Training Objective

- To provide an overview of various options that exist for providing fire protection and what effect each option has on municipal budgets, tax levy limits and year end reporting.

- Questions requiring a legal interpretation should be referred to your municipal attorney and/or OSC’s Legal Division.
Municipal Fire Protection

- In cities and villages, fire protection is commonly provided by a municipal fire department composed of paid and/or volunteer firefighters.

- In towns, fire protection is not a direct town function but is provided by a Fire District or pursuant to contract in a Fire Protection District.

- Towns and villages can also establish Joint Fire Districts to provide fire protection to town and village properties within the district.
Fire Protection in Cities and Villages

- Many have “fire departments” to provide fire protection within the city or village.
- May also be authorized to respond to other types of emergencies.
- Often provide coverage outside of the city or village pursuant to contract or calls for assistance.
- In a village, the fire department is administered by a board of fire commissioners, or by the board of trustees and the “council of the fire department.”
Fire Protection in Cities and Villages (continued)

- In a city, the fire department is administered as provided in the city’s charter.
- Firefighting personnel frequently organized into one or more separate “fire companies”
- Fire protection funded by village or city budgets.
Fire Districts

- Separate political subdivision located in one or more towns.
- Established for the purpose of providing fire protection and response to emergencies.
- Created and extended by Town Board(s) on its own motion or by petition; dissolved by town board(s) or by elector initiative.
- Most have fire departments responsible for providing fire protection within Fire District boundaries.
Fire Districts (continued)

- May provide coverage outside of Fire District boundaries pursuant to contract or, as a rule, pursuant to call for assistance.
- Firefighting personnel usually organized into one or more separate “fire companies.”
- Have the power to cause the levy of taxes and incur debt.
- Fiscal year is January 1 to December 31
Fire Districts (continued)

- Must adopt an annual budget after public hearing.
  - Expenditures subject to certain limitations.
  - Fire District budget annexed to town budget(s) without change.
  - Taxes are assessed, levied and collected at the same time and manner as town taxes.

- Levy is subject to Tax Cap legislation
  - Must file tax cap and tax freeze form.
  - Tax levy is not part of a town’s tax levy.
Fire Districts (continued)

- Annual financial report filed with OSC.
- Generally, elected governing body (Board of Fire Commissioners); members serve 5 year terms without compensation.
- Treasurer is generally elected but can be appointed and can be compensated (Treasurer can also serve as Secretary).
- Secretary is appointed by the Board of Fire Commissioners and can be compensated.
- Director of Purchasing (when established) is appointed by the Board of Fire Commissioners
Joint Fire Districts

- Established by town and village boards pursuant to Town Law Article 11-A to provide fire protection within all or portion of town(s)-outside-village(s) and village(s) within the town(s).

- Territory must be contiguous.

- Governing body consists of 3 to 7 appointed commissioners, or commissioners elected as in other fire districts; commissioners serve fixed terms, without compensation.

- Fiscal year is January 1 to December 31; budgeting and reporting requirements are the same as for fire districts previously discussed.

- Tax levy is not part of either the town’s or village’s levy.
Fire Protection Districts

- Geographic area of town(s) which is provided fire protection pursuant to a contract with a city, village, fire district or incorporated fire company.

- The costs for fire protection services are assessed and levied against the taxable properties within the district.

- Created and extended by a town board(s) on its own motion or upon petition; dissolved by town board(s) or by elector initiative.
Fire Protection Districts (continued)

- Not a separate political subdivision; administrative area for which town board(s) responsible for contracting for fire protection.
- Tax levy is part of the town tax levy for tax cap and tax freeze purposes.
- Annual budget is part of the town’s annual budget (SF fund).
- Financial information (SF Fund) reported to OSC with the town’s annual financial report.
Fire Protection Districts (continued)

- Fire protection contract may be with city, village, fire district or with incorporated fire company usually located outside of a city, village or fire district.

- Contract with city, village or fire district requires fire department or company to consent to contract (GML §209-d).

- Town must hold a public hearing prior to entering into contract on at least 10 days prior published notice.

- Contracts should be reviewed and approved by town’s legal advisor.
Fire Protection Districts (continued)

- Town board may **contract** for fire protection (both equipment and fire fighting personnel) **OR** may purchase fire protection apparatus and equipment and **contract** for the operation, maintenance and repair of the apparatus and equipment, and the furnishing of the fire protection.
- Contract must be for a definite period of time, but no more than 5 years.
- Contract must specify a definite sum to be paid each year.
Potential negotiation items to consider:

- Requirement for a portion of contract amount paid to be used for specified purpose (e.g. to replace firefighting equipment and apparatus).
- Disclosure of financial records or audit of fire company.
Fire Protection Districts (continued)

- Contract Payments
  - Can be paid each year in one sum or, if provided in the contract, paid in installments.
  - Contracts with city, village or fire district can provide for portion of the consideration to be paid to the fire department or company providing the coverage.
  - Amount payable to the fire department or company subject to statutory limits (generally, 35% if municipality owns all the fire fighting equipment).
  - Amounts payable to a fire company can be remitted directly to the company.
Town of Alexandria

1 Village Fire Department
2 Fire Districts
1 Fire Protection District
Fire Departments/Companies

- Terms often used interchangeably.
- Usually, Not-for-profit corporation formed to provide fire protection.
- Must maintain their own financial records (e.g., fund raising money) but do not file an annual financial report with OSC.
- Companies with revenues of $300,000 or more which contract with city, town, village or fire district required to obtain an annual audit.
Fire Departments/Companies (continued)

- When applicable, must file annually with OSC a report of receipts and disbursements of Foreign Fire Insurance tax money (2% money).
- Must file annually with county clerk verified certificate including, among other things, an inventory of its property and statement of liabilities.
Impact on Tax Cap/Freeze

- **Cities, Villages and Fire Districts**
  - Fire protection generally part of General Fund budget therefore tax levy limits are impacted by fire protection expenditures and revenues.

- **Towns**
  - Fire protection only impacts the tax levy limit if the town **contracts** for fire protection (SF Fund).
  - “Transfers of Function” can impact the tax levy limits of towns, villages and fire districts.
Transfers of Function

- Changes in the manner a government offers fire protection services can have a significant impact on its tax cap limit in future years.
- Transfer amount calculated by OSC based on projections of additional costs or savings.
- **Example #1:** When a Town Board extends the boundaries of an existing Fire District to replace a Fire Protection District previously established:
  - Town’s tax cap limit is generally reduced and the tax cap limit for the extended fire district will generally increase.
Transfers of Function (continued)

- **Example #2:** When a town that previously contracted for fire protection and a village establish a Joint Fire District (pursuant to Town Law Article 11-a):
  - Both the town and village tax levy limits will generally be reduced and the newly formed joint fire district will not have a tax levy limit the first year.
Thank You

Office of the New York State Comptroller
Thomas P. DiNapoli, State Comptroller

Division of Local Government and School Accountability
localtraining@osc.state.ny.us