



# Village of Nyack

## The Nyack Center, Purchasing and Claims Processing

### Report of Examination

Period Covered:

June 1, 2010 — July 31, 2011

2011M-241



Thomas P. DiNapoli

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# State of New York Office of the State Comptroller

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## **Division of Local Government and School Accountability**

February 2012

Dear Village Officials:

A top priority of the Office of the State Comptroller is to help local government officials manage government resources efficiently and effectively and, by so doing, provide accountability for tax dollars spent to support government operations. The Comptroller oversees the fiscal affairs of local governments statewide, as well as compliance with relevant statutes and observance of good business practices. This fiscal oversight is accomplished, in part, through our audits, which identify opportunities for improving operations and Village Board governance. Audits also can identify strategies to reduce costs and to strengthen controls intended to safeguard local government assets.

Following is a report of our audit of the Village of Nyack, entitled *The Nyack Center, Purchasing, and Claims Processing*. This audit was conducted pursuant to Article V, Section 1 of the State Constitution and the State Comptroller's authority as set forth in Article 3 of the General Municipal Law.

This audit's results and recommendations are resources for local government officials to use in effectively managing operations and in meeting the expectations of their constituents. If you have questions about this report, please feel free to contact the local regional office for your county, as listed at the end of this report.

Respectfully submitted,

*Office of the State Comptroller  
Division of Local Government  
and School Accountability*



## State of New York Office of the State Comptroller

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# EXECUTIVE SUMMARY

The Village of Nyack (Village) is located in the Towns of Orangetown and Clarkstown in Rockland County, serves approximately 6,800 residents, and encompasses approximately one square mile. The Village provides various services to its residents, including street maintenance, snow removal, street lighting, and general government support. These services are financed primarily with real property taxes and State aid. General fund expenditures totaled approximately \$5.3 million for the 2010-11 fiscal year.

The Village is governed by the Village Board (Board), which is comprised of four elected council members and the elected Mayor. The Board is the legislative body responsible for the general management and control of the Village's financial affairs. The Board also determines policy and appropriates funds for various governmental functions and services. In 2010 the Village created the position of Village Administrator who serves as the chief operating officer and is responsible for the day-to-day management of the Village. The Nyack Center (Center) serves the Village along with the larger community of Rockland County. It provides services to the community such as a breakfast club for students, an afterschool program, a substance-free performance program for teenagers, a teen drop-in center with available computers and tutors, youth-organized groups with adult advisors, an out-of-school suspension site program, youth workshops, and a monthly family game night. Since 2008, the Center also has provided a six-week children's summer camp program (camp).

### **Scope and Objective**

The objective of our audit was to review the monitoring of the Center's funding and the Village's purchasing practices and claims processing for the period June 1, 2010, to July 31, 2011. We extended our scope period for the monitoring of the Center to January 2008. Our audit addressed the following related questions:

- Did the Board sufficiently monitor the Center's activities to ensure that Village funds were expended in the best interest of Village taxpayers?
- Did Village officials ensure that purchases were made in accordance with the Village's purchasing policy and that desired professional services were obtained at the most favorable terms and in the best interest of taxpayers?
- Did the Board properly review claims to ensure that they are accurate, valid, and for legitimate Village expenses?

## **Audit Results**

The Board and Village officials did not sufficiently monitor the financial operations of the Center. Center officials did not follow the terms of the contract between the Center and the Village, and Village officials failed to ensure or require that they did so. Because Village officials did not properly monitor the contract with the Center and enforce the terms of the contract, Village taxpayers inappropriately paid \$216,026 from 2008 to 2011 for non-Village residents to attend the Center's camp. In addition, the Center failed to maintain separate accounting records for the various sources of revenue used to finance its programs. Without appropriate records, the Treasurer could not properly monitor compliance with the contract and could not determine how many Village and non-Village residents are using Center programs for which the Village is providing funding.

Village officials did not always ensure that purchases were made in accordance with the Village's purchasing policy and that the desired professional services were obtained at the most favorable terms and in the best interest of taxpayers. The Village's purchasing policy does not require the solicitation of competition in the selection of professional services. As a result, the Village contracted with 21 professional services for approximately \$276,000 without seeking competition. Furthermore, the Village made purchases totaling approximately \$122,000 without requesting quotes, as required by the Village's purchasing policy. Unless Village officials consistently seek appropriate competition for purchases, they cannot assure taxpayers that they are obtaining goods and services at the most favorable terms and in the best interest of taxpayers.

