

Town of Frankfort

Justice Court Operations

MAY 2022



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

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Report Highlights

Town of Frankfort

Audit Objective

Determine whether the Town of Frankfort (Town) Justices provided adequate oversight of Justice Court (Court) financial activities and ensured collections were properly deposited, reported and remitted.

Key Findings

The Justices did not provide adequate oversight of Court financial activities.

- The Justices did not prepare monthly bank reconciliations and accountabilities. As a result, former Justice Madia had a shortage of \$3,593 that originated over five years ago and was not identified until after he left office.
- While the receipts we tested were generally deposited intact, former Justice Madia's and Justice Bellino's receipts totaling \$24,366 were not deposited timely. Also, while remittances to the Town Supervisor agreed with monthly reports, 15 of 19 monthly reports for former Justice Madia and Justice Zennamo were not reported timely.
- The Court software lacked fundamental controls. As a result, court clerks could delete and modify previously recorded cash receipt transactions.

Key Recommendations

- Perform monthly bank reconciliations and accountabilities and promptly review and resolve any differences.
- Ensure deposits are made within 72 hours of collection, and monthly reports are filed timely.
- Upgrade the Court's recordkeeping software to the most current available version.

Town officials generally agreed with our findings and indicated they plan to initiate corrective action.

Background

The Town is located in Herkimer County and is governed by an elected Town Board (Board) composed of a Town Supervisor (Supervisor) and four Board members. The Board is responsible for the general oversight of Town operations, including the Court's financial activities.

The Town has two Justices, and one full-time and one part-time court clerk (clerk). The clerks assist the Justices in processing cases and related financial transactions, including preparing and/or submitting monthly financial activity reports and traffic dispositions to various New York State agencies.

Quick Facts	
For the Audit Period:	
Court Revenues	\$848,162
Receipts Issued	5,358
Terms of Office:	
Justice Madia	January 1, 2002 - August 31, 2020
Justice Bellino	January 1, 2019 - December 31, 2021
Justice Zennamo ^a	August 26, 2020 - December 31, 2021

a) Justice Zennamo was appointed for the remainder of Justice Madia's term.

Audit Period

January 1, 2019 – June 21, 2021.

We expanded our audit period back to December 31, 2015 and December 31, 2018 to perform an accountability analysis for former Justice Madia's fine and bail bank accounts, respectively.

Justice Court Operations

The Court has jurisdiction over vehicle and traffic, criminal, civil and small claims cases brought before it. Justices adjudicate legal matters within the Court's jurisdiction and administer money collected from fines, surcharges, civil fees and bail.

The Court holds sessions on Mondays and Tuesdays and accepts payments made by cash, money order, certified check and credit card. Each Justice maintains two separate bank accounts for fines and bail, signs monthly checks and submits monthly reports to the Office of the State Comptroller's Justice Court Fund (JCF).

The court clerks collect payments, enter receipts into the Court's computerized software program and issue receipts. In addition, the full-time clerk is responsible for preparing and making bank deposits and preparing monthly reports for submission to the JCF. The part-time clerk is responsible for opening the mail and sending out fine letters.

In January 2021, the Supervisor received a letter from the JCF informing him that Justice Madia's monthly reports for the period March through August 2020 had not been filed and that it was the Supervisor's responsibility to file these reports because Justice Madia had resigned. The Supervisor remitted the monthly reports on February 16, 2021 to the JCF and wrote corresponding checks for the reports totaling \$73,243 from the Justice's fine account and deposited these checks into the Town's operating account. However, Justice Madia's fine bank account lacked sufficient funds to cover \$3,122 of the checks written, causing one of the checks to bounce. Because of this shortage, the Supervisor contacted our office to request an audit of the Town's Court operations.

How Should Justices Oversee and Account for Court Funds?

