

Village of Avon

Board Oversight and Professional Services

MAY 2018



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

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Report Highlights

Village of Avon

Audit Objectives

Determine whether the Board provided adequate financial oversight.

Determine if the Village obtained proposals and executed and monitored contracts for professional services.

Key Findings

- The Treasurer inaccurately recorded capital reserves and operating fund expenditures and the Board inappropriately authorized the use of capital reserve funds for non-capital expenditures.
- Professional service contracts lack RFPs and contracts are not monitored

Key Recommendations

- Account for capital reserves and all operating expenditures in appropriate operating funds and use capital reserves for authorized capital purposes.
- Use RFPs and require and monitor written contracts for professional services.

Village officials generally agreed with our recommendations and indicated they plan to initiate corrective action.

Background

The Village of Avon (Village) is located in the Town of Avon in Livingston County. The Board of Trustees (Board), composed of four Trustees and a Mayor, is responsible for the general management and control of the Village's financial affairs, including conducting an annual audit and establishing financial policies and procedures. The Mayor is the Village's chief executive officer and oversees the Village Treasurer who manages the day-to-day operations and maintains accounting records and reports.

Quick Facts

Employees	65
Population	3,400
2017-18 Budgeted Appropriations	\$3.6 Million

Audit Period

June 1, 2015 – July 13, 2017. We extended the scope back to June 1, 2013 to analyze fund balance and capital reserves.

Board Oversight

How Should the Board Provide Oversight?

The Board is responsible for overseeing the Village's financial operations and safeguarding its resources. To do this, the Board must ensure that the Treasurer prepares and provides accurate financial records and reports, including the Annual Update Document (AUD) to OSC.¹ The Board should also develop and monitor realistic budgets, multiyear financial and capital plans as well as a policy establishing the needs and goals for fund balance² and capital reserve balances.³ The Board is responsible for managing and substantiating its reserved and unreserved fund balances to avoid accumulating unnecessarily high balances that could place an undue burden on taxpayers or water/sewer customers. Additionally, Village Law requires the Board to annually audit or cause to be audited the Treasurer's and Justice Court's records to ensure Village money is accounted for properly.

The Board Did Not Ensure the Treasurer Provided Accurate Records and Reports

The Treasurer did not file accurate annual financial reports with OSC. We identified improper accounting practices and related recording and reporting inaccuracies reflected in the accounting records and monthly reports to the Board, and in the AUD. Recording and reporting financial information incorrectly can be misleading, causing the Board to make decisions based on inaccurate and unclear information. We found the following inaccuracies:

The Treasurer:

- Accounted for the Village's 11 capital reserves in the capital projects fund throughout the year, instead of the appropriate operating funds.⁴
- Reported the capital reserve cash balances in the operating funds when preparing the AUD, but not the capital reserve expenditures, causing fund imbalances in the report. She attempted to correct the imbalances by improperly reporting unidentified balancing figures as prior period adjustments.
- Inappropriately and inequitably allocated the balance of two general fund capital reserves between the general, water and sewer funds.

1 Village Law requires the Treasurer to account for all revenues and expenditures in accordance with the Accounting and Reporting Manual (ARM) prescribed by the Office of the State Comptroller (OSC). See ARM: <http://www.osc.state.ny.us/localgov/pubs/arm.pdf>

2 The difference between revenues and expenditures accumulated over time. A reasonable portion may be retained to use in the event of unforeseen circumstances.

3 Portions of fund balance set aside to finance the cost of future construction, reconstruction or acquisition of a specific or type of capital improvement or equipment.

4 See the ARM linked above, pages 85 – 87 and 105 – 106.

- Improperly reported various operating expenditures as capital projects in the capital projects fund, which should only be used to account for the acquisition or construction of major capital facilities and equipment purchases that are or can be financed in whole or in part from the proceeds of obligations. As a result, operating fund expenditures were understated in the AUD.
- Used unnecessary and confusing interfund accounting entries to attempt to accommodate these improper accounting practices.

Village officials:

- Inappropriately approved the use of capital reserve funds to pay for operating expenditures.

