

**ATTESTATION REPORT
OF THE
VILLAGE OF SOUTH BEND**

OCTOBER 1, 2014 THROUGH SEPTEMBER 30, 2016

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Issued on February 27, 2017

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Audit Staff Working On This Examination

Mark Avery, CPA – Audit Manager

Patrick Andriano – Auditor

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Nebraska Auditor of Public Accounts

State Capitol, Suite 2303

P.O. Box 98917

Lincoln, Nebraska 68509

Phone: 402-471-2111

VILLAGE OF SOUTH BEND

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VILLAGE OF SOUTH BEND

BACKGROUND

On November 18, 2016, the Nebraska Auditor of Public Accounts (APA) sent a letter to the Village of South Bend (Village) stating the APA’s intent to perform an attestation examination of that political subdivision for the period October 1, 2014, through September 30, 2016.

Prior to this, the APA had communicated with the Chairman of the Village’s Board of Trustees (Board) regarding late or unfiled audits and budgets of the Village. On April 18, 2016, the APA notified the Chairman via a written letter, that we had not received an audit for the fiscal year ending September 30, 2015. When no response to our initial notice was forthcoming, the APA sent a second letter to the Chairman on May 2, 2016, notifying the Village that highway allocation funds would be withheld starting on May 2, 2016, but noting that the funds could be released if the required filing was received and accepted on or before November 2, 2016. On October 7, 2016, a third notification was sent to the Village Board, via a written letter, explaining again that no audit or budget had been submitted for the fiscal year ending September 30, 2015, and that withheld funds could be released if the required filing was received and accepted on or before November 2, 2016. Despite these three written communications, as well as numerous phone messages, the Village failed to file the required audit. Consequently, the APA notified the State Treasurer to withhold the distribution of highway allocation funds to the Village. As of January 26, 2017, the Village has permanently lost \$10,012.72 in highway allocation funds.

The current Board members for the Village, as of January 4, 2017, are the following:

- Patrick Cunningham – Chairman of the Board
- Connie Boldan-Cervený – Trustee
- James Cervený – Trustee
- Brad Graham – Trustee
- Valerie Pike – Trustee

The Village maintains the following accounts in the Pinnacle Bank of Louisville (Bank) in nearby Louisville, Nebraska.

ACCOUNT OWNER PER BANK	ACCOUNT NAME PER BANK
Village of South Bend – General Account	Business Basic Checking
Village of South Bend – Road Fund	Business Now Checking
Village of South Bend – Cemetery Fund	Business Basic Checking
Village of South Bend – Certificate of Deposit	Certificate of Deposit

The Schedule of Bank Activity includes the details of each of the accounts listed above. The Village used Excel to record its financial activity during the period tested.

VILLAGE OF SOUTH BEND

SUMMARY OF COMMENTS

During our examination of the Village of South Bend (Village), we noted certain deficiencies and other operational matters that are presented here. The following comments are required to be reported in accordance with *Government Auditing Standards*: Comment #1, #2, #3, #4, #5, and #6, which are considered to be significant deficiencies.

These comments and recommendations are intended to improve the internal control over financial reporting or result in operational efficiencies in the following areas:

1. ***Audit/Budget Not Submitted to APA:*** An audit/audit waiver and budget were not submitted to the APA as required.
2. ***Segregation of Duties:*** One individual was capable of handling all phases of a transaction from beginning to end.
3. ***Timeliness of Deposits:*** Multiple County checks received by the Village were not deposited timely.
4. ***Dual Signatures Required on Checks:*** For all checks written by the Village, there was only one signature, when dual signatures are required by State statute.
5. ***Board Approval of Claims:*** Two expenditures were not approved by the Board prior to payment.
6. ***IRS 1099 Not Issued to Contract Employee:*** One individual was not issued an IRS Form 1099 for contract work performed for the Village.

More detailed information on the above items is provided hereinafter. It should be noted that this report is critical in nature, containing only our comments and recommendations on the areas noted for improvement and does not include our observations on any accounting strengths of the Village.

Draft copies of this report were furnished to the Village to provide its management with an opportunity to review and to respond to the comments and recommendations contained herein. All formal responses received have been incorporated into this report. Responses that indicate corrective action has been taken were not verified at this time, but they will be verified in the next examination.

