

# HANDBOOK FOR VILLAGE OF COLD SPRING BOARD OF TRUSTEES

## CONTENTS

### **I. GENERAL RULES OF MEETING PROCEDURE** pg 2

- |                                                  |                                                          |
|--------------------------------------------------|----------------------------------------------------------|
| A. Presiding Officer                             | M. The Organizational Meeting                            |
| B. Agenda                                        | N. Meeting Protocol                                      |
| C. Calling Agenda Items; Motioning;<br>Seconding | O. Guidelines for Public Comment                         |
| D. Discussion and Debate                         | P. Executive Sessions                                    |
| E. Voting                                        | Q. Minutes                                               |
| F. Resolutions                                   | R. Additional Information on<br>Parliamentary Procedure  |
| G. Monthly Meeting; Reports                      | S. Amendment of Procedure                                |
| H. Order of Business for Monthly<br>Meeting      | Appendix A- Guidelines for Executive<br>Sessions         |
| I. Adjournment                                   | Appendix B- Guidelines for Use of<br>Recording Equipment |
| J. Workshop Meetings                             | References                                               |
| K. Special Meetings                              |                                                          |
| L. Public Hearings                               |                                                          |

### **II. CODE OF ETHICS**, Cold Spring Village Code, Chapter 9. pg 17

### **III. PROCUREMENT POLICY FOR THE VILLAGE OF COLD SPRING** pg 20

### **IV. INVESTMENT POLICY FOR THE VILLAGE OF COLD SPRING** pg 23

### **V. CRITERIA FOR AUDITING CLAIMS** pg 28

### **VI. DEFINITION OF CONFLICT OF INTEREST** pg 31

### **VII. REFERENCE LINKS** pg 32

# I. GENERAL RULES OF MEETING PROCEDURE

## A. PRESIDING OFFICER\*

- Village Law §4-412 provides that the Mayor presides at meetings of the Village Board of Trustees. In the Mayor's absence, the Deputy Mayor presides. A majority of the full membership of the Board, three members, constitutes a quorum for the purpose of transacting business.\*
- If both the Mayor and the Deputy Mayor are absent and a quorum is present, the Village Board, by a majority vote of those present, proceeds to elect one of the Trustees present as a presiding officer to chair the meeting.
- The presiding officer may debate, make motions, and take any other action that other Board Members may take.\*

## B. AGENDA\*

- The presiding officer (i.e., the Mayor or in the Mayor's absence, the Deputy Mayor) prepares the agenda and chairs the meeting.
- When possible, items for the agenda should be given to the Clerk by the Friday before the meeting.
- Items may be added to the agenda at the opening of the meeting.
- The presiding officer will usually call agenda items in the order scheduled, but may change the order of agenda items.
- Matters or Issues not specifically included on the agenda may be raised by Trustees or the Mayor under the agenda item of *Reports of the Mayor & Trustees*, or public comment.
- Once an agenda item has been resolved for the evening the Village Board will move on to the next item on the agenda until the agenda is completed.

## C. CALLING AGENDA ITEMS; MOTIONING; SECONDING

- Having called an agenda item, the presiding officer will provide a brief introductory statement and then open floor to comments and questions from the Board Members.

- Once an agenda item is called and the floor is opened, any Trustee or the Mayor may make a motion to take action upon it (i.e., approve, disapprove, or approve as amended or with conditions). The member states: “I move (to/that)...” and explains their intent.
- Motions generally require a second in order to be brought before the Board for consideration. See section N., *Additional Information on Parliamentary Procedure*, below, for some exceptions to this rule.
- Board Members are not required to rise but must be recognized by the presiding officer before making motions and speaking.\* When conducive to effective conduct of business, the presiding officer may allow a more relaxed, free-flowing style of meeting; however, respectful behavior, order and decorum should still be maintained.

## **D. DISCUSSION AND DEBATE**

- After the second the presiding officer will restate the motion for clarity and open the floor for discussion. In cases where the board agrees that the issue has been sufficiently discussed prior to the official movement of the motion the presiding officer can immediately call for a vote on the motion.
- During debate and deliberation, Board Members should avoid talking at the same time or interrupting statements made by others. In the event that two or more Board Members wish to speak at the same time, the presiding officer will recognize one to speak first, making sure that the other Board Members have a fair chance for comments or questions thereafter.
- Board Member, once recognized, may not be interrupted when speaking unless the presiding officer calls him/her to order. If a Board Member is called to order, they must cease speaking until the question of order is determined. If the Board Member is in order, they may proceed.\*
- Board members should limit comments and discussion to the topic under consideration.
- If a Board Member wishes to delay making a decision on an agenda item, perhaps because more information is needed, he or she may make a motion to “Table” or “Postpone” the agenda item, stating the duration of the proposed delay (e.g., “move to table this item until next week’s meeting”, or not. If no time is specified the item or motion will need to be reintroduced at a future meeting.
- Motions to close or limit debate require a two-thirds vote.\*
- Certain motions, such as motion to adjourn, motion to call the question, motion to end debate, are not debatable and proceed directly to a vote after seconding.