Justices are responsible for maintaining complete and accurate accounting records and safeguarding all money collected by the court. When justices delegate portions of their financial responsibilities to clerks, the justice retains the overall responsibility for court funds. Therefore, justices must provide adequate oversight of the work performed by their clerks. Justices should establish written policies and procedures to provide guidance to the clerks to help ensure that all receipts are properly recorded, reported, disbursed and accounted for on their behalf. To the extent possible, duties such as collecting, recording, depositing, disbursing and reconciling should be separated between court staff. When it is not practical or cost-effective to segregate duties, justices should provide additional oversight and review the records as a compensating control to reduce the risk of errors or fraud not being detected.

Justices should perform a monthly bank reconciliation and an accountability of funds. This is accomplished by preparing a list of the court's liabilities and

Justices are responsible for maintaining complete and accurate accounting records and safeguarding all money collected by the court.

comparing it to reconciled bank balances and money on hand. Court liabilities should equal the total available cash balance and any discrepancies should be reviewed and resolved. If justices delegate this task to a clerk, they should review the work performed and document their review (e.g., initial and date the records).

In addition, justices should ensure that all funds are deposited intact (i.e., in the same amount and form as received) as soon as possible, but no later than 72 hours from the date of collection, exclusive of Sundays and State holidays.

Furthermore, justices are also responsible to submit monthly reports detailing all money collected each month (excluding pending bail) to the JCF by the 10th of the following month and disburse the funds collected to the town supervisor or defendant, as appropriate.¹

Justices are required to present their records at least once each year to be audited by the board or an independent public accountant. An annual audit helps ensure that cash is properly accounted for, and transactions are properly recorded.

Monthly Bank Reconciliations and Accountabilities Were Not Performed

The Justices did not develop written policies and procedures for day-to-day Court operations. The Justices provided limited guidance and oversight of Court operations and relied on the clerks to perform most of the financial duties including cash collection, recording and depositing. In addition, the Justices did not perform bank reconciliations or prepare monthly accountabilities and they did not delegate this responsibility to the clerks to help ensure that all collections were accurately accounted for, and no discrepancies existed in their records.

We performed a physical cash count and prepared accountabilities for Justices Bellino and Zennamo and former Justice Madia as of June 21, 2021. We found that Justice Bellino's and Justice Zennamo's cash balances and other assets (amount due from former Justice Madia for bail) agreed to known liabilities as of this date. However, when Justice Madia resigned, his known liabilities exceeded his cash balances by \$3,593 (\$3,122 in the fine bank account and \$471 in the bail bank account) (Figure 1).

Court liabilities should equal the total available cash balance and any discrepancies should be reviewed and resolved.

The Justices provided limited guidance and oversight of Court operations. ...

¹ The JCF determines the State, County and local share of the funds that were reported and sends an invoice, billing and distribution statement to the town supervisor showing the required distribution of the funds.

Figure 1: Former Justice Madia - Accountability as of June 21, 2021

Court Assets	
Bank Balance - Fine Account	\$1,384
Bank Balance - Bail Account	8,306
Total Assets	\$9,690
Court Liabilities	
Due to the Supervisor (Fines and Fees) ^a	\$4,506
Bail	
Bail for Pending Cases	\$7,150
Unidentified Funds Transferred From a Former Justice to Justice Madia	700
Due to Justice Bellino	250
Due to Justice Zennamo	150
Outstanding Checks	527
Total Bail	\$8,777
Total Known Liabilities	\$13,283
Shortage	\$3,593

a) The Supervisor was holding the check for the May 2020 monthly report because there were insufficient funds available in former Justice Madia's fine bank account to cover the check.

Although former Justice Madia should have transferred his pending cases to the remaining and/or succeeding Justice when he left office in August 2020, this did not happen. The pending bail for his cases continued to be held in his bail bank account and reflected in his records as of our June 2021 accountability analysis. In addition, we found that \$700 in unidentified funds were transferred from a prior Justice and deposited into former Justice Madia's bail account in June 2018. The full-time clerk was unable to identify which case(s) these funds relate to. Consequently, these unidentified funds should be reported to the JCF.

