeowners have permanent relationship with DSCLT.
6. Credit rehab
   - DSCLT will assist homebuyers who need credit rehab to qualify for FHA or other mortgage products. This may be done during a rent-to-own arrangement.
7. Private sector expertise and staffing flexibility
   - DSCLT and New Community Partners will provide immediate value added and not burden the public sector at the end of the project

Appendix A

Biographies

Diamond State Community Land Trust
(Van Temple, Executive Director)

DSCLT was incorporated in 2006 with the mission of assembling, owning and managing a statewide inventory of permanently affordable owner-occupied homes. Our core goal is to serve households at 80% AMI and below including some at 50% and below. Our primary method of operation is partnering with non-profit housing development and homebuyer education providers as well as the counties and towns. As evidence of current capacity, DSCLT, in existence a little over 2 years, has its first CLT home sold and 77 additional units in process including an innovative, new construction 50-unit project near Laurel.

DSCLT, the first statewide community land trust in the U.S., is operating under an ambitious 10-Year Business/Production Plan to grow the inventory of permanently affordable homes to 350 or more homes over the next few years. Currently DSCLT has a full-time Executive Director and a part-time Administrative Assistant. We are recruiting now to fill the position of Homeownership Program Manager. By the end of the 1st quarter of 2009 we plan to fill another position, bringing the full-time staff level to three. This expanded staff will handle Neighborhood Stabilization Program activities. Van Temple, the Executive Director, is a seasoned Housing & Community Development consultant and practitioner with extensive project development and management experience and a successful record in raising subsidy funds from a variety of sources including FHLB. In addition, the Board of Directors brings considerable experience and connections to the effort.

The CLT model provides homes to its buyers at prices significantly below market value through the separating ownership of the land and house. The CLT retains ownership of the land, while the homeowner owns the house. The relationship is secured by a 99-year ground lease that the homeowner signs with the CLT, leasing the land for a nominal monthly fee. When a CLT owner decides to sell, a resale formula (contained in the ground lease) governs that process. The formula allows the departing owner to earn a fair return on his/her investment while supporting an affordable price for the next CLT homeowner. All homes become a part of the statewide inventory of permanently affordable homes. These homes will continue to serve Delaware's low- and moderate-income households generation after generation without additional public and private subsidies beyond the original development deal.

Van has over thirty-four year's experience in Housing and Community Development, City Government, and Non-Profit Management. Mr. Temple held management and executive positions with the City of Dallas, Texas in Police, Personnel, Equipment Services, Information Services, and Communications Departments over a thirteen-year career. As Executive Director of Old North Dayton Development Corporation, he helped build the organization over seven years to be recognized by his peers as "one of the most productive and professional CDCs in Ohio."

Since 2000 Mr. Temple has consulted with a number of cities, counties and non-profits in affordable housing and community development in Connecticut, Delaware, Indiana, Maryland, Michigan, Missouri, New Jersey, Ohio, Pennsylvania, and Virginia. His consulting work includes: Project Development & Implementation, Neighborhood Revitalization Planning & Organizing, Organizational Assessments & Strategic Planning, Financial Planning & Resource Development, & Housing Development Training.

Mr. Temple has been involved in numerous affordable homeownership and rental development projects both as an executive director and consultant. Beginning in 2006 Mr. Temple is serving as the first Executive Director for the Diamond State CLT. DSCLT is a member of the National CLT Network and Mr. Temple serves on the Board of Directors.

Appendix A

Biographies

Morgan Stanley New Markets, Inc.
(Ricardo Rodriguez, Vice President)

Ricardo Rodriguez has broad experience in the fields of finance, real estate and community development both within the United States and in Latin America. He is currently Vice President in the Global Capital Markets Group of Morgan Stanley in New York, where he is in charge of community-based real estate tax credit transactions. Some of the programs he oversees include New Markets Tax Credits, Historic Rehabilitation Tax Credits, certain HUD/HFA financings and Low Income Housing Tax Credits at the federal and state levels nationwide. During his tenure in the capital markets group, Mr. Rodriguez developed and created numerous business platforms on behalf of Morgan Stanley. These business lines include public-private partnerships between various entities of Morgan Stanley, for-profit developers, municipalities, housing authorities, and local non-profit partners, as well as other financial and corporate institutions. These business lines have generated a portfolio of transactions in excess of $3 billion, which has capitalized an even larger amount of transactions nationwide. This portfolio includes a variety of financial instruments, such as equity, mezzanine and first position debt, hybrid instruments, derivatives and hedges. The portfolio leverages Morgan Stanley's own capital and that of third party investors to provide financing to development companies, community-based development organizations, non-profit organizations that promote housing and job creation, and real estate projects. These real estate projects include single and multifamily rental or for sale housing, community centers, retail, office space, small-scale hotels, mixed use, as well as businesses such as factories, manufacturing plants and renewable energy facilities.

Prior to working with tax credits, Mr. Rodriguez was in charge of coverage of select Latin American debt, equity, and hybrid issuers (both corporations and governments) as part of Morgan Stanley's Latin American Capital Markets Group. Prior to Morgan Stanley, Ricardo spent four years as a foreign liaison exchange officer from Nicaragua at the U.S. Naval Academy. Ricardo holds Bachelor of Science degrees with the highest distinction from the U.S. Naval Academy in Weapons & Systems Engineering and in Economics. He is a member of the Affordable Housing Investors Council, the New Markets Tax Credits Coalition, the Initiative for Global Development, and a board member of the Brooklyn Economic Development Corporation.

Appendix A

Biographies

New Community Partners, LLC
(William, Whitman, Managing Member)

New Community Partners is a Delaware limited liability company of which William Whitman is the managing member. Mr. Whitman has 30 years experience in the fields of real estate and community development, urban planning and law. He is currently also President of Telesis CDE Corporation which manages a $60 million allocation of New Markets Tax Credits, and Executive Vice President of Telesis Corporation, a position he has held since 1995.

Mr. Whitman began his career at the Boston Redevelopment Authority (BRA) from 1980 – 1988 where he drafted land use regulations to conserve energy use and alleviate environmental impacts, assisted in the management of several large residential and commercial developments, administered a $30 million "linkage" fund that subsidized affordable housing, and served as Special Assistant to the Director for housing production. During his tenure at the BRA, Mr. Whitman managed successfully a variety of Federally-funded projects. Mr. Whitman went on to practice real estate law and serve as a real estate consultant for institutional clients in the Boston area before joining Telesis Corporation in 1995.

During his tenure at Telesis Corporation, Mr. Whitman has been directly involved in the planning or development of several thousand units of mixed-income housing nationally, both new construction and substantial rehabilitation, and ancillary facilities financed with public and private funds. He has been principally responsible for acquisition, planning, underwriting, public sector and investor relations, closings, and, for certain projects, oversight of construction and lease up activities. He has also closed over $100 million of New Markets Tax Credit financings.

New Community Partners is currently developing for-sale and rental units in New Orleans and on the Mississippi Gulf Coast, using Katrina Disaster Community Development Block Grant funds, and mixed-use projects in Memphis, Tennessee and in rural and minor metropolitan communities nationally.

Mr. Whitman is an active member of the Urban Land Institute, the National Housing and Rehabilitation Association, the New Markets Tax Credit Coalition, the Novogradac Working Group, and the District of Columbia Builder's Industry Association.

Appendix A

Biographies

Discover Bank
(Matthew Parks, CRA and Wholesale Banking Director)

Matt began his banking career in 1991 as a summer intern with WSFS Bank working in various capacities. After graduating from LeMoyne College in 1994 with a B.S in finance, Matt helped lead the start-up and growth of WSFS' mortgage lending subsidiaries Community Credit and Wilmington National Finance. In 2001, Matt joined Discover Bank as a regional manager for its national deposit products business where he oversaw the call center and back office operations. In 2003, after obtaining his MBA from the University of Delaware and graduating from the ABA Stonier Graduate School of Banking, Matt was asked to provide assistance with Discover's CRA mortgage lending and investment programs. Matt was promoted to Director in 2007 and is now responsible for the development of deposit partnerships with third parties, along with his management of the Bank's CRA program compliance.

Matt has over 17 years of broad banking experience in both consumer and commercial banking. He has held management positions in the areas of loan origination, underwriting, servicing, secondary marketing, deposit operations and relationship management. Over the past 5 years, Matt has been responsible for the growth and management of the bank's $130mm CRA investment portfolio. This responsibility has afforded him the opportunity to gain experience in investing in low income housing tax credits, new markets tax credits, and municipal bonds.

Two of Matt's most noteworthy accomplishments were the creation of the Morgan Stanley / Discover (MSD) Community Development Corporation (now known as the Discover Community Development Corporation, DCDC) and his work with the Delaware State Housing Authority (DSHA) to create a mortgage lending partnership that enhances the state's first time homebuyer Single Family Mortgage Revenue Bond Program.

Through his efforts to improve the Bank's CRA loan and investment programs, Matt was able to work closely with associates in Morgan Stanley's fixed income group to create an entity that enabled the Bank to lend capital in community development projects located in Southern Delaware. In the first year of operation, DCDC was able to provide over $25MM in loans.

The DSHA partnership allowed Discover Bank to provide a subsidy in lieu of paying mortgage origination fees, that is passed onto first time homebuyers in the form of down payment assistance and lower interest rates. When compared to past Discover CRA programs, this program provided the bank with a greater rate of return and eliminated the default risk of holding and servicing mortgage loans. Since the creation of the partnership, Discover has invested $70MM in state housing bonds through the program. Matt was recognized for this accomplishment at a national CRA conference as a recipient of the Freddie Mac Community Impact Award.

In addition to his Bank responsibilities, Matt finds time to assist the non-profit community. Matt is currently the Vice President of the Community Legal Aid Society's Board, a member of the Affordable Housing Investors Council, and is a former member of the American Banker's Association Housing and Economic Development Committee.

