

Multiple Dwelling Property Inspections

In the Town of Greece, Village of Hempstead and the Cities of Lackawanna, Schenectady, Utica and White Plains

AUGUST 2018



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

Contents

- Report Highlights 1**

- Multiple Dwelling Property Inspections 2**
 - How Frequently Are MD Property Inspections Required? 2
 - Inspections Were Not Performed As Required 2
 - What Are the Requirements for an Effective MD Inspection Program? 4
 - MD Inspection Programs Were Not Fully Implemented 4
 - Complete MD Property Lists Were Not Maintained 5
 - Municipalities Did Not Have an Effective Method for Scheduling Inspections 5
 - Inspectors Were Not Always Certified 6
 - Municipalities Did Not Document Minimum FSPM Inspection Items 7
 - Violations Were Left Unresolved and Follow-Up Guidance Was Not Defined 7
 - What Do We Recommend? 8

- Appendix A – Background Information and Basic Requirements of the Uniform Code. 9**

- Appendix B – Response from Local Officials 11**

- Appendix C – Audit Methodology and Standards 12**

- Appendix D – Resources and Services. 14**

Report Highlights

Multiple Dwelling Property Inspections

Audit Objective

Determine if municipalities are utilizing resources to perform FSPM inspections of residential buildings with three or more dwelling units, at a minimum of every three years and confirming that known violations are corrected.

Key Findings

- Inspections of multiple dwelling (MD) properties were not always performed, as required. Overall, 59 percent of the PM inspections and 52 percent of the FS inspections were not performed.
- White Plains, Schenectady and Lackawanna had limited or non-existent MD inspection programs and Utica did not have a feasible program.
- Follow-up on violations did not always occur timely to ensure violations were resolved.

Key Recommendations

Develop and institute basic MD inspection program procedures to ensure:

- All MD properties are inspected, as required.
- Violation follow-up is accomplished effectively.

Background

We audited fire safety and property maintenance (FSPM) inspection programs and practices in the following six units: Town of Greece, Village of Hempstead and the Cities of Lackawanna, Schenectady, Utica and White Plains.

New York Codes Rules and Regulations (NYCRR) requires FSPM inspections for all residential buildings with three or more dwellings at least once every three years,¹ unless the local law or policy requires a more restrictive timeframe.²

Quick Facts

Municipality	MD Properties	Department Responsible
Town of Greece	70	Fire Marshal's Office
Village of Hempstead	203	Building Department
City of Lackawanna	476	Code Enforcement
City of Schenectady	1,417	Code Enforcement
City of Utica	1,659	Fire Marshal's Office and Fire Department
City of White Plains	549	Fire Department (FS) and Building Department (PM)

Audit Period

January 1, 2015 – May 12, 2017. We extended our scope back to October 2004 to review inspections and January 2010 to review building permits.

¹ 19 New York Codes Rules and Regulations (NYCRR) 1203.3 (h)(2)

² See Appendix A.

Multiple Dwelling Property Inspections

Expeditious and effective fire safety and property maintenance (FSPM) inspections of multiple dwelling³ (MD) properties can help to preserve the health and safety of residents, the quality of rental housing stock and the character of a neighborhood's population base. The lack of inspections could lead to an increased risk of serious injury, death, health, the dilapidation of MD properties and economic issues. In 2015, there were approximately 20,000 fires in apartments in New York State (NYS), which led to 560 civilian injuries and 33 civilian deaths.⁴

Article 18 of New York State Executive Law Section 381 generally directs that the State's cities, towns and villages are responsible for enforcing the New York State (NYS) Uniform Code⁵ and the New York Codes Rules and Regulations (NYCRR)⁶ provides that enforcement of the NYS Uniform Code are made through local law, ordinance or other appropriate regulation.

How Frequently Are MD Property Inspections Required?