Due to the shortage identified in former Justice Madia's fine account as of June 2021, we expanded our audit period to complete bank reconciliations and accountabilities for former Justice Madia's fine bank account as of December 31 for each year from 2015 through 2018. We determined that the fine bank account had a consistent shortage of \$3,122 for each year we reviewed. In addition, we expanded our audit period to complete a bank reconciliation and accountability for former Justice Madia's bail bank account as of December 31, 2018. We determined that the bail bank account had a consistent shortage of \$471 at the end of 2018 and as of June 21, 2021. As a result, the fine and bail shortages seem to have first occurred prior to our audit period and no additional shortages were identified through the end of our audit period, June 21, 2021.

Former Justice Madia told us he was not aware of the shortages in the accounts and he was not reconciling his bank accounts. The preparation of monthly bank reconciliations and accountabilities is an important control procedure that if

...[T]he fine and bail shortages seem to have first occurred prior to our audit period and no additional shortages were identified through the end of our audit period, June 21, 2021.

implemented, would have helped to identify former Justice Madia's shortage so it could be reviewed and resolved in a timely manner rather than continuing for over five years. This control becomes even more important when there are limited staff resources such as in this Court, where the full-time clerk is able to control all phases of a transaction including receiving, recording, and depositing receipts and preparing monthly reports for submission by the Justices.

The Justices did not provide sufficient oversight of the clerks. The Justices told us they thought comparing the validated monthly deposit receipts to the monthly report totals provided sufficient oversight. Although Justice Bellino routinely reviewed bank statements and canceled checks for any unusual activity, Justices Zennamo and Madia did not routinely review bank statements. Furthermore, none of the Justices compared recorded receipts to deposits to ensure the funds were deposited timely as received. As indicated previously, they also did not implement procedures for monthly bank reconciliations and accountabilities to help identify potential discrepancies.

Lastly, although former Justice Madia requested an audit of his records when he left office and both Justices Bellino and Zennamo told us they notified the Supervisor that their records were available for audit, none of the Justices submitted their records annually for audit by the Board or an independent public accountant. In addition, the Board did not conduct the required annual audit of the Justices' records. Had an annual audit been conducted, former Justice Madia's shortage and the Justices lack of monthly bank reconciliations and accountabilities may have been identified sooner.

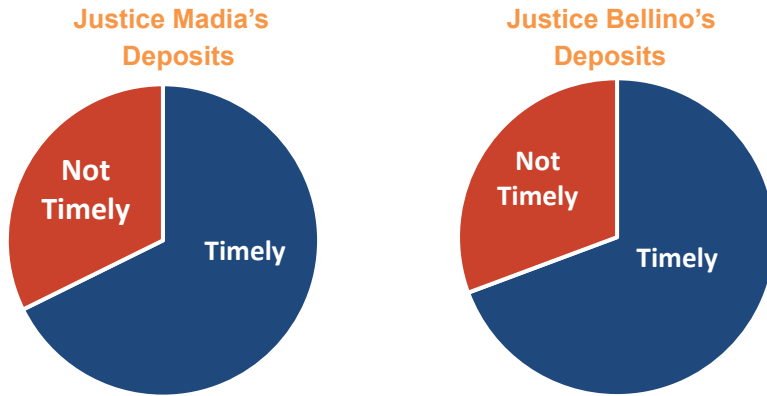
Fines and Fees Were Not Always Deposited in a Timely Manner

We reviewed the records for various months for each Justice during our audit period to identify 527 cashbook receipts totaling \$89,989.² Generally, we found all receipts were deposited intact and Justice Zennamo's deposits were deposited timely. However, we found 91 receipts totaling \$16,128 collected for former Justice Madia were not deposited within 72 hours and averaged about four days late. In addition, we found 51 receipts totaling \$8,238 from Justice Bellino were not deposited within 72 hours and averaged three days late (See Figure 2).

² Refer to Appendix B for a description of our audit methodology and sample selection.