The Treasurer maintained about 40 capital projects in each of the last four fiscal years and the Village made expenditures totaling approximately \$5.4 million from these projects as shown in Figure 1. We reviewed a sample of 51⁵ project expenditures totaling \$304,837 from the 2013-14 through 2015-16 fiscal years and determined that 33 expenditures (65 percent) totaling \$45,549 (15 percent) did not qualify to be capital projects or expended from reserves.

Figure 1: Capital Project Expenditures Reviewed

Fiscal Year	Number of Projects	Projects with Expenditures	Total Expenditures	Expenditures Reviewed		Non-Capital Expenditures	
				Number	Amount	Number	Amount
2013-14	37	28	\$1,551,000	15	\$92,610	11	\$20,071
2014-15	41	34	\$743,000	19	\$180,402	9	\$18,237
2015-16	43	37	\$949,000	17	\$31,825	13	\$7,241
2016-17	46	27	\$2,170,000	0	\$0	0	\$0
Total			\$5,413,000	51	\$304,837	33	\$45,549

These non-capital expenditures were for items such as fire station uniforms (\$8,883), a compartment storage rack (\$4,226) and floor burnisher and scrubber machines with cleaning pads (\$2,777), that did not necessitate capital project fund treatment or warrant funding from capital reserves. The Treasurer believed that accounting for less routine purchases in this manner made them easier to track. However the Treasurer’s method for accounting for these purchases was overly complex and many of the items purchased did not have a useful life that would qualify for use of reserves or the capital projects fund. The Treasurer continued these practices after our discussions during audit fieldwork and after a similar recommendation in an independent audit report in April 2017.

⁵ Subsequent to field work, the Treasurer e-mailed us the 2016-17 capital project schedule. She did not have this information by the end of our fieldwork because she did not know how to record the transactions in the newer financial software. Therefore, we did not test any 2016-17 expenditures.

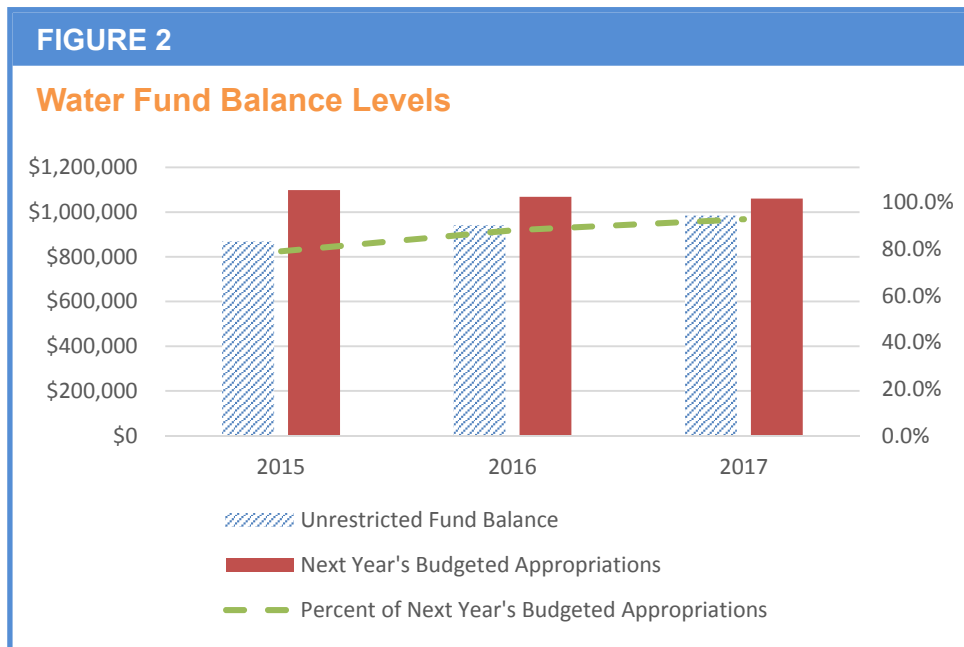
Village officials did undertake some projects that were significant capital expenditures and were appropriately reported in the capital projects fund and funded in part with reserve funds. These projects included the Erie-Attica Bridge and Trail and wastewater treatment plant projects.

Inaccurate records and reports hinder the Board's ability to monitor and maintain accountability over the Village's financial operations and protect Village assets from loss, waste or abuse.