March 23, 2009

Van Temple
Executive Director
Diamond State CLT, Inc.
P.O. Box 1326
Dover, DE 19903

Re. NON-BINDING LETTER OF INTENT: NEW MARKET TAX CREDITS LEVERAGING INITIATIVE

The City of Dover pledges $ 1,500,000.00 of its Neighborhood Stabilization Program ("NSP") allocation to be a part of the Delaware Investment Fund for purposes of leveraging additional loan funds and attracting New Markets Tax Credits ('NMTC') investment. The purpose of this initiative is to expand the pool of dollars available for acquiring vacant, foreclosed properties and all other NSP activities as outlined in the City of Dover's current NSP budget and plan.

We understand that Diamond State CLT ("DSCLT") and its NMTC partners, Morgan Stanley and New Community Partners, are seeking participation from each of Delaware's five NSP-funded jurisdictions and that the Delaware State Housing Authority ("DSHA"), as the HUD grantee for all of Delaware's NSP funding, supports this initiative.

We also understand that if a pool of $7 million or more of NSP funds is pledged through these non-binding letters of intent, DSCLT and its NMTC partners will be empowered to obtain commitments for the leveraged loan and NMTC allocation during over the next 60 days. If DSCLT and its partners are able to obtain the necessary commitments, the Investment Fund, organizational structure, contractual relationships with each jurisdiction, including scopes of work and budgets, and all necessary policies and procedures required by DSHA and HUD will be put in place. This work will all be coordinated with DSHA under its contractual obligations to HUD.

In submitting this Non-Binding Letter of Intent we understand that our current NSP program planning efforts should be continued without interruption. The City of Dover's commitment of our NSP allocation is supported provided that the City of Dover's credit will not be at risk and that the City of Dover will not own any assets, including mortgages, associated with the leveraging of NSP with these additional funding sources.

If the DSCLT and its NMTC partners are unable obtain the credits, investor or leverage loan, or if the City of Dover's credit would be put at risk or the City would own assets, this non-binding letter of intent is null and void and there is no obligation required of the City of Dover.

Sincerely,

_____

Jurisdiction

City of Dover

March 23, 2009

Anas Ben Addi
Delaware State Housing Authority
18 The Green
Dover, DE 19904

RE: Leveraging Neighborhood Stabilization Program Funds with New Market Tax Credits

Dear Mr. Ben Addi:

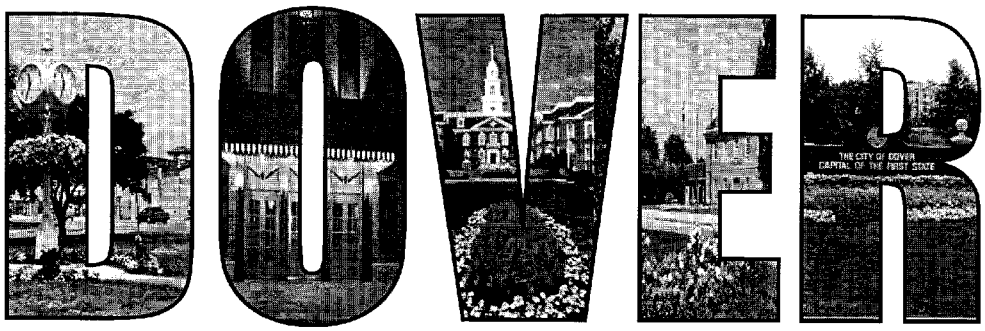
The Dover City Council has reviewed the proposal for leveraging Neighborhood Stabilization Program (NSP) funding using New Market Tax Credits (NMTC). The City has signed a letter of intent to enter into this leveraging partnership; however the City has some reservations as to how the proposal is to be administered and managed. The City believes that this proposal would be best managed if the State of Delaware, through the Delaware State Housing Authority (DSHA), leveraged the NSP funds through the NMTC partnership before distributing the funds to the local jurisdictions. In doing this, the DSHA should distribute the leveraged funds to the local jurisdictions according to the proportions allocated in the initial action plan. Dover City Council believes that the State is better prepared to administer and monitor this program, as NMTCs are new to Delaware.

We would appreciate a response from DSHA on whether or not you will take on this role. If you have any questions, please contact Ann Marie Townshend, our City Planner, at (302) 736-7196.

Sincerely,

Kenneth L. Hogan
Dover City Council President

cc: Tracey Harvey, Community Development Manager
Ann Marie Townshend, City Planner



Full Time Employee Salaries (2009)

$18,821,386.46

Average Salary for Full Time Employees (2009)

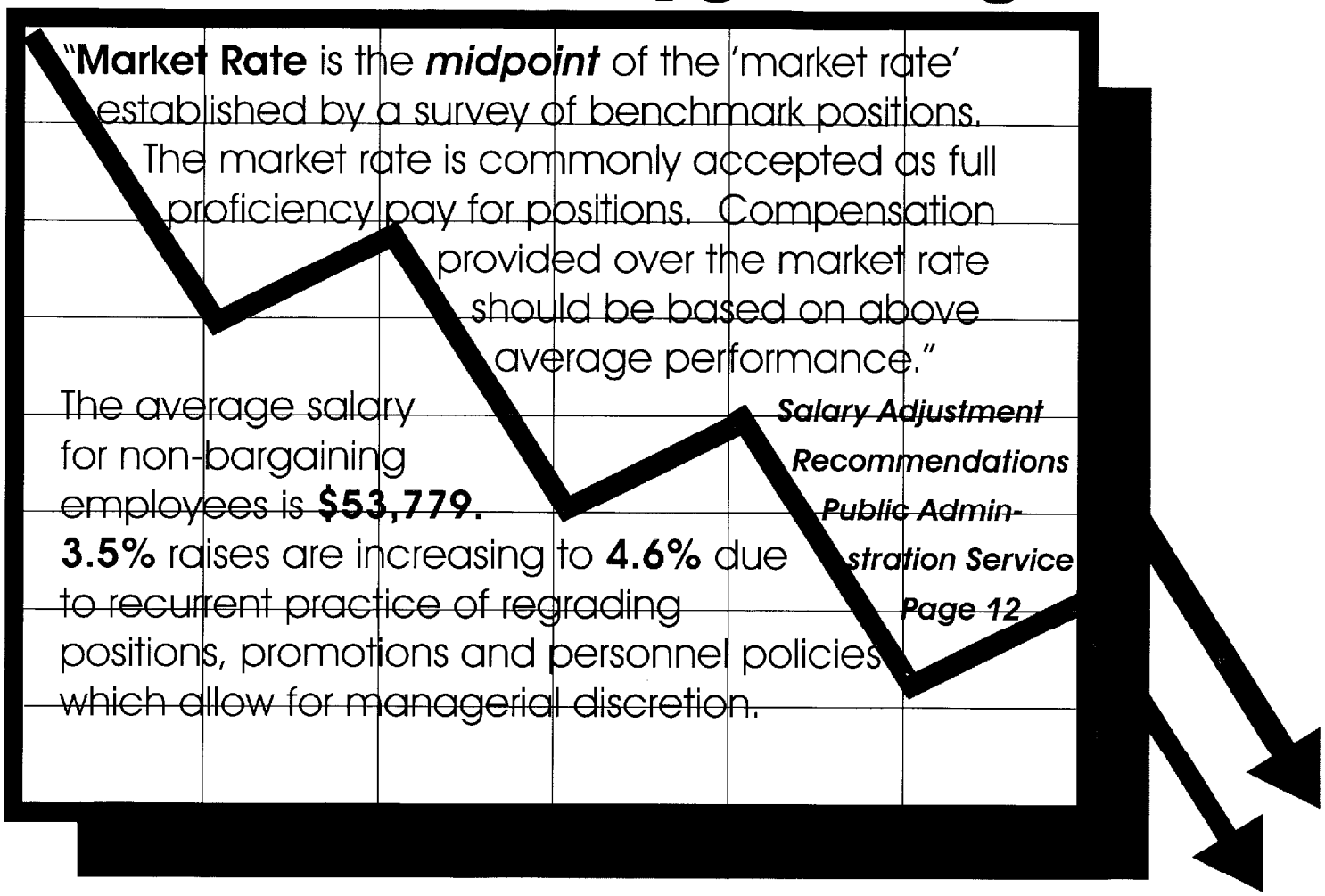
$49,142

Average Salary for Non-Bargaining Employees (2009)

$53,779

*Revised by Mrs. Donna Mitchell, Comptroller

Why We Cannot Upgrade Right Now!



"**Market Rate** is the ***midpoint*** of the 'market rate' established by a survey of benchmark positions. The market rate is commonly accepted as full proficiency pay for positions. Compensation provided over the market rate should be based on above average performance."

Salary Adjustment Recommendations Public Administration Service Page 12

The average salary for non-bargaining employees is **$53,779.**

3.5% raises are increasing to **4.6%** due to recurrent practice of regrading positions, promotions and personnel policies which allow for managerial discretion.

ACTION FORM

PROCEEDING: Legislative, Finance, & Administration	**AGENDA ITEM NO.:**
DEPARTMENT OF ORIGIN: Finance Department	**DATE SUBMITTED**: 06/23/08
PREPARED BY: Donna Mitchell, Controller/Treasurer	
SUBJECT: Independent Accountant Report – Haggerty & Haggerty	
EXHIBITS: N/A	
EXPENDITURE REQUIRED: **N/A** **FUNDING SOURCE (Dept./Page in CIP & Budget)**:	**AMOUNT BUDGETED**: N/A
RECOMMENDED ACTION: Acceptance of Agreed Upon Procedures	

BACKGROUND

A review was conducted of the financial procedures being followed by the Fire Department when expending funds provided by the City of Dover. Council requested the Finance Director and Fire Chief to report back to the committee within two (2) to four (4) weeks with a set of procedures that will be beneficial to all parties involved.