## E. VOTING

- When discussion has ended the presiding officer will restate the motion and call for a vote.
- A Board Member may call for a vote on the item under discussion by moving to “call the question”. If the motion is made during debate a two-thirds majority is required for the motion to pass.
- Pursuant to Village Law, each of the five members of the Board of Trustees has one vote.\*
- Unless otherwise specified by state law, a majority of the total membership of the board, or three Members, must vote yes for a motion to pass.\*
- When taking a vote by voice (but not by roll call) the presiding officer will say: “all those in favor of the [motion] say aye”, followed by “all those against the motion say no”. The vote of any member not signifying “no”, and not abstaining, will be considered to be an “aye” vote and recorded in the minutes as such.
- While any Member may abstain from voting (exception below), all Members of the Board of Trustees have a duty to vote. In cases other those involving a conflict of interest abstaining from voting is discouraged. At the time of declaring his/her abstention the Member should state the reason. This should be done before voting and before discussion if possible. An abstention is not counted as a vote.
- In the case of a tie the mayor cannot abstain and must cast an “aye” or “no” vote.

## F. RESOLUTIONS

- A resolution is a motion presented formally and in writing. It can have a preamble containing *whereas* clauses, with background information and the reasons for adoption. The motion section of the resolution is the resolving clause and uses the verb *resolved* before the statement of action or resolution.
- Generally, a resolution is first read to the Board, and then a Member moves to adopt it either before or after discussion. The Member says “I move the adoption of resolution # (gives number and title of resolution)”. The motion must be seconded and the vote is taken by roll call.
- All adjustments to budget appropriations must be by resolution.

## **G. THE MONTHLY MEETING; REPORTS**

- The Regular or Monthly Meeting of the Board of Trustees will be on the second Tuesday of each month.
- The Monthly Meeting will begin at 7:30 p.m. and be held in the courtroom of the Village Hall.
- The agenda of the Monthly Meeting will include: 1. a financial report given by the Village auditor or the Treasurer; reports from: 2. the Building Inspector; 3. the Fire Inspector; 4. the Police Department; 5. the Justice Court; 6. the Water Department; 7. the Sewer Department; 8. the Recreation Commission; and 9. any other board that reports to the Village Board. Additional reports from Chamber of Commerce liaison, Fire Company liaison, etc. can be given as well.
- After reports are presented the Board can follow up with questions relating to the report, including requests for additional information. When the presiding officer determines that there are no more questions from the Board he/she will state that the report is “filed”.

## **H. ORDER OF BUSINESS FOR MONTHLY MEETING**

1. a. Call to order, b. Pledge of Allegiance, c. Roll call
2. Approval of Previous Meetings’ Minutes
3. Reports of Departments and Committees
4. Reports of the Mayor and Trustees
5. Correspondence
6. Unfinished Business
7. New Business
8. Payment of Bills
9. Public comment period
10. Adjournment

## **I. ADJOURNMENT**

- When the business of the Board’s Monthly Meeting is completed the presiding officer will ask the Board: “is there is any further business”. If there is none he/she will ask for a motion to adjourn. After a second on the motion a majority vote to adjourn will end the meeting.
- At Board meetings other than the monthly meeting the request by the presiding officer for any further business can be followed by a declaration that “if there are no objections the meeting will now adjourn”.
- The motion to adjourn should not be used to end debate. Ending debate requires a two-thirds majority vote to pass.

## **J. WORKSHOP MEETINGS**

- Village Board workshop meetings are regularly scheduled meetings at which the Board:
  - ◊ By appointment, discusses specific issues with residents or other parties.
  - ◊ Does preparatory work leading up to a Public Hearing, or the Monthly Meeting.
  - ◊ Conducts the regular business of the Board, including auditing of the bills, reading of correspondence and announcements, making adjustments to the budget, and discussing issues of concern and projects being undertaken by the Board.
- Workshop meetings are open to the public, but participation in the meeting is limited to the Board and those with business before the Board. A majority of the Board may allow comment from the public on specific items.

