



Sayville Public Library

Treasurer

Report of Examination

Period Covered:

July 1, 2015 – June 30, 2016

2016M-334



Thomas P. DiNapoli

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State of New York Office of the State Comptroller

Division of Local Government and School Accountability

December 2016

Dear Library 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 of Trustees 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 Sayville Public Library, entitled Treasurer. 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*

Introduction

Background

The Sayville Public Library (Library) is located in the Town of Islip in Suffolk County and serves more than 18,500 community members. The Library is a school district public library that received its charter from the New York State Education Department's Board of Regents in 1952.

An elected five-member Board of Trustees (Board) governs the Library and is primarily responsible for overseeing its financial affairs. The Board-appointed Library Director (Director) is the Library's chief executive officer and is responsible for the Library's day-to-day administration. Annually, the Board appoints a Treasurer who is the chief fiscal officer, responsible for disbursing funds, and who is authorized to sign all checks. The Library reported operating expenditures for 2015-16 of approximately \$3.7 million, funded primarily by real property taxes.

Objective

The objective of our audit was to review the Library's Treasurer position. Our audit addressed the following related question:

- Has the Board established an appropriate Treasurer position?

Scope and Methodology

We examined the Treasurer's position for the period July 1, 2015 through June 30, 2016.

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 Library Officials and Corrective Action

The results of our audit and recommendations have been discussed with Library officials, and their comments, which appear in Appendix A, have been considered in preparing this report. Library 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 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 Secretary's office.

Treasurer

A school district public library board of trustees has the power to appoint officers and employees, including a treasurer. In general, the treasurer is responsible for depositing and disbursing funds, maintaining appropriate accounting records and providing a monthly treasurer's report to the board. According to New York State Education Law (Education Law), money received from taxes and other public sources for the support of a public library shall be paid to the treasurer of a public library upon written demand of the library trustees.

The typical duties of a library treasurer, including the custody and disbursement of public funds, carry with them a high degree of public trust and may involve the exercise of judgment or discretion. As such, without express statutory authority, these functions may not be delegated to an independent contractor. Consequently, a public library may not contract with a private party to perform these functions. New York State Public Officers Law (Public Officers Law) requires every public officer to take and file an oath of office prior to performing their official duties.

The Board appoints an individual as Treasurer each year at its annual reorganizational meeting to be paid a monthly stipend of \$150. This individual's functions are limited to signing checks for Library disbursements, reconciling bills against warrants and reconciling the bank accounts. While the Treasurer does not maintain any Library accounting records or prepare and submit monthly reports to the Board, he signs the Library's annual financial report.

The Treasurer's status, as either a Library officer or independent contractor, is unclear. While this appointment and the duties attached to this function are indicative of those of a public officer, it appears this individual was engaged to perform the duties of Treasurer as an independent contractor. Among the indications of an independent contractor relationship, the Treasurer does not take an oath of office, which is a requirement for holding public office, and is not compensated through the payroll, as are other Library officers and employees. Furthermore, the Library reported the Treasurer's compensation to the IRS on a 1099-MISC instead of a wage and tax statement (Form W-2),¹ which is also indicative of an independent contractor relationship.

¹ Form 1099-MISC is used to report to the IRS the amount paid to an independent contractor for services (considered as nonemployee compensation by the IRS), while Form W-2 is used to report wages paid to an employee and the taxes withheld from them. Employers must complete a Form W-2 for each employee to whom they pay a salary, wage or other compensation as part of the employment relationship.

Even if it were clear that the Treasurer was engaged as a contractor, we believe this arrangement would be inappropriate. Because the Treasurer is responsible for the care and custody of Library funds, these functions should be undertaken by a public officer. In light of factors which indicate an independent contractor relationship with the individual performing the Treasurer function, the Board cannot be certain that it has properly appointed an individual to the position of Treasurer. In addition, it is essential that the Treasurer, or other Library staff under the Treasurer's direction, performs the duties for which the Treasurer is ultimately responsible, including maintaining accounting records, depositing and disbursing funds and providing a monthly Treasurer's report to the Board.

Recommendations

The Board should:

1. Consult with its legal counsel about the Library's relationship with the individual performing the Treasurer's functions.
2. Ensure that the Treasurer meets all the requirements of a Library officer, including filing an oath of office as necessary.
3. Ensure that the Treasurer perform duties related to safeguarding Library funds, including maintaining Library accounting records, depositing and disbursing funds and providing monthly reports to the Board.