The Board did not always audit and approve claims against the Village prior to payment and has not established policies and procedures over the claims auditing process. We found that the Village paid 28 claims totaling \$53,443 without proper Board approval. The Village also paid \$1,543 in New York State sales tax on 34 claims, although the Village is tax exempt. This happened because policies and procedures for the proper audit of claims were not established, and the Board did not perform a thorough review of claims before authorizing them for payment. The Board's failure to properly audit claims prior to payment increases the risk that the Village could pay for expenses that are unauthorized, excessive, or unnecessary.

## **Comments of Local Officials**

The results of our audit and recommendations have been discussed with Village officials and their comments, which appear in Appendix A, have been considered in preparing this report. Except as specified in Appendix A, Village officials generally agreed with our recommendations and indicated that they planned to take corrective action. Appendix B includes our comments on issues raised in the Village's response letter.

# Introduction

## Background

The Village of Nyack (Village) is located in the Towns of Orangetown and Clarkstown in Rockland County, serves approximately 6,800 residents, and encompasses approximately one square mile. The Village provides various services to its residents, including street maintenance, snow removal, street lighting, and general government support. General fund expenditures totaled approximately \$5.3 million for the 2010-11 fiscal year. These services are financed primarily with real property taxes and State aid. The Village provides financial support to the Nyack Center (Center) of approximately \$288,000 annually and has assisted in financing the Center's operations since its formation in 1990. The Village provided approximately \$500,000 in program funding and \$650,000 for the camp from 2008 to 2011.

The Center serves the Village along with the larger community of Rockland County. It provides services to the community such as a breakfast club for students, an afterschool program, a substance-free performance program for teenagers, a teen drop-in center with available computers and tutors, youth-organized groups with adult advisors, an out-of-school suspension site program, youth workshops, and a monthly family game night. Since 2008, the Center also has provided a six-week children's summer camp program (camp).

The Village is governed by the Village Board (Board), which is comprised of four elected council members and the elected Mayor. The Board is the legislative body responsible for the general management and control of the Village's financial affairs. The Board also determines policy and appropriates funds for various governmental functions and services. In 2010 the Village created the position of Village Administrator (Administrator), who oversees the Village's day-to-day activities.

## Objective

The objective of our audit was to review the monitoring of the Center's funding and the Village's purchasing practices and claims processing. Our audit addressed the following related questions:

- Did the Board sufficiently monitor the Center's activities to ensure that Village funds were expended in the best interest of Village taxpayers?
- Did Village officials ensure that purchases were made in accordance with the Village's purchasing policy and that desired professional services were obtained at the most favorable terms and in the best interest of taxpayers?

- Did the Board properly review claims to ensure that they are accurate, valid, and for legitimate Village expenses?

**Scope and  
Methodology**

We examined the funding for the Center and the Village's purchasing practices and claims audit processes for the period June 1, 2010, to July 31, 2011. We extended our examination of the Center's financial statements and pertinent program information to cover fiscal years 2008-09 through 2010-11 and calendar years 2008-2011.<sup>1</sup>

We conducted our audit in accordance with generally accepted government auditing standards (GAGAS). More information on such standards and the methodology used in performing this audit are included in Appendix C of this report.

**Comments of  
Local Officials and  
Corrective Action**

The results of our audit and recommendations have been discussed with Village officials and their comments, which appear in Appendix A, have been considered in preparing this report. Except as specified in Appendix A, Village officials generally agreed with our recommendations and indicated that they planned to take corrective action. Appendix B includes our comments on issues raised in the Village's response letter.

The Board has the responsibility to initiate corrective action. A written corrective action plan (CAP) that addresses the findings and recommendations in this report should be prepared and forwarded to our office within 90 days, pursuant to Section 35 of the 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 the Board to make this plan available for public review in the Village Clerk's office.

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<sup>1</sup> The Village's fiscal year runs from June 1 through May 31. The Center operates on a January 1 through December 31 fiscal year.