Several meetings have been held. The Agreed Upon Procedures were also reviewed and agreed upon with the City Manager.

AGREED UPON PROEDURES

Members of the Finance Department, Central Services, and the Fire Department met in March 2008 and have come up with the following solutions. At the request of the Fire Chief, Ken Hogan and Tim Slavin met with the Fire Chief and the President to discuss this issue on July 3, 2008.

1. We reaffirmed that the City would make the agreed upon loan payments on Robbins Hose Company loans for fire apparatus directly to the lending bank. The amount of the loan payments will be included in the fire department budget. The fire apparatus will be titled to Robbins Hose Company.
2. The Fire Chief or his designee will adhere to provisions of personnel policies and contracts as applicable to City employees.
3. The Fire Department will adhere to the provisions of the City of Dover Purchasing Policy as adopted on April 28, 2008 and any subsequent changes to said policy in expending City monies.
4. The Fire Department will prepare blanket bids for purchasing of all items that have recurring use to insure economic benefits and access to government procurement by responsible contractors or suppliers. A sample copy of a blanket bid and material listing was provided to the Fire Department by the Contract & Procurement Manager.
5. The City Contract & Procurement Manager will be presented with a detailed plan on the type of fire apparatus that needs to be purchased and the approximate cost as outlined in the CIP. The Fire Department will spec the apparatus. The spec will be reviewed by the Contract & Procurement Manager prior to going to bid.
6. The Fire Department is receptive to using the on-line vehicle and equipment sale process that the City is currently using to try and obtain the greatest amount of proceeds from the sale.
7. The Fire Department will turn over to the City any proceeds from the sale of apparatus that has been fully funded by the City. In return the City will deposit the funds in an account that will be used for the purchase of equipment needed for the new apparatus.
8. We all agreed to seek clarification and assistance when ever needed.

Independent Accountant Report

Haggerty & Haggerty

Joint Committee (City of Dover and Dover Fire Department) Recommendation

The firm of Haggerty and Haggerty, Public Accountants and Management Consultants, was commissioned by city council to review funding provided to the Dover Fire Department from the City of Dover. Upon completion of the review both members of city council and the fire department raised concerns about funding allocated to the fire department and current procedures.

A joint committee of council members and fire department personnel was created to review and recommend policies, procedures, and standards dealing with City of Dover financial contributions to the Dover Fire Department. These recommended policies, procedures, and standards will allow for improved fire department operations, and provide a transparent monitoring of allocated funding.

After numerous meetings, the committee has developed the following proposed agreement. The committee firmly stands behind this agreement as a means to improve the working relationship between the city council and the fire department.

1. City of Dover Employees:
   (A) All current and future City of Dover employees assigned to the Dover Fire Department will remain City of Dover employees assigned to the Dover Fire Department.

   (B) All items pertaining to City of Dover employees will remain under the city budget, and will follow the current budgeting and financial procedures. These items are listed under 110-100-514.10 and include, but are not limited to, salaries, overtime, temporary help, FICA taxes, health insurance, LID insurance, workers compensation, educational assistance, and pension.

   (C) The City of Dover will cover all upgrades, maintenance, and repairs needed to the Dover Fire Department communications center. This includes any upgrades needed to allow the City of Dover employees to effectively complete their duties.

   (D) All City of Dover employees assigned to the Dover Fire Department will remain under the authority of the company elected volunteer Fire Chief. With the approval of city council a Supervisor / Administrative Assistant position will be created to fill the vacancy of the current fire department administrative assistant. If approved by city council this position will be tasked with the supervision of the fire dispatchers, and will act as the Fire Chief's administrative assistant. The company elected volunteer Fire Chief will supervise the new position.

(E) The company elected volunteer Fire Chief; while reporting directly to the City Council President, will consult with the City Manager in an advisory role on matters of personnel policy as set forth in the Employee Handbook, Labor Contracts, and other adopted personnel policies of the City of Dover.

2. The Dover Fire Department will follow the City of Dover budgeting process. After completion of the fiscal year budget and adoption by City Council, the Dover Fire Department budget will be allocated to the department in equal quarterly financial contributions on or before July 31, October 31, January 31, and April 30. All personnel costs as outlined in item 1 of this agreement are not included in the quarterly allotment.

3. The company elected volunteer Fire Chief will report to Council President and will act as the liaison to the City of Dover from the Dover Fire Department.

4. All City of Dover financial contributions to the Dover Fire Department will be placed in a financial account maintained by the Dover Fire Department. This account will be for the sole purpose of managing City of Dover financial contributions.

5. Monthly financial reports from the Dover Fire Department will be provided to the City Council and Mayor. The report will cover all incoming / outgoing monies from the aforementioned account for the calendar month prior. Each report will be included with the monthly Fire Chief's report. The report format shall be approved by city council and Fire Chief.

6. The annual financial review, prepared for the State of Delaware, shall be provided to the city council. If requested by City Council, the Dover Fire Department will have an opinion audit conducted at the end of the fiscal year. The audit will be completed through an accountant firm of the City Council's choice. All associated costs of an audit will be paid for by the Dover Fire Department.

7. The Dover Fire Department will follow State of Delaware purchasing policies and procedures which all fire departments in the State of Delaware are required to follow.

8. Any capital needs beyond the City of Dover's yearly financial contributions that may arise will be brought to City Council for approval through a Committee Action Form (CAF). The Fire Chief will submit an updated 10 year Capital Investment Plan (CIP) in the January Fire Chief's report. All CIP allocations will be paid directly by the City of Dover to the financial institutions.

9. The Dover Fire Department will continue to utilize the City of Dover for the tax exempt rates.

City of Dover
Finance Department
PO Box 475
Dover DE 19903-0475
Phone: (302-736-7018
FAX: (302) 760-4930
E-Mail: dmitchell @dover.de.us

MEMORANDUM

To: Members of City Council

From: Donna Mitchell, Controller/Treasurer

Copy: Mayor, City Council, City Manager, Fire Chief, City Clerk, & Asst. Finance Director

Date: March 23, 2009

Subject: Recommendation of Haggerty & Haggerty Ad-hoc Review Committee

Listed below are a few clarifying points in regards to the City of Dover's financial requirements for the Fire Department.

- The Fire Department budget and general ledger accounts are looked upon as a City program just as any other City Department.
- The City of Dover is not required to follow the State of Delaware Title 29 procurement code because we have our own City Council approved Purchasing Policy. Our policy, however, mirrors the State Code and references are made to this in the policy. Our policy does not lessen any requirement of the State Code therefore any agency could follow the City policy and be compliant with State Code.
- All Grant-In-Aid appropriations provided to the Volunteer Fire Companies and other agencies by the State of Delaware have explicit requirements that have to be met in order to receive their quarterly appropriations. These requirements are included in the Fiscal 2009 Grant-In-Aid Bill, formerly Senate Bill No. 320.
- All agencies receiving State Funds are required to provide a financial statement audit, except Volunteer Fire Companies. They are required to provide a Review Report which is less in scope than an audit. The Summary of Evidence from a public hearing in 2008 along with the requirements for reporting are attached. These requirements include associated penalties for not reporting timely.
- The Robbins Hose Fire Department No. 1 has had a review completed for several years now. The City has no timely reporting requirement and in the past has had to make several requests for the Review. The latest report we have is for fiscal year ended June 30, 2007.
- The State of Delaware has a revolving loan program for Volunteer Fire Services which would allow the Fire Department to apply for low interest loans (3%) to address their capital plan needs. The details of this program are attached for your information.
- The City is responsible for assignment of employee wages, benefits, addressing complaints and grievances. This matter could be easily addressed by assigning supervisory duties to the City's Emergency Management Coordinator for these employees. The Emergency Management Coordinator would continue to report to the City Manager for the City's Emergency Preparedness program. This change provides the City with consistent application of the City's internal control procedures as well as provides the employees with the same full-time supervisor each year for completing performance evaluations. This would also provide standardized coordination efforts with each newly elected volunteer Fire Chief and reduce the burden placed on the Chief. We are not

advocating the responsibility for the City's Emergency Preparedness Program be transferred to the Fire Company.

- City employees should be permitted to inform City management of any concerns regarding adherence to City policies and procedures. The Supervisory change would provide these employees with the ability to speak freely to City Management.
- Past experience has been that we have encountered conflicts of interest when line officers or board members are also City employees.
- The City provides supplies and materials to the Fire Company such as gasoline, supplies from inventory, utilities, safety shoes and uniforms for the employees. These charges are reflected in non-personnel accounts in their budget. The City will now be required to bill the Company for these charges under this proposal, unless the Company is advocating using their own credit and purchasing these items directly from the vendor as do other volunteer fire departments.
- Concerns regarding certain expenses of the Fire Department were originally brought to Council's attention on March 12, 2007.
- At the Legislative, Finance, & Administrative Committee on August 28, 2008 the Fire Chief spoke on behalf of the members present and explained that he was directed to bring a request for Option 1 of the Independent Accountant's report to the Committee and request a response if it were rejected.

Much of the discussion by the members of the Robbins Hose Company has surrounded the double requirements they have to adhere to between the State and the City. The Company preferred to follow the State's requirements as they do for Grant-In-Aid and not have a dual requirement placed on them by the City. A provision of which is to have all State Grant-In-Aid provided by a quarterly appropriation with a Review Reporting requirement to the State Fire Prevention Commission.

Then shouldn't the decision be to follow either the State or the City's requirements and not pick and choose which requirement from each they want to follow? Wouldn't the best solution be to adopt Option 1 (except personnel) with the understanding that the Fire Company would be subject to possible compliance audits by City staff and the Review Report requirement would carry the same penalties for timeliness as it has for the State of Delaware? In essence the City would adopt the same requirements and penalties for the Volunteer Fire Company for quarterly appropriations as a State Grant-In-Aid Recipient.

