



Commack Public Library District Selected Financial Operations

Report of Examination

Period Covered:

July 1, 2013 – November 30, 2014

2015M-132



Thomas P. DiNapoli

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State of New York Office of the State Comptroller

Division of Local Government and School Accountability

August 2015

Dear District Officials:

A top priority of the Office of the State Comptroller is to help local government officials manage government resources efficiently and effectively and, by so doing, provide accountability for tax dollars spent to support government operations. The Comptroller oversees the fiscal affairs of local governments statewide, as well as compliance with relevant statutes and observance of good business practices. This fiscal oversight is accomplished, in part, through our audits, which identify opportunities for improving operations and Board governance. Audits also can identify strategies to reduce costs and to strengthen controls intended to safeguard local government assets.

Following is a report of our audit of the Commack Public Library District, entitled Selected Financial Operations. This audit was conducted 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.

This audit's results and recommendations are resources for local government officials to use in effectively managing operations and in meeting the expectations of their constituents. If you have questions about this report, please feel free to contact the local regional office for your county, as listed at the end of this report.

Respectfully submitted,

*Office of the State Comptroller
Division of Local Government
and School Accountability*



State of New York Office of the State Comptroller

EXECUTIVE SUMMARY

The Commack Public Library District (District) is located in the Town of Huntington in Suffolk County and was created by the State Legislature in June 1971. The District serves over 15,000 Library patrons.

An elected five-member Board of Trustees (Board) governs the District and is primarily responsible for overseeing District financial affairs. The Board-appointed Library Director (Director) is responsible for the District's day-to-day administration. Annually, the Board appoints a Treasurer as the District disbursing officer who is authorized to sign all District checks. District expenditures for 2013-14 totaled \$3.6 million, funded primarily by real property taxes.

Scope and Objective

The objective of our audit was to assess District operations for the period July 1, 2013 through November 30, 2014. Our audit addressed the following related questions:

- Did the District officials adopt a procurement policy as required by General Municipal Law (GML) and seek competition when obtaining goods and services that are not required to be competitively bid?
- Did the Board ensure the Director made disbursements from the discretionary fund in accordance with District's bylaws?
- Has the Board appropriately established a Treasurer position?

Audit Results

The Board needs to improve the District's procurement process. District officials did not adopt a procurement policy as required by GML. GML also stipulates that goods and services, which are not required by law to be procured pursuant to competitive bidding, such as professional services, must be procured in a manner to assure the prudent and economical use of public money, in the best interest of the taxpayers to facilitate the acquisition of goods and services of maximum quality at the lowest possible cost under the circumstances, and to guard against favoritism, improvidence, extravagance, fraud and abuse. The Board did not solicit quotes to obtain goods and services that are not required to be competitively bid, in accordance with GML. As a result, District officials did not consistently use competitive methods to procure \$97,024 of goods and services from 10 vendors and District employees did not have guidance on the procedures to follow when purchasing goods and services. Therefore, the Board has little assurance that goods and services were acquired in the most prudent and economical manner and without favoritism.

The Board also did not ensure disbursements from the Director's discretionary fund¹ were made in accordance with District bylaws. The Director made 18 disbursements totaling \$7,667 from this fund. These disbursements were routine payments to the Treasurer for serving in the Treasurer position, which were not purchases where the immediate payment was necessary.

According to the District's bylaws, the Treasurer is the District's disbursing officer, responsible for signing all checks for all Library bank accounts, except the Director's discretionary fund. However according to the agreements between the District and the Treasurer, the Treasurer is authorized to sign all checks for the Library bank accounts without an exception for the discretionary fund. Therefore, the contracts and the bylaws were inconsistent. Although the Board audited all the discretionary fund claims, the inconsistent check signing authority may result in an increased risk of errors or irregularities occurring and not being prevented or detected in a timely manner.