## The Nyack Center

The Board represents the interests of Village residents in providing services to the residents, and protecting the Village's resources from waste, abuse or misuse. Both the Board and Village officials are responsible for monitoring agencies receiving financial assistance from the Village and ensuring the agencies are abiding by contract terms. It is important that Village officials enforce contract terms to ensure that the Village receives the services it paid for, at the appropriate cost.

Center officials did not follow the terms of the contract, and Village officials failed to ensure or require that they did so. Because Village officials did not properly monitor the contract with the Center and enforce the terms of the contract, Village taxpayers inappropriately paid \$216,026 from 2008 to 2011 for non-Village residents to attend the Center's summer camp. In addition, the Center failed to maintain separate accounting records for the various sources of revenue used to finance its programs. Without appropriate records to review, the Treasurer could not properly monitor compliance with the agreement and could not determine how many Village and non-Village residents are using Center programs for which the Village is providing funding.

### **Contract Terms**

Effective contract oversight helps ensure that contractors provide the Village with goods and services agreed on in the terms of the contract. Contract monitoring and enforcement of contract terms are essential for ensuring that goods and services paid for are received. It also is important that Village officials require contractors to provide accurate documentation that would allow officials to determine that the contractor actually provided goods and services for which the Village paid.

Among other requirements, the contract between the Village and the Center required that the Center maintain accurate and complete records and allow the Village to inspect them. The Center must keep Village funds in a segregated bank account, subject to audit by the Village Treasurer, and all funds provided by the Village must be used for Village residents. Any funds not used must be retained in the segregated bank account for use as start-up funds for the subsequent contract year.

To determine if the Board and Village officials were properly monitoring the assistance they were providing to the Center, we reviewed the stipulated terms of the contracts between the Village and the Center. Center officials did not follow the terms of the

contract, and Village officials failed to ensure or require that they did so. For example, Center officials did not maintain separate and detailed accounting records for the various sources of revenue used to finance the core programs and the associated costs. As a result, the Treasurer could not monitor the Center's financial and non-financial activities for compliance with the terms of the agreement. Also, the Center did not have a separate bank account, as required by the contract, until June 15, 2011. As a result, Village officials do not have adequate assurance that the Center used Village funds for programs that were for Village residents or that Village moneys were used in the following year. In addition, we found that the Center provided services and the Village made payments before either party executed the 2010-11 contract. The June 1, 2010 to May 31, 2011, contract was not signed until April 27, 2011, only a month before the end of the contract.

Because Village officials did not properly monitor the contract with the Center and enforce the terms of the contract, Village taxpayers were inappropriately paying for services rendered to non-Village residents.<sup>2</sup>

## Summer Camp

According to the contract between the Village and the Center, the funding for the summer camp is contingent on the camp serving 90 Village campers. If less than 90 Village campers participate during any given year, the Center must retain the additional Village funds not used for Village campers in a segregated bank account. The Treasurer is responsible for reviewing the Center's accounting records each year and verifying that the Center is in compliance with these contract terms.

The Village remits approximately \$163,300 annually to the Center for the six-week summer camp. According to the Center's audited financial statements, camp expenditures for 2008 to 2010<sup>3</sup> cost between \$160,000 and \$195,000 to operate annually. Therefore, the majority of the costs of operating the camp were paid by the Village.

Camp enrollment for 2008 to 2011 ranged from 50 to 77 Village residents. Although the Village funded almost the entire cost of the camp during the four camp seasons we reviewed, a significant number of non-Village resident campers attended the camp each year at the expense of Village taxpayers, as shown in Table 1.

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<sup>2</sup> Refer to the Summer Camp and Core Programs sections for further information.

<sup>3</sup> Audited financials for the 2011 year were not available during our fieldwork.

<b>Table 1</b>				
<b>Year</b>	<b>Total Campers</b>	<b>Village Resident Campers</b>	<b>Non-Village Resident Campers</b>	<b>Unknown Residence Campers</b>
2008	95	50	37	8
2009	113	56	49	8
2010	113	58	53	2
2011	137	77	58	2

Though the camp enrolled and served less than 90 Village residents each year from 2008 to 2011, Center officials failed to retain Village moneys not used for Village residents in a segregated bank account to be applied toward the next contract year, as required by the contract. If the Center had retained Village moneys not used for Village residents and applied it toward the following contract year for 2008 to 2011, the Village could have saved approximately \$216,026, as shown in Table 2.

