

Tompkins County

Ethics Oversight

DECEMBER 2020



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

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Report Highlights

Tompkins County

Audit Objective

Determine whether Tompkins County (County) officials used resources to meet certain ethics oversight standards.

Key Findings

County officials did not meet certain ethics oversight standards:

- The County's code of ethics did not address two of the four statutorily required provisions within article 18 of New York State General Municipal Law (GML).

The Board of Ethics (Ethics Board) did not:

- Adequately administer the County's disclosure system that is intended to foster transparency and help identify potential conflicts of interest.
 - Five officer and employee annual statements of financial disclosure (disclosure statements) were not filed.
 - 19 Legislator (68 percent) and 68 officer and employee (49 percent) disclosure statements were filed late and/or had questions left blank.
- Meet at least annually and review disclosure statements for conflicts of interest or completeness, including the County Attorney's disclosure report of outside employment that may raise a compatibility of office concern.

Key Recommendations

- Update the code of ethics to address all four statutory requirements.
- Ensure the Ethics Board meets at least annually and verifies all annual financial disclosure filers file complete and timely disclosure statements that are carefully reviewed for potential conflicts of interest.

County officials generally agreed with our recommendations and have initiated or indicated they planned to initiate corrective action. Appendix C includes our comments on issues raised in the County's response letter.

Background

The County is located in the Southern Tier region of New York. The County is governed by the County Legislature (Legislature) composed of 14 elected Legislators, one of whom serves as the Chair.

The County Administrator is the County's chief executive officer (CEO) and is responsible, along with other administrative staff, for day-to-day management under the Legislature's direction.

The Legislature established an Ethics Board responsible for providing ethics oversight. The County Attorney provides legal counsel to the Legislature and the Ethics Board.

Quick Facts

Population	101,564
Officers and Employees	675
Required Disclosure Statement Filers	
2017	82
2018	84

Audit Period

January 1, 2017 – September 30, 2018

Ethics Oversight

How Can Local Governments Establish Proper Ethics Oversight?

A county's governing body must establish a code of ethics to set forth the standards of ethical conduct reasonably expected of county officers and employees. The code of ethics must address certain provisions including disclosure of interest in legislation before the governing body, holding of investments in conflict with official duties, private employment in conflict with official duties and future employment.

To reduce risk that officers' and employees' actions could violate a county's code of ethics and public assets could be subject to misuse, the governing body should adopt a code of ethics that addresses each of the four required statutory provisions of GML and vigorously enforce the code provisions.¹

Within the code of ethics, the governing body may also set forth other standards of ethical conduct such as provisions addressing nepotism, public disclosures for recusals and abstentions and the proper use of municipal resources.² The county's CEO is responsible for distributing a copy of the code of ethics to every county officer and employee. Although not required, the county could also post the code of ethics on the county website.

In addition to establishing a code of ethics, counties with a population of 50,000 or more are required to have certain individuals annually complete a financial disclosure statement. Filing annual disclosure statements helps increase transparency about the private interests and activities of officers and employees, which may identify potential conflicts of interest.

A board of ethics may be established by the governing body to administer a system to maintain the financial disclosure statement filings.³ The board of ethics, if established, should develop procedures to review and examine the financial disclosure statements filed with the county, to promote compliance with the filing requirement, and verify that officials and employees are impartial and free from conflicts of interest in fulfilling their public responsibilities. A board of ethics can help ensure that the local government operates in a transparent and ethical manner, and local government officers and employees act in the best interests of taxpayers and are not conflicted by personal interests.

The governing body may also develop additional standards of conduct to provide more comprehensive ethical guidance to meet a county's specific circumstances. For instance, the governing body may establish procedures to ensure that county

¹ New York State General Municipal Law (GML), Section 806

² State Comptroller's Model Code of Ethics – Local Governments available at: <https://www.osc.state.ny.us/localgov/pubs/ethics.htm>

³ GML provides that the board of ethics, if established by the governing body, is responsible for receiving the annual financial disclosure statements.

officers and employees receive ethics compliance training, including notifying officers and employees of the whistleblower provisions provided by State Law. In addition, the governing body could require that every officer and employee attest to receiving and reviewing the code of ethics at the time of their election or appointment and at least once every five years.