Finally, the Board appointed an independent contractor as Treasurer. While the Treasurer does not take an oath of office (a requirement for holding public office), we found no significant indication that this is an independent contractor relationship. Provisions in the District bylaws suggest the appointment of a Treasurer as an officer and the contractual agreements between the District and the individual refer to the Treasurer as the disbursing officer.

The agreements provide for annual compensation and a bonding requirement, indicative of an officer or employee relationship. The agreements further state that the Treasurer's duties may be changed from time to time at the Board's discretion, which is also indicative of Board control and supervision. Even if it were clear that the Treasurer was engaged as a contractor, we believe that arrangement would not be appropriate. The Treasurer's duties carry with them such a high degree of public trust that, absent express statutory authority, they should be undertaken by a public officer.

Comments of District Officials

The results of our audit and recommendations have been discussed with District officials and their comments, which appear in Appendix A, have been considered in preparing this report. District officials generally agreed with our recommendations and indicated they planned to initiate corrective action.

¹ The discretionary fund as described in the District bylaws has all the characteristics of a petty cash fund. For example, the bylaws state that the Director shall have the authority to issue checks up to a sum annually established by the Board at its reorganizational meeting, for any single purchases, where the immediate payment for such purchase is deemed necessary for the Library's proper and efficient operation.

Introduction

Background

The Commack Public Library District (District) is located in the Town of Huntington in Suffolk County and was created by the State Legislature in June 1971. The District serves over 15,000 Library patrons.

An elected five-member Board of Trustees (Board) governs the District and is primarily responsible for overseeing District financial affairs. The Board-appointed Library Director (Director) is responsible for the District's day-to-day administration. Annually, the Board appoints a Treasurer as the District disbursing officer who is authorized to sign all District checks. District expenditures for 2013-14 totaled \$3.6 million funded primarily by real property taxes.

Objective

The objective of our audit was to assess District operations. Our audit addressed the following related questions:

- Did the District officials adopt a procurement policy as required by General Municipal Law (GML) and seek competition when obtaining goods and services that are not required to be competitively bid?
- Did the Board ensure the Director made disbursements from the discretionary fund in accordance with the District bylaws?
- Has the Board appropriately established a Treasurer position?

Scope and Methodology

We examined selected District records for the period July 1, 2013 through November 30, 2014.

We conducted our audit in accordance with generally accepted government auditing standards (GAGAS). More information on such standards and the methodology used in performing this audit are included in Appendix B of this report.

Comments of District Officials and Corrective Action

The results of our audit and recommendations have been discussed with District officials and their comments, which appear in Appendix A, have been considered in preparing this report. District officials generally agreed with our recommendations and indicated they planned to initiate corrective action.

The Board has the responsibility to initiate corrective action. A written corrective action plan (CAP) that addresses the findings and recommendations in this report should be prepared and forwarded

to our office within 90 days, pursuant to Section 35 of the 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 this plan available for public review in the Director's office.

Procurement

An effective procurement process can help the District obtain services, supplies and equipment of the right quality and quantity from the best qualified and lowest-priced source, in compliance with legal requirements. This can help the District expend taxpayer dollars efficiently and help guard against favoritism, extravagance and fraud.

The Board, as required by General Municipal Law (GML), must adopt a procurement policy. GML also stipulates that goods and services that are not required by law to be procured pursuant to competitive bidding, such as professional service, must be procured in a manner to assure the prudent and economical use of public money, in the best interest of the taxpayers to facilitate the acquisition of goods and services of maximum quality at the lowest possible cost under the circumstances, and to guard against favoritism, improvidence, extravagance, fraud and abuse.

GML further provides that the Board require in its policies and procedures, with certain exceptions, that District officials secure goods and services, including professional services, through alternative means by obtaining written proposals or quotes. Using a competitive method, such as a request for proposal (RFP) process, helps ensure that the District obtains needed qualified services upon the most favorable terms and conditions and in the taxpayers' best interest.