<b>Table 2</b>			
<b>Year</b>	<b>Village Resident Campers</b>	<b>Cost for Village Campers<sup>a</sup></b>	<b>Potential Savings<sup>b</sup></b>
2008	50	\$90,700	\$72,600
2009	56	\$101,584	\$61,716
2010	58	\$105,212	\$58,088
2011	77	\$139,678	\$23,622
<b>Totals</b>	<b>241</b>	<b>\$437,174</b>	<b>\$216,026</b>
<sup>a</sup> Calculated as \$1,814 per camper (\$163,300 annual payment ÷ 90 Village campers = \$1,814) <sup>b</sup> Calculated as \$163,300 annual payment by Village for 90 Village campers minus the cost for the actual number of Village campers participating per year			

Because the Center did not retain Village moneys not used for Village-resident campers and apply it toward the following contract year between 2008 and 2011, the Village contributed \$216,026 more than was necessary to fund camp operations at taxpayers' expense.

## **Core Programs**

The Village provides approximately \$125,000 annually for the Center's core programs.<sup>4</sup> Although the Center serves Village residents and non-Village residents who live in the surrounding communities, the Village funding can be applied only to the services that Village residents receive. The contract between the Village and

<sup>4</sup> Core programs are regularly scheduled programs. Non-core "auxiliary" programs change in duration and regularity and are funded from a specific source, such as the Women, Infants, and Children program which is Federally funded.

the Center stipulated that funds provided by the Village be kept in a segregated bank account separate from other Center funds.

We reviewed the Village's financial assistance to the Center from 2008 to 2011 and found that the Center did not internally allocate its revenues to specific programs. Therefore, Village officials cannot determine how much money the Village has provided for various programs, or if only Village residents benefited from the Village's contributions or funding. In the past, the former Village Treasurer only reviewed the audited financial statements from the Center, which did not provide any information that would have allowed the Treasurer to ensure that Village funds were being used only for Village residents' benefit. Because the Center failed to maintain separate accounting records for the various sources of revenue used to finance its programs, the Treasurer could not properly monitor compliance with the agreement.

Because of the Center's lack of monitoring enrollment and the lack of separate accounting records for resident and non-resident participants, the Village and Village taxpayers cannot be sure they are providing funding for only Village residents.

## **Recommendations**

1. The Village should require the Center to maintain accurate and complete accounting records that provide a description for the use of Village funds for core and summer camp programs and maintain enrollment data that verifies Village residency. Village officials should ensure that the Center provides this documentation to the Treasurer for review.
2. The Village should require that the Center places all Village funds that are not used for Village residents into a segregated bank account and uses these funds to reduce the subsequent year's funding for Village residents' participation in core and camp programs.
3. Village officials should ensure that a fully executed contract is in place between the Village and the Center before the Village renders payments to the Center and the Center begins to render services to Village residents.

## Purchasing

The Board is responsible for ensuring that the Village purchases the desired quality and quantity of goods and services at the lowest cost. The Board has established purchasing policies and procedures as standards for the Village's purchasing practices.

The Village's purchasing policy does not require the solicitation of competition in the selection of professional services. As a result, the Village contracted with 21 professional service providers for approximately \$276,000 without seeking competition. Furthermore, the Village made purchases totaling approximately \$122,000 without requesting quotes, as required by the Village's purchasing policy. Unless Village officials consistently seek appropriate competition for purchases of goods and services, they cannot assure taxpayers that they are obtaining these goods and services at the most favorable terms and in the best interest of the taxpayers.

### Professional Services

Competitive bidding is not required for the procurement of professional services that require special or technical skill, training, or expertise. However, it is important that a municipality's purchasing policy encourages competition when acquiring professional services to assure that quality services are obtained at the best price and without favoritism. Seeking competition for professional services provides an opportunity to generate potential cost savings. One way to promote competition when procuring professional services is to issue requests for proposals.

The Village's purchasing policy states that, in the case of procuring professional services, the solicitation of alternative proposals or quotations will not be in the best interest of the municipality. According to the Village policy, needed qualifications are not necessarily found in the individual or company that offers the lowest price, and professional services do not readily lend themselves to competitive procedures. However the Village's policy does not state what methods or procedures should be used to evaluate professional services.