## **K. SPECIAL MEETINGS\***

- Special meetings of the Village Board are all those Board meetings other than the Monthly Meeting or regularly scheduled workshop meetings.
- A special meeting may be called by the Mayor or any Trustee upon notice to the entire Board.
- Notice may be given by telephone, in person, or in writing at least 24 hours in advance unless an emergency exists.
- The Board will direct the Clerk to notify the public by the Village website and e-mail news-service, a notice posted in the front window the Village Hall and by a notice published in the Putnam County News and Recorder if time allows.

## L. PUBLIC HEARINGS\*(mostly from NYCOM)

- Before the Village Board can enact a local law, a quorum of the board must hold a public hearing. Notice of the public hearing must be published in the Village's official newspaper, and at least five days must elapse between the publishing of the notice and the holding of the public hearing. The notice must contain:
  - ◊ A summary of the proposed local law, and
  - ◊ The time, date and place that the hearing is to be held.\*
- The five day waiting time between notice and hearing can be shortened by passing a separate local law that would itself require a five day waiting period.\*
- The public meeting may be *adjourned* without having to re-notice the time, date, and location. If the meeting is *closed* it may not be reopened without meeting the noticing requirements for a public hearing.\*
- The Board may vote on the proposed within a reasonable time after the public meeting is closed. The Village attorney should be consulted if the vote has not taken place within 60 days of the close of the public hearing.\*
- The public hearing is opened by stating: "This meeting of the Board of Trustees, scheduled for (time, date) for the purpose of hearing public comment on (topic of hearing) is now open."
- The hearing begins with a reading of the local law, or an introduction to the subject of the hearing, followed by introductory remarks by the Board. The floor is then opened to the public to make statements and direct questions to the Board. Before the meeting is closed Board members may make concluding statements.
- The public hearing is closed by using the verb "closed" as opposed to "adjourned".

## M. THE ORGANIZATIONAL MEETING\*

- Pursuant to Village Law §3-302(1), the official year of a village begins at noon on the first Monday of the month following the village election. For the Village of Cold Spring the official year begins the first Monday in April. It is at that time that the term of office for newly elected officials starts.
- There is no specific state statute that requires villages to hold an organizational meeting. However, references to an annual organizational meeting appear throughout the consolidated laws, and it is clearly implied and intended that a village will hold such a meeting. There is no specific time and date for holding the organizational meeting,

although the first day of the official year (the first Monday in April for the Village of Cold Spring) is chosen for this purpose by many villages.

- At the Organizational Meeting:
  - ◇ Newly elected officials can be sworn in if they have not been already.
  - ◇ Appointments to offices with expired terms are made.
  - ◇ The official newspaper is selected.
  - ◇ Date and time for Regular Monthly Meeting is set.
  - ◇ Procedure for calling special meetings is set.
  - ◇ Rules of procedure are adopted.
  - ◇ Procurement Policy is adopted.
  - ◇ Investment Policy is adopted.
  - ◇ Annual Resolutions, such as advance approval of claims, are adopted.
  - ◇ Official Depositories are designated.
  - ◇ Date of next Organizational Meeting is set.
- The agenda for the meeting, with specific appointments named, should be prepared for the Board several days in advance of the meeting if possible.

## **N. MEETING PROTOCOL \*\***

To ensure that meetings of the Board are conducted in a professional manner, Board Members and staff shall:

- Work to preserve appropriate order and decorum during all meetings.
- Address Board members and staff with respect.
- Discourage side conversations, disruptions, interruptions or delaying efforts.
- Inform the presiding officer when departing from a meeting.
- Limit disruptive behavior. The presiding officer will call persons demonstrating rude, boisterous, or profane behavior to order. If such conduct continues, the presiding officer may call a recess, request the removal of such person(s) from the Board Chambers, adjourn the meeting, or take such other appropriate action as permitted by the law.

## **O. GUIDELINES FOR PUBLIC COMMENT\***

- The public may speak during the Monthly Meeting's Public Comment period and when a majority of the Village Board allows.