Encouraging the Fire Company as a non-profit organization to seek grants or low interest loans through the State program, would lessen the burden on the City's taxpayers, particularly in this difficult economy.
The latest Review Report we received for June 30, 2007 shows the City contributions make up 61% of the Company's revenue. If the State was not able to provide the loan or grant, the City could adopt the procedures of the Council on Volunteer Fire Service and have the capital needs go through an application process for low interest loans.

If Council would like assurance of full disclosure and transparency to meet their stewardship responsibility over taxpayer funds, any requirements of the City should come with a greater degree of reporting not less. Any request for funding should come with a full budget presentation of all the Company's revenues, expenditures and reserve balances to determine the funding level needed from the City.

Respectfully submitted.

HOME TOC

Authenticated PDF Version

DELAWARE STATE FIRE PREVENTION COMMISSION

Statutory Authority: 16 Delaware Code, Section 6603 (16 **Del.C.** §6603)

FINAL

PUBLIC NOTICE

Delaware State Fire Prevention Regulations,

Part VIII, Fire Department and Ambulance Company Administrative Standards, Chapter 1 Financial Audit Regulations

Nature of the Proceedings

The State Fire Prevention Commission ("the Commission") held a properly noticed, public hearing on October 21, 2008 to receive comment on new regulations proposed as the result of the enactment of House Bill 329, codified at 16 **Del.C.** §1622, which requires the Commission to establish minimum requirements related to the mandatory submission of financial audits by volunteer fire and ambulance companies. The new regulations will be included as Delaware State Fire Prevention Regulations, Part VIII, Fire Department and Ambulance Company Administrative Standards, Financial Audit Regulations.

Summary of the Evidence

1. The notices of the proposed hearing as published in the News Journal and the Delaware State News were admitted collectively as Exhibit 1.

2. An e-mail dated October 1, 2008 from Renee Viilano, CPA, of Grabowski,

Sparano and Vincellete, CPAs was admitted as Exhibit 2. In her written submission, Ms. Villano stated that under Regulation 3.0 a "Review" is not a type of audit. She suggested changing the heading to "Report Types" and stating in the regulation that the minimum acceptable report is a "review." She also suggested that the introductory language in Regulation 3.1.1 be changed from "The 'Review' Opinion Letter provided..." to "The 'Accountants' Report' provided to the..."

Finally, Ms. Villano questioned Regulation 3.2 which provides that "a full financial audit may be required...if a company receives a second annual 'review' report that continues to indicate various problems, including a lack of appropriate internal controls." Ms. Villano stated that an accountant is not required to report on or obtain an understanding of a company's internal controls when the accountant performs a "Review." Ms. Villano appended NPO-CR-10: Illustrative Engagement Letter for a Review to her e-mail.

3. An e-mail received from Roland Leathrum dated October 2, 2008 in response to Ms. Villano's comments was admitted as Exhibit 3. Specifically, Mr. Leathrum stated that "there may be as many ways to read Section 3 of the proposed regulation as there are accountants." He also added that he had received a verbal comment from Jon Townley of Control Temp, Inc., who does accounting work for various fire companies. Mr. Townley submitted that the word "certified" should be dropped from paragraph 3.1 because a "review" does not need the services of a CPA.

4. An e-mail received from Allen Methany dated October 2, 2008 in response to Ms. Villano's and Mr. Leathrum's comments was admitted as Exhibit 4. Mr. Methany stated that the purpose of requiring "certified" public accountants was to add increased credibility to the process to satisfy local constituents, municipal and county governments and State Officials. He likened getting an opinion from a certified public accountant to getting an opinion from a lawyer rather than a legal clerk.

Mr. Methany did not have an objection to revising 3.0 to read "Report Types."

He stated, however, that the terminology in the Illustrative Engagement Letter that says the purpose is "to express a limited assurance that there are no material modifications that should be made---" is right on target for what the Commission wants to achieve.

5. Faxed comments from George Kerr of Minquas Fire Company No.1 - Station 23 were admitted as Exhibit 5. Mr. Kerr believed that the language in 3.0 Audit Types should also contain the language "independent certified public accounting firm or public accounting firm" to help keep accounting costs reduced. He did not believe that the word "audit" should be used because volunteer fire companies are not publicly traded stock corporations. He believed that the wording should refer to "Compilation and Review" only because accounting educational seminars recommend using "Compilation and Review" and not "Audit. "He also believed that requiring an independent audit would create problems for those fire companies that do not calculate their own depreciation or financial statements. He stated that an independent "Compilation and Review" requires that the accountant not perform any duty other than reviewing the fire company provided financial statements. If the accountant performs and other duties the words "I am not independent" must be in the opinion letter. He believes that the independent "Compilation and Review" should be sufficient otherwise fire companies will have to send the work prepared by the one accountant to another accountant for the independent audit wording resulting in higher accounting costs. Mr. Kerr hoped that if a full financial audit is required that a State of Delaware agency would perform the audit at no expense to the fire company.

Mr. Kerr stated that new accounting procedures "The Standards for Excellence: A Code for the Non-profit Sector (the "Standards")" will be in compliance with the new pieces of Form 990 and will be in effect for non-profits with fiscal years that begin in 2008 to be filed the year 2009. He stated that the new procedures will require a more sophisticated method of accounting.

Mr. Kerr recommended that fire companies that are not using an accounting system or doing their own check writing should be trained to use an accounting program that would provide an accountant with their financial statements for a "Compilation and Review." Doing so would also enable the provision of a financial condition report at any time. He recommended Quick Books Premiere; a user friendly software that has a budget module. The purpose of his suggestion is to keep accounting costs down.

Finally, Mr. Kerr commented that there should be a standard "chart of accounts" to provide accurate costs in each category since all fire companies have the same type of income and expenses. He provided example of how different companies post expenses to different accounts which he believes will make it hard for the Commission or the State of Delaware to be provided with accurate information for grant purposes. Mr. Kerr stated that it is time for fire companies to modernize their accounting systems. He stated that financial data should be kept current and that treasurer reports should be given at monthly meetings to reduce the possibility of anyone taking funds for personal use. He believes all financial data should be disclosed during company meetings to enable officer and board for director monitoring of all funds.

Mr. Kerr concluded by stating that non-profits have an obligation to the public and that the new 990 will allow the public to see whether a non-profit is operating appropriately.

6. Correspondence dated October 13, 2008, from William Santora, CPA, of Santora CPA Group was admitted as Exhibit 6. Mr. Santora stated that certain areas in the proposed regulation are inconsistent with the American Institute of Certified Public Accountants' (AICPA) professional standards that govern the required services. In addition, he stated that the proposed sanctions may not be sufficient to secure compliance by all fire and ambulance companies.

Mr. Santora stated that the first area of concern had to due with the interchangeable use of the terms "Audit" and "Review" in the regulations. Although review is defined in Section 2 of the proposed regulations it is discussed in Section 3 in the context of being a lower-level audit. He expressed concern about possible confusion since the two types of reports are governed by separate professional standards; the Statements on Standards of Accounting and Review Services for reviews and the Statements on Auditing Standards for audits. He recommended clarification in the regulations.

As a second point, Mr. Santora stated that if information is provided in review engagement in accordance with the Statements on Standards of Accounting and Review Services, the Commission may not get the information that appears to be contemplated in Section 3 and Section 3.2 related to the adequacy of financial management and internal controls, as well as any issues or trends that indicate possible failure of the company. While egregious lapses internal controls might be detected and reported on, other equally important controls might go unnoticed.

Also, while the review might identify trends indicating possible future failure, it would not provide the information necessary to assess the underlying management issues causing the possible failure. He suggested that the Commission may wish to consider full audits to achieve the stated objectives in the proposed regulations.

Finally, Mr. Santora questioned the effectiveness of a $5000 maximum penalty for failure to comply. He noted that some companies may weigh the cost of the audit against the cost of the penalty and pay the penalty rather than complying with the reporting requirements. He believed a more effective penalty might be to withhold all future funding until all compliance requirements have been met.

7. Art Ricker of Citizens Hose Company (CHC), Station 51, stated that he has been the treasurer of CHC for 31 years. He expressed concern about the penalty of $100 per day and felt that it should be capped at $1,000 comparable to untimely responses on the pension program. He added that untimely reports may be beyond the control of the company. Mr. Ricker stated that ultimately the penalty is taking money out of the organization's pocket. Instead of a cash penalty he suggested that the Commission consider withholding funding for the companies. He stated that withholding funds is a bigger whip that affects a company's cash flow.

8. Allen Methany spoke in response to Mr. Ricker's comments and stated that the proposed regulations provide for a public hearing. Issues that are beyond a company's control, such as the report not being completed by the accountant on time, could be raised as a defense to the imposition of a penalty. Mr. Methany stated that he supports the regulations.

Findings of Fact

Based upon the evidence received, the Commission finds the following facts to be supported by the evidence.

1. The Commission received written and public comment in regard to the proposed regulations at the public hearing. The public comment was in the nature of clarification rather than opposition to the regulations.

2. The Commission is not persuaded by the public comment that it should allow the reports required by the regulations to be performed by public accountants rather than by certified public accountants. The Commission believes that the having the reports performed by independent certified public accountants adds credibility to the process. The Commission is cognizant of the fact that requiring a certified public accountant to prepare the reports may increase costs; however, the Commission finds that it is in the best interests of the public to require the higher level of expertise where public funds are in issue.

3. The Commission is persuaded by the public comment that the use of the term audit in the regulations needs to be clarified to avoid confusion as to when a full audit is required as opposed to when a review level report is required. The Commission finds that the regulation would be improved by replacing the word "audit" with the word "report" or "reports" in those sections of the regulation referencing the review level report or when referring to submissions generally. The Commission finds that the changes are for clarification only and are, therefore, non-substantive. The changes are indicated in the copy of the Regulations attached this Order as Exhibit A.