During our audit period, the Village made payments to 26 professional service providers totaling approximately \$391,000. We examined vouchers for 25<sup>5</sup> of these vendors totaling approximately \$308,000. In accordance with the Village's established policy, the Village did not solicit competition when choosing 21 of the 25 vendors that were collectively paid approximately \$276,000. For example, the Village

<sup>5</sup> Village officials could not locate the vouchers for one vendor.

paid two accounting firms a total of \$35,000 without seeking competition. We did not identify any other formal mechanism used by Village officials to evaluate the cost and quality of these services prior to engaging the vendors.

Village officials' failure to solicit competition or provide some alternative means to evaluate the cost and quality when procuring professional services does not provide taxpayers with assurance that the Village obtained the highest quality of services in the most prudent and economical manner and without favoritism.

## **Competitive Quotations**

The Village's purchasing policy requires Village officials to obtain three written or faxed quotes for purchases between \$3,000 and \$9,999. The Village paid 402 vendors approximately \$7 million during our audit period. Of those 402 vendors, 25 vendors were paid amounts between \$3,000 and \$9,999 and the payments paid to these vendors collectively totaled approximately \$140,000.

We examined all of the purchases paid to these 25 vendors during our audit period and found that Village officials did not request quotes for 22 of these vendors that received payments totaling approximately \$122,000. For example, the Village paid \$8,850 for rental of a truck for snow removal and \$6,284 for equipment for the water department. The Village documented that payments to the other three of the 25 vendors were for emergency purchases; therefore, quotes were not required.

The Administrator told us that, in the past, Village employees were not consistently obtaining price quotes when procuring goods. The new Administrator has implemented a new purchase requisition form that requires employees to obtain and document the required quotes; he is overseeing the implementation of the new form.

Village employees' failure to obtain quotes in accordance with the Village's policy may have resulted in the Village incurring higher costs than necessary for the goods and services purchased. Therefore, the Board cannot assure taxpayers that the Village is paying the lowest possible price, or acquiring goods and services without favoritism.

## **Recommendations**

4. The Board should adopt a comprehensive purchasing policy that outlines procedures for Village officials to follow when acquiring professional services. The Board should ensure that the policy describes the methods and procedures for promoting competition when procuring professional services.
5. The Board should ensure that Village officials comply with the Village's purchasing policy and obtain written quotes for products and services that require quotes.

## Claims Processing

The Board is responsible for auditing and approving all claims prior to payment. The Board must establish policies and procedures to ensure that the proper claims audit process includes the stipulation that claims be reviewed for accuracy and be valid Village expenditures before being approved for payment. With few exceptions, claims must be approved by the Board prior to payment.

The Board did not always audit and approve claims prior to payment and has not established policies and procedures over the claims auditing process. We found that the Village paid 28 claims totaling \$53,443 without proper approval. The Village also paid \$1,543 in New York State sales tax on 34 claims, although the Village is tax exempt. This happened because policies and procedures for the proper audit of claims were not established, and the Board did not perform a thorough review of claims before authorizing them for payment.

### **Policies and Written Procedures**

The Board must establish policies and written procedures that describe what constitutes a proper audit of claims. A proper claims audit process includes the stipulation that the entire Board, a Board-appointed claims auditor, or a separate board of commissioners appointed by the Board, will audit all claims against the Village. Also, claims must contain sufficient documentation to determine the nature of the purchase, that the amounts represent actual and necessary Village expenses, and that the purchase complies with statutory requirements and Village policies.

The Board has not established policies or written procedures for auditing claims. As a result, the entire Board did not audit all claims against the Village, and the Board did not properly review all claims before it authorized them to be paid. We scanned all 2,686 claims totaling approximately \$7.4 million that the Village paid during the 2010-11 fiscal year to determine whether the Village paid sales tax and found that the Board should have rejected 34 claims that included sales tax totaling \$1,543. In addition, the entire Board did not audit these claims. Of the 34 claims, 32 were approved for payment by three Board members. The other two claims were approved for payment by only two Board members.