VILLAGE OF SOUTH BEND

COMMENTS AND RECOMMENDATIONS

1. Audit/Budget Not Filed with APA

The Village failed to file an audit with the APA, or request an audit waiver from this office, for fiscal year 2015. Furthermore, the Village failed to file a 2016-2017 budget by the statutorily required due date of September 20, 2016. Consequently, as of January 26, 2017, the Village has permanently lost State Aid funds totaling \$10,012.72. The Village will continue to lose its State Aid funds until both the Village audit/audit waiver and the Village budget are filed and current.

Neb. Rev. Stat § 19-2903 (Reissue 2012) provides, in relevant part, the following:

The municipal authorities of each municipality shall cause an audit of the municipality's accounts to be made by a recognized independent and qualified accountant as expeditiously as possible following the close of the fiscal year for such municipality and to cover all financial transactions and affairs of the municipality for such preceding fiscal year Such audit shall be completed and the annual audit report made by such accountant shall be submitted within six months after the close of the fiscal year A village may request a waiver of the audit requirement subject to the requirements of subdivision (4) of section 84-304

Neb. Rev. Stat. § 19-2905 (Reissue 2012) contains the following:

At least three copies of such annual audit report shall be properly signed and attested by the accountant; two copies shall be filed with the clerk of the municipality involved and one copy shall be filed with the Auditor of Public Accounts.

Neb. Rev. Stat. § 19-2907 (Reissue 2012) states the following, as is relevant:

Upon a failure, refusal, or neglect to cause such annual audit to be made as required by sections 19-2903 and 19-2904, and a failure to file a copy thereof with the Auditor of Public Accounts as required by section 19-2905, the Auditor of Public Accounts shall, after due notice and a hearing to show cause by such city or village, notify the State Treasurer of such failure to file a copy with the Auditor of Public Accounts. The State Treasurer shall, upon receipt of such notice, withhold distribution of all money to which such city or village may be entitled under the provisions of sections 39-2511 to 39-2520, until such annual audit shall have been made and have been filed with the Auditor of Public Accounts. If such annual audit is not filed within a period of six months from the time of the order and notice of delinquency given by the Auditor of Public Accounts to the State Treasurer, the amount so withheld shall be distributed to the other cities and villages in the county where such delinquent city is located.

Neb. Rev. Stat. § 13-508(1) (Cum. Supp. 2016) provides, in relevant part, the following:

After publication and hearing thereon and within the time prescribed by law, each governing body, except as provided in subsection (3) of this section, shall file with and certify to the levying board or boards on or before September 20 of each year or September 20 of the final year of a biennial period and file with the auditor a copy of the adopted budget statement which complies with sections 13-518 to 13-522 or 79-0123 to 79-1030

Neb. Rev. Stat. § 13-522 (Reissue 2012) says the following:

The Auditor of Public Accounts shall prepare budget documents to be submitted by governmental units which calculate the restricted funds authority for each governmental unit. Each governmental unit shall submit its calculated restricted funds authority with its budget documents at the time the budgets are due to the Auditor of Public Accounts. If the Auditor of Public Accounts determines from the budget documents that a governmental unit is not complying with the budget limits provided in sections 13-518 to 13-522, he or she shall notify the governing body of his or her determination and notify the State Treasurer of the noncompliance. The State Treasurer shall then suspend distribution of state aid allocated to the

VILLAGE OF SOUTH BEND

COMMENTS AND RECOMMENDATIONS

(Continued)

1. Audit/Budget Not Filed with APA (Concluded)

governmental unit until such sections are complied with. The funds shall be held for six months until the governmental unit complies, and if the governmental unit complies within the six-month period, it shall receive the suspended funds, but after six months, if the governmental unit fails to comply, the suspended funds shall be forfeited and shall be redistributed to other recipients of the state aid or, in the case of homestead exemption reimbursement, returned to the General Fund.

By failing to file either an annual audit or waiver request with the APA, the Village is in violation of statute and stands to continue to lose thousands of dollars in State Aid funds.

We recommend the Village establish procedures to ensure compliance with State statutes relating to the completion and filing of audits/audit waivers and budgets.

Village Response: Moving forward State Statutes will be followed.