To help ensure proper ethics oversight, the CEO is responsible for posting a copy of certain portions of the conflict of interest statute in each county building.⁴ The statute must be posted in a place visible to its officers and employees.

The County Established an Ethics Board and Adopted a Code of Ethics

The County established an Ethics Board, which is comprised of members appointed by the Legislature. The County adopted a code of ethics that provides for the Ethics Board to have access to the information submitted in the disclosures.

The Code of Ethics Did Not Comply With GML and the CEO Did Not Post the Conflict of Interest Statute

The Legislature adopted a code of ethics and posted it on the County's website. However, the code did not include provisions addressing private employment in conflict with official duties and restrictions on future employment, two of the four statutorily required provisions set forth in GML.⁵ The CEO and County Attorney told us that they were unaware and unsure of why the required standards were excluded from the County code of ethics.

While the CEO was required to visibly post certain sections of GML in each County building, we found that the statutory provisions were not posted in the three buildings tested. The CEO told us that he was unaware that posting the conflict of interest statute is a statutory requirement.

The Ethics Board Did Not Receive Ethics Training

Although County officers and employees received annual ethics compliance training, which included an overview of the code of ethics and whistleblower protections, the Ethics Board did not receive similar training. Therefore, in an effort to help ensure proper ethics oversight, the Legislature may wish to have Ethics Board members complete training on the provisions of law relating to

⁴ GML, Section 807 requires the posting of GML Sections 800 through 809 in each public building.

⁵ GML, Section 806, refer to Appendix A, Figure 3.

conflicts of interest and ethics. For example, training could relate to the provisions of Article 18 of GML, codes of ethics, annual financial disclosure and decisional law relating to conflicts of interest and ethics.

A representative from the Human Resources Department told us they provide a copy of the code of ethics to officers and employees at new-hire orientation. Although not required by State law, the Legislature could reinforce officers' and employees' awareness of the code of ethics by having it visibly posted in all County buildings and requesting that all officers and employees attest in writing to their review of the County's code of ethics at the time of their hire, election or appointment and at least once every five years. They could also distribute the code of ethics to all officers and employees upon any amendment to the code.

Unless the Legislature adopts a code of ethics that addresses each of the four required statutory provisions, vigorously enforces the code provisions, reinforces employee awareness of the code of ethics, and ensures that the conflict of interest statute is posted in each County building, there is a higher risk that officers' and employees' actions may violate the County's code of ethics and public assets could be subject to misuse.

What Are the Responsibilities of a Board of Ethics for Reviewing the Code of Ethics and Disclosure Statements?

The board of ethics is responsible for making recommendations with respect to drafting, adopting or amending the code of ethics, upon the request of the governing body. Therefore, a periodic review of the code of ethics by the board of ethics may be appropriate to help ensure the code continues to comply with GML. If requested, the board of ethics may also provide recommendations to the governing body as it relates to other ethical considerations that may help ensure ethical awareness for officers and employees.

In addition, the responsibilities of a board of ethics include administering a system to receive annual financial disclosure statements. The board of ethics may also develop procedures to review and examine the financial disclosure statements to help ensure that the filings are complete.

When a board of ethics is established by the governing body to administer an annual financial disclosure system, the board of ethics should establish a process to verify that all required filers have submitted their disclosure statement with the board of ethics. In addition, the board of ethics should ensure that the disclosure statements submitted by the required filers are complete.

To help verify the filing and completeness of the disclosure statements, the governing body could include procedures for an appointed official or support staff to assist the board of ethics in ensuring that each financial disclosure statement

...[T]he responsibilities of a board of ethics include administering a system to receive annual financial disclosure statements.

is filed, reviewed, all questions are addressed and any inconsistencies or missing information are followed-up on.