The Village paid 295 claims totaling \$966,013 in November 2010 and 315 claims totaling \$676,567 in May 2011. We randomly selected 30 claims totaling \$55,035 from both months (15 claims

from November and 15 from May)<sup>6</sup> and found that they had adequate supporting documentation. In addition, during the 2010-11 fiscal year the Village disbursed 49 payments using hand-written checks. Of these 49 payments, 30 payments were payroll-related. We reviewed the remaining 19 hand-written claims<sup>7</sup> totaling \$55,119 to determine if they had sufficient supporting documentation and found that the Board approved 18 payments totaling \$45,744 even though these claims did not have any supporting documentation. For example, the Village paid \$5,000 for calcium chloride and \$3,000 for architectural service without any supporting documentation or approvals.

Because the Board has not established policies or proper procedures for auditing claims, Board members do not know what constitutes an adequate audit of claims. As a result, the Village has an increased risk of incurring unnecessary costs.

## Claims Audit

With a few exceptions, the Board is required to audit and approve all claims against the Village before payment. According to Village Law, claims for debt service and amounts due on contracts for periods exceeding one year, or for compensation for services of employees or officers, may be paid without prior audit by the Board. The Board also adopted a resolution that allows the Village to pay various bills prior to audit including payments for utilities, postage, freight, and express charges. However, the Board must audit and approve claims paid without prior audit at its next regular meeting.

We reviewed 49<sup>8</sup> invoices totaling \$110,154 and found that the Board did not approve 28 invoices totaling \$53,443 prior to the claims being paid. These 28 claims were not for debt service, amounts due on contracts for periods exceeding one year, compensation for services of employees or officers, utilities, postage, freight, or express charges. For example, the Village paid \$4,344 to a communications company and \$1,414 for truck parts without prior Board approval.

The Board's failure to properly audit claims prior to payment increases the risk that the Village could pay for expenses that are unauthorized, excessive, or unnecessary.

## Recommendations

6. The Board should establish policies and procedures regarding the processing of all claims against the Village.

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<sup>6</sup> We selected November 2010 and May 2011 because they were the two most active months for cash disbursements during our audit period.

<sup>7</sup> We excluded any payroll payments from our sample and chose to review the 19 hand-written claims because of the increased risk that these claims could be processed without proper authorization.

<sup>8</sup> See footnote 4 for information on sample selection.

7. If the Board does not appoint a claims auditor or separate board of commissioners to audit claims, the entire Board should audit and approve all claims before payment.

## **APPENDIX A**

### **RESPONSE FROM LOCAL OFFICIALS**

The local officials' response to this audit can be found on the following pages. In addition, the Village's response letter refers to page numbers that appeared in the draft report. The page numbers have changed during the formatting of this final report.

The Village's response letter refers to an attachment that supports the response letter. Because the Village's response letter provides sufficient detail of its actions, we did not include the attachment in Appendix A.

# Village

# Of

# Nyack

9 North Broadway  
Nyack New York 10960-2697

[www.nyack-ny.gov](http://www.nyack-ny.gov)

*Incorporated February 27, 1883*

January 30, 2012

Christopher J. Ellis, Chief Examiner  
Office of the New York State Comptroller  
Newburgh Regional Office  
33 Airport Center Drive, Suite 103  
New Windsor, New York 12553-4725

## **Mayor**

*Jennifer Laird-White*

## **Trustees**

*Doug Foster*

*Louise Parker*

*Marie Lorenzini*

*Steve Knowlton*

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## **Village Administrator**

*James C. Politi*

## **Village Clerk**

*Mary E. White*

## **Village Attorney**

*Walter R. Sevastian*

**Re: Letter responding to Preliminary Draft Audit – Village of Nyack (2011M-241)**

Dear Mr. Ellis:

This correspondence shall constitute a “Written Audit Response” to the draft findings and recommendations of the examination report generated by your office, identified as report 2011M-241.

Generally, the Village of Nyack (hereinafter the “Village”) is accepting of the conclusions and recommendations included in the State Comptroller’s report, and recognizes that the recommendations provide a framework for improving the Village of Nyack’s operations and governance. The Village of Nyack will undertake the recommended positive actions contained in the report as part of the Village’s continuing efforts to improve operations.

