



# NEBRASKA AUDITOR OF PUBLIC ACCOUNTS

Mike Foley  
State Auditor

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

January 22, 2024

Tammy Musgrave, Chairperson  
Village of Ong  
30371 Road Z  
Ong, NE 68452

Dear Chairperson Musgrave:

The Nebraska Auditor of Public Accounts (APA) has reviewed the audit waiver request received from the Village of Ong (Village) for the fiscal year ending 2023. **That request has been approved.**

While performing, pursuant to Neb. Rev. Stat. § 84-304 (Supp. 2023), 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. Brokerage Account Investments**

The APA obtained the monthly statements for the Village's bank and investment accounts from its fiscal year 2023 audit waiver request. From those statements, the APA noted one brokerage account, with a balance of \$35,595 as of September 30, 2023, held at LPL Financial. Because this account includes stock ownership in multiple private corporations, the Village's investments therein appear to conflict with the following constitutional and statutory provisions.

To start, Article XI, § 1, of the Nebraska State Constitution provides, in relevant part, the following:

*No city, county, town, precinct, municipality, or other subdivision of the state shall ever become a subscriber to the capital stock, or owner of such stock, or any portion or interest therein of any railroad, or private corporation, or association . . . .*

Furthermore, Neb. Rev. Stat. § 77-2341(1) (Reissue 2018) reads as follows:

*Whenever any county, city, village, or other governmental subdivision, other than a school district, of the State of Nebraska has accumulated a surplus of any fund in excess of its current needs or has accumulated a sinking fund for the payment of its bonds and the money in such sinking fund exceeds the amount necessary to pay the principal and interest of any such bonds which become due during the current year, the governing body of such county, city, village, or other governmental subdivision may invest any such surplus in excess of current needs or such excess in its sinking fund in certificates of deposit, in time deposits, and in any securities in which the state investment officer is authorized to invest pursuant to the Nebraska Capital Expansion Act and the Nebraska State Funds Investment Act and as provided in the authorized investment guidelines of the Nebraska Investment Council in effect on the date the investment is made. The state investment officer shall upon request furnish a copy of current authorized investment guidelines of the Nebraska Investment Council.*

The Nebraska Attorney General has stated, in an Attorney General opinion, the following regarding investments held by political subdivisions:

*Section 77-2341 allows state political subdivisions to invest securities which the Nebraska Investment Council's investment guidelines authorize. The Investment Council's guidelines authorize direct investment in U.S. Government obligations . . . .*

\* \* \* \*

*The Constitution's language [Article XI, § 1] certainly prohibits a county from investing in a mutual fund when the portfolio includes stock, but it does not specifically address the issue of mutual funds solely comprise of U.S. Government obligations.*

Op. Att'y Gen. No. 95041 (May 15, 1995). Though addressing county hospital investments, the opinion's reference to Article XI, § 1, is applicable also to other political subdivisions, including Villages.

Per the Nebraska Investment Council's (NIC) website, the NIC does not have a separate policy or any other guidelines that outline the types of investments political subdivisions are allowed to invest in. As a result, political subdivisions would be restricted to investments strictly permitted by Nebraska law. Furthermore, the NIC's website recommends that political subdivisions consult with their legal counsel to determine what investments are allowable under State law. Per discussion with the Village Clerk, the Village has not discussed with their legal counsel to determine if the current brokerage accounts are allowable under State law.

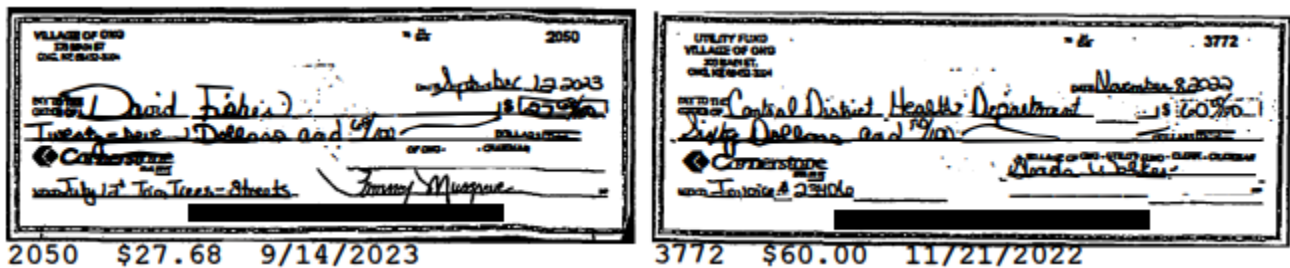
Good internal control requires procedures to ensure that Village funds are held in accounts or assets permitted by law. Without such procedures, there is an increased risk of not only failure to comply with applicable constitutional and statutory provisions but also loss of Village funds due to decreases in stock values.

A similar issue was identified by the APA in a prior review and was disclosed to the Village in the APA's letter dated February 23, 2023, which can be found on the APA's website. However, it does not appear this issue was corrected after the APA's notification.

We recommend the implementation of procedures to ensure all balances held by the Village are in accounts or assets permitted by Nebraska law.

**2. Lack of Dual Signatures**

The APA obtained the bank statements for the Village's accounts from its fiscal year 2023 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.



State statute requires Village checks to be signed by both the Chairperson of the Board of Trustees (Board) and the Village Clerk. Specifically, Neb. Rev. Stat. § 17-711 (Reissue 2022) 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.*

(Emphasis added.) 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 for not only failure to comply with State statute but also 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.

\* \* \* \* \*

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