

# Village of Muttontown

## Board Oversight

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MARCH 2019

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OFFICE OF THE NEW YORK STATE COMPTROLLER  
Thomas P. DiNapoli, State Comptroller

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# Report Highlights

## Village of Muttontown

### Audit Objective

Determine whether the Board provided adequate oversight of Village financial operations.

### Key Findings

The Board did not:

- Audit or cause an audit of the financial records for 2014-15 through 2017-18.
- Audit individual claims before authorizing payment.
- Follow its procurement policy when selecting professional services, and did not periodically seek competition for those services.
- Comply with New York State Village Law, Section 5-506 (Village Law) when presenting the budgets for 2015-16 through 2017-18.

### Key Recommendations

- Audit, or cause a timely audit of, Village financial records.
- Conduct a thorough and deliberate audit of claims before authorizing payment.
- Periodically seek competition for professional service providers, and maintain all relevant documentation when obtaining proposals.
- Ensure tentative budgets contain all information required by law.

Village officials generally agreed with our recommendations and have initiated or indicated they planned to initiate corrective action.

### Background

The Village of Muttontown (Village) is located in the Town of Oyster Bay in Nassau County.

The Village is governed by an elected board composed of six trustees (Board) and a Mayor, who also serves as the budget officer. The Board is responsible for oversight and general management of financial operations, which includes the audit of claims before payment and appointment of professional service providers after competition is sought. The appointed Clerk-Treasurer is responsible for having custody of all funds, maintaining the accounting records and all other official records.

The Village provides various services to its residents including street maintenance, snow removal, and police protection. These services are funded primarily by real property taxes.

#### Quick Facts

<b>2018-19 General Fund Appropriations</b>	\$4.7 million
<b>Population</b>	3,648
<b>Employees</b>	18

### Audit Period

June 1, 2016 – May 31, 2018. We extended our audit period back to June 1, 2014 to review annual audits of financial records and budgets.

# Board Oversight

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## What is Adequate Oversight of Financial Operations?

A board is responsible for the oversight and management of village financial operations. The board achieves this in part by auditing or causing an audit of the clerk-treasurer's records annually to ensure money is properly accounted for.

In addition, Village Law requires the board to audit all claims against a village before directing the claims to be paid.<sup>1</sup> To properly approve claims for payment, the board must ensure that all claims contain sufficient documentation to determine whether the nature of the purchases and the amounts represent actual and necessary village expenditures. An adequate claims audit can help ensure that public money is being spent and handled properly, identify conditions in need of improvement, and provide oversight and review of the village's disbursements process.

The board should ensure that budgets are presented in accordance with Village Law, which prescribes the format and content of the tentative budget and requires the budget officer to include certain information. Required information includes a schedule of actual revenues and expenditures for the last completed fiscal year, a schedule of current year appropriations and estimated revenues reflecting any modifications, the budget officer's recommendation of appropriations and estimated revenue for the ensuing year, a schedule of fund balance estimated to be available at the close of the current fiscal year, computation of the amount to be levied on real estate and a schedule of wages and salaries.

New York State General Municipal Law (GML)<sup>2</sup> requires the board to adopt written policies and procedures for procuring goods and services that are not subject to competitive bidding requirements, such as professional services.<sup>3</sup> GML states that these goods and services must be procured in a manner that ensures the prudent and economical use of public funds, in the best interest of taxpayers, and is not influenced by favoritism, extravagance, fraud or corruption. Using a request for proposal process or obtaining quotes, is an effective way to ensure that the village receives the desired services for the best price.

The Village's procurement policy requires at least three proposals for purchases that are neither exempt nor subject to competitive bidding. It also requires that documentation of these proposals be retained. The policy further states that a renewal of professional service contracts requiring a special or technical skill does

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1 New York State Village Law, Section 5-524 allows the Board to authorize, by resolution, payment for utility services, postage, freight, and express charges in advance of audit. The claims for such prepayments must be presented at the next regular Board meeting for audit.

2 New York State General Municipal Law, Section 104-b

3 Professional services generally include services provided by attorneys, engineers and certain other services requiring specialized or technical skills, expertise or knowledge; the exercise of professional judgment; or a high degree of creativity.

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not require solicitation of written or verbal proposals. Finally, the policy requires documentation if the goods purchased or contract is awarded to a vendor who did not submit the proposal with the lowest price.