NYCRR⁷ requires local municipalities to perform FSPM inspections of all MD properties, at a minimum of every three years. However, municipalities may choose to enact their own stricter standards. These inspection standards must adhere to FSPM requirements set forth in the Uniform Code.⁸

Inspections Were Not Performed As Required

Overall, we found an average rate of 52 percent of FS inspections and 59 percent of PM inspections were not completed. White Plains performed FS inspections but did not perform PM inspections, which is the reason for the difference in the completion rates. All six local governments had at least some MD properties that had never been inspected.

Overall, we found an average rate of 52 percent of FS inspections and 59 percent of PM inspections were not completed.

3 A "multiple dwelling" generally is a unit which is either rented, leased, let or hired out, to be occupied, or is occupied as the residence or home of three or more families living independently of each other. A MD is not a hospital, convent, monastery, asylum or public institution, or a fireproof building used wholly for commercial purposes except for not more than one janitor's apartment and not more than one penthouse occupied by not more than two families.

4 According to 2015 Structure Fires by Occupancy Type, compiled by the New York State Department of Homeland Security

5 19 New York Codes Rules and Regulations (NYCRR) 1219-1228

6 19 NYCRR 1203.2 (a)

7 19 NYCRR 1203.3 (h)(2)

8 19 NYCRR 1219 – 1228

FIGURE 1

Inspection Completion



We calculated inspection completion rates for each auditee based on their records and our testing. Inspection completion rates ranged from 0 percent for PM for White Plains and 4 percent for FS for Lackawanna to 97 percent for both for Greece.

Figure 2 : FS and PM Inspection Rates by Municipality

Unit	Total MD Properties/or sample tested	FS		PM	
		Inspections	Percentage Completed	Inspections	Percentage Completed
Greece	70	68	97%	68	97%
Hempstead	203	169	83%	169	83%
Schenectady	1,417	657	46%	657	46%
White Plains	549	209	38%	0	0%
Utica	60 ^a	10	17%	10	17%
Lackawanna	50 ^a	2	4%	2	4%
Average Rate of Completion			48%		41%

^a Summary records in Utica were found to be inaccurate and did not exist in Lackawanna. Therefore, we calculated inspection rates based on our testing. See Appendix C for our methodology

Although Greece and Hempstead have developed more effective MD inspection programs, their programs also have opportunities for improvement.

Although Greece and Hempstead have developed more effective MD inspection programs, their programs also have opportunities for improvement.

What Are the Requirements for an Effective MD Inspection Program?

An MD inspection program should have procedures to ensure all properties are identified, inspections are scheduled to be completed within required timeframes, inspectors are certified and required inspections are performed and documented. Procedures defining timeframes, along with the number of follow-up inspections before involving the Court system, should be formalized and effectively communicated to staff to ensure that violation follow-up procedures are equally and consistently applied. Inspectors should follow-up and take formal enforcement action when property owners do not correct cited violations.