- Speakers must be recognized by the presiding officer, and must give their name, address and organization, if any.
- Speakers must limit their remarks to five minutes on a given topic, and may not yield any remaining time they may have to another speaker.
- Board Members may, with the permission of the presiding officer, interrupt a speaker during their remarks, but only for the purpose of clarification or information.
- All remarks must be addressed to the Village Board as a body and not to individual Board Members.
- Interested parties or their representatives may address the Village Board by written communications.
- Members of the Village Board, speakers and audience members must observe the commonly accepted rules of courtesy, decorum, dignity and good taste. Any statements made during a meeting or during a public hearing by the Members of the Board, other Village officials or employees, or members of the general public shall not involve personal, impertinent, or defamatory attacks on individuals, regardless of whether the individual so attacked is an elected official, other Village official or employee, or a member of the general public.\*\*\*\*

## **P. EXECUTIVE SESSIONS**

- Executive sessions will be held in accordance with Public Officers Law § 105. For details see Appendix A below.

## **Q. MINUTES\***

- Minutes will be taken by the Clerk, or a designate of the Clerk, at Monthly Meetings and Public Hearings, and by the presiding officer, or a designate of the presiding officer, at workshop meetings.
- Minutes must consist of a record or summary of all motions, proposals, resolutions and any other matter formally voted upon and the vote thereon.
- Minutes must be taken at executive session of any action that is taken by formal vote and must consist of a record or summary of the final determination of the action, and the date and vote thereon. The summary need not include any matter which is not required to be made public by the Freedom of Information Law (FOIL).
- Minutes must include the following:

- ◇ Name of the Council;
- ◇ Date, place, and time of the meeting;
- ◇ Notation of whether a Board Member is present or absent, and the Board Member's time of arrival or time of departure if different from the time the meeting was called to order and adjourned;
- ◇ Name and title of other village officials and employees present and the approximate number of attendees;
- ◇ Record of communications presented to the Board;
- ◇ Record of reports made by Board Members or other village personnel;
- ◇ Time of adjournment; and
- ◇ Signature of Clerk or person who took the minutes if not the Clerk.

Minutes may not contain a summary of the discussion leading to action taken or include verbatim comments unless a majority of the Board resolves to have the Clerk do so. Minutes must be approved by the Village Board at its next Monthly Meeting. The minutes may be amended only upon Village Board's approval.

## **R. ADDITIONAL INFORMATION ON PARLIAMENTARY PROCEDURE**

Many of the rules listed above derive from parliamentary procedure developed through centuries of use. Greater knowledge and use of parliamentary procedure can improve the productivity and effectiveness of Village Board meetings.

### **Establishing Rules of Parliamentary Procedure**

Many governing bodies use Robert's Rules of Order, or a similar complete system of rules, as their parliamentary authority. These bodies are generally assemblies larger than a Village Board, and they require a formal and extensive set of rules to conduct business effectively. For a five member Village Board it may be more useful to adopt just a few basic rules for meetings common to most systems of parliamentary procedure, and to explain them in simpler language than is commonly used in rule books. These rules can be tailored to the needs of the Board, relaxing or strengthening them as needed, and put in writing for the future reference of the Board. There is no need for the rules agreed upon by the Board to address every possible situation; in a case where procedural advice is required, the Board can use reason and common sense in consultation with the various sources available in book and on-line, to find a solution appropriate for a Village Board.

The Village Board must construct its meeting procedure to satisfy its obligations under Federal, State, and local Village Law, but should also fulfill the goals of parliamentary procedure:

- The majority decides.
- The rights of the minority are protected, all members are guaranteed the equal right to participate in debate.
- The rights of the absent are protected through quorum and by giving as much advance notice of agenda items as possible.
- The right to free and full discussion of business is protected.
- Meetings are conducted respectfully, fairly and in good faith. Procedure is not used to outmaneuver a reasoned decision, and debate is confined to the issue, not personalities.

## **Consensus versus Majority Rule**

While achieving consensus on a particular matter is often a positive goal and outcome, a policy that constantly strives for unanimity can be a problem in itself. Such a policy can discourage reasoned debate and principled objection, and result in decisions that are less than what is considered best by the majority. All Members should feel free to state and defend their positions on a given question, but then respectfully accept the outcome should their view not prevail. This last point does not in any way restrict the minority's right to work to overturn a decision in the future.

## **Differences with Robert's Rules**

A number of the rules listed in this document differ from Robert's Rules. This is due both to the small membership of the Village Board, allowing for less rigid procedures, and the fact that the Board is a legislative body whose conduct is in large part determined by Federal and State Laws. A New York State Village Board also conducts business according to its own traditions as well as practices shared by its counterparts across the State. In addition, many Village Board procedures are based on rules suggested by the New York Conference of Mayors and Municipal Officials.