This response is designed to provide the Comptroller’s Office with information relating to each of the areas touched on in the report, monitoring of the Village’s contract with the Nyack Center (for years 2008 – 2011), the Village’s Procurement Policy (for fiscal year 2010), and the Village’s Claims Processing Procedures (for fiscal year 2010).

### **I. General Operating Procedures**

Although the Village of Nyack has been incorporated since 1883, the Village did not create the position of Village Administrator until 2010. Prior to hiring a Village Administrator, the day-to-day management of the Village’s operations were largely the responsibility of the Village Board of Trustees, part-time elected officials, who often times were not on-site during regular business hours monitor operations. Additionally, the Village Treasurer had undertaken, out of necessity, to manage the day-to-day operations of the Village, a role beyond his job description and capability. While the Village had Procurement policies in place in accord with the requirements of the General Municipal Law prior to 2010, the lack of an on-site Administrator overseeing the daily operations of the Village clearly resulted in a lack of consistent documented controls on contract management, procurement, and claims auditing processes. Hiring a Village Administrator specifically responsible for on-site management of the Village has and will continue to, facilitate the proper monitoring of the very issues discussed in the Comptroller’s report.

## **II. The Nyack Center contract (years 2008 – 2011)**

The Village of Nyack fulfilled its contractual obligation to fund various educational and recreational programs offered through the Nyack Center for school age children and families who otherwise would not receive programs, such as a breakfast program for elementary aged school children, after school programs, computer tutoring, adult supervised youth groups, summer camp, and family counseling services. The funding provided by the Village to the Nyack Center was based upon Village resident enrollment figures provided by the Nyack Center.

As noted in the Comptroller's report, the contract between the Village and the Nyack Center generally required the Nyack Center to segregate funds it received from the Village, to maintain accurate and complete records of expenditures subject to audit and inspection by the Village, and to apply any excess funding not utilized on Village residents towards the next contract year programs.

Although noted (on page 11 of the Comptroller's report), but not emphasized, the Village Treasurer annually reviewed audited financial statements provided to the Village by the Nyack Center. The Village did not however take additional action to monitor the Nyack Center's financial and non-financial activities relative to the Nyack Center's programming.

As a result, the Comptroller's report concluded that approximately 20% of the public accessing programming funded in part by the Village of Nyack, were not Nyack residents. This issue is complicated by the fact that certain Nyack Center programming, such as the Summer Camp, utilizes property of the Nyack School District, and therefore must be open to all residents of the Nyack School District, regardless of whether they reside in Nyack, Central Nyack, or South Nyack. Additionally, the Village understands that the Nyack Center does not turn away children or families in need---an action which the Village of Nyack supports. Obviously, there is no indication in the Comptroller's report that the children and families accessing the Nyack Center's programming were not eligible and in need of the Nyack Center's programming.

See  
Note 1  
Page 20

See  
Note 2  
Page 20

Issues of access and need aside, the previous lack of an on-site Administrator overseeing the daily operations of the Village resulted in less than optimal contract oversight in this instance. The Village will implement all recommendations of the Comptroller contained on page 11 of the report (to be further detailed in corrective action plan ("CAP") to be provided to the Comptroller's Office at a later date).

## **III. The Village's Procurement Policy**

The Village of Nyack has a Procurement Policy (attached as Exhibit "A"), which complies with the applicable requirements and standards set forth in the New York State General Municipal Law.

With respect to the procurement of professional services, the Comptroller's report acknowledges that competitive bidding is not required by law for the procurement of professional services, but goes on to recommend, in essence, that the Village undertake what amounts to seeking competitive bids for professional services.

The Village acknowledges the reasonableness of the Comptroller's position that the Village should develop alternative means to evaluate the cost and quality of professional services contracted for in a manner short of soliciting competitive bids for the professional services. The availability of an on-site Administrator overseeing the daily operations of the Village will be helpful in modifying the Village's Procurement Policy as it pertains to professional services (to be further detailed in the CAP to be provided to the Comptroller's Office).

With respect to the solicitation of competitive quotations, the Comptroller's report acknowledges that the Village Administrator has developed and is overseeing the implementation of a purchase requisition form. The level of management now in place within Village government will enable the Village to ensure that Village officials comply with the Village's Procurement Policy.