The Board needs to improve the District's procurement process. District officials did not adopt a procurement policy as required by GML. The Board also did not seek competition when obtaining goods and services that are not required to be competitively bid in accordance with GML. Thus, the only procurement guidance was contained in the District bylaws, which simply state that the Director will determine the most economical method of maintenance when purchasing Library office and service equipment. As a result, District officials did not consistently use competitive methods to procure goods and services.

District officials paid 270 vendors \$3.5 million during the audit period. We reviewed payments totaling \$140,496 made to 15 vendors² that were not required to be competitively bid. We found District officials did not use competitive methods when procuring \$97,024 of goods and services from 10 vendors.

² See Appendix B for information on our sampling methodology.

Specifically, District officials made payments to three professional service providers totaling \$29,198 for the audit period. However, officials did not solicit RFPs when procuring any of these services. For example, District officials paid \$18,598 for legal services without issuing an RFP to procure these services. District officials also paid \$67,826 to seven vendors for goods and services during the audit period without obtaining written quotes. For example, one vendor was paid \$24,127 for copier services but no quotes were obtained.

Without a procurement policy to provide guidance to District employees on the procedures to follow when purchasing goods and services, purchases were made without soliciting competition and the Board has little assurance that goods and services were acquired in the most prudent and economical manner without favoritism.

Recommendations

The Board should:

1. Adopt a procurement policy in accordance with GML that gives District staff guidance when purchasing goods and services.
2. Closely monitor the purchasing process to ensure that purchases not required to be bid are made by using competitive methods.

Director's Discretionary Fund

New York State Education Law authorizes library district boards to establish a petty cash fund. Expenditures from the fund may be made in advance of board audit, but only after submission of vouchers for materials, supplies or services furnished at the time the goods are delivered or services rendered. A list of expenditures made from the fund, together with supporting vouchers, must be presented at each board meeting.

The District bylaws, revised and adopted in March 2013, established a Director's discretionary fund. The discretionary fund as described in the bylaws has the characteristics of a petty cash fund. For example, the bylaws state that the Director shall have the authority to issue checks up to a sum annually established by the Board at its reorganizational meeting, for any single purchases, where the immediate payment for such purchase is deemed necessary for the Library's proper and efficient operation. The bylaws also state that the Director's report should show such expenditures to the Board for its review at its next regular meeting.

According to the bylaws, the Treasurer is the Library District's disbursing officer responsible for signing all checks for all Library bank accounts, except the Director's discretionary fund. However according to the agreements between the District and the Treasurer,³ the Treasurer is authorized to sign all checks for the Library bank accounts without an exception for the discretionary fund. Therefore, the agreements and the bylaws were inconsistent.

The Board did not ensure disbursements from the discretionary fund were made in accordance with the bylaws. We reviewed all 18 fund disbursements totaling \$7,667 that were made from this fund during the audit period. The Director made routine payments from the fund to the Treasurer for serving in the Treasurer's position, which were not purchases where immediate payment would be necessary. These discretionary fund checks were made payable to the Treasurer and signed by the Director. According to the Business Manager, the Library's independent accountants suggested the District pay the Treasurer from the discretionary fund so the Treasurer would not be signing her own checks.

Although the Board audited all the discretionary fund claims, the inconsistent check signing authority may result in an increased risk of

³ See the Treasurer section of our report.

errors or irregularities occurring and not being prevented or detected in a timely manner.

Recommendations

The Board should ensure:

3. The Director uses the discretionary fund in accordance with the bylaws.
4. The Treasurer's check signing authority contained in the bylaws is consistent with its contractual agreements.
5. Payments to the Treasurer are made from the general fund like any other claims against the District. To avoid the appearance of impropriety, a Board member could sign checks payable to the Treasurer.