In addition, the board of ethics should develop procedures to help ensure that disclosure statements are reviewed to identify transactions that could pose conflicts of interest. For example, boards of ethics could maintain a list of filers' outside business interests, and supply the list to appropriate purchasing department personnel for their use in identifying potential interests in contracts that would be prohibited by GML.

Further, the board of ethics could obtain a list of vendors from the accounts payable department to reference during their review of the disclosure statements to help it identify potential conflicts of interest. If local governments' boards of ethics do not ensure compliance with filing requirements or review the information on disclosure statements to identify any conflicts of interest, taxpayers have less assurance that officers and employees in policy-making positions are free from conflicts of interest.

The County's code of ethics establishes certain procedures for the Ethics Board to administer the annual financial disclosure system, including assigning responsibilities to certain officials. For instance, the code of ethics provides that elected officials and "key employees" of the County are to file the disclosure by May 15 each year, unless an extension is requested by the filer and granted by the Ethics Board. The Legislature identifies the "key employees" by title annually by resolution. The Clerk of the Legislature (clerk) is responsible for receiving and retaining the disclosure statements on the Ethics Board's behalf and making them available, on request, to Ethics Board members.

Further, the code of ethics provides that the County Attorney is to confirm filing by all required filers. The code of ethics further provides that if the County Attorney determines that any required filers have not filed a correctly completed disclosure form, the County Attorney is to report this to the appropriate supervisor. If a member of the Legislature fails to complete and file an accurate and complete disclosure form, the County Attorney is to report this to the Chair of the County Legislature or to the Vice Chair if the Chair is in default of filing. Additionally, based on our reading of the code of ethics, it appears the County Attorney is responsible for reviewing each disclosure statement and confirming that the disclosure filed is correctly completed.

The County code of ethics requires the Ethics Board to meet at least once a year, no later than July 1, to review the County Attorney's report on the filed disclosure statements. As part of its review, the Ethics Board should verify all annual disclosure statements are filed on time, are complete and address actual or implied conflicts of interests identified in the disclosure statements, if any.

The Ethics Board Did Not Meet Annually or Adequately Monitor the Filing of Disclosure Statements

The Ethics Board did not meet annually as required by the code of ethics. Moreover, the Ethics Board did not adequately administer the County's disclosure system by ensuring all financial disclosure statements were actually filed, filed on time or complete. We found that more than half of the required disclosure statements were filed late and/or had questions left blank. Under these circumstances, there is an increased risk that potential conflicts of interest were not identified and/or not reported to the Ethics Board.

The Legislature assigned certain responsibilities for administering the disclosure statement system to the County Attorney. However, the County Attorney did not ensure all officers and employees required to file a disclosure statement in 2017 and 2018 did so. In 2017 and 2018, 68 percent of Legislators (Figure 1) and 49 percent of officer and employee (Figure 2) disclosure statements were not filed, were filed late and/or had questions left blank.

In 2017 and 2018, all 14 Legislators were required to file and did so. In 2017, five Legislators filed disclosure statements with questions left blank, four filed late and one filed late with questions left blank. In 2018, two filed late, five filed statements with questions left blank, and two filed late with questions left blank.

In 2017, 68 officers and employees were required to file. However, two did not file, 19 filed disclosure statements with questions left blank, eight filed late and six filed late with questions left blank. In 2018, 70 officers and employees were required to file. However, three did not file, 28 filed disclosure statements with questions left blank and seven filed late.

We found that more than half of the required disclosure statements were filed late and/or had questions left blank.