#### **IV. The Village's Claims Processing Procedures**

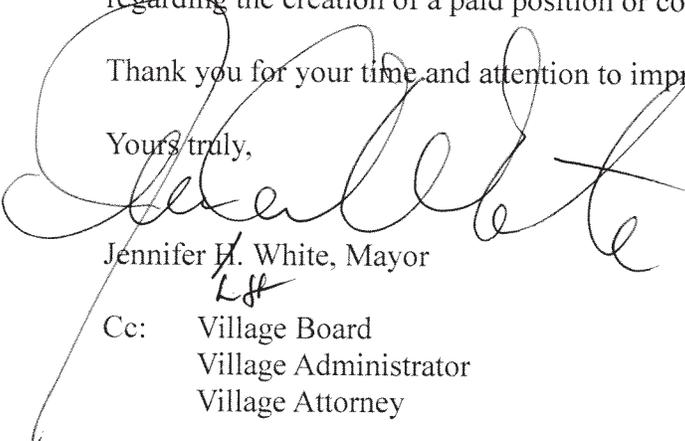
Currently, all claims made for payment to the Village of Nyack are made by requisition and voucher, and submitted to the Village Board with underlying documentation for signature (the signature of a majority of the Board is required for payment).

As noted in the Comptroller's report, this process is effective as shown by the sampling set forth on page 14-15 of the report; but it is not sufficiently set forth as a formal written policy for the documentation and audit of claims. Furthermore, the Village does not have a Village Board appointed auditor, or separate board of commissioners created for the limited purposes of auditing claims.

The Village will implement all recommendations of the Comptroller contained on page 15 of the report as pertains to the processing of claims against the Village, to be further detailed in the CAP to be provided to the Comptroller's Office at a later date. The CAP will set forth the Village's Board position regarding the creation of a paid position or commission to audit claims.

Thank you for your time and attention to improving the operations of the Village of Nyack.

Yours truly,

  
Jennifer H. White, Mayor

Cc: Village Board  
Village Administrator  
Village Attorney

## APPENDIX B

### OSC COMMENTS ON THE VILLAGE'S RESPONSE

#### Note 1

The report did not conclude that 20 percent of the public accessing programs at the Nyack Center were funded in part by the Village of Nyack. We concluded that approximately 47 percent of the participants attending the Nyack Camp were non-Village residents. Because of the inadequate recordkeeping of the Nyack Center, it was not possible to determine the number of Village and non-Village residents participating in the Nyack Center's other programs.

#### Note 2

The focus of our audit was not on the need or eligibility of participants in the Nyack Center's programs, but rather the Village's monitoring of the Nyack Center's use of the funds that the Village provided to the Nyack Center.

## APPENDIX C

### AUDIT METHODOLOGY AND STANDARDS

Our overall goal was to determine whether Village officials were adequately monitoring the Nyack Center's financial operations, whether the Village was purchasing goods and services at the lowest possible price, and whether claims were properly authorized and reviewed before payments were issued. To accomplish our objectives, we interviewed appropriate Village officials, employees, and Nyack Center personnel, tested selected records, and examined pertinent documents for the period June 1, 2010, to July 31, 2011. We extended our scope for testing of the Nyack Center to January 1, 2008. Our testing included the following steps:

- We interviewed appropriate Village officials and employees regarding the Nyack Center, purchasing, and claims processing.
- We contacted Nyack Center personnel and corresponded with them throughout our audit. These discussions allowed us to analyze the Center's processes and the Village's involvement in the Nyack Center.
- We reviewed the minutes of the Board's proceedings, contracts, payments, and audited financials.
- We reviewed pupil enrollment lists, registration applications, and the Village's tax assessments roll to determine if Nyack Center pupils were Village residents. We reviewed the Center's enrollment for campers for the summers of 2008 through 2011 and compared addresses of campers with the Village tax roll to verify whether campers were Village residents.
- We reviewed purchasing records, tested selected transactions, and examined pertinent documents to determine whether purchases complied with the Village's procurement policy.
- We examined selected claims and voucher packets to verify proper authorization of payments.
- We examined invoices to determine if the Village was charged New York State sales tax.

We conducted this performance audit in accordance with generally accepted government auditing standards (GAGAS). 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 objectives. We believe that the evidence obtained provides a reasonable basis for our findings and conclusions based on our audit objectives.

## APPENDIX D

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