Treasurer

The District's Treasurer is responsible for the receipt, disbursement, care and custody of Library funds. As such, those functions should be performed by a public officer and not an independent contractor. The duties of a local government chief financial officer or treasurer, including the custody and disbursement of public funds, carry with them a high degree of public trust and, therefore, in the absence of express statutory authority, these functions may not be delegated to an independent contractor. The New York State Public Officers Law requires every public officer to take and file the oath of office required by law prior to the discharge of any of their official duties.

The District entered into agreements with an individual to act as Treasurer for two three-year periods (October 1, 2011 through September 30, 2014 at a rate of \$5,000 per year and October 1, 2014 through September 30, 2017 at the rate of \$6,000 per year). The District's reorganization minutes in July 2013 and July 2014 indicate that the individual continue as "outside treasurer." District officials also told us that they consider the Treasurer to be engaged as an independent contractor.

While the Treasurer does not take an oath of office, we found no significant indication that this is an independent contractor relationship. The District bylaws, under the heading of "Officers," provide for the Board to annually appoint a Treasurer and for the appointment of a Deputy Treasurer to act in the Treasurer's absence or incapacity. These provisions suggest the appointment of a Treasurer as an officer. The agreements between the District and the individual similarly appoints the named individual as Treasurer, refers to the Treasurer as the disbursing officer and as performing duties of her office.

The agreements also provide for annual compensation and for the Treasurer to be bonded, pursuant to law, both consistent with a public office, rather than independent contractor relationship. The agreements further state that the Treasurer's duties may be changed from time to time at the Board's discretion, indicative of Board control and supervision, which is typically not the case in an independent contractor relationship. In addition, District records show that the crime insurance policy in effect during our audit period covered the Treasurer for employee dishonesty of up to \$400,000.

Even if it were clear that the Treasurer was engaged as a contractor, we believe, as previously noted, that arrangement would not be appropriate. The duties of the Treasurer carry with them such a high

degree of public trust that, absent express statutory authority, they should be undertaken by a public officer.

Recommendation

The Board should:

6. Consult with its legal counsel and take steps to clarify that the Treasurer's position is a public officer and have the Treasurer take and file an oath of office.

APPENDIX A

RESPONSE FROM DISRICT OFFICIALS

The District officials' response to this audit can be found on the following pages. District officials also included their procurement policy as an attachment to their response. Because District officials' response included sufficient information to indicate their intentions, we did not include this policy as a part of the final report.



August 24, 2015

State of New York
Office of the State Comptroller
State Office Building
Room 3A10
250 Veterans Memorial Highway
Hauppauge, N.Y. 11788-5533

Re: Commack Public Library/Selected Financial Operations,
Report of Examination/2015M-132

Dear Sir or Madam:

Please consider this to be the “Reply” and “Corrective Action Plan” (CAP) submitted by the Commack Public Library (“Library”) in response to the Draft Report of Examination forwarded to the Library from your office.

Initially, the Library expresses its appreciation for the professional and positive attitude of representatives of the Office of the State Comptroller. The Library’s administrators found the input of the Comptroller’s representatives to be extremely helpful in reviewing Library practices, protocols and procedures. Your suggestions greatly assisted the Library in assuring “best practices” in compliance with pertinent statutes and regulations.

As noted in the Executive Summary, the Scope and Objective of the Audit pertained to the period July 1, 2013 through November 30, 2014 and addressed three related questions:

1. Did the Library adopt a Procurement Policy pursuant to the General Municipal Law (“GML”) which describes methods of obtaining goods and services in a competitive manner when formal competitive bidding requirements are not applicable?
2. Were disbursements from the Director’s discretionary fund being made in accordance with the District’s Bylaws?
3. Has the Board established an appropriate Treasurer position?

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The audit results indicated that:

- a. The Library had not adopted a GML Procurement Policy;
- b. The use of the Director's discretionary fund for payment to the Library's Treasurer was not technically made in accordance with the District's Bylaws, although it was noted that the Board audited all discretionary fund claims; and
- c. The Library's appointment of an independent contractor as Treasurer, rather than an individual Public Officer, was not best practice.