2. Control Environment

Due to the limited number of Village staff, an adequate segregation of duties was not possible. The Village Clerk performs all financial activities and has the ability to process transactions from beginning to end. Additionally, we noted that monthly bank reconciliations performed by the Village Clerk were not adequately retained or provided to the Board members for their review.

A control environment conducive to fair and complete financial reporting includes an adequate segregation of duties so that no one individual can process a transaction from beginning to end. When an adequate segregation of duties is not possible, it is all the more important that the entity's governing body provide effective monitoring of the Village's policies, procedures, and accounting functions.

Without an internal control environment conducive to fair and complete financial reporting, there is an increased risk for improper transactions to occur and remain undetected, potentially resulting in the loss and/or misuse of Village funds.

We recommend the Board be aware of and review this situation. As always, the cost of hiring additional personnel versus the benefit of a proper segregation of duties must be weighed. In the continued absence of a proper segregation of duties, we recommend the Village implement enhanced procedures to ensure an adequate review and monitoring of its policies, procedures, and accounting functions. This would include a monthly review of the bank statements, bank reconciliations, accounting records, invoices, and other supporting documentation.

Village Response: Monthly reconciliation will be provided to the Board.

VILLAGE OF SOUTH BEND

COMMENTS AND RECOMMENDATIONS
(Continued)

3. Timeliness of Deposits

We tested 28 receipts from the Cass County Treasurer and noted the Village was not depositing receipts to the bank timely. Specifically, we noted the following:

- Twenty-one receipts, totaling \$22,880, were not deposited timely. Bank deposit dates were between 19 and 272 days after payment was originally issued by the County Treasurer.
- Six receipts, totaling \$6,012, had still not been deposited by the Village as of January 25, 2017. These payments were originally issued by the County Treasurer as far back as June 12, 2016.

The following table details these receipts and deposit dates.

Distributions per County	Distribution Date per County	Village Deposit Date	Number of Days from County Issue to Village Deposit
\$ 2,358.11	9/13/2014	10/2/2014	19
\$ 689.58	10/13/2014	5/4/2015	203
\$ 406.90	11/14/2014	11/18/2014	4
\$ 458.57	12/8/2014	5/4/2015	147
\$ 558.01	1/14/2015	5/4/2015	110
\$ 1,024.22	2/12/2015	5/4/2015	81
\$ 132.73	3/6/2015	5/4/2015	59
\$ 848.16	4/14/2015	5/7/2015	23
\$ 2,436.50	5/13/2015	6/4/2015	22
\$ 1,789.17	6/10/2015	7/8/2015	28
\$ 469.93	7/9/2015	8/24/2015	46
\$ 1,549.02	8/13/2015	12/10/2015	119
\$ 2,131.22	9/13/2015	12/10/2015	88
\$ 985.16	10/14/2015	7/12/2016	272
\$ 1,116.39	11/12/2015	7/12/2016	243
\$ 574.28	12/4/2015	7/12/2016	221
\$ 436.67	1/8/2016	7/12/2016	186
\$ 253.28	2/10/2016	4/28/2016	78
\$ 569.95	3/15/2016	7/12/2016	119
\$ 1,009.25	4/15/2016	7/12/2016	88
\$ 2,941.68	5/12/2016	10/31/2016	172

VILLAGE OF SOUTH BEND

COMMENTS AND RECOMMENDATIONS
(Continued)

3. **Timeliness of Deposits** (Concluded)

Distributions per County	Distribution Date per County	Village Deposit Date	Number of Days from County Issue to Village Deposit
\$ 1,295.47	6/12/2016	Confirmed by Cass County Treasurer to still be Outstanding Checks as of January 25, 2017.	227
\$ 947.74	7/11/2016		198
\$ 192.83	8/10/2016		168
\$ 2,526.39	9/14/2016		133
\$ 920.33	10/14/2016		103
\$ 548.58	11/10/2016	12/6/2016	26
\$ 129.19	12/6/2016	Confirmed by Cass County Treasurer to still be Outstanding Checks as of January 25, 2017.	50

Good internal controls and sound accounting practices require procedures to be in place to ensure all receipts are properly and timely deposited.

When all monies received by the Village are not deposited to the bank timely, there is an increased risk for the loss and/or misuse of Village funds.