4. The Commission is not persuaded it should require full financial audits in lieu of review level reports in all instances. The Commission recognizes that there is an increased cost associated with the full financial audit that may not be warranted in every case. The Commission is satisfied that the proposed regulations adequately address when a full audit will be required. If the Commission finds in the future that the review level reports are not achieving the stated objectives of the law, it may revisit the need for full audits in amendments to the Regulations. The Commission is likewise satisfied that the review level report which provides limited assurance that no material modification is required is not so burdensome that it should allow a compilation which provides no assurance.

4. The Commission appreciates the public comment in support of the withholding of funds from fire and ambulance companies that fail to comply with the reporting requirements. The Commission initially proposed that such a provision be added to the law; however, the final version of the law enacted does not give the Commission authority to direct the withholding of funds available to the fire and ambulance companies subject to these Regulations. The Commission is satisfied that that regulations as proposed provide a company with an opportunity for a hearing to challenge the imposition of penalties related to circumstances beyond their control.

THE LAW

The State Fire Prevention Commission's rulemaking authority for Financial Audit Regulations is found 16 **Del.C.** §6622 which provides:

§ 6722 Audits of volunteer fire and ambulance companies.

(a) The State Fire Prevention Commission shall promulgate regulations requiring financial audits of volunteer fire and ambulance companies and the Smyrna and Georgetown American Legion Ambulances and the Mid-Sussex Rescue Squad. The regulations shall include, but not be limited to, specifying the required types of audits, the reporting periods, procedures for reviewing the audits and the processes to be followed in the event a company fails to submit or submits an inadequate audits.

(b) The State Fire Prevention Commission shall have the authority, after a hearing, to impose a civil penalty not to exceed $100 against any volunteer fire and ambulance companies, the Smyrna and Georgetown American Legion Ambulances and the Mid-Sussex Rescue Squad that fails to comply with any regulation promulgated pursuant to subsection (a) of this section. Each day a violation continues may be deemed a separate offense in the Commission's discretion. However, in no event shall the total penalties exceed $5,000 per reporting period.

(c) The penalties specified in this section are in addition to and not in lieu of any other penalties provided for under this chapter.

Decision

The Commission hereby adopts the Delaware State Fire Prevention Regulations, Part VIII, Fire Department and Ambulance Company Administrative Standards, Financial Audit Regulations as proposed with the alterations and clarifications noted in this Order. A copy of the Regulations as adopted is attached to this Order as Exhibit A.

SO ORDERED this 17th day of December, 2008.

STATE FIRE PREVENTION COMMISSION

Marvin C. Sharp, Jr., Vice-Chairman

Bob Ricker, Vice-Chairman

Willard (Bill) Betts

Kenneth H. McMahon

Douglas S. Murray, Sr.

David Roberts

Chapter 1 Financial Audit Regulations

1.0 General.

1.1 **Purpose.** To establish the minimum requirements related to the mandatory submission of financial audits by volunteer fire and ambulance companies in accordance with the provisions of 16 **Del.C.** §6622.

1.2 **Scope.** These Regulations address the required types of audits, the reporting periods, procedures for reviewing the audits and the processes to be followed in the event a company fails to submit or submits an inadequate audit.

1.3 **Application.** These Regulations apply to all volunteer fire and ambulance companies and their approved subsidiaries (e.g. auxiliaries operating under the same tax identification number) in the State of Delaware and the Smyrna and Georgetown American Legion Ambulances and the Mid-Sussex Rescue Squad. These regulations do not apply to independent auxiliary organizations operating under a tax identification number that is separate from the fire or ambulance company's number.

2.0 Definitions.

2.1 Review: Financial data analysis that provides less assurance than a full audit, but more that a compilation (which provides no assurance). In a review, an auditor expresses limited assurance that the company's financial statements do not require any material modification for them to be inconformity with the provisions of generally accepted accounting principles ("GAAP"). (*Ref.* Business Dictionary.com)

3.0 [~~Audit~~ Report] Types.

3.1 **[~~Audits~~ Reports]** must be completed by an independent certified public accounting firm at a minimum "Review" level. The **[~~audit~~]** submission shall include, but not be limited to, the following:

3.1.1 The **[~~"Review" Opinion Letter~~ Accountant's Report]** provided to the volunteer fire or ambulance companies by their independent accountant.

3.1.2 Financial statements, including:

3.1.2.1 Statement of financial position (Balance sheet).

3.1.2.2 Statement of revenue and expenses.

3.1.2.3 Statement of cash flow.

3.1.2.4 Notes to financial statements.

3.1.2.5 Letter of observations and/or comments.

3.1.2.6 Letter of representation.

3.1.3 The required documentation shall be submitted to the Commission with a cover sheet signed off on by the volunteer fire or ambulance company president verifying that he or she has reviewed the submission and all of the items required by subsections 3.1.1 and 3.1.2 are included.

3.2 A full financial audit may be required, in the Commission's discretion, if a fire department or ambulance company receives a second annual "Review" report that continues to indicate insufficient corrective actions have been taken to address inadequate financial management, lack of appropriate internal controls, and/or issues or trends that indicate possible financial failure of the company.

3.3 A fire department or ambulance company may voluntarily submit a full financial audit rather than a review **[~~audit~~ level report]** if it chooses to do so.

4.0 [~~Audit~~ Reporting] Periods.

4.1 Any company whose fiscal year begins on or after January 1, 2009 must file **[~~an audit~~]** no later than six and one-half months after the close of the company's fiscal year. **[~~Audits~~ Reports]** shall be submitted annually thereafter no later than six and one-half months after the close of the company's fiscal year. The **[~~audit~~ report]** due date will be calculated by the Commission based on the information provided by the volunteer fire and/or ambulance company as to the close of its fiscal year.

4.2 No extensions will be granted except upon a showing of hardship. Requests for a hardship extension must be made in writing prior to the **[~~audit~~ report]** due date. The request must specify in detail the nature of the hardship. A showing of hardship requires that the lack of compliance with this regulation is due to causes beyond the company's control. The Commission's decision on the extension request shall be final.

5.0 [~~Audit~~ Report] Compliance Committee.

5.1 The Commission shall appoint **[~~an Audit~~ a Report]** Compliance Committee to review **[~~audit~~]** submissions. The **[~~Audit~~ Report]** Compliance Committee shall consist of at least of three (3) members who shall be appointed annually at the January meeting of the Commission. The members of the **[~~Audit~~ Report]** Compliance Committee shall have a professional background that includes auditing and financial experience.

5.2 The **[~~Audit~~ Report]** Compliance Committee will review the **[~~audit~~ report(s)]** for compliance with the regulations and will

look for any **[~~auditor~~ accountant]** comments that indicate inadequate financial management, lack of appropriate internal controls, and/or issues or trends that indicate possible financial failure of the company. The **[~~Audit~~ Report]** Compliance Committee shall report to the Commission as follows:

5.2.1 **[~~Audits~~ Reports]** that are approved will be forwarded to the Commission with a recommendation for filing with no further action.

5.2.2 Fire department and ambulance companies that fail to file the mandatory financial **[~~audits~~ reports]** will be referred to the Commission with a recommendation for a hearing before the Commission for the imposition of civil penalties as provided in 16 **Del.C.** §6622 (b) and any other penalties available under the Chapter.

5.2.3 Any **[~~audit~~ report]** showing financial irregularities will be referred to the Commission with a summary of the deficiencies and a recommendation for a hearing before the Commission to establish a written corrective action plan and/or the imposition of civil penalties as provided in 16 **Del.C.** §6622 (b) and any other penalties available under the Chapter.

5.3 The **[~~Audit~~ Report]** Compliance Committee may require the volunteer fire or ambulance company to submit such additional documentation as may be necessary for clarification in order for the **[~~Audit~~ Report]** Compliance Committee to make a decision as to whether referral to the Commission for further action is warranted. Failure to comply with the **[~~Audit~~ Report]** Compliance Committee's request for additional documentation will result in referral to the Commission for a hearing.

6.0 [~~Audit~~ Report] Compliance Hearings.

6.1 The Commission shall schedule a hearing within thirty (30) days of receiving a referral from the **[~~Audit~~ Report]** Compliance Committee.

6.2 Notice of the time and place of the hearing shall be personally served, or sent by registered mail to the address provided by the fire department or ambulance company at the time of the **[~~audit~~ report]** submission, with return requested, to the fire department or ambulance company at least twenty (20) days prior to the date fixed for the hearing.

6.3 Hearings will be conducted in accordance with the hearing procedures set forth in Commission Regulations, Part 1, Regulation 1-7.6.

6.4 The fire department or ambulance company that is the subject of the hearing will be provided with a copy of the **[~~Audit~~ Report]** Compliance Committee's report to the Commission.

7.0 Sanctions for Non-compliance.

7.1 Where the Commission has determined, upon notice and hearing, that a fire department or ambulance company failed to file or has filed incomplete **[reports or]** audits in violation of 16 **Del.C.** §6622, the Commission may impose a civil penalty of $100 per day beginning on the date the **[report or]** audit was due. Each day a violation continues may be deemed a separate offense in the Commission's discretion resulting in penalties of up to $5000 per reporting. The civil penalty is in addition to any other penalties provided for in the Chapter.

7.2 Where the Commission has determined, upon notice and hearing, that the **[reports or]** audits of a fire department or ambulance company indicate inadequate financial management, lack of appropriate internal controls, and/or issues or trends that indicate possible financial failure of the company the Commission may require a written corrective action plan. Failure to submit a written corrective action plan may result in the imposition of a civil penalty of $100 per day. Each day a violation continues may be deemed a separate offense in the Commission's discretion resulting in penalties of up to $5000 per reporting. The civil penalty is in addition to any other penalties provided for in the Chapter.