Water Fund Balances Were Excessive

The Village's funds had steadily increased due to the Board's conservative budget practices. The Board has responsibly appropriated fund balance in the general fund budget (planned operating deficits) in the last three years, to gradually reduce unassigned fund balance to approximately 23 percent⁶ of 2017-18 appropriations, as of May 31, 2017. Similarly, in 2016-17, the Board approved an unbudgeted extra bond anticipation note payment to reduce the sewer fund balance to 44 percent of the 2017-18 appropriations.

However, the Board has not taken corrective action and does not have documented justification for the unappropriated fund balance in the water fund, which has increased steadily from 2013-14 to approximately \$984,000 as of May 31, 2017, or 93 percent of 2017-18 appropriations.



6 From 43 percent as of May 31, 2013

The steady increases resulted from small but favorable budget variances (two to eight percent) in both revenues and expenditures which generated average annual operating surpluses of \$54,000. Thus, the water fund did not use the fund balance appropriated in the 2014-15 and 2015-16 budgets, totaling \$130,916. Furthermore, the Board did not appropriate any fund balance to reduce surplus funds in the 2016-17 or 2017-18 budgets. We requested and reviewed year-to-date 2017-18 financial reports as of April 5, 2018, and found that the water fund is on track for another operating surplus and fund balance increase for this fiscal year.

Village officials have discussed various improvements to the water filtration and wastewater treatment plants, for which they could use some of the surplus funds. However, absent formal, detailed project or financial plans we could not assess the reasonableness of amounts accumulated.

The Board Has Not Developed a Multiyear Financial and Capital Plan or a Fund Balance Policy

The Board has not developed and adopted multiyear financial and capital plans or written policies and procedures to govern the level of fund balance and capital reserves to be maintained. Thus, the Board lacked substantiation of the growing fund balances in its operating funds. Village officials can better support the Village's fund and capital reserve balances by developing multiyear plans and a fund balance policy.

The Board Did Not Conduct an Annual Audit

The Board did not conduct or contract for an annual audit of the Treasurer's books and records. Therefore, the Board's ability to monitor the Village's financial position and operations was severely diminished. If the Board had completed or contracted for the required annual audits, Board members would have been in a better position to identify and address the improper accounting practices and errors and inaccurate financial reports, as previously mentioned.

Additionally, the Board did not annually audit the Justice's records and dockets, but had the Treasurer review the records on its behalf. Although the Justice Court clerk prepared inaccurate bank reconciliations and did not prepare monthly accountabilities to account for all money on hand,⁷ the Treasurer did not report this deficiency as a result of her audit.

⁷ Justices are generally responsible for adequately safeguarding and accounting for all money received by their Court and must properly oversee these resources by requiring and reviewing proper monthly bank reconciliations and accountabilities.

What Do We Recommend?

The Board should:

1. Require the Treasurer to provide accurate records and reports in accordance with *OSC's Accounting and Reporting Manual*.
2. Authorize the use of capital reserves only for purchases that are capital in nature, and budget for all non-capital operating expenditures in the related operating funds.
3. Ensure that the Treasurer, Trustees and other applicable Village officials receive training on legal requirements related to the use of and accounting for reserves and capital projects.
4. Analyze the current level of fund balance to determine if the balances are reasonable and take appropriate action to reduce any unnecessarily high fund balances.
5. Develop and adopt comprehensive multiyear financial and capital plans.
6. Develop and adopt written policies regarding the level of fund balance and capital reserves to be maintained in each fund.
7. Annually audit or contract for an audit of the Treasurer's books and records and the Justice Court records and dockets.

The Treasurer should:

8. Account for and report transactions and balances related to capital reserves within the operating funds that finance the reserves.
9. Account for non-capital purchases in the applicable operating fund.
10. Investigate and resolve all recording errors and cease making prior period adjustments to address unidentified imbalances.

Professional Services and Contracts

How Should Villages Procure Professional Services?