FIGURE 1

**County Legislature
Annual Financial Disclosures
2017 and 2018**

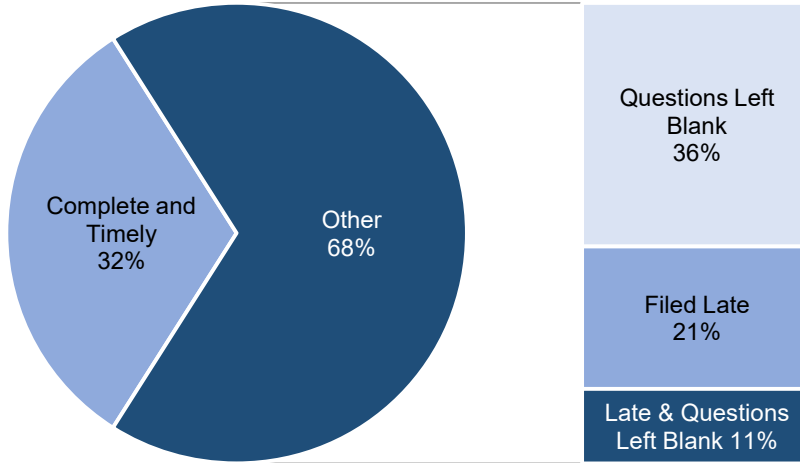
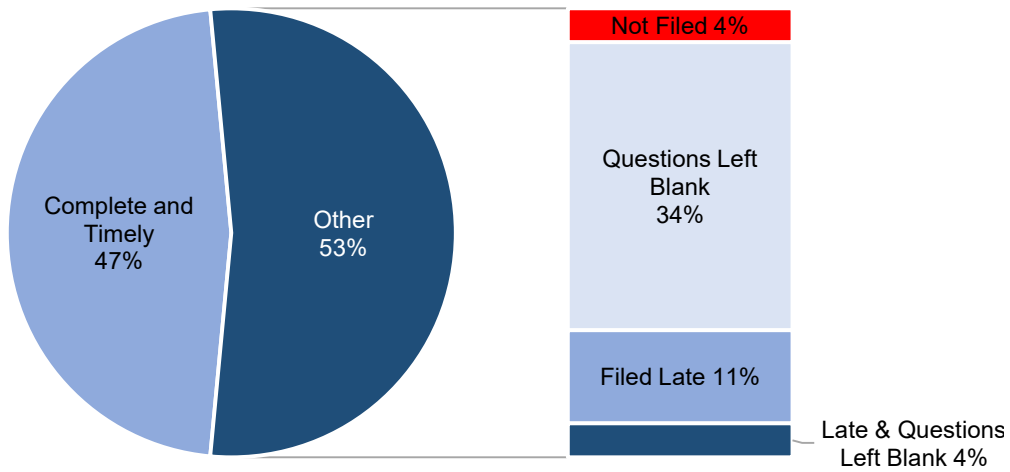


FIGURE 2

**Officers and Employees
Annual Financial Disclosures
2017 and 2018**



Although the code of ethics could be interpreted to suggest that the County Attorney is responsible for identifying the required disclosure statement filers, we found that the clerk performed these duties. The clerk did not obtain the necessary new-hire and mid-year promotion information from the human resources department to ensure all newly required filers were notified that they must file a disclosure statement. Instead, she met with a human resources official and other department heads in the beginning of the year to compile the list of required filers.

The clerk told us that she contacted individuals from the list compiled at the beginning of the year who either had not filed by the due date or filed incomplete or unsigned disclosures statements. However, 68 of the 138 required officer and employee disclosure statements for 2017 and 2018 had questions left blank and/or were filed late and five were not filed.

Furthermore, in 2018, two employees who assumed the duties of a required filer position before the May 15 deadline did not submit the required disclosure statement. The clerk told us that although she monitors newly hired employees by receiving personnel updates bi-weekly, she erroneously delayed having these employees submit the disclosure statement by the deadline.

The County Attorney told us that he personally knows the required filers and if certain disclosure sections were not completed, it meant that these sections were not applicable. Therefore, he did not find it necessary to reject the disclosure statement as incomplete or follow-up. However, the County's annual statement of financial disclosure clearly states, "FORM MUST BE COMPLETED IN ITS ENTIRETY."

We recognize that an individual who leaves one or more questions blank on the disclosure statement, may have done so because the question was not applicable to that individual. However, without a definitive response to each question, it remains unclear to a reviewer of the disclosure (e.g., the County Attorney) whether that particular section was not applicable or the filer chose not to provide the information.