APPENDIX A
RESPONSE FROM LIBRARY OFFICIALS

The Library officials' response to this audit can be found on the following pages.

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Alice Lepore, Library Director



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sayvillelibrary.org

December 12, 2016

Ira McCracken, Chief Examiner
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Hauppauge, NY 11788-5533

Re: Sayville Library
Treasurer: Report of Examination for Period Covered – 7/1/15 – 6/30/16
2016MM-334

Dear Mr. McCracken:

On behalf of the Sayville Library, please accept this letter as the Sayville Library Board of Trustees' and Library Director's response to, and corrective plan for, the findings and recommendations contained in your office's *Report of Examination-Treasurer*. The recommendations are fair and valid and steps have been taken to implement these changes.

Audit Recommendation #1

Consult with legal counsel about the Library's relationship with the individual performing the Treasurer's functions.

Legal counsel was consulted and clarified the Treasurer's functions.

Implementation Date: November 30, 2016

Person(s) Responsible for Implementation: Board of Trustees and Director

Audit Recommendation #2

Ensure that the Treasurer meets all the requirements of a Library officer, including filing an oath of office as necessary.

Although the Library Board can assure that its treasurer has always carried out the functions of the office in a fiduciary manner, this Board and Administration will now be on a heightened observation to assure that the treasurer fulfills (as a matter of record) all the necessary

duties related to the safeguarding of Library funds; including maintaining Library records, depositing and disbursing funds and providing monthly reports to the Board.

CAP

- 1 - The current Treasurer took an Oath of Office on Friday, December 2, 2016.
- 2 - The Library's Bylaws will be amended to reflect the duties of the Treasurer position and the requirement that the person appointed to this title at the July Reorganization meeting take the Oath at the commencement of each term undertaken by him/her.

Implementation Date: December 2, 2016

Person(s) Responsible for Implementation: Director and Board of Trustees

Audit Recommendation #3

Ensure that the Treasurer performs duties related to safeguarding Library funds, including maintaining Library accounting records, depositing and disbursing funds and providing monthly reports to the Board.

Counsel has advised that "...that the treasurer should uphold all necessary precepts related to the safeguarding of library funds including maintaining library accounting records, depositing and disbursing funds and providing monthly reports to the Board. Counsel, however, advises that in many instances a treasurer is assisted in maintaining such records, depositing and disbursing funds and providing monthly reports to the Board by library employees who are in a position to provide the necessary assistance to the treasurer in completing his/her functions. The necessary accountability; commitment; and dedication to the securing of library funds and assuring that they are properly received and disbursed is a feature of a treasurer/public officer but is not to be viewed as necessitating "employee" status of a treasurer; rather those duties are to be viewed in line with the treasurer's necessary allegiance to those principles. The integrity and commitment to fulfilling all of the necessary duties of the position of treasurer are, clearly, to be undertaken by the "public officer" who serves the Sayville Library as treasurer."

CAP

The Board of Trustees has approved the following procedures:

- 1 - Electronic filing of the Library's tax check has been implemented with an email notification by the school district to the Treasurer and Director.
- 2 - The Treasurer receives a copy of the Cash Receipts Journal at the end of the month for his review.
- 3 - The Monthly Budget Expenditure Report and Revenue Report are provided to the Treasurer prior to a Monthly Board Meeting for his review and comments.
- 4 - As has been our practice, the Treasurer will continue to review and approve the bank statements each month

Implementation Date: October 6, 2016

Person(s) Responsible for Implementation: Library Director and Board of Trustees

The Board and I wish to thank you and your staff on its diligence in its effort on behalf of the State and the local Sayville community to assure that the office of Treasurer is one that is fully respected by the Board of Trustees for the role it is to play in the critical aspect of Sayville Library's functioning; i.e., respecting to the highest degree the safeguarding of funding and all the ramifications of that paramount mission. The professional and cooperative manner of the on-site auditors in conducting this Audit was appreciated.

Yours truly,

Alice Lepore
Library Director

APPENDIX B

AUDIT METHODOLOGY AND STANDARDS

To achieve our audit objective and obtain valid evidence, we performed the following procedures:

- We reviewed Education Law and Public Officers Law and the New York State Education Department's publication *Handbook for Library Trustees of New York State* regarding a treasurer's duties and responsibilities.
- We interviewed Library officials and reviewed the Library's bylaws and Board minutes to gain an understanding of the Treasurer's responsibilities.

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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