FIGURE 2

Deposit Timeliness



The full-time clerk told us that she usually waits until after both Justices hold their Court sessions on Monday and Tuesday each week before making a deposit and she uses the remainder of the week to get caught up. She indicated that she sometimes does not have enough time to make the deposits until the following week due to time constraints and occasional time off. When deposits are not made timely, there is an increased risk that loss or theft of funds could occur.

We performed several other tests to determine whether Court funds were properly administered during our audit period.³ We reviewed cashbook entries to identify missing, voided or out-of-sequence receipts and reviewed discrepancies between ticket information reported to the New York State Department of Motor Vehicles (DMV) and the JCF. We also reviewed pending cases on electronic records from DMV to determine whether the pending status was accurate. In addition, we traced all checks from all three Justices' bank statements to supporting documentation to determine whether the transactions were valid and supported and reviewed the bank statements to look for suspicious activity. Lastly, we reviewed each Justice's bail activity for the audit period to determine whether bail records were accurate and returned bail was properly supported. Except for minor discrepancies that we discussed with Court officials, the Court funds and documents were in proper order.

When deposits are not made timely, there is an increased risk that loss or theft of funds could occur.

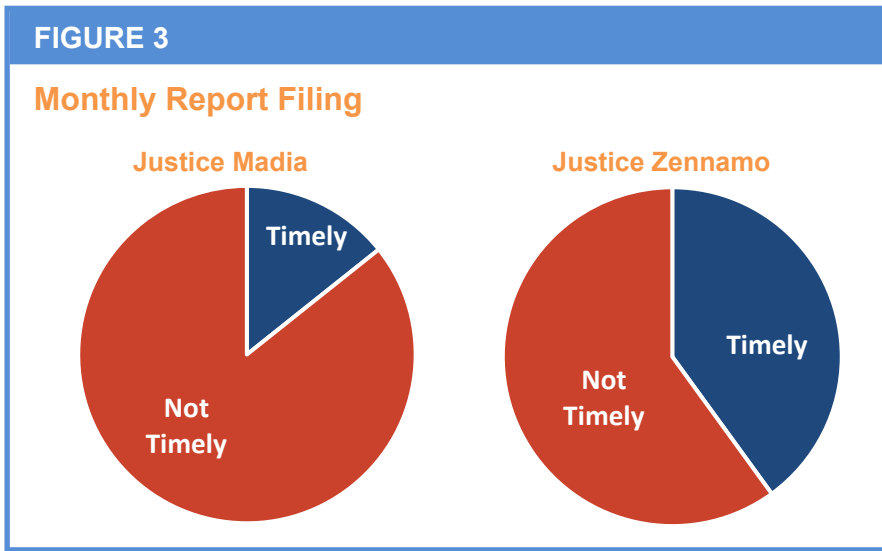
Monthly Reports Were Not Always Filed Timely

We reviewed 19 months of the Justices' recorded cashbook receipts from January 2019 through February 2020 and January 2021 through May 2021, which totaled \$628,041.⁴ We compared cashbook entries for each Justice to the amounts on

³ See Appendix B for additional information on our audit methodology and sample selection.

⁴ Due to impacts of the COVID-19 pandemic on Court operations, we excluded March 2020 through December 2020 from our test of monthly report timeliness.

the monthly JCF reports and related payments to the Supervisor to determine whether they agreed and whether the reports were submitted in a timely manner. We found that the Justices' collections required to be submitted matched the amounts reported to the JCF. While Justice Bellino submitted all 19 reports timely, Justices Madia and Zennamo did not always submit their monthly reports by the 10th of the following month as required (Figure 3).



Former Justice Madia submitted 12 of the 14 reports (86 percent) on average 5.5 days late while Justice Zennamo submitted three of the five reports (60 percent) on average six days late. Justice Zennamo told us that he was not able to get to the office to file his reports timely. When monthly reports are not filed timely, there is an increased risk that errors or irregularities could occur and remain undetected.

What Are Essential Court Software Controls?