MD Inspection Programs Were Not Fully Implemented

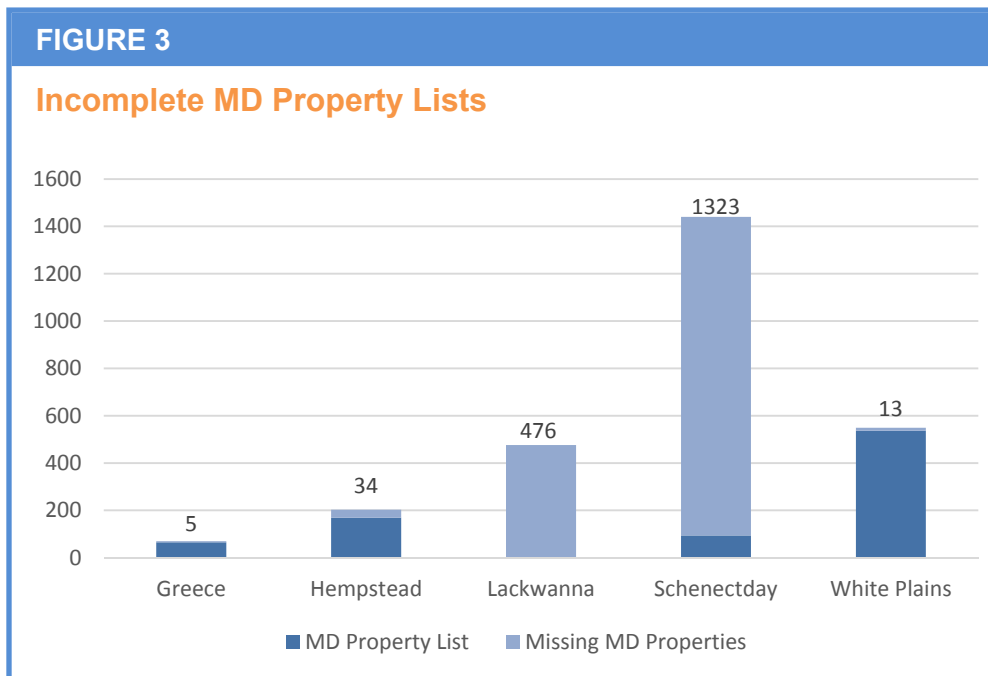
The municipalities audited had vastly different approaches for administering their MD inspection programs and each could improve their inspection programs. Significant MD inspection program deficiencies existed as follows:

- Lackawanna adopted a local law that requires the CEO to conduct FSPM inspections of MD properties at least every 12 months. However, the CEO told us he was not aware that he was responsible for FSPM inspections. As a result, officials have not developed procedures to ensure compliance with their local law or that effective inspections are conducted.
- White Plains adopted a local law designating the Commissioner responsible for enforcing PM inspections. However, the Commissioner does not conduct PM inspections and has not assigned any other City employees to perform PM inspections.
- Schenectady does not have a program to regularly inspect the majority of the MD properties at least once every three years. Instead, the City's rental inspection program requires an inspection when there is a change in tenants. This requires the building owner to request the inspection. However, owners of large dwelling properties (10 or more dwelling units) can opt to have bi-annual inspections instead of every time there is a change in tenants or property ownership.
- Utica adopted a local law requiring the Fire Chief to conduct FSPM inspections of all rental dwellings, including MD properties, and issue a rental occupancy permit valid for 30 months. The Fire Chief delegated this responsibility to the Chief Fire Marshal. However, the fire department may not have the manpower to complete the volume of inspections required by its program.

As a result, officials in these municipalities have significantly increased the risk of serious injury and death to its rental residents, along with increasing the dilapidation of neighborhoods.

Complete MD Property Lists Were Not Maintained

We found that two of the six municipalities audited did not maintain a MD property list or a substantially complete list.⁹ Greece, Hempstead, White Plains and Utica maintained MD lists that were nearly complete and each had a process to add new MD properties on an annual basis. However, by reviewing the tax rolls, we identified additional properties that should have been included and some that should not have been on the list (Utica). Without a complete and accurate list of MD properties, officials cannot monitor program operations or determine whether they are meeting State-mandated requirements or their own local law requirements.



Municipalities Did Not Have an Effective Method for Scheduling Inspections

We found that inspections were not scheduled in a manner that ensured that mandated inspections were performed as follows:

- Lackawanna does not proactively schedule any inspections. Instead, inspections are conducted based on complaints received.
- White Plains schedules FS inspections but does not schedule any PM inspections.

Lackawanna does not schedule any inspections. Instead, inspections are conducted based on complaints received.

⁹ Schenectady maintained a list of 94 large dwelling properties (10 or more units).

- Schenectady schedules regular inspections of large MD dwellings, 10 or more units, if the property owners enroll in the bi-annual inspection program. For other MD properties, officials do not schedule regular FSPM inspections. Instead, they rely on property owners to request an inspection when there is a change in tenants or property ownership.
- While Utica schedules FSPM inspections, its program to inspect all rental properties every 30 months does not appear to be feasible. The program requires firefighters to inspect 6,066 rental properties with almost all properties requiring one or more follow-up inspections. However, Utica firefighter’s primary responsibility is to respond to an average of 12,500 alarms annually. Therefore, considering the number of alarm calls and available resources, we estimate a maximum of 5,850 inspections can be scheduled within the City’s required 30-month inspection period.