We recommend the Village establish policies and procedures to ensure all monies received by the Village are deposited timely. The Village may want to work with the County to have the monies directly deposited into the Village’s bank account.

Village Response: Deposits from the County will be deposited directly by the County.

4. **Dual Signatures Required on Checks**

During testing, we noted that all checks written during the examination period were signed only by one individual. The Board Chairman signed checks written out of the General Fund, and the Village Clerk signed checks written out of the Cemetery Fund. However, State statute requires all Village checks to be signed by both the Board Chairman and the Village Clerk.

Neb. Rev. Stat. § 17-711 (Reissue 2012) states the following:

All warrants drawn upon the treasurer must be signed by the mayor or chairman and countersigned by the clerk, stating the particular fund to which the same is chargeable, the person to whom payable, and for what particular object. No money shall be otherwise paid than upon such warrants so drawn. Each warrant shall specify the amount included in the adopted budget statement for such fund upon which it is drawn, and the amount already expended of such fund.

VILLAGE OF SOUTH BEND

COMMENTS AND RECOMMENDATIONS

(Continued)

4. **Dual Signatures Required on Checks** (Concluded)

When checks do not contain the required endorsements, the Village is not in compliance with State statute. Furthermore, requiring only a single signature increases the risk for loss and/or misuse of Village funds.

We recommend the Village implement procedures to require dual signatures from the Board Chairman and Village Clerk on all checks written by the Village.

Village Response: Two signatures will be on every check moving forward.

5. **Board Approval of Claims**

During testing, we noted two claims, totaling \$930, which could not be traced to Board approval.

Neb. Rev. Stat. § 17-714 (Reissue 2012) sets out the following claim requirements for a Village:

All liquidated and unliquidated claims and accounts payable against a city of the second class or village shall: (1) Be presented in writing; (2) state the name and address of the claimant and the amount of the claim; and (3) fully and accurately identify the items or services for which payment is claimed or the time, place, nature, and circumstances giving rise to the claim.

Additionally, Neb. Rev. Stat. § 19-1102 (Reissue 2012) requires the Village Clerk to prepare and publish in a local newspaper the official proceedings of any Board meeting. Such published proceedings must include, among other things, “the amount of each claim allowed, the purpose of the claim, and the name of the claimant”

A good internal control plan and sound business practices require, moreover, the governing body to approve all claims prior to payment.

We noted also that the Village Clerk, who serves as an independent contractor for the Village, is the spouse of the Board Chairman. The monthly claims approved by the Board include payments to the Village Clerk, which range between \$60 and \$80 each. Contrary to statutory mandate, the Board Chairman did not prepare and enter into the public record a statement describing the nature of his potential conflict of interest, nor did the Chairman abstain from voting on the approval of the Clerk’s claims.

The Nebraska Political Accountability and Disclosure Act (Act) is set out at Neb. Rev. Stat. §§ 49-1401 to 49-14,141 (Reissue 2010, Cum. Supp. 2016). Section 49-1499.03(2)(a) of the Act provides, in relevant part, the following:

Any person holding an elective office of a city or village not designated in section 49-1493 and any person holding an elective office of a school district who would be required to take any action or make any decision in the discharge of his or her official duties that may cause financial benefit or detriment to him or her, a member of his or her immediate family, or a business with which he or she is associated, which is distinguishable from the effects of such action on the public generally or a broad segment of the public, shall take the following actions as soon as he or she is aware of such potential conflict or should reasonably be aware of such potential conflict, whichever is sooner:

VILLAGE OF SOUTH BEND

COMMENTS AND RECOMMENDATIONS
(Continued)

5. Board Approval of Claims (Concluded)

(i) Prepare a written statement describing the matter requiring action or decision and the nature of the potential conflict;

(ii) Deliver a copy of the statement to the person in charge of keeping records for the city, village, or school district who shall enter the statement onto the public records of the city, village, or school district; and

(iii) Abstain from participating or voting on the matter in which the person holding elective office has a conflict of interest.

Per § 49-1425 of the Act, immediate family members include “a spouse of an individual.”