Once information is entered into the Court software, its integrity should be maintained through controls that limit access and changes to data to ensure that transactions are not altered. Receipts generated from a computerized system should be issued in consecutive numerical sequence. Software controls should prevent the alteration of receipt numbers or amounts and account for any voided receipts. If receipt numbers can be altered, press-numbered duplicate receipts should be issued instead.

The Court software should provide a means of determining the identity of an individual who accessed the software and track their activity. Every user should have their own unique username and password to gain access to the software. This helps ensure accountability over work performed and data changed or deleted.

...[I]ts integrity should be maintained through controls that limit access and changes to data to ensure that transactions are not altered.

Audit logs maintain a record of activity that includes the identity of each individual who has accessed the software, the time and date of the access and what activity occurred. The Justices should routinely review these logs to monitor the clerks' software activity, including voided transactions.

Court Software Lacked Fundamental Controls

The Court used a computerized software program for recording collections and generating receipts issued to individuals. We reviewed and assessed the software program's controls and found that during our audit period, the Court was using an older software version that lacked fundamental controls. For example, the older software did not track voided Court transactions and allowed users to change receipt numbers and delete or change previously recorded entries.

Additionally, officials could not generate an audit log or change reports from the software. They also did not maintain a manual audit log for changes made to transactions in the software. As a result, the clerks could add, delete or modify entries (including cash receipts) at any time, but an audit log or evidence of those changes would not be available for review or accountability. The Justices did not require the clerks to issue press-numbered duplicate receipts or to maintain a manual log of deletions or changes and the reasons for them to mitigate this control weakness.

Each Justice and clerk is assigned a username and password for the Court's software. However, when logged into the Court's software, users can view a list of all user passwords. Therefore, any user can view other users' passwords and can later access the software by using another user's password. As a result, it would be difficult to determine who entered transactions if any discrepancies occurred and it increases the risk a user could record inappropriate transactions without accountability. Access levels to view or not view a list of user passwords can be changed in the software, but officials were not aware of this available option.

The New York State Unified Court System can upgrade the Court's software to a more secure version at no cost. This version allows Court staff to generate change reports, and it prevents changes to receipt records after receipts are printed (receipts can be voided, but not deleted) and passwords are not visible to users. The Justices told us they were unaware that the Court was using an older version of the software and that an updated version was available. Because the Justices did not upgrade to the more secure version of the software during our audit period, there was an increased risk that errors or irregularities could have occurred and gone undetected.

... [T]he Court was using an older software version that lacked fundamental controls.

The New York State Unified Court System can upgrade the Court's software to a more secure version at no cost.

What Do We Recommend?

The Justices should:

1. Provide adequate oversight and review of the clerks' work and develop written policies and procedures for Court operations.
2. Segregate duties over cash collections, if practicable, or establish appropriate compensating controls, such as effective monthly reviews of Court records.
3. Ensure that monthly bank reconciliations and accountabilities are completed and reviewed for accuracy, and any discrepancies are reviewed and resolved promptly.
4. Ensure all funds are deposited within 72 hours from the date of collection, excluding State holidays and Sundays.
5. Remit monthly reports to the JCF by the 10th of the following month.
6. Present their records and dockets at least once each year to be audited by the Board or an independent public accountant.
7. Upgrade the Court's recordkeeping software to the most current available version.

The Supervisor should:

8. Work with the Justices to transfer former Justice Madia's bail and related cases to the current Justices and contact the JCF for guidance on reporting the unidentified cash balance in former Justice Madia's bail bank account so the account can be closed.

The Board should:

9. Consult with the Town's legal counsel on how to properly address the \$3,593 shortage for former Justice Madia.
10. Conduct the required audit of the Court's books and records at least annually or retain an independent public accountant to perform the audit.

Appendix A: Response From Town Officials

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Town of Frankfort

April 28, 2022

Rebecca Wilcox Chief Examiner
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To the Office of the State Comptroller,

I have received your draft copy of the audit you have completed, Justice Court Operation for The Town of Frankfort. I have read your findings contained in the report and agree with those findings. We are already taking corrective action on many of the recommendations you have in the report. We will continue to take corrective measures on the remaining recommendations as soon as possible. The Justices are in the process of completing a corrective action plan and will send that to your office as soon as it is completed. I appreciate the time and effort your staff has taken to complete this report and their professional and courteous approach.

