



NEBRASKA AUDITOR OF PUBLIC ACCOUNTS

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September 16, 2019

Virgil Jobman, Chairperson
Village of Filley
P.O. Box 85
Filley, NE 68357

Dear Chairperson Jobman:

As you know, the Nebraska Auditor of Public Accounts (APA) has approved the fiscal year 2018 audit waiver for the Village of Filley (Village). However, while performing our review to determine whether to approve the audit waiver, the APA noted certain internal control or compliance matters, or other operational issues, within the Village. The following information is intended to improve internal controls or result in other operational efficiencies.

Comments and Recommendations

1. Possible Conflict of Interest

The APA received Village Board (Board) meeting minutes and the accompanying claims listing for September 10, 2018. From this listing, the APA identified a potential conflict of interest involving the actions of Board Chairperson Virgil Jobman.

According to the meeting minutes, Mr. Jobman appears to have failed to abstain from voting on the following claim:

Claim Date	Name/Vendor	Description	Amount
9/10/2018	Virgil Jobman	Sewer & Water	\$ 369.40

An excerpt from the September 10, 2018, Board minutes is provided below:

Motion by Alm to allow all bills warrants to be drawn in payment. Second by Nelson. Voting for: Nelson, Alm and Jobman. Motion carried.

(Emphasis added.) The apparent failure of Board Chairperson Virgil Jobman to abstain from voting on the motion above gives rise to concerns regarding possible violations of the Nebraska Political Accountability and Disclosure Act (Act), which is set out at Neb. Rev. Stat. § 49-1401 (Cum. Supp. 2018) et seq.

To start, Neb. Rev. Stat. § 49-14,101.01(1) (Reissue 2010) states the following:

A public official or public employee shall not use or authorize the use of his or her public office or any confidential information received through the holding of a public office to obtain financial gain, other than compensation provided by law, for himself or herself, a member of his or her immediate family, or a business with which the individual is associated.

The penalty for violating the above-cited conflict of interest statute is set out in subsection (7) thereof, as follows:

[A]ny person violating this section shall be guilty of a Class III misdemeanor, except that no vote by any member of the Legislature shall subject such member to any criminal sanction under this section.

Furthermore, Neb. Rev. Stat. § 49-1499.03(2) (Reissue 2010) provides the following:

(a) 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:

(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.

(b) The person holding elective office may apply to the commission for an opinion as to whether the person has a conflict of interest.

(Emphasis added.) Good internal control requires procedures to ensure compliance with the applicable provisions of the Act.

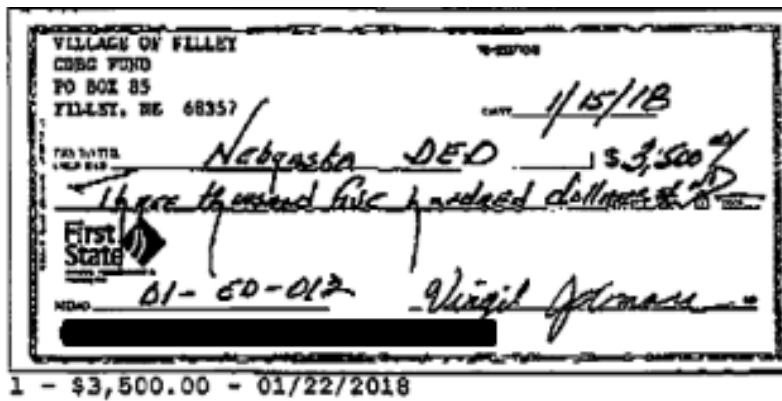
Without such procedures, there is an increased risk for both statutory violations and the loss of Village funds.

We recommend the Board implement procedures to ensure compliance with the applicable provisions of the Act. Because the issue addressed herein constitutes a possible violation of the Act, we are forwarding this information to the Nebraska Accountability and Disclosure Commission.

Village Response: Beginning with the September 9, 2019 meeting of the Village Board, any board member voting on claims for the month where there could be a possible conflict of interest, will abstain from voting on that particular claim.

2. Dual Signatures Required on Checks

The APA obtained the bank statements for the Village's accounts from its fiscal year 2018 audit waiver request. From these statements, the APA noted that all of the Village's checks written out of the CDBG Fund bank account during the examination period contained only one signature. Furthermore, two checks out of the General Fund contained only one signature. An example of such checks is shown below:



State statute requires Village checks to be signed by both the Board Chairperson and the Village Clerk. Specifically, Neb. Rev. Stat. § 17-711 (Cum. Supp. 2018) provides the following:

All warrants drawn upon the city treasurer of a city of the second class or village treasurer must be signed by the mayor or chairperson of the village board of trustees and countersigned by the city clerk or village 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.

Good internal control and sound accounting practices require procedures to ensure that Village checks contain the statutorily required endorsements.

Without such procedures, there is an increased risk of not only failure to comply with State statute but also the loss and/or misuse of Village funds.

We recommend the Board implement procedures to require dual signatures, from the Board Chairperson and the Village Clerk, on all Village checks, as required by law.

Village Response: The Village does require two signatures on warrants drawn in payment of claims, the two instances where there were only one signature were inadvertent errors. The CDBG account is an account opened under the request of DED so that funds collected from loan proceeds and repayment of those proceeds to DED were to be segregated from Village funds. The two checks were paid to Nebraska DED and again were overlooked for the two signatures requirement. The CDBG account will be closed out in September of 2019 as no further transactions will occur.

3. Negative Fund Balance

On Exhibit A of the Village's audit waiver request form, the APA noted that the Street Fund had a deficit fund balance of \$44,426.48 as of September 30, 2018.

Good internal control and sound accounting practices require procedures to ensure that Village fund balances are sufficient to cover fully all disbursements and transfers approved by the Board. Those same procedures should ensure also that the Board is apprised regularly of each Village fund balance and, therefore, placed in a position to take any action needed to resolve deficits therein.

Without such procedures, there is an increased risk of not only insufficient Village fund balances but also the resultant inability to cover fully all disbursements and transfers approved by the Board.

We recommend the Village Board implement procedures to ensure the Board is apprised regularly of each Village fund balance and, therefore, placed in a position to take any action needed to resolve deficits therein.

Village Response: Each Board member is given a copy of the balance sheet at each meeting which shows all sub accounts of the Village Funds in their board packet monthly. In the monthly Treasurer's report lists all of the sub accounts which are included in the General Fund checking account. The Street Fund has been a deficient balance for a long time due to the limited income from State Highway allocation income and the ever increasing cost of maintenance of the streets. We do monitor this balance on a monthly basis and the board will not jeopardize the financial condition of the Village in over expending.

* * * * *

The preliminary planning work that resulted in this letter was designed primarily on a test basis and, therefore, may not bring to light all existing weaknesses in the Village's policies or procedures. Nevertheless, our objective is to use the knowledge gained during the performance of that preliminary planning work to make comments and suggestions that we hope will prove useful to the Village.

Draft copies of this letter were furnished to the Village to provide its management with an opportunity to review and to respond to the comments and recommendations contained herein. Any formal responses received have been incorporated into this letter. Such responses have been objectively evaluated and recognized, as appropriate, in the letter. Any response indicating that corrective action has been taken was not verified at this time.

This communication is intended solely for the information and use of the Village and its management. It is not intended to be, and should not be, used by anyone other than those specified parties. However, this letter is a matter of public record, and its distribution is not limited.

If you have any questions regarding the above information, please contact our office.

Sincerely,



Mary Avery
Special Audits and Finance Manager
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cc: David Norton, Village Clerk
Nebraska Accountability and Disclosure Commission