For potentially problematic situations, such as that addressed herein, § 49-1499.03(2)(b) provides, “The person holding elective office may apply to the commission [Nebraska Accountability and Disclosure Commission] for an opinion as to whether the person has a conflict of interest.” Likewise, § 49-14,100 of the Act states the following:

Any person who is in doubt as to the propriety of action proposed to be taken by him may apply to the commission [Nebraska Accountability and Disclosure Commission] for an advisory opinion relating thereto, and the commission shall have authority to render such opinions. When an advisory opinion is issued pursuant to a complete and accurate request, such opinion shall be a complete defense to any charge of violation of sections 49-1493 to 49-14,104 as to any action taken strictly subject to the terms of such opinion.

When claims are not approved by the Board prior to payment, there is an increased risk of loss, theft, or misuse of funds. Furthermore, failure to disclose potential conflicts of interest not only heightens that risk but also gives rise to a possible violation of law.

We recommend the Village implement procedures to ensure the Board approves all claims prior to payment. We also recommend the Board take measures – perhaps seeking the guidance of the Nebraska Accountability and Disclosure Commission in doing so – to ensure that a potential conflict of interest involving any of its members is handled in accordance with the provisions of the Act. Finally, because this comment points to a possible violation of the Act, we are forwarding this information to the Nebraska Accountability and Disclosure Commission for further review.

Village Response: There will be written a conflict of interest statement and put into public record. All claims are approved during meetings or preapproved then recorded at next meeting.

6. IRS Form 1099 Not Issued

The Village Clerk is treated as a contracted employee and received payments of \$810, for her services during 2015 and again in 2016. However, the Village failed to issue the Clerk an Internal Revenue Service (IRS) Form 1099 for these payments.

VILLAGE OF SOUTH BEND

COMMENTS AND RECOMMENDATIONS
(Concluded)

6. IRS Form 1099 Not Issued (Concluded)

26 U.S.C. § 6041(a) (2015) states the following:

All persons engaged in a trade or business and making payment in the course of such trade or business to another person, of rent, salaries, wages, premiums, annuities, compensations, remunerations, emoluments, or other fixed or determinable gains, profits, and income (other than payments to which section 6042(a)(1), 6044(a)(1), 6047(e), 6049(a), or 6050N(a) applies, and other than payments with respect to which a statement is required under the authority of section 6042(a)(2), 6044(a)(2), or 6045), of \$600 or more in any taxable year, or, in the case of such payments made by the United States, the officers or employees of the United States having information as to such payments and required to make returns in regard thereto by the regulations and in such form and manner and to such extent as may be prescribed by the Secretary, setting forth the amount of such gains, profits, and income, and the name and address to the recipient of such payment.

Good internal controls require procedures to ensure tax withholding information is provided to each employee/contractor on an annual basis. Good internal controls also require that certain tax information is filed with the appropriate agencies, and payments relating thereto are supported by adequate documentation.

When Form 1099s are not provided to employees, the Village is not in compliance with Federal tax regulations, resulting in potential tax consequences.

We recommend the Board consult with the Nebraska Department of Revenue and the IRS to ensure the Village is compliant with State and Federal tax withholding and other employer tax filing requirements.

Village Response: A 1099 will be issued moving forward for 2016 on.



NEBRASKA AUDITOR OF PUBLIC ACCOUNTS

Charlie Janssen
State Auditor

Charlie.Janssen@nebraska.gov
PO Box 98917
State Capitol, Suite 2303
Lincoln, Nebraska 68509
402-471-2111, FAX 402-471-3301
www.auditors.nebraska.gov

VILLAGE OF SOUTH BEND

INDEPENDENT ACCOUNTANT'S REPORT

Village of South Bend
South Bend, Nebraska

We have examined the accompanying Schedule of Bank Activity of the Village of South Bend for the period October 1, 2014, through September 30, 2016. The Village's management is responsible for the Schedule of Bank Activity. Our responsibility is to express an opinion based on our examination.

Our examination was conducted in accordance with attestation standards established by the American Institute of Certified Public Accountants, and the standards applicable to attestation engagements contained in *Government Auditing Standards*, issued by the Comptroller General of the United States, and, accordingly, included examining, on a test basis, evidence supporting the Schedule of Bank Activity and performing such other procedures as we considered necessary in the circumstances. We believe that our examination provides a reasonable basis for our opinion.