We question the County Attorney's explanation for not following up on incomplete filings. Due to the personal nature of most of the questions, it does not seem reasonable that the County's Attorney would have knowledge of the information filers may have failed to disclose. For example, an Assistant Airport Manager⁶ only reported her name, title, address and phone number. While she signed the form,

...[T]he County's annual statement of financial disclosure clearly states, "FORM MUST BE COMPLETED IN ITS ENTIRETY."

⁶ The Legislature's 2017 resolution adopting the list of designated officers and employees required to file disclosure statements listed the title as Assistant Airport Manager. However, the 2018 resolution and the filed disclosure statement now lists the title as Deputy Airport Director.

she left the remainder of the 2018 disclosure statement blank. She did not file a disclosure statement in 2017.

The Assistant Airport Manager's 2018 disclosure statement did not include the following:

- Spouse or partner's name and address
- Financial interests including outside employment or those of her spouse or partner
- Investments exceeding \$1,000
- Real estate holdings she held including those held by spouse, partner or children under the age of 18
- Interests in County contracts
- Political party positions held within the last 3 years
- Loans received with a below market interest rate
- Work release details
- Involvement with or interest in any for-profit business that have business connection to the County and which she, her spouse, partner or children are involved in.

Not completing a disclosure in its entirety could be a misrepresentation to the Ethics Board and creates a risk that potential conflicts could go undetected. In accordance with the filing instructions, the disclosure statement must be completed in its entirety. Therefore, to avoid an incomplete filing or misunderstanding, when a question does not apply, the filer should be required to write "none" or "not applicable" on the disclosure statement and clarify on the form such requirement.

In addition, the County Attorney did not provide the Ethics Board with a written report of his review of the disclosure statements at the Ethics Board's most recent meeting (October 31, 2017).⁷ He said that written reports have never been provided, instead oral reports have been provided to the Ethics Board. At the Ethics Board's October 31, 2017 meeting, the clerk provided an oral report stating the County Attorney found no concerns or questions with the filed disclosure statements. However, many disclosure statements did not have responses to questions and three filers did not file their disclosure statement. Refer to Appendix A, Figure 4 for specific details on employees who did not file in 2017 and 2018.

⁷ The code of ethics provides, in part, that "no later than July 1st of each year, the ... Board shall review the report of the County Attorney on the filed Financial Disclosure Statements and the attestations that have been submitted by officers and employees and determine if any are not timely filed or are incomplete." However, the code of ethics does not specify whether the report is to be in writing.

Although not required to do so, the Ethics Board did not compare disclosed business interests to vendor payments or compile a list of filers' outside business interests for the purchasing department to identify potential interests in contracts that would be prohibited by GML. Lack of procedures that require reviewing the submitted information reduces its usefulness.

The Ethics Board did not meet by July 1 each year and did not review a report on the filed financial disclosure statements. In 2017, the Ethics Board met 122 days after July 1 and 135 days late in 2018. The Ethics Board Chair told us that he procrastinated on holding a meeting for the current year and that it had taken time to coordinate a convenient time to meet.

While the code of ethics provides for the Ethics Board to have access to the information submitted in the disclosure statements, we found no evidence to indicate the Ethics Board requested or reviewed any of the disclosure statements filed with the clerk. For example, the Ethics Board did not request to review the County Attorney's disclosure statements for 2017 and 2018. Although the clerk told us that she reviewed his disclosure statements, she did not question or further research his outside employment.

Our review of the County Attorney's 2017 and 2018 disclosure statements showed that he was also employed with a local development corporation (LDC) that has a business relationship with the County. The County Attorney's relationship with the County and LDC should raise questions as to whether the two positions can be simultaneously held (compatibility of office concern). We found no records showing that this information was shared with the Ethics Board. The clerk told us that the Ethics Board neither requested nor was provided with the County Attorney's disclosure information.