7.3 Continued failure to file **[reports or]** audits or to take corrective action may also result in the Commission referring the fire department or ambulance company to other regulatory agencies for review and possible action under their governing authority, including but not limited to, the Internal Revenue Service, the Delaware Division of Revenue and the State Auditor's Office.

8.0 [~~Audit~~] Documents

8.1 **[Report and ~~A~~a]**udit submissions filed with the Commission may be considered public records under the Freedom of

Information Act ("FOIA"). The records will not be released except pursuant to a valid FOIA request or subpoena. The volunteer fire department or ambulance company will be given notice of the request. It will be the responsibility of the volunteer fire department or ambulance company to challenge the request in the appropriate court within the time specified by the Commission in the notice; otherwise, the records will be released.

12 DE Reg. 926 (01/01/09) (Final)

STATE OF DELAWARE
DEPARTMENT OF FINANCE
OFFICE OF THE SECRETARY

RICHARD S. CORDREY
SECRETARY OF FINANCE

October 15, 2008

The Honorable Ruth Ann Minner
Carvel State Office Building
820 N. French Street
Wilmington, DE 19801

Dear Governor Minner:

Once again, I am pleased to provide to you the annual report required by 29 Del C § 2720, which established the Delaware Council on Volunteer Fire Service and the Revolving Loan Fund. The report describes the Council's activities during the past year and provides a summary of the fund's status.

Over $173,000 was available for lending this year based on the timely repayment of loans. Two new loans, over $86,000 each, bring the revolving loan fund to nine loans. This year's loans were used by the Christiana and Hockessin fire companies to help finance two new pumper trucks.

This low cost funding source reduces the operating costs of the volunteer companies that have been fortunate enough to participate. It is the hope of the Council that additional appropriations can be committed to the revolving loan fund so that other volunteer companies can minimize the costs of financing large equipment purchases. With continued growth through new loans and the hope of supplemental funding from the General Assembly, the revolving loan fund can expand low cost lending to a greater number of Delaware volunteer fire and emergency service companies.

This has been my final year as Chairman of the Council. It has been an honor to serve such a worthy cause and I wish only for its continued success.

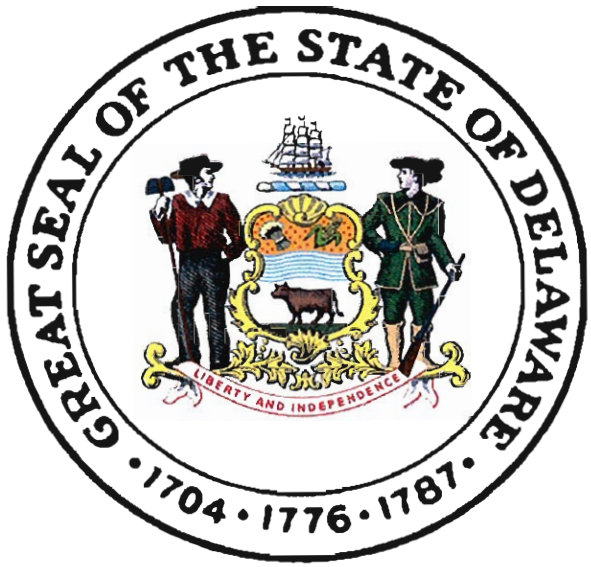
Sincerely,

Richard S. Cordrey, Chairman
Council of Delaware Volunteer Fire Service

attachment
cc: Rep. Vincent A. Lofink, Chair
Sen. Robert L. Venables, Vice-Chair

CARVEL STATE BUILDING
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HASLET ARMORY
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Report to the Governor,
Co-Chairs of the Joint Legislative Committee on Capital Improvement Programs,
Members of the 144th General Assembly,
Director of the Office of Management and Budget and
Controller General

from the

Delaware Council on Volunteer Fire Service

pursuant to

29 Del. C. § 2720

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Exhibit 1	House Bill 190, as amended, 141st General Assembly
Exhibit 2	Delaware Volunteer Fire Service Revolving Loan Fund Program Guidelines and Application
Exhibit 3	Delaware Council on Volunteer Fire Service Goals and Objectives

I. Executive Summary

The Delaware Council on Volunteer Fire Service met on March 6, July 8 and August 27, 2008 with the following membership:

- Mr. Ron Marvel, President of the Delaware Volunteer Firemen's Association;
- Mr. Kenneth H. McMahon, State Fire Prevention Commission;
- Mr. Ray Stevens, member appointed by the President of the Sussex County Firemen's Association;
- Mr. Michael D. Layton, member appointed by the President of the Kent County Firemen's Association;
- Mr. Rick Clark, Sr., member appointed by the President of the New Castle County Firemen's Association;
- State Treasurer Jack Markell; and,
- Secretary of Finance Richard S. Cordrey, Chairman

At its March meeting, the Council established May 16, 2008 as the 2008 application deadline; application packages were mailed to each volunteer company by March 30th. A single application was returned to the Council, but it was determined that two applicants from the prior year had continued interest in the Delaware Volunteer Fire Service Revolving Loan Fund. The fund had seven loans outstanding and loan repayments created an available cash balance of $48,253.47.

The Council met again on July 8, 2008. With the loan repayments of June 1st, the fund had an available cash balance of $173,851.12. The Council considered three applications requesting total funding of $784,671. The Council voted to divide the proceeds evenly between all three applicants.

The Council met again on August 27, 2008 to reallocate funds that had been previously committed to an applicant. Again, the Council voted to divide the proceeds evenly between applicants.

All monies available to the fund in 2008 went to loans to help purchase pumper trucks for the Christiana and Hockessin Fire Companies.

As of October 15, 2008, the Delaware Volunteer Fire Service Revolving Loan Fund has nine active loans. Payments expected to be received before the next application cycle will total $163,147.26.

The Council will meet again in February 2009 to determine the 2009 revolving loan calendar.

Delaware Volunteer Fire Revolving Loan Fund
Activity Report
September 22, 2008

			Available Funding
Initial appropriation			
Fiscal year 2006 - HB 315 Grant-in-Aid bill			$ 1,000,000.00
Loan Awards:			
Bowers Fire Company	$ 40,000.00		
Five Points Fire Company	145,000.00		
Harrington Fire Company, Inc.	90,000.00		
Odessa Fire Company	225,000.00		
Rehoboth Beach Volunteer Fire Co., Inc.	275,000.00		
Townsend Fire Company, Inc.	225,000.00		
Total Loans Awarded from initial appropriation		$ (1,000,000.00)	
			$0.00
Loan Payments Received - June 1, 2007			
Bowers Fire Company	$ 4,319.92		
Five Points Fire Company	16,816.89		
Harrington Fire Company, Inc.	9,719.82		
Odessa Fire Company	26,095.17		
Rehoboth Beach Volunteer Fire Co., Inc.	31,534.15		
Townsend Fire Company, Inc.	25,992.74		
Total Loan Payments Received - June 1, 2007		$ 114,478.69	
Available Balance June 1, 2007			$ 114,478.69
New Loan Applications Received May 15, 2007			
American Legion Post #8 Ambulance Service	$ 90,000.00		
Christiana Fire Company, Inc.	262,500.00		
Hockessin Fire Company	259,671.00		
Total New Loan Applications	$ 612,171.00		
Loans Awarded 2007			
American Legion Post #8 Ambulance Service	$ 90,000.00		
Total Loans Awarded 2007		$ (90,000.00)	
Available Balance September 1, 2007			$ 24,478.69
Loan Payments Received - December 1, 2007			
Bowers Fire Company	$ 4,319.92		
Harrington Fire Company, Inc.	9,719.82		
Georgetown Ambulance	9,735.04		
Total Loan Payments Received - December 1, 2007		$ 23,774.78	
Available Balance December 1, 2007			$ 48,253.47
Loan Payments Received - June 1, 2008			
Bowers Fire Company	$ 5,000.00		
Five Points Fire Company	16,816.89		
Harrington Fire Company, Inc.	9,719.82		
Odessa Fire Company	26,095.16		
Rehoboth Beach Volunteer Fire Co., Inc.	32,238.00		
Townsend Fire Company, Inc.	25,992.74		
Georgetown Ambulance	9,735.04		
Total Loan Payments Received - June 1, 2008		$ 125,597.65	
Available Balance June 1, 2008			$ 173,851.12

Delaware Volunteer Fire Revolving Loan Fund
Activity Report
September 22, 2008

			Available Funding
Active Loan Applications May 16, 2008			
Christiana Fire Company, Inc.	262,500.00		
Hockessin Fire Company	259,671.00		
Greenwood Fire Company	262,500.00		
Total New Loan Applications	$ 784,671.00		
Loans Awarded 2008			
Hockessin Fire Company (8/1/08)	$ 86,925.56		
Christiana Fire Company	86,925.56		
Total Loans Awarded 2008		$ (173,851.12)	
Available Balance			$0.00

Delaware Volunteer Fire Revolving Loan Fund
Payment Schedule

	December 1 2008	June 1 2009	Annual Total
1 Bowers Fire Company	$ 4,319.92	$ 4,319.92	
2 Christiana Fire Company		5,091.73	
3 Five Points Fire Company		16,819.89	
4 Georgetown American Legion	9,735.04	9,735.04	
5 Harrington Fire Company	9,719.82	9,719.82	
6 Hockessin Fire Company	5,032.01	5,032.01	
7 Odessa Fire Compamy		26,095.17	
8 Rehoboth Beach Fire Company		31,534.15	
9 Townsend Fire Company		25,992.74	
Sub-Total	$ 28,806.79	$ 134,340.47	
Total Payments Expected			**$ 163,147.26**

SPONSOR: Rep. Price &

Rep. B. Ennis & Rep. Lee & Rep Viola & Sen Cook; Reps Buckworth, Carey, Quillen, Thornburg, Valihura, Van Sant, West, Williams, Sens. Adams, Amick, Blevins, Bonini, Bunting, Cloutier, Connor, DeLuca, Henry, Marshall, McBride, McDowell, Simpson, Sokola, Sorenson, Still, Vaughn, Venables, Winslow