Procurement Policy

The Library acknowledges the need for a Procurement Policy that addresses both the competitive bid process and a request for proposal/quotation(s) process when formal competitive bidding is not applicable (i.e. professional services). In this regard, the Board of Trustees adopted a comprehensive Procurement Policy at its August 11, 2015 public meeting. A copy of that Procurement Policy is attached and made a part of the Library's Reply and Corrective Action Plan. The Library Director and staff are committed to fully implementing and monitoring this Procurement Policy and assuring the Board and the public that goods and services will be acquired in the most prudent and economical manner without favoritism, improvidence, extravagance, fraud and abuse.

Director's Discretionary Fund

Pursuant to the recommendation of the Office of State Comptroller, future payments to the Library's Treasurer will be made from the general fund and not the Director's discretionary fund. As was discussed with the audit team, payment of the Treasurer from the Director's discretionary fund had been a recommendation of the Library's internal auditor because the Treasurer signs the checks drawn upon the general fund. However, given the technical inconsistency between the Library's By-Laws and the contract with the Treasurer, as well as the Office of State Comptroller's recommendation, both the Library and the Treasurer have agreed to the practice of having payments made from the general fund. The Library will continue to closely monitor all claims made upon both the Director's discretionary fund and general fund. Additionally, the discretionary fund will be used in strict accordance with Library By-Laws.

Treasurer

In response to the issue raised regarding the appointment of an independent contractor as Treasurer, the Director and Library staff noted to the audit team that many library treasurers in Suffolk County are hired as independent contractors. Although there is no statute that specifically prohibits this practice, we agree with the Office of State Comptroller that it would be "best practice" to appoint an individual Treasurer since the Treasurer should be a Public Official who files an oath of office. Accordingly, the Library intends to appoint the Library Treasurer at the September 15, 2015 public meeting of the Board of Trustees. The Treasurer will take an Oath of Office and will be treated in all respects as a Public Official. The Treasurer's contract and bylaws will be amended to correct any inconsistencies.

It should be noted that the Office of State Comptroller found the Library to be a sound trustee of the public's monies, and that no actual loss was cited either through the Library's procurement process or the payments made to its Treasurer. We again express our appreciation to the Comptroller for what has been a helpful and effective process in reviewing the Library's financial operations. We trust that this Reply and Corrective Action Plan will demonstrate the Library's commitment to meet its fiscal obligations to its taxpayers.

Respectfully submitted,

Laurie Rosenthal
Library Director
Commack Public Library

APPENDIX B

AUDIT METHODOLOGY AND STANDARDS

The objective of our audit was to examine District operations for the period July 1, 2013 through November 30, 2014. To accomplish our objective and to obtain valid audit evidence, our procedures included the following:

- We interviewed District officials, Trustees and District staff involved in financial transactions to gain an understanding of Library operating policies and procedures.
- We reviewed the District bylaws, Board meeting minutes and policies.
- We reviewed agreements between the District and the Treasurer.
- We reviewed payments to 15 vendors to determine if District officials used competitive methods when procuring goods and services that were not required to be competitively bid. We are reasonably assured that the population \$3.5 million of expenditures paid to 270 vendors was available for our review. We excluded vendors who were paid \$20,000 or more during 2013-14. We also excluded vendors whose total payments were under \$1,500 during the period July 1, 2014 through November 30, 2014. After excluding insurance and utilities vendors, our population of applicable payments comprised 68 vendors. We then used a data analysis tool to select a sample of 15 vendors. We consider our sample size to be appropriate based on 20 percent of the 68 vendors.
- We reviewed all cash disbursements from the Director's discretionary fund during the audit period.
- We reviewed all bank statements and the canceled checks drawn from the Director's discretionary fund during the audit period.

We conducted this performance audit in accordance with GAGAS. 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.

APPENDIX C

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