Without careful review of the information reported on disclosure statements, and procedures to identify transactions that could pose a conflict of interest, taxpayers have less assurance that the County has a strong stance on transparency and can identify potential conflicts of interest of officers and employees that could compromise impartiality in decision-making.

The Ethics Board Did Not Review the Code of Ethics

The code of ethics requires the Ethics Board to review the code of ethics and recommend to the Legislature any changes that it deems appropriate. The Ethics Board did not review the code of ethics during our audit period. The Ethics Board last conducted a review of the code of ethics in 2013.

As a result, the Ethics Board was unaware that the code of ethics did not address each of the four statutory requirements set forth in GML. Neither Chairs of the

The Ethics Board last conducted a review of the code of ethics in 2013.

Ethics Board in office during our audit period provided a specific reason why the Ethics Board does not periodically review the code of ethics.

As a best practice, a review of the code of ethics, at least every five years or when deemed necessary, would help to ensure the Ethics Board adequately addresses the expected conduct for all officers and employees including the required standards stipulated by law.

What Do We Recommend?

The Legislature should:

1. Adopt a code of ethics that addresses each of the four statutory requirements as set forth in GML and, if appropriate, include other ethical considerations and best practices.
2. Have Ethics Board members complete training on the provisions of law relating to conflicts of interest and ethics.
3. Define expectations and responsibilities for the administration of the disclosure statement system and the careful review of contents reported in the disclosure statements to identify interests that could pose a conflict of interest.
4. Visibly post the code of ethics in each County building.
5. Have all officers and employees attest in writing to the receipt and review of the code of ethics at the time of their election or appointment, at least every five years and upon any amendment to the code of ethics.
6. Review or request the Ethics Board to review the code of ethics, at least every five years or sooner, if deemed necessary.

The County Executive should:

7. Visibly post GML Sections 800-809 of the conflict of interest statute in each County building.

The Ethics Board should:

8. Verify that all individuals covered by annual financial disclosure requirements file a complete and timely disclosure statement.
9. Annually review the County Attorney's disclosure statement and consider seeking guidance from the NYS Attorney General's Office to determine whether the County Attorney's outside employment is appropriate.⁸

⁸ While this relationship may not constitute a "conflict of interest," it may be considered a disclosable interest or incompatibility of office.

-
10. Require the County Attorney to provide a written report of the financial disclosure reviews.

The County Attorney should:

11. Obtain a list of vendors from the accounts payable department to reference during its review of the disclosure statements to help identify potential conflicts of interest and maintain a list of filers' outside business interests to supply to appropriate purchasing department personnel for their use in identifying potential interests in contracts that would be prohibited by GML.
12. Carefully review information contained on the disclosure statements to identify interests that could pose a conflict of interest.

Appendix A: County Code of Ethics Information

Figure 3: Required Code of Ethics Provisions^a and Other Ethical Considerations^b

Required Provisions	Included in the County's Code of Ethics?
Disclosure of Interests in Legislation Before the Local Governing Body	Yes
Future Employment	No
Holding of Investments in Conflict With Official Duties	Yes
Private Employment in Conflict With Official Duties	No
Other Ethical Considerations	
Applicability	Yes
Confidential Information	Yes
Definitions	Yes
Enforcement	Yes
Effective Date	Yes
Establishing a Board of Ethics	Yes
Gifts	Yes
Interests in Contracts	No
Nepotism	Yes
Political Solicitations	Yes
Posting and Distributing the Code of Ethics	No ^c
Prohibition on Use of Municipal Position for Personal or Private Gain	Yes
Purpose of the Code of Ethics	Yes
Recusal and Abstention	Yes
Ethics Board Members Term Limits ^d	Yes

a GML, Section 806

b Refer to OSC's Model Code of Ethics for Local Governments available at: <https://www.osc.state.ny.us/localgov/pubs/ethics.htm>

c The code of ethics did not include a provision to cause a copy be publicly and visibly posted in each County building.

d Not included within OSC's Model Code of Ethics for Local Governments but should be considered as a best business practice

Figure 4: Officers and Employees Who Did Not File Annual Financial Disclosure Statements