Inspectors Were Not Always Certified

We found that municipalities did not always use certified¹⁰ inspectors to complete inspections. For example, of the 141 inspectors in White Plains, 131 were not certified. Without the proper training and certification, inspectors may not be aware of the minimum inspection standards, further increasing the risk to public safety and the quality of rental housing stock.

Of the 141 inspectors in White Plains, 131 were not certified.

Figure 4: Certified Inspectors

	Number of Inspectors	Inspector Verified ^a	Certified or Active Certification	Percentage Certified
Greece	4	4	4	100%
Hempstead	1	1	1	100%
Schenectady	12	12	11 ^b	92%
Utica	102	22	17	77%
Lackawanna	3	3	2 ^c	67%
White Plains	141	141	10	7%

a We reviewed and verified inspectors’ certifications. However, for Utica, we selected and verified every fifth inspector from the inspector list and for White Plains, we verified the inspectors that the City told us were certified.

b One inspector was in training in 2014. It is unclear whether he was certified in 2015 due to a change in the DOS certification requirements. The inspector was issued a code enforcement certificate in January 2016. However, because he did not complete his required FSPM trainings in 2016, he was inactive in 2017.

c Included in this count, one inspector is undergoing training for certification and, by law, has 18 months to complete.

¹⁰ 19 NYCRR 1208.3

Municipalities Did Not Document Minimum FSPM Inspection Items

We found that generally (with the exception of Schenectady) inspectors did not collect sufficient documentation to ascertain whether minimum inspections were performed. Instead, the inspectors documented information on an exception basis. Therefore, they do not have documentation to show that they completed minimum inspection requirements and in some instances which buildings on a particular property were inspected. For example, in Greece, 10 properties had multiple buildings. Inspectors documented they inspected all buildings for four of 10 properties. However, they did not document that they inspected all the buildings on the remaining six properties.

Violations Were Left Unresolved and Follow-Up Guidance Was Not Defined

Utica’s Registry Code indicates violations should be corrected within 30 days or a substantial effort to correct violations be made. However, Utica did not follow-up on the majority of property violations even with written guidance. None of the other municipalities had established any written follow-up guidance.

Lackawanna, Utica and White Plains did not consistently follow-up on violations. For example, six of eight Utica properties had open violations that averaged 392 days outstanding. By not adopting and or enforcing violation follow-up procedures, there is no incentive for property owners to make repairs, increasing risks to residents.

Lackawanna, Utica and White Plains did not consistently follow-up on violations.

Figure 5: Municipalities With Unresolved Violations

	Properties with Violations	Properties with Resolved Violations	Average Days to Resolve	Properties with Unresolved Violations	Average Days Outstanding ^a
Lackawanna	5	4	35	1	318
Utica	8 ^b	2	34	6	392
White Plains	7	4	82	3	268

a Days outstanding were calculated from date of last inspection through the date of audit testing.

b We did not include a property in the table that was within the 30-day inspection target.

What Do We Recommend?

Officials should ensure:

1. FSPM inspections are performed, as required.
2. An MD property list is maintained and ensure it is complete by periodically verifying the list to the tax roll and building permits.
3. Certified and active inspectors conduct FSPM inspections. Officials should retain documentation of inspectors' certifications.
4. Minimum FSPM inspections are performed and documented.
5. Guidelines are established for violation follow-up and follow-up procedures are administered consistently.