### **The Board Did Not Audit or Cause an Audit of the Financial Records**

The Board did not annually audit the Clerk-Treasurer's records from 2014-15 through 2017-18 to ensure all money was properly accounted for. The last audited financial statement report completed was for 2013-14. Village officials engaged the services of an external audit firm in May 2016 for 2014-15 and 2015-16 audits. However, officials were unable to provide us with final audited financial statements for these years during our fieldwork because the records were incomplete.<sup>4</sup>

Further, officials were unable to provide us with documentation for the 2016-17 or 2017-18 annual audit showing that they procured these services. Village officials told us there were setbacks with an accounting consultant and a general lack of follow-up that prevented the audit firm from obtaining the information needed to issue audited financial statements.

Without timely annual audited financial information, the Board and Village taxpayers cannot be sure they have accurate financial information to make decisions, and gauge the Village's financial condition. Furthermore, without timely and accurate records Village officials cannot monitor the budget or properly manage finances.

### **The Entire Board Did Not Audit Individual Claims Before Payment**

The Clerk-Treasurer emails the warrant<sup>5</sup> to the Board before each monthly Board meeting. The Board approves the warrant, but the entire Board does not audit the individual claims. Instead, after the Board approves the warrant, the Mayor and Clerk-Treasurer sign the warrant. The Mayor reviews each claim and supporting documentation before checks are signed and issued.

We reviewed 55 claims<sup>6</sup> totaling \$966,882 that were paid from June 1, 2016 through May 31, 2018 to determine whether they contained sufficient documentation, appeared to be for valid purposes, and if applicable, competition was sought.

- Village officials did not seek competition<sup>7</sup> for 19 claims totaling \$326,014. Officials were unable to provide us with documentation to show that

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4 Village officials provided us with a draft of the 2014-15 audited financial statements in June 2018.

5 A warrant is a list of unpaid claims.

6 See Appendix B for information on our methodology.

7 The Village's procurement policy requires three written proposals from vendors which are reasonably expected to exceed \$5,000 and \$10,000 for public works/service contracts. NYS General Municipal Law, Section 103 requires competitive bids for purchases over \$20,000 and public works over \$35,000. Purchases and public works vendors chosen from a State or County contract do not require competitive bidding.

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vendors for these purchases were competitively chosen. For example, one claim totaling \$24,888 for the purchase of sand and salt should have been competitively bid. Officials disbursed \$115,544 to this vendor in 2017-18. However, no evidence was available to show that this purchase was competitively bid.

- Five claims totaling \$74,713 were paid without adequate support. For example, two vehicles purchased for a combined total of \$55,634 did not have the corresponding invoices attached to the claims when the Board authorized payment.
- Five claims totaling \$41,715 were paid before the Board approved the warrant, with payments disbursed ranging from one to 33 days before approval. For example, a payment to a law firm totaling \$9,000 was made 33 days before the Board approved the warrant.

While we did not find that any inappropriate claims were paid, because the Board did not audit claims before payment, claims were paid without adequate supporting documentation and vendors may have been selected without seeking competition.

### **The Budgets Presented Did Not Contain Sufficient Information**

Village officials did not present the annual tentative budgets from 2015-16 through 2017-18 in accordance with the format prescribed by Village Law. The tentative budgets, as adopted by the Board, consisted of a schedule comparing the current year budget with the previous and ensuing year's budgets. It also included a calculation of the property tax levy for the ensuing year, as required.

However, none of the budgets we reviewed contained a schedule of actual revenues and expenditures for the last completed fiscal year. The budgets also did not include an estimate of fund balance at year-end. Although the Clerk-Treasurer's monthly report included actual revenues and expenditures from the prior year and year-to-date information, this information was not included with the tentative budgets presented to the Board and Village taxpayers.

We compared the budgeted amounts to actual results of operations reported on the annual financial reports filed with the State Comptroller's office (OSC) from 2014-15 through 2017-18. The Village reported total budget variances ranging from \$337,485 to \$648,445. For example, from 2014-15 through 2017-18, the appropriation for transportation was overbudgeted each year by as much as \$509,171. In addition, appropriations for home and community expenditures were insufficient. While an average of \$38,000 was budgeted each year, these expenditures ranged from \$86,931 to \$151,418 over the four years. For 2018-19, there was no significant change to transportation appropriation, and the home and community appropriation still appears insufficient.

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Due to a lack of required information provided in the budget, officials and taxpayers may not have had adequate information to properly assess budget estimates. Further, because the tentative budgets did not comply with Village law, officials and taxpayers did not have complete historical and current year-to-date financial information to effectively assess the reasonableness of proposed budgets.

### **The Board Did Not Seek Competition for Professional Services**

We reviewed the procurement of services provided by eight professional service providers who were paid a total of \$1.3 million during our audit period<sup>8</sup> to determine whether Village officials adhered to their procurement policy. Officials were unable to provide proposals for any of these eight providers.