Job Title	2017	2018
Assistant (Deputy Director) Airport Manager	Not Filed	
Deputy Commissioner of Mental Health	Not Filed	
Deputy County Clerk		Not Filed
Deputy Director of Probation		Not Filed
Director of Human Rights		Not Filed

Appendix B: Response From County Officials

Tompkins County Legislature
Governor Daniel D. Tompkins Building
121 East Court Street, 2nd Floor
Ithaca, N.Y. 14850
Telephone (607) 274-5434
Fax (607) 274-5430
www.tompkscountyny.gov/legislature

October 5, 2020

Office of the New York State Comptroller
Division of Local Government and School Accountability
110 State Street, 12th Floor
Albany, NY 12236

RE: Ethics Oversight Audit Report

Greetings:

Tompkins County respectfully submits this Letter Response to the audit, which includes our corrective action plan. This is the County's response to each of the twelve recommendations.

1. The audit report notes that the County Code of Ethics did not address all statutory requirements. Specifically, the sections on future employment and private employment were not then in the code of ethics. **RESPONSE:** Those sections had been in the code, but were inadvertently omitted when the code was revised. **CORRECTIVE ACTION:** The provisions have since been added back.

2. The report states that members of the Ethics Board should be included in those receiving ethics training. **RESPONSE:** Agreed. **CORRECTIVE ACTION:** The members of the Board will be given Ethics Training annually.

3. The report recommends defining expectations and responsibilities for the administration of the disclosure statements and careful review of the contents. **RESPONSE:** The County does define expectations and reviews the contents. However, perhaps the procedures and expectations could be articulated more clearly. **CORRECTIVE ACTION:** The County will outline and distribute the procedures in consultation with the Board of Ethics.

4. The audit report recommends that the County physically post the Code of Ethics in County buildings. **RESPONSE:** The County posts the Code on its website and provides annual training to all employees. In the County's opinion, this meets the requirement of General Municipal Law. From the Exit conference it is clear that the OSC considers physical posting to be a best practice. **CORRECTIVE ACTION:** The County will consider the benefits of doing this.

5. The report recommends that officers attest in writing to receipt of the Code of Ethics at the time of appointment and periodically thereafter. **RESPONSE:** The County distributes policies electronically and is in the process of devising a method to ensure that the policies are acknowledged by employees.

6. The report recommends that the Ethics Board review the Code every 5 years. **RESPONSE:** The Board is in the process of reviewing the code and has done so in the past, but not on a regular schedule. **CORRECTIVE ACTION:** The Board will review the code every five years, or more often as needed.



Inclusion through Diversity

7. The audit report recommends that the County physically post the State Ethics provisions in County buildings. **RESPONSE:** The County's annual training to all employees covers these laws. In the County's opinion, this meets the requirement of General Municipal Law. From the Exit conference it is clear that the OSC considers physical to be a best practice. **CORRECTIVE ACTION:** The County will consider the benefits of doing this.

See
Note 1
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8. The audit recommends that the County ensure that all filers file timely disclosure statements. The audit identified 5 persons (identified by position) who did not file a disclosure form in a two-year period. **RESPONSE:** The County has a procedure to ensure that statements are timely filed, and the overall response has been very good. However, in the few cases where a person did not file, the person was new to the position and the forms had been distributed prior to the appointment. **CORRECTIVE ACTION:** The County will update the list just before the filing date to ensure that the list is up to date. Furthermore, each of the county employees that needs to submit a financial disclosure report needs to be under a tighter timeline, and we should provide an escalation method for the Legislative Clerk to follow in those instances where a presently active employee fails to file. The audit also reports that in 2017 and 2018 many people did not fully complete their disclosure form, in that they left certain questions unanswered. **RESPONSE:** The County Attorney and Clerk of the Legislature reported to the Ethics Board that many people left blanks where the question did not apply to them, instead of saying "N/A or not applicable", as instructed on the form. **CORRECTIVE ACTION:** The County changed the form to an electronic filing form that requires the filer to identify the matters that were not applicable in order to complete the form. This is an example of a problem solved.