Appendix A: Background Information and Basic Requirements of the Uniform Code

Figure 6: Background Information

Municipality	Population (2010 Census)	2016 General Fund Appropriations (millions)	Number of MD Properties
Town of Greece	96,100	\$36.7	70
Village of Hempstead	55,500	\$80.0	203
City of Lackawanna	18,100	\$25.3	476
City of Schenectady	66,100	\$81.8	1,417
City of Utica	62,200	\$67.4	1,659
City of White Plains	56,800	\$165.9	549

Figure 7: Inspection Programs

Municipality	Number of MD Properties	Number of Inspectors	FS Inspection Requirements	PM Inspection Requirements
Town of Greece ^a	70	4	3 years	3 years
Village of Hempstead ^b	203	1	3 years	3 years
City of Lackawanna ^c	476	2 ^d	1 year	1 year
City of Schenectady	1,417	12	3 years	3 years
City of Utica ^e	1,659	102	30 months	30 months
City of White Plains ^f	549	141	1 year	3 years

a Town of Greece Code Section 114-4 (a)
 b Village of Hempstead Code Section 78-9
 c City of Lackawanna Code Section 75-3(b)
 d One inspector is no longer employed by the City.
 e City of Utica Ordinance Section 2-12-550 (a)
 f City of White Plains Code Section 238-u; 2006 Fire Department Standard Operating Guide

International Property Maintenance Code Multiple Dwelling- Fire Safety and Property Maintenance Inspections

The International Property Maintenance Code, as a part of the Uniform Fire Presentation and Building Code, provides standards for MD properties, with exceptions provided for buildings that were built prior to the existence of certain requirements.

Multiple Dwelling- Fire Safety and Property Maintenance Inspection Requirements

General Requirements		Lighting, Ventilation and Occupancy Limitations	Plumbing Facilities and Fixture Requirements	Mechanical and Electrical Requirements	Fire Safety
General	Interior Structure	General	General	General	General
Scope Responsibility Vacant Structures and Land	General Unsafe Conditions Structural Members Interior Surfaces Stairs and Walking Surfaces Handrails and Guards Interior Doors	Scope Responsibility Alternative Devices	Scope Responsibility	Scope Responsibility	Scope Responsibility
Exterior Property Areas	Component Serviceability	Lighting	Required Facilities	Heating Facilities	Means of Egress
Sanitation Grading/Drainage Sidewalks and driveways Weeds Rodent Harborage Exhaust Vents Accessory Structures Motor Vehicles Defacement of Property	General Unsafe Conditions	Habitable Spaces Common Halls and Stairways Other Spaces	Dwelling Units Rooming Houses Hotels Employees' Facilities • Drinking Facilities Public Toilet Facilities	Facilities Required Residential Occupancies Heat Supply Occupiable Work Spaces Room Temperature Measurement	General Aisles Locked Doors Emergency Escape Openings
Swimming Pools, Spas and Hot Tubs	Handrails and Guardrails	Ventilation	Toilet Rooms	Mechanical Equipment	Fire Resistance Ratings
Swimming Pools Enclosures	General	Habitable Spaces Bathrooms and Toilet Rooms Cooking Facilities Process Ventilation Clothes Dryer Exhaust	Privacy Location Location of Employee Toilet Facilities Floor Surface	Mechanical Appliances Removal of Combustion Products Clearances Safety Controls Combustion Air Energy Conservation Devices	Fire-resistance-rated assemblies Opening Protectives
Pest Elimination	Rubbish and Garbage	Occupancy Limitations	Plumbing Systems and Fixtures	Electrical Facilities	Fire Protection Systems
Infestation Owner Single Occupant Multiple Occupancy Occupant	Accumulation of Rubbish and Garbage Disposal of Rubbish • Rubbish Storage Facilities • Refrigerators Disposal of Garbage • Garbage Facilities • Containers	Privacy Minimum Room Widths Minimum Ceiling Heights Bedroom and Living Room Requirements • Room Area • Access from Bedrooms • Water Closet Accessibility • Prohibited Occupancy • Other Requirements Overcrowding • Sleeping Area • Combined Spaces Efficiency Unit Food Preparation	General Fixture Clearances Plumbing System Hazards	Facilities Required Service Electrical System Hazards • Abatement of Electrical Hazards Associated with Water Exposure • Electrical Equipment • Abatement of Electrical Hazards Associated with Fire Exposure • Electrical Equipment	General • Automatic Sprinkler Systems • Fire Department Connection Single- and multiple-station smoke alarms • Where Required • Group R-1 • Groups R-2, R-3, R-4 and I-1 • Installation Near Cooking Appliances • Installation Near Bathrooms • Interconnection • Power Source • Smoke Detection System
Exterior Structure			Water System	Electrical Equipment	
General Unsafe Conditions Protective Treatment Premises Identification Structural Members Foundation Walls Exterior Walls Roofs and Drainage Decorative Features Overhang Extensions Stairways, Decks, Porches and Balconies Chimneys and Towers Handrails and Guards	Window, Skylight and Door Frames • Glazing • Openable Windows Insect Screens Doors Basement Hatchways Guards for Basement Windows Building Security • Doors • Windows • Basement Hatchways Gates		General Contamination Supply Water Heating Facilities	Installation Receptacles Luminaries Wiring	
			Sanitary Drainage System	Elevators, Escalators, Dumbwaiters	
			General Maintenance Grease Interceptors	General Elevators	
			Storm Drainage	Duct Systems	
			General	General	