For example, officials provided no documentation that the Village attorney, who was paid \$535,909 during our audit period, was selected from an evaluation of competitive proposals. While officials provided us with a written agreement for the attorney, we found no indication that alternative proposals were solicited. Officials provided documentation that they interviewed three firms for engineering services, but were unable to provide us with documentation for the submitted proposals.

Village officials told us that most of their professional service providers have been with them a long time, but could not provide us with any documentation that they sought competition.

Payments to five professional service providers reviewed were in accordance with their contract. However, officials were unable to provide us with written contracts for two providers, an accountant and an engineering firm, paid a combined total of \$65,690 during our audit period. In addition, officials were unable to provide us with a 2016-17 fiscal year contract for another engineering firm that was paid \$49,248 during our audit period. They provided us with the 2017-18 contract and the payments made during the current fiscal year were in accordance with the contract.

Because officials failed to seek competition when selecting professional services, they have little assurance that professional services are procured in the most prudent and economical manner without favoritism, extravagance, fraud and abuse.

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<sup>8</sup> Service providers included three legal firms, two engineering firms, an architecture firm, a code enforcer and an accountant.

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## Recommendations

The Board should:

1. Audit, or retain a firm to audit the financial records annually and provide the final report in a timely manner.
2. Conduct a thorough and deliberate audit of claims before authorizing payment to ensure that they are accurate, properly supported, for valid purposes and in compliance with required statutes and policies.
3. Ensure that the tentative budgets contain all required schedules and financial information and in the format required by law, and use the actual figures from the last completed fiscal year to avoid repeating budgetary mistakes from year-to-year.
4. Obtain competitive proposals for professional services and maintain all relevant documentation before appointing professional service providers to ensure the amount paid for these services are in the taxpayers' best interest.



# Appendix A: Response From Village Officials

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## INCORPORATED VILLAGE OF MUTTONTOWN

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Muttontown New York 11791  
516-364-3476

Dr. James Liguori  
Mayor

Joseph Russo  
Acting Clerk

February 21, 2019

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Thank you for your comments and recommendations noted in your Village of Muttontown Board Oversight Report of Examination – 2018M-251. The Village Board would like to thank the diligence and professionalism of your auditors throughout this process.

Your report highlights four key findings and recommendations for the Audit Period of June 1, 2016-May 31, 2018.

- The Village Board agrees with the finding, that the Board did not audit or cause an audit of the financial records for 2014-15 through 2017-18. When first brought to the attention of the new Board, they directed the Acting Village Clerk to investigate further as to why these audits were not performed. That investigation concurs with the detailed description in your audit and the Board has directed the Clerk to seek proposals from several auditing firms. These proposals will be reviewed by the Board and an auditing firm will be selected. The Village Board will use the financial information included in the proposals for inclusion into the 2019-2020 Village Budget.
- The Village Board agrees with the finding, that the Board did not audit individual claims before authorizing payment. The Board recognized this issue immediately upon assuming office in July 2019 and after the Acting Clerk was appointed, a new procedure was implemented. Each claim has a



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Acting Clerk

warrant sheet attached to the invoice with required backup documentation, the entire board reviews and initials each claim. Once a majority of the Village Board has approved a claim that claim is added to the warrant summary sheet to be approved at the next Village Board Meeting. The warrant summary sheet is presented to the Board days before the Village Board Meeting for further review and if approved at that meeting, all claims are then paid.

- The Village Board agrees with the finding, that the Board did not follow its procurement policy when selecting professional services and did not periodically seek competition for those services. While the Board is not required to issue an RFP to hire its attorneys, engineers, assessor, or auditor, this Board has and will continue to seek an RFP for such professional services. Invoices for professional services are now compared to the respective rate provided in the RFP before warrant submission. The Village Board will endeavor to always adhere to the Village's procurement policy.
- The Village Board agrees with the finding, that the Board did not comply with New York State Village Law, Section 5-506 (Village Law) when presenting the budgets for 2015-16 through 2017-18. The Village Board will ensure compliance with NYS Village Law when presenting the tentative budget for 2019-20. It will further ensure the tentative budget includes: a schedule of actual revenues and expenditures for the last completed fiscal year, a schedule of current year appropriations and estimated revenues reflecting any modifications, recommendation of appropriations and estimated revenue for the ensuing year, a schedule of fund balance estimated to be available at the close of the current fiscal year, computation of the amount to be levied on real estate and a schedule of wages and salaries.

Thank you again for your services.