HOUSE OF REPRESENTATIVES

141st GENERAL ASSEMBLY

HOUSE BILL NO 190

AS AMENDED BY

HOUSE AMENDMENT NOS. 1 & 3

AND

SENATE AMENDMENT NO. 1

AN ACT TO AMEND TITLE 29 OF THE DELAWARE CODE RELATING TO THE VOLUNTEER FIRE SERVICE REVOLVING LOAN FUND PROGRAM

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF DELAWARE:

Section 1. Amend Chapter 27, Title 29 of the Delaware Code, by adding a new §2719 to read as follows:

"§2719 Delaware Council on Volunteer Fire Service.

a. There is hereby created a Delaware Council on Volunteer Fire Service, hereinafter referred to as the Council, to advise the Secretary of Finance on all matters relating to the administration, implementation and financing of the Volunteer Fire Service Revolving Loan Fund Program. The Council shall review and recommend to the Secretary of Finance for adoption, after a public hearing, criteria for administering and awarding loans from the Volunteer Fire Service Revolving Loan Fund, including but not limited to criteria for assessing recipient need.

b The Council shall consist of:

1. The President of the Delaware Volunteer Firemen's Association or designee;
2. The Chairman of the State Fire Prevention Commission or designee;
3 Three members; one each appointed by the Presidents of the New Castle, Kent, and Sussex County Firemen's Associations no later than September 1 for the initial appointment and January 15 of each calendar year thereafter
(a) Initial appointments shall be for staggered terms. The member from Sussex County's initial term shall be for three years, the member from Kent County's initial term shall be

for two years, and the member from New Castle County's initial term shall be for one year.
(b) Upon expiration of the preceding terms, subsequent appointments shall be for a three-year term.

(c) At the end of a member's term, such member shall continue to serve until the member's successor is duly appointed;

(4) The State Treasurer or designee;

(5) The Secretary of Finance or designee

(c) The Secretary of Finance shall serve as the chair of the Council

d Members of the Council shall receive no compensation. The Council shall hold at least one regular meeting each calendar year and shall keep a record of its proceedings All proceedings of the Council shall be
conducted in accordance with Chapter 100 of Title 29

e For purposes of conducting business of the Council, four voting members shall constitute a quorum. A majority vote of Council members shall be required on any action or matter before the Council.

f. The Council shall adopt procedural rules and regulations to carry out the provisions of this chapter "

Section 2 Amend Title 29 of the Delaware Code, by adding to a new §2720 to read as follows:

"§2720 Delaware Volunteer Fire Service Revolving Loan Fund.

1. A special fund appropriation account is hereby created in the Department of Finance, to be known as the Delaware Volunteer Fire Service Revolving Loan Fund, hereinafter referred to as the Fund Sums appropriated by the General Assembly to the Fund shall be used to create a loan program to be administered according to guidelines and procedures developed by the Delaware Council on Volunteer Fire Service to upgrade equipment and improve facilities that are essential to providing adequate fire, rescue, emergency medical and technical emergency response related service to Delaware communities. Loan funds shall not be made available for equipment that has already been ordered or the expansion of facilities or parking that has already begun, except where such expansion is deemed necessary to provide adequate fire, rescue, and emergency medical and technical emergency response services to the surrounding community by the Delaware Council on Volunteer Fire Service. The Fund shall serve as a revolving loan account and shall be eligible to receive loan repayments. The Fund shall be deemed a special fund and shall be approved by the Governor for the following purposes:
    a. To accept and retain the funds and revenues appropriated by the General Assembly;
    b. To make loans to eligible volunteer fire, rescue, and emergency medical service companies meeting the criteria established herein;
    c. To buy or refinance debt obligations of eligible volunteer fire, rescue, and emergency medical service companies;
    d. To facilitate the pledging by an eligible fire, rescue and emergency medical service company of its State grant-in-aid and health insurance rebate funds as collateral for securing a loan from the Fund;
    e. To earn interest on amounts on deposit in such Fund;
    f. To establish all necessary interest bearing accounts for deposit of loan repayments; and

g. To finance the reasonable costs incurred by the State in the administration of the Fund.

2. The Council shall develop a competitive process to approve loan applications for improving fire, rescue, emergency medical, and technical emergency response services throughout the State and in connection therewith, shall develop criteria to assess the relative needs for fire service and loan assistance throughout the State. Such criteria shall include and shall give highest priority, but shall not be limited to, consideration of the financial need of the fire, rescue, emergency medical service companies, and the surrounding community. In addition, the Council shall consider:

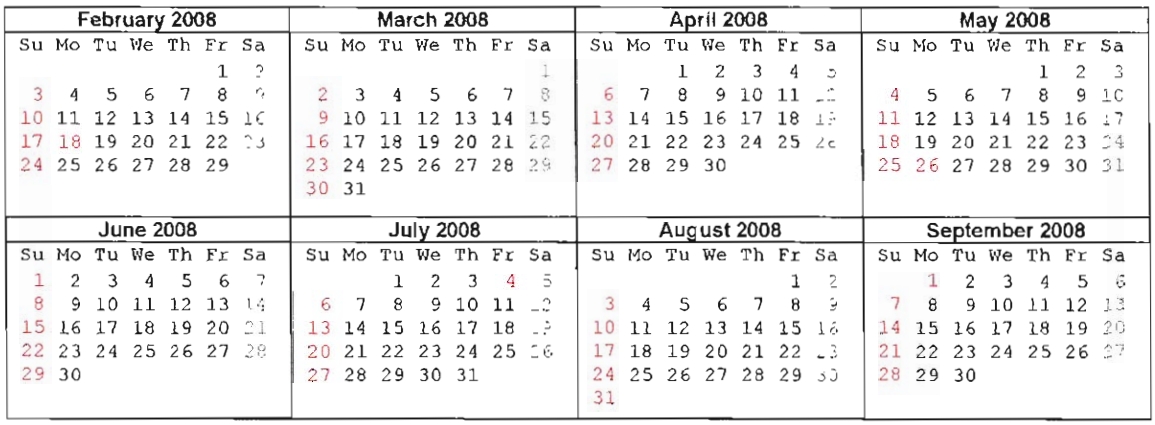
    a. The financial assets of the volunteer fire, rescue, and emergency medical service company making the application as well as its ability to obtain revenue, income, and financial support and loans from outside sources;
    b. The age and existing conditions of the volunteer fire, rescue, and emergency medical service company's apparatus, equipment, or facilities, including, but not limited to, whether such apparatus, equipment, and facility are in compliance with National Fire Protection Association standards, and
    c. The demographic, geographic, and financial conditions of the community served by the volunteer fire, rescue, and emergency medical service company making the application.

1 The Council shall be required to submit a strategic plan for accomplishing the goals to be met by the Fund and a procedure for the application process by January 31, 2003. Such plan shall contain the guidelines and procedures for the administration of the program and shall be presented to the co-chairs of the Joint Legislative Committee on Capital Improvement Programs. No funds shall be loaned from the Delaware Volunteer Fire Service Revolving Loan Fund until the co-chairs of the Joint Legislative Committee on Capital Improvement Programs have reviewed and approved the plan.

2. Upon the request of the Council, subsequent to approval of an application in accordance with this subsection, the State Treasurer is authorized to release funds appropriated to the Volunteer Fire Service Revolving Loan Fund sufficient to make such loans.

3. The Council shall submit an annual report to the Governor and co-chairs of the Joint Legislative Committee on Capital Improvement programs by October 15 of each succeeding year.

Delaware Volunteer Fire Service Revolving Loan Fund Calendar



February 2008						
Su	Mo	Tu	We	Th	Fr	Sa
					1	2
3	4	5	6	7	8	9
10	11	12	13	14	15	16
17	18	19	20	21	22	23
24	25	26	27	28	29	

March 2008						
Su	Mo	Tu	We	Th	Fr	Sa
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23	24	25	26	27	28	29
30	31					

April 2008						
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27	28	29	30			

May 2008						
Su	Mo	Tu	We	Th	Fr	Sa
				1	2	3
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25	26	27	28	29	30	31

June 2008						
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29	30					

July 2008						
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August 2008						
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September 2008						
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28	29	30				

March 6, 2008	Organization Meeting
March 17, 2008 - March 31, 2008	Provide applications by mail and make available on website
May 16, 2008	Application Deadline
	Applicant must supply **1 original and 7 copies** of the application package to: Stephanie Scola, Director, Bond Finance State of Delaware 820 N. French Street, 8th floor Wilmington, Delaware 19801
June 2, 2008	Evaluation and Review period ends
September 9 – 13, 2008	Annual Conference
September 12, 2008	Conference Luncheon
October 15, 2008	Annual Report to the Governor and co-Chairs of the Bond Bill Committee

Delaware Volunteer Fire Service Revolving Loan Fund

Program Guidelines

The Delaware Volunteer Fire Service Revolving Loan Fund was established to upgrade equipment and improve facilities that are essential to providing adequate fire, rescue, emergency medical and technical emergency response related service to Delaware communities. Loan funds are limited and are not available for equipment that has already been delivered or for the expansion of facilities including parking that has already been completed. For consideration, equipment and expansions must be deemed necessary to provide adequate fire, rescue and emergency medical and technical emergency response services to the surrounding community by the Delaware Council on Volunteer Fire Service.

The Delaware Council on Volunteer Fire Service (the "Council") is comprised of the President of the Delaware Volunteer Firemen's Association, the Chairman of the State Fire Prevention Commission, three members, one each appointed by the Presidents of the New Castle, Kent and Sussex County Firemen's Associations, the State Treasurer and the Secretary of Finance.