General Municipal Law (GML) requires the Board to adopt written policies and procedures governing all procurements of goods and services which are not subject to competitive bidding,⁸ including professional services.⁹ Because professional services can involve significant expenditures, best practices indicate that issuing a request for proposal (RFP) for professional services helps ensure that the Village obtains needed services at a reasonable price, from qualified professionals, in the residents' best interest without partiality. In addition, a written agreement or contract is essential to clearly establish the professional services to be provided, within specified time frames and the basis for compensation, and should be approved by appropriate Village officials (such as attorney and/or Board) before it is executed to ensure terms are clear and favorable. It is equally essential that Village officials closely monitor contract provisions throughout the service period and when making contract payments, to ensure the vendor invoices are for the agreed upon services and rates and in compliance with all other terms.

The Village Did Not Seek Competition for Professional Services

The Village's procurement policy did not require solicitation of quotations or proposals for procuring professional services. We identified eleven vendors who were paid approximately \$1.9 million for professional services and selected payments¹⁰ totaling approximately \$1.7 million to determine if Village officials procured the services using competitive methods and adequately approved, executed and monitored written agreements. We found that the Village did not seek competition for 30 payments totaling approximately \$276,000, made to seven (64 percent) of the 11 vendors tested. The Village competitively bid the professional services provided by three vendors, which were part of a wastewater treatment plant capital project, and received one proposal in response to an RFP from the final vendor.

Village Officials Did Not Monitor Contract Compliance

We found that Village officials executed written contracts with 10 of the 11 vendors we tested. However, two of the 10 vendors lacked a contract for one of the services or projects they provided. Additionally, the Village did not have a

⁸ GML section 103 requires the Board to advertise for bids on public works contracts and purchase contracts involving expenditures of more than \$35,000 and \$20,000, respectively, but exempts certain procurements such as professional services.

⁹ Professional services generally include services rendered by attorneys, engineers and certain other services requiring specialized or technical skills, expertise or knowledge, the exercise of professional judgment or a high degree of creativity.

¹⁰ See Appendix C, Audit Methodology and Standards, for sample selection methodology.

contract with its IT services provider. Thus, the Village did not have or provide a written contract to support eight payments made to three of the 11 vendors. We reviewed 43 (84 percent) payments totaling \$1.7 million that were covered by contracts and eight payments (16 percent) totaling \$41,000 that were not.

We also found that Village officials and employees were not monitoring written contracts when processing vendor payments to ensure that services and amounts billed were in accordance with contract terms. Village officials were initially unaware that, or uncertain if, written contracts were available, but later located them in the vault.

Although Village officials were not familiar with or monitoring the contracts, we found that 36 of the 43 (84 percent) payments were correct according to contract terms. We could not make a determination for six payments to two vendors because of a lack of information on the vendor's invoices¹¹ or a lack of supporting documentation required by the contract.¹²

For the remaining payment - for cloud-based financial software, which was procured without a formal RFP process or contract approval by the Village Attorney - we were unable to determine if the vendor billed for the correct amount because its invoice was not itemized for comparison to the contract. We also identified several inconsistencies in the contract language that made it difficult to clearly ascertain all products and services purchased and applicable costs. Therefore, Village officials were unsure what they owed to the vendor. We reviewed all three invoices submitted by the vendor during our audit period, which totaled \$30,477. In August 2015, the vendor billed \$23,351 for annual subscription costs for October 1, 2015 through September 30, 2016. However, the invoice did not itemize the components of this lump sum. Lacking itemization, the amount billed seems to represent a 7 percent increase over the contracted amount.

In addition, Village employees told us they struggled with cloud-based service disruptions and how to use various software features and were frustrated with the vendor's lack of responsiveness to their support requests. As a result, the Mayor instructed the Treasurer to pay only a portion of the billed costs, which could jeopardize the continuation of this vital (although deficient) service and leave the Village unable to process routine financial transactions and maintain accounting records. Although there were problems with the quality of service and questions about the costs, Village officials had not taken sufficient steps to renegotiate the contract with more specific requirements for the level of service needed and the amounts to be billed, or to require ample itemization and clarification of amounts billed.

¹¹ The contract billing terms were based on an hourly rate but the vendor's invoices did not include the number of hours billed.

¹² The contract specified that expenses charged to the Village would be supported with receipts; however, the Village made two payments to this vendor that included expenses that were not itemized on the invoice or supported with receipts.

When professional services are procured without a formal RFP process, Village officials lack assurance that they were presented with and considered all relevant factors, and selected the most beneficial and cost-effective product or service and vendor. Furthermore, if Village officials do not ensure they have a well written contract and a clear understanding of all contract provisions, and closely monitor them when processing contract invoices, they have no assurance that the vendor is providing the agreed upon services, in compliance with all contract terms.