Sincerely



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Appendix B: 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 the Justices and clerks and reviewed financial records and reports to gain an understating of the Court's financial operations and computerized software program.
- We performed a cash count for all three Justices on June 21, 2021 to establish the amount of cash and checks on hand since the last bank deposit for comparison to the cash receipt records. We prepared a bank reconciliation and an accountability analysis for each Justice as of this date to determine whether there were any differences between the available cash and known liabilities.
- We also prepared bank reconciliations and accountabilities for former Justice Madia's fine bank account as of December 31 each year-end from 2015 through 2018. In addition, we completed a bank reconciliation and an accountability analysis for former Justice Madia's bail bank account as of December 31, 2018.
- We compared a sample of cash receipts recorded in the cashbook records with deposits on validated deposit slips and bank statements to determine whether deposits were made timely and intact and that there were no unrecorded deposits. To select the sample, we used our professional judgment to select two months containing the largest number of deposits in each fiscal year (excluding March 2020 through August 2020 due to COVID-19 pandemic). We tested May 2019 and January 2020 (147 cash receipts totaling \$26,853) for Justice Bellino, July 2019 and January 2020 (312 cash receipts totaling \$49,947) for former Justice Madia and November 2020 and March 2021 (68 cash receipts totaling \$13,189) for Justice Zennamo.
- We reviewed the bail activity and current bail reports and supporting documentation for each Justice as of June 21, 2021 to determine whether cases were accurately listed on the current bail report and included in each Justice's bail bank account.
- We reviewed monthly reports with a combined total of \$628,041 for each Justice to determine whether the reports were submitted timely to JCF and the checks remitted to the Supervisor agreed with the remitted monthly report totals. We also compared cashbook entries for each Justice to determine whether the entries agreed with the amounts reported due to the JCF. Due to impacts of the COVID-19 pandemic on Court operations, we excluded March 2020 through December 2020 from our timely report filing review. We reviewed 19 monthly reports for Justice Bellino (January

2019 – February 2020 and January 2021 – May 2021), five monthly reports for Justice Zennamo (January 2021 – May 2021) and 14 monthly reports (January 2019 – February 2020) for former Justice Madia.

- We reviewed the computerized cashbook for each Justice to identify any missing, voided or out-of-sequence receipts and check numbers during our audit period and determined whether they were adequately supported.
- We completed a review of all bank statement activity during our audit period for unusual activity such as transfers and in-bank withdrawals. We reviewed all canceled checks in the audit period for all three Justices and compared the payments to supporting documentation to determine whether they were proper and supported.
- We compared electronic receipts data obtained directly from DMV and the JCF and identified traffic tickets in our audit period with differences between the amounts reported to DMV and the JCF. We selected all cases with variances and traced the ticket information to Court receipts, case files and bank deposits to determine whether any differences occurred and whether the payments were deposited intact. We also identified cases that were reported to DMV but were not reported to the JCF and assessed the reasonableness for not reporting.
- We used our professional judgment to select 34 pending traffic tickets from electronic data obtained directly from DMV and reviewed Court records to determine whether the tickets listed were accurately classified as pending. Seventeen of the tickets were reflected as pending in DMV records due to timing differences in reporting the data. We traced the related payments for these tickets to receipt records, bank deposits and the JCF reports. For the 17 remaining tickets (involving 12 defendants), we contacted the defendants by mail to try to confirm information in the Court's records.

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 size of the relevant population and the sample selected for examination.

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 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 Town Clerk's office.

Appendix C: Resources and Services

Regional Office Directory

www.osc.state.ny.us/files/local-government/pdf/regional-directory.pdf

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

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

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

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/files/local-government/publications/pdf/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

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

Contact

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