The Council will approve loan applications based on the availability of funds and criteria that assess the relative needs for fire service and loan assistance throughout the State. The criteria include financial need, age and condition of existing equipment and the demographic, geographic and financial conditions of the communities served. The loan fund should not be considered an organization's sole source of funding.

1. Who May Apply?

1.1. All volunteer fire, rescue and emergency medical service companies located in the State of Delaware.

2. Guidelines for Apparatus and Equipment Loans

2.1 The purchase of new and used apparatus will be considered, provided new and used apparatus pass all Federal, State, and/or county certifications. For all apparatus and equipment requests, applicant should include product specifications.

2.2 Loan funds are available to upgrade equipment and improve facilities that are essential to providing adequate fire, rescue, emergency medical and technical emergency response related service to Delaware communities and shall not be made available for equipment that has already been ordered.

2.3 Interest on all loans will be at the fixed rate of 3%. Repayment schedules will have semi-annual or annual payments. Annual payments will be due June 1st; semi-annual payments will be due June 1st and December 1st.

2.4 Suggested maximum loan amounts and terms:

	Maximum Loan	Maximum Term
Apparatus (New) Rescue, Pumpers	$262,500 or 50% (whichever is less)	10 years
Heavy Rescue	$450,000 or 50% (whichever is less)	10 years
Aerial Tower trucks or Quints	$600,000 or 50% (whichever is less)	10 years
Light Duty Rescue Brush Trucks	$90,000 or 50% (whichever is less)	5 years
Apparatus (Used)	$60,000 or 50% (whichever is less)	5 years
Ambulances	$90,000 or 75% (whichever is less)	5 years
Water Craft Rescue	$45,000 or 50% (whichever is less)	5 years
Rehabilitation	$35,000 or 50% (whichever is less)	5 years
Equipment	$50,000 (once per 5-year period)	5 years

3. Guidelines for Facility Loans

3.1 Applications will be considered for establishing or renovating facilities that house fire fighting and rescue equipment, and emergency medical and technical emergency response services.

3.2 Proceeds of the loan shall be used only for construction and shall not be used for land acquisition, payment of fees for design, planning and preparation of application or any other cost not directly attributable to construction.

3.3 The applicant shall present an estimated construction cost for the project from a reliable engineering or architectural firm. A new or renovated facility must meet all requirements and codes of the Federal, State and local jurisdiction, included local firemen's association standards.

3.4 Interest on all loans will be at the fixed rate of 3%. Repayment schedules will have semi-annual or annual payments. Annual payments will be due June 1st; semi-annual payments will be due June 1st and December 1st.

3.5 Suggested maximum loan amount and terms

Facility	$200,000 or 50% (whichever is less)	10 years

4. Guidelines for Loan application process

4.1 All applications must be prepared in accordance with Delaware Council on Volunteer Fire Service guidelines. Failure to comply with Council guidelines may be cause for rejection of the application. The Council may reserve the right to correct minor errors or irregularities in the application.

4.2 An original application must be provided to the Council. Financial statements and proposed operating and capital budgets must be completed and provided, along with the completed application, for the two fiscal years immediately prior to the fiscal year in which the application is made.

4.3 Each applicant must submit IRS Form 990 for each year presented on the financial statements.

4.4 Applicant must submit to Council, an inventory of each applicant's equipment and fleet of vehicles.

4.5 Applicant must supply **one original and 7 copies** of the application package to:

Stephanie Scola, Director, Bond Finance
State of Delaware
820 N. French Street, 8th floor
Wilmington, Delaware 19801

An application package consists of the original application and inventory list, financial statements and budgets, IRS Form 990, Company's Resolution and List of Officers and estimate and plans, if any.

4.6 In addition to financial statements submitted with the application, applicants must agree to supply annual financial statements as may be required.

4.7 A representative from the company will be required to be available and prepared to answer questions about the apparatus or facility to be financed as well as financial operations related to the applicant's company. Additionally, a company officer must be available to sign a promissory note at the time the loan is received by the company.

4.8 Applications are valid until December 31st of the year the application was submitted unless otherwise determined by the Council.

4.9 Within 12 months of the time the loan was granted, the volunteer company must submit documentation to the Council reflecting the actual expenditures of the loan proceeds.

5. Prioritization of Loan requests

5.1 It is the intent of the Council to manage the fund in a prudent and fiscally responsible manner and to extend loans to companies that can demonstrate the ability to repay the loan in accordance with its terms. Within that context, the priority for receiving loans will be established based on the criteria set forth below and the availability of funds.

5.1.1 New vehicles and apparatus will have the highest priority followed by new equipment, renovations or rehabilitations of apparatus or equipment and facility improvements.

5.1.2 Further, priority consideration will be given to those companies demonstrating the greatest need considering financial need, age and condition of existing equipment and apparatus and demographic, geographic and financial conditions of the communities served.

5.1.3 The Council would also consider refinancing to prevent an event of default.

6. Loan Review and Approval Process

6.1 Applications must be submitted by the close of business on May 16, 2008 for funding consideration in the current year.

6.2 The Council shall review each loan request received from an applicant in accordance with the stated criteria.

6.3 Applicants will be notified of loan approvals by the Council. In addition, companies will be notified of any further requirements for loan closing.

7. Event of Default on Loans

7.1 The Council will follow prudent underwriting standards when considering a loan. In lieu of property and equipment liens, the Council may withhold future state funding including payments from insurance premium taxes and grant-in-aid funding.

7.2 Any volunteer fire, rescue and emergency medical service company awarded a loan through the Delaware Volunteer Fire Service Revolving Loan Fund should consider the purchase of a performance bond to protect against financial loss should an equipment or construction contractor default, or fail to deliver equipment, according to the terms of the contract.

7.3 Should a company be unable to make its loan payments in a timely manner, the company officers are required to notify the Council as soon as possible.

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302-247-1307 P

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302-697-8100 W

Second Vice President
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Elected Directors
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Sussex County
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302- 228-8641 P

Warren F. Jones (2007)
New Castle County
302-998-5861 H
302-996-3516 W

Kevin Wilson (2008)
Kent County
302-653-4588 H
302-270-6630 C

DELAWARE VOLUNTEER FIREMEN'S ASSOCIATION

Official Address
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P O Box 1849
122- A South Bradford St.
Dover, DE 19903-1849

Phone Numbers
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302-734-9404 (Fax)
877-455-3832 (Toll Free)
Website: www.dvfassn.com

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New Castle
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302-636-5069 W

Ed Welch
Kent County
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302-474-0989 P

Walt Reynolds
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DVFA Chaplin
Pastor Bob Hudson
P.O. Box 1237
Millsboro, DE 19966
302-934-9874 H

DELAWARE VOLUNTEER FIRE SERVICE REVOLVING LOAN FUND PROGRAM

There is hereby established by the 141st General Assembly that pursuant to House Bill No. 190, as amended by House Amendment Nos. 1 and 3 and Senate Amendment No. 1, that there be established a Delaware Council on Volunteer Fire Service (the "Council") and a Delaware Volunteer Fire Service Revolving Loan Fund (the "Fund"). The above legislation also establishes the criteria to administer the Fund and to report to the Joint Legislative Committee on Capital Improvement Programs. Pursuant to the above legislation, both the Council, through 29 Del. C. § 2720, and the Fund, through 29 Del. C. § 2721, became effective upon the Governor's signature on August 22, 2002.

It should also be noted that for the four years following, the Fund went unfunded. In fiscal year 2006, the Delaware General Assembly committed ONE MILLION DOLLARS to initiate the Fund.

THE COUNCIL HAS ESTABLISHED THE FOLLOWING GOALS AND OBJECTIVES TO ADMINISTER THE FUND IN THE STATE OF DELAWARE.

PROGRAM GOALS

As defined in 29 Del. C. § 2720, the Council is comprised of the following:

1. The President of the Delaware Volunteer Firemen's Association or designee;
2. The Chairman of the State Fire Prevention Commission or designee;
3. Three members; one each appointed by the Presidents of the New Castle, Kent and Sussex County Firemen's Associations for staggered terms;
4. The State Treasurer or designee; and,
5. Serving as chair of the Council, the Secretary of Finance or designee.

The goal of the Council is to adopt any/all procedure rules and regulations to carry out the provisions of 29 Del. C. §§ 2720, 2721.

PROGRAM OBJECTIVES

The various objectives are defined as follows:

Application Process

1. To develop a competitive process by which loan applications for improving fire, rescue, emergency medical and technical emergency response services can be submitted statewide.

Evaluation Process

2. To develop criteria to assess the relative needs for fire service and loan assistance throughout the state by considering:
    a. the financial assets of those making application as well as their ability to obtain revenue, income and financial support and loans from outside sources;
    b. the age and existing condition of the applicant's apparatus, equipment or facilities and to determine whether such apparatus, equipment or facilities comply with the National Fire Protection Association standards.
    c. the demographic, geographic and financial conditions of the community served by those making application.

Funding Process

3. To establish procedures and guidelines that would allow the Council:
    a. to accept and retain the funds and revenues appropriated by the General Assembly;
    b. to make loans to eligible volunteer fire, rescue and emergency medical service companies meeting the application criteria process;
    c. to buy and/or refinance debt obligations of eligible applicants;

d. to facilitate the pledging of eligible applicant's state grant-in-aid and health insurance rebate funds as collateral for securing a loan;
e. to earn interest on amounts on deposit in the Fund;
f. to establish all necessary interest bearing accounts for deposit of loan repayments, and
g. to finance the reasonable costs incurred by the State in the administration of the Fund.

Reporting Process

4. The Council shall:
    a. submit a strategic plan, (goals and procedures) to the Joint Legislative Committee on Capital Improvement Programs for accomplishing the Fund, and
    b. submit an annual report to the Governor and the co-chairs of the Joint Legislative Committee on Capital Improvement Programs by October 15 of each year.