  
James Liguori  
Mayor

## Appendix B: Audit Methodology and Standards

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We conducted this audit pursuant to Article V, Section 1 of the State Constitution and the State Comptroller's authority as set forth in Article 3 of the New York State General Municipal Law. To achieve the audit objective and obtain valid audit evidence, our audit procedures included the following:

- We interviewed Village officials to gain an understanding about Board oversight of financial operations.
- We reviewed agreements from the audit firm selected to determine when they were engaged to conduct the annual audit.
- We obtained and reviewed the Board's procurement policy.
- We reviewed financial records, draft financial statements, and annual filings of financial data with OSC to evaluate financial position.
- From electronic cash disbursement data, we judgmentally selected 55 claims totaling \$966,882 from our audit period to determine whether they were adequately supported, valid expenditures and competition was sought in accordance with their procurement policy. We excluded from our population payments for professional services, payroll related disbursements and pass-through<sup>9</sup> expenditures. This resulted in a population of 1,408 claims paid to 184 vendors totaling \$2.6 million. We sorted the total paid to each vendor from highest to lowest dollar amount and selected the highest dollar value claim from each vendor until we selected 55 claims (4 percent).
- We judgmentally selected eight professional service providers who were paid \$1.3 million during our audit period and asked Village officials to provide contracts and proposals to determine whether they sought competition for these services.
- We judgmentally selected the top three payments made to each professional service provider in our sample totaling \$382,674 and cross-referenced pricing with contract provided to determine whether payments were made in accordance with contracts.
- We obtained and reviewed the budgets for 2015-16, 2016-17 and 2017-18 to determine whether they were presented in accordance with Village Law.

We conducted this performance audit in accordance with GAGAS (generally accepted government auditing standards). Those standards require that we plan and perform the audit to obtain sufficient, appropriate evidence to provide a reasonable basis for our findings and conclusions based on our audit objective. We believe that the evidence obtained provides a reasonable basis for our findings and conclusions based on our audit objective.

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<sup>9</sup> The Village holds deposits from residents seeking permits to cover expenditures for inspections and plan reviews. All remaining money is later returned to the residents.

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Unless otherwise indicated in this report, samples for testing were selected based on professional judgment, as it was not the intent to project the results onto the entire population. Where applicable, information is presented concerning the value and/or relevant population size and the sample selected for examination.

A written corrective action plan (CAP) that addresses the findings and recommendations in this report should be prepared and provided to our office within 90 days, pursuant to Section 35 of General Municipal Law. For more information on preparing and filing your CAP, please refer to our brochure, *Responding to an OSC Audit Report*, which you received with the draft audit report. We encourage the Board to make the CAP available for public review in the Clerk-Treasurer's office.

## Appendix C: Resources and Services

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### **Regional Office Directory**

[www.osc.state.ny.us/localgov/regional\\_directory.pdf](http://www.osc.state.ny.us/localgov/regional_directory.pdf)

### **Cost-Saving Ideas** – Resources, advice and assistance on cost-saving ideas

[www.osc.state.ny.us/localgov/costsavings/index.htm](http://www.osc.state.ny.us/localgov/costsavings/index.htm)

### **Fiscal Stress Monitoring** – Resources for local government officials experiencing fiscal problems

[www.osc.state.ny.us/localgov/fiscalmonitoring/index.htm](http://www.osc.state.ny.us/localgov/fiscalmonitoring/index.htm)

### **Local Government Management Guides** – Series of publications that include technical information and suggested practices for local government management

[www.osc.state.ny.us/localgov/pubs/listacctg.htm#lmgm](http://www.osc.state.ny.us/localgov/pubs/listacctg.htm#lmgm)

### **Planning and Budgeting Guides** – Resources for developing multiyear financial, capital, strategic and other plans

[www.osc.state.ny.us/localgov/planbudget/index.htm](http://www.osc.state.ny.us/localgov/planbudget/index.htm)

### **Protecting Sensitive Data and Other Local Government Assets** – A non-technical cybersecurity guide for local government leaders

[www.osc.state.ny.us/localgov/pubs/cyber-security-guide.pdf](http://www.osc.state.ny.us/localgov/pubs/cyber-security-guide.pdf)

### **Required Reporting** – Information and resources for reports and forms that are filed with the Office of the State Comptroller

[www.osc.state.ny.us/localgov/finreporting/index.htm](http://www.osc.state.ny.us/localgov/finreporting/index.htm)

### **Research Reports/Publications** – Reports on major policy issues facing local governments and State policy-makers

[www.osc.state.ny.us/localgov/researchpubs/index.htm](http://www.osc.state.ny.us/localgov/researchpubs/index.htm)

### **Training** – Resources for local government officials on in-person and online training opportunities on a wide range of topics

[www.osc.state.ny.us/localgov/academy/index.htm](http://www.osc.state.ny.us/localgov/academy/index.htm)

## Contact

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