Appendix B: Response From Local Officials

We provided a draft copy of the global report to all six municipalities we audited and requested a response from each. We received two written responses (Town of Greece and City of Utica) and a verbal response from Village of Hempstead. The Cities of Lackawanna, Schenectady, and White Plains did not respond.

City of Utica officials said: "...the City of Utica is in the process of aggressively reviewing its current programs as well as formulating an action plan to address each and every deficient or recommendation noted in the Report of Examination 2018-MS-01Draft."

Town of Greece officials said: "...this Town Board has established a Municipal Court that deals exclusively with property maintenance and fire safety enforcement. We have found this has dramatically increased the efficiency and effectiveness of code enforcement here in the Town of Greece. I am especially proud that the effectiveness of our inspection program was recognized and was found to have the highest inspection rates of any municipality audited."

Village of Hempstead officials verbally responded to the global report and referred us to the Village's Report S9-17-19 written response. In the village's response, officials said: "... It is the intention of the Village to fully comply with the draft findings and recommendations..."

Appendix C: 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 at the six municipalities included the following:

- We judgmentally selected six municipalities based on the size of the municipality for potentially more MD properties and geographic location to get a cross-section of the state.
- We interviewed local officials and staff to gain an understanding of municipalities' MD property inspection policies and procedures. We obtained and reviewed local laws, policies and procedures.
- We reviewed inspectors' certifications. However, for Utica, we selected every fifth inspector from the inspector list and for White Plains, we verified the inspectors that the City told us were certified.
- We compared the MD property lists to the tax roll and MD new construction permits to determine the completeness of the lists.
- We selected audit testing samples using a random number generator. We also reviewed properties not included on the municipalities' lists (Greece, Hempstead and White Plains). We reviewed inspection files to determine whether:
 - The properties were being inspected within the timeframe prescribed by State law, local policy or local law.
 - The documentation indicated that minimum required FSPM items were inspected.
 - The inspectors were certified.
 - The municipalities followed up on violations.
- We reviewed annual inspection reports submitted to the NYS DOS.

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 Governing Boards to make the CAP available for public review in the Clerk's office.

Appendix D: 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

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

Tel: (518) 474-4037 • Fax: (518) 486-6479 • Email: localgov@osc.ny.gov

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

Local Government and School Accountability Help Line: (866) 321-8503

STATEWIDE AUDIT - Ann C. Singer, Chief Examiner

State Office Building, Suite 1702 • 44 Hawley Street • Binghamton, New York 13901-4417

Tel (607) 721-8306 • Fax (607) 721-8313



Like us on Facebook at facebook.com/nyscomptroller

Follow us on Twitter [@nyscomptroller](https://twitter.com/nyscomptroller)