What Do We Recommend?

The Board should:

11. Update its procurement policy to provide clear requirements for competitive proposals when procuring professional services.
12. Require written contracts for all professional services.
13. Carefully review all written contracts, and engage the Village attorney to review more complicated contracts, prior to signing to ensure the contracts clearly state agreed-upon services, costs and terms, and does not contain inconsistencies, errors or unclear provisions.
14. Ensure written contracts are readily available to Village officials and staff and monitored when processing payments to ensure the Village was billed for services and costs in accordance with contract terms.

Appendix A: Response From Village Officials

VILLAGE OF AVON in the Genesee Valley

74 Genesee Street
Avon, New York 14414

THOMAS FREEMAN, MAYOR
MARK MCKEOWN, DEPUTY MAYOR
ROBERT HAYES, TRUSTEE
TIMOTHY BATZEL, TRUSTEE
WILLIAM ZHE, TRUSTEE

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Fax: (585) 226-6284

HEATHER RANDALL, CLERK
CHRISTINE QUINLAN, TREASURER
JOSEPH GEER, CHIEF OF POLICE
JOHN BARRETT, SUPT. OF PUBLIC WORKS
ANDY PIERCE, FIRE CHIEF

May 7, 2018

Edward V. Grant Jr., Chief Examiner
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Office of the State Comptroller
Division of Local Government and School Accountability
The Powers Building
16 West Main St., Suite 522
Rochester, New York 14614-1608

Re: Village of Avon Draft Audit 2018M-30

Dear Mr. Grant:

Please accept this letter as our acknowledgement of receiving the Draft Audit Report for the Village of Avon titled Board Oversight and Professional Services covering June 1, 2015 through July 13, 2017, with the scope extension back to June 1, 2013, to analyze fund balance and capital reserves. The Board of Trustees has read and accepts the findings outlined in the Draft Audit.

Your findings along with recommendations will assist the Board in establishing procedures that will strengthen the internal controls of the Village. The Village Board will submit a Corrective Action Plan to include policy and procedures implemented within the recommendations outlined within the audit.

The Village would like to thank the field auditors for their professionalism displayed during the audit process. Their patience and knowledge was greatly appreciated throughout the audit process.

Sincerely,

Thomas W. Freeman
Mayor

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 Village officials and employees to gain an understanding of financial operations and the procurement process and practices.
- We reviewed Village policies and procedures, Board meeting minutes and resolutions.
- We performed an analysis of financial transactions related to capital reserves and capital projects from fiscal year 2013-14 through 2015-16.
- We selected 51 capital projects fund payments, from projects with multiple payments applied, to determine if the expenses were properly accounted for in the capital projects fund and if they (where applicable) were a proper use of reserve money.
- We analyzed fund balance in the Village's General, Water and Sewer funds from fiscal year 2013-14 through 2016-17.
- We performed a monthly accountability analysis of the Justice Court's financial records from January 1, 2016 through December 31, 2016 to determine if the Justice's adjusted bank account balance reconciled to cash book reports and retained bail records.
- We selected an unbiased, judgmental sample of 51 payments that were paid to 11 professional services vendors. We reviewed written contracts and invoices submitted by the vendors to determine if the payments made to the vendors were in accordance with the contract terms. Our judgment was based on the payment descriptions and amounts.

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

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.

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 Village Clerk's office.

Appendix C: Resources and Services

Regional Office Directory

www.osc.state.ny.us/localgov/regional_directory.pdf

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

www.osc.state.ny.us/localgov/costsavings/index.htm

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

www.osc.state.ny.us/localgov/fiscalmonitoring/index.htm

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

www.osc.state.ny.us/localgov/pubs/listacctg.htm#lmgm

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

www.osc.state.ny.us/localgov/planbudget/index.htm

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

www.osc.state.ny.us/localgov/lgli/pdf/cybersecurityguide.pdf

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

www.osc.state.ny.us/localgov/finreporting/index.htm

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

www.osc.state.ny.us/localgov/researchpubs/index.htm

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

www.osc.state.ny.us/localgov/academy/index.htm

Contact

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