In our opinion, the schedule referred to above presents, in all material respects, the Schedule of Bank Activity of the Village of South Bend for the period October 1, 2014, through September 30, 2016, based on the accounting system and procedures prescribed by the Village of South Bend, as described in Note 1.

In accordance with *Government Auditing Standards*, we are required to report findings of significant deficiencies and material weaknesses in internal control; instances of fraud and noncompliance with provisions of laws or regulations that have a material effect on the subject matter or an assertion about the subject matter and any other instances that warrant the attention of those charged with governance; noncompliance with provisions of contracts or grant agreements that has a material effect on the subject matter or an assertion about the subject matter of the examination engagement; and abuse that has a material effect on the subject matter or an assertion about the subject matter of the examination engagement. We are also required to

obtain the views of management on those matters. We performed our examination to express an opinion on whether the Schedule of Bank Activity is presented in accordance with the criteria described above and not for the purpose of expressing an opinion on the internal control over the Schedule of Bank Activity or on compliance and other matters; accordingly, we express no such opinions. Our examination disclosed certain findings that are required to be reported under *Government Auditing Standards*, and those findings, along with the views of management, are described in the Comments Section of the report.

This report is intended solely for the information and use of management, others within the Village of South Bend, and the appropriate Federal and regulatory agencies, and it is not intended to be, and should not be, used by anyone other than these specified parties. However, this report is a matter of public record, and its distribution is not limited.

A handwritten signature in black ink, appearing to read 'C. J. Janssen', with a long horizontal flourish extending to the right.

February 22, 2017

Charlie Janssen
Auditor of Public Accounts

VILLAGE OF SOUTH BEND
SCHEDULE OF BANK ACTIVITY
 FOR THE PERIOD OCTOBER 1, 2014, THROUGH SEPTEMBER 30, 2016

Account Owner per Bank	Account Type per Bank	Balance at 10/1/2014	Interest Earned	Deposits	Withdrawals	Balance at 9/30/2016
Village of South Bend – General Account	Business Basic Checking	\$ 6,164.64	\$ 0.00	\$ 20,694.46	\$ 25,471.86	\$ 1,387.24
Village of South Bend – Road Fund	Business Now Checking	\$ 77,849.24	\$ 190.36	\$ 27,956.32	\$ 22,409.27	\$ 83,586.65
Village of South Bend – Cemetery Fund	Business Basic Checking	\$ 188.46	\$ 0.00	\$ 3,748.00	\$ 2,681.57	\$ 1,254.89
Village of South Bend – Certificate of Deposit	Certificate of Deposit	\$ 17,946.16	\$ 144.29	\$ 0.00	\$ 0.00	\$ 18,090.45
Totals		\$ 102,148.50	\$ 334.65	\$ 52,398.78	\$ 50,562.70	\$ 104,319.23
				\$52,733.43		

The accompanying notes are an integral part of the schedule.

VILLAGE OF SOUTH BEND

FOR THE PERIOD OCTOBER 1, 2014, THROUGH SEPTEMBER 30, 2016

1. Criteria

The financial information used to prepare the Schedule of Bank Activity for the Village of South Bend, Nebraska, (Village) was obtained from the Village bank statements received from both the Village records and Pinnacle Bank of Louisville in nearby Louisville, Nebraska. Interest and deposits are shown as additions while deductions are shown as withdrawals.

2. Reporting Entity

The Village is a governmental entity established under and governed by the laws of the State of Nebraska. The Village is managed by a Board of Trustees that exercises control over activities that are relevant to the operations of the Village. As a political subdivision of the State, the Village is exempt from State and Federal income taxes. The schedule includes all bank activity of the Village. The schedule does not include those transactions that did not post to the bank that may have been dated within the period tested. The APA was provided the Village bank accounts from both the Village and Pinnacle Bank.

3. Deposits and Investments

The Village has invested monies on deposit in certain Demand Deposits and a Certificate of Deposit (CD) account. The interest earned on these funds is recorded in the bank activity of the Village. As of September 30, 2016, the Village had the following bank deposits:

Demand Deposits	\$ 86,228.78
Certificates of Deposit	\$ 18,090.45
Totals	\$ 104,319.23

All of the deposits were covered by the Federal depository insurance.