



NEBRASKA AUDITOR OF PUBLIC ACCOUNTS

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Ryan Pavle, Chairperson
Village of Richland
205 Tilden Street
Richland, NE 68601

Dear Chairperson Pavle:

The Nebraska Auditor of Public Accounts (APA) has reviewed the audit waiver request received from the Village of Richland (Village) for the fiscal year ending 2021. **That request has been approved.**

While performing, pursuant to Neb. Rev. Stat. § 84-304 (Supp. 2021), the preliminary examination necessary to determine whether the audit waiver should be allowed or further audit work would be required, 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. Bidding Procedures

During the APA's review of the fiscal year 2021 audit waiver request for the Village, the APA received a complaint regarding the Village's bidding procedures and purchase of a John Deere 325G Compact Track Loader (Loader).

As a result, the APA inquired with the Village to obtain additional information and documentation. The Village provided the Village Board (Board) meeting minutes for August 10, 2021, and August 24, 2021, along with quote summary documents from Akrs Equipment Solutions in Elkhorn, NE. From this documentation, the APA noted the Village failed to follow the bidding requirements set out in State statute for the purchase of a Loader. According to documentation provided by the Village, as well as discussions with Village representatives, several vendors were contacted to request informal bids or quotes on similar equipment. However, the Village did not formally advertise for bids, as is required by statute.

Neb. Rev. Stat. § 17-568.01(4) (Cum. Supp. 2020) states the following regarding equipment purchases used for general improvements:

Advertisements for bids shall be required for any contract costing over thirty thousand dollars entered into (a) for enlargement or general improvements, such as water extensions, sewers, public heating systems, bridges, work on streets, or any other work or improvement when the cost of such enlargement or improvement is assessed to the property, or (b) for the purchase of equipment used in the construction of such enlargement or general improvements.

(Emphasis added.) Good internal control requires procedures to ensure that bidding requirements are met for applicable Village purchases and contracts. Without such procedures, there is an increased risk of not only noncompliance of State statute but also loss, misuse, or theft of Village funds.

We recommend the Village implement procedures to ensure applicable Village purchases and contracts follow State statute bidding requirements.

2. Possible Conflict of Interest

The APA received Village Board (Board) meeting minutes and the accompanying claims listing for January 12, 2021. From this listing, the APA identified a potential conflict of interest involving the actions of former Board Chairperson, Ron Tippery.

According to the meeting minutes, Mr. Tippery appears to have failed to abstain from voting on the following claims to himself:

Name	Claim Date	Amount
Ron Tippery	1/12/21	\$ 75.00
Ron Tippery	1/12/21	\$ 300.00
Total		\$ 375.00

An excerpt from the January 12, 2021, Board minutes is provided below:

Motion Pavel; second Greaser to approve the following claims and issue checks for them. Voting YES: Pavel, Tippery and Greaser. Voting NO: None. Absent: Koch and Divis. Motion carried.

<u>General Fund</u>		
Loup Public Power	Hall and Pole	68.65
Michelle Evert	Clerk Salary	200.00
Michelle Evert	Zoning Salary	125.00
Colfax County	Law Enforcement	684.94
First National Bank-Omaha	Office Supplies	36.97
Internal Revenue Service	4 th Quarter Payroll Taxes	352.06
Karel & Seckman	Legal Services	390.00
Eakes	Office Supplies	66.98
Cutting Edge Lawn Care Service	Mowing-final bill for the season	50.00
Colfax County Clerk	Election Expenses	100.00
<u>Road Fund</u>		
Loup Public Power	Street Lights	250.17
First National Bank-Omaha	Gas & Supplies	186.04
<u>Ron Tippery</u>	<u>Road Work</u>	<u>75.00</u>
<u>Sewer Fund</u>		
Loup Public Power	Lift Station	41.98
<u>Ron Tippery</u>	<u>Meter Reading</u>	<u>300.00</u>
Schuyler Dept. of Utilities	Samples DMR's/Discharge	455.00

The apparent failure of Board member Ron Tippery 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. 2020) et seq.

To start, Neb. Rev. Stat. § 49-14,101.01(1) (Reissue 2021) 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. § 49-14,103.01 (Supp. 2021) provides the following, in relevant part:

(1) For purposes of sections 49-14,103.01 to 49-14,103.06, unless the context otherwise requires, officer means . . . (c) a member of any board or commission of any county, school district, city, or village which spends and administers its own funds, who is dealing with a contract made by such board or commission, (d) any elected county, school district, educational service unit, city, or village official. . . .

(2) Except as provided in section 49-1499.04 or 70-624.04, no officer may have an interest in any contract to which his or her governing body, or anyone for its benefit, is a party. . . .

* * * *

(4) The prohibition in this section shall apply only when the officer or his or her parent, spouse, or child (a) has a business association as defined in section 49-1408 with the business involved in the contract or (b) will receive a direct pecuniary fee or commission as a result of the contract.

(5) The prohibition in this section does not apply if the contract is an agenda item approved at a board meeting and the interested officer:

(a) Makes a declaration on the record to the governing body responsible for approving the contract regarding the nature and extent of his or her interest prior to official consideration of the contract;

(b) Does not vote on the matters of granting the contract, making payments pursuant to the contract, or accepting performance of work under the contract, or similar matters relating to the contract, except that if the number of members of the governing body declaring an interest in the contract would prevent the body with all members present from securing a quorum on the issue, then all members may vote on the matters; and

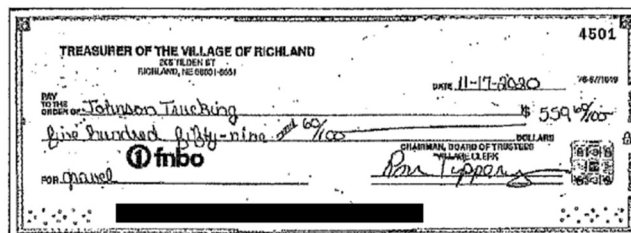
(c) Does not act for the governing body which is party to the contract as to inspection or performance under the contract in which he or she has an interest.

(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.

3. Lack of Dual Signatures

The APA obtained the bank statements for the Village's accounts from its fiscal year 2021 audit waiver request. From these statements, the APA noted that three of the Village checks written during the examination period contained only one signature. An example of such checks is shown below.



Check 4501, Amount \$559.60 On 12/4/2020

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. 2020) 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.

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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.

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, please contact **Dakota Christensen** at **402-499-8702** or **dakota.christensen@nebraska.gov**.

Sincerely,



Mark Avery, CPA
Assistant Deputy Auditor