9. The audit report notes the County Attorney has outside employment. **RESPONSE:** The County Legislature is aware that the County Attorney works for MEGA, a not-for-profit collective of municipalities, for the last twenty plus years. The County is an active member of the organization and the County Legislature passed a written policy specifically authorizing the County Attorney to have that employment (Policy 2-10). In the exit interview, it was clarified that the main issue of the Auditors was not the specific employment, but that the Board of Ethics did not review the County Attorney's statement. **CORRECTIVE ACTION:** The County Attorney's statement will be reviewed by the Board of Ethics.

10. The report recommends that the County Attorney give a written report of financial disclosure to the Board of Ethics. **RESPONSE:** The County Attorney typically gives an oral report to the Board of Ethics. **CORRECTIVE ACTION:** The County Attorney will give a written report in future years.

11. The report recommends that the County Attorney get a list of vendors to compare to the vendors mentioned on financial disclosure forms. **CORRECTIVE ACTION:** In cases where an employee has an interest in a company that could potentially do business with the County, the County Attorney will check the vendor list.

12. The audit recommends that information in the disclosure forms be carefully reviewed to ensure that there is no conflict. **RESPONSE:** This is done.

See
Note 2
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Sincerely,

Rich John, Chair
Ethics Advisory Board



Appendix C: OSC Comments on the County's Response

Note 1

Posting the conflict of interest statute is not a best practice. GML requires that “the chief executive officer of each municipality shall cause a copy of sections eight hundred through eight hundred nine of this article to be kept posted in each public building under the jurisdiction of his or her municipality in a place conspicuous to its officers and employees.”

Note 2

Officials did not notify all required filers of their responsibility to file a disclosure statement and they did not ensure that all required disclosure statements were filed. Also, they did not follow up on disclosure statements with one or more questions left blank, and disclosed business interests were not compared to vendor payments or outside business interests to identify potential interests in contracts that would be prohibited by GML.

Without obtaining all required disclosure statement filings, ensuring filings are complete or comparing business interests to vendor files, officials cannot effectively review disclosure forms for conflicts of interests.

Appendix D: Audit Methodology and Standards

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 County officials, employees and Ethics Board members to gain an understanding of the governing and ethics oversight.
- We reviewed policies, procedures and Legislature and Ethics Board minutes related to ethics.
- We reviewed all 161 disclosure statements filed for 2017 and 2018 to determine whether they were completely and properly filed on time and any potential conflict of interests were reported to the Ethics Board.
- We reviewed all advisory opinions issued by the Ethics Board during the audit period.
- We reviewed procedures to receive ethical complaints from the public, which consist of receiving complaints through a link on the County website or through a confidential compliance hotline.
- We used our professional judgment to select a sample of three of 18 buildings from a list of departments and offices located on the County's website. We walked through these buildings to determine whether the conflict of interest statute was posted. For our sample, we selected the building where we conducted a majority of our fieldwork and two additional nearby County buildings, with no expectations of greater or lesser results.

We conducted this performance audit in accordance with generally accepted government auditing standards (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.

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.

The Legislature 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 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 County Clerk's office.

Appendix E: Resources and Services

Regional Office Directory

www.osc.state.ny.us/sites/default/files/local-government/documents/pdf/2018-12/regional_directory.pdf

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

www.osc.state.ny.us/local-government/publications?title=&body_value=&field_topics_target_id=263196&issued=All

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

www.osc.state.ny.us/local-government/fiscal-monitoring

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

www.osc.state.ny.us/local-government/publications?title=&body_value=&field_topics_target_id=263206&issued=All

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

www.osc.state.ny.us/local-government/resources/planning-resources

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

www.osc.state.ny.us/sites/default/files/local-government/documents/pdf/2020-05/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/local-government/required-reporting

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

www.osc.state.ny.us/local-government/publications?title=&body_value=&field_topics_target_id=263211&issued=All

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

www.osc.state.ny.us/local-government/academy

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