These differences with Robert's Rules include:

- Requiring seconds to motions, contrary to Robert's "Procedures in Small Boards" rules;
- Simplifying and combining *Postpone Indefinitely* and *Lay on the Table* motions;
- Relaxing the rules for *Withdrawing the Motion*;\*\*\*\*\*
- Revising the motion to *Close Debate* to ensure fairness;
- Adding the concept of *Substantive Motion*;\*\*\*
- Not limiting the introduction of the *Motion to Reconsider* to only those members who voted on the prevailing side of the original motion;
- Allowing debate and amendment of the *Motion to Adjourn*.

## Main Motions, Substantive Main Motions, Procedural Main Motions

One of the most basic concepts of parliamentary procedure is the Main Motion. A Main Motion is simply a motion that is made when no other motion is pending, and it can be identified as either Substantive or Procedural in nature. A Substantive Motion is a Main Motion that brings a substantive item of business before the Board for discussion.

Useful Specific Substantive Motions include:

- **Motion to Amend** a previous action.
- **Motion to Ratify**, in order to formally approve an emergency decision of the Board.
- **Motion to Rescind (or Repeal)** a previous action.
- **Motion to Reconsider** a previous action. Annuls the vote on the motion that resulted in the previous action, and reopens it for debate and a second vote. Any member can introduce this motion, whether or not they voted on the prevailing side of the original motion.

Procedural Main Motions include those motions listed below under Incidental Motions and Privileged Motions when they are moved with no other motions pending on the floor.

## Secondary Motions

A Secondary Motion is defined as a motion that can be made while a Main Motion is on the table. It may or may not relate directly to the Main Motion, and can generally be considered procedural in nature, as opposed to substantive. However, Secondary Motions such as *Amend the Motion*, while certainly procedural, are nonetheless substantive as well due to their substantive effects on the meaning of the Main Motion. Secondary motions are divided into three types: Privileged, Subsidiary, and Incidental Motions. Privileged Motions and Incidental Motions can be made at any time and so by definition can also be Main Motions if made when no other motion is pending.

## Ranking of Motions

Privileged and Subsidiary Motions are *ranked* in precedence from most urgent (numbered 1) to least (numbered 9 in the guide below). Those listed below have a ranking number after the name of the motion. *A motion with a higher ranking can be made while a lower ranking one is pending on the floor.* Note that more urgent does not mean more important; in fact, the most important motion, the Main Motion, is ranked lowest, followed by Motion to Amend, another motion critical to achieving substantive action. Incidental Motions and Requests of Inquiry and Order can be made at any time and take precedence over all other motions.

1. **Privileged Motions** relate to the comfort, convenience and rights of the Member, the Board or the public. The right to make this motion is a *privilege* of the Member and does not require a second. The maker simply says: “Excuse me”, and then states the request. It is

decided by the presiding officer, and can be appealed to the Board if denied. Common Privileged Motions include the motion to:

- (1) **Raise a Question of Privilege** to address the comfort, convenience, rights of the Board or Member, e.g. “can we turn the A/C up”, or “can the speaker speak up” or, can we get more copies of the propose budget for the public”.
- (2) **Adjourn.** This motion can not interrupt the consideration of a pending matter. Some debate and amending is allowed.\*\*\*
- (3) **Recess** with statement of duration, e.g., for 5 minutes). The presiding officer can call a short, 5-10 minute recess at any time.
- (4) **Go Into Executive Session/ Leave Executive Session**

2. **Subsidiary Motions** relate directly to the Main Motion, but remain *subsidiary* to it. Their goal is to “do” something with the Main Motion. Common Subsidiary Motions include the motion to:

- (5) **Close Debate and Vote on the Motion** Different from the commonly accepted parliamentary motion to end debate, this version of that motion does not specifically ask for an immediate vote. The presiding officer must take care to prevent the use of this motion to cut off debate before both sides of an issue are heard in equal measure. Hence, the presiding officer may want to give one side an additional opportunity to states its case before calling for a vote. It is generally best to avoid this motion, but it can be helpful if the discussion is bogged down with restatements of points already covered. It requires 2/3 majority to pass.
- (6) **Limit Debate by...** Maker specifies a specific amount of time, or number of minutes per Member. It should not be used to favor one side in a debate, and should be avoided if it will restrict the full discussion of an issue. It requires 2/3 majority to pass.
- (7) **Table, or Postpone the Agenda Item/Motion.** Maker can either specify a particular time or occurrence, e.g. “after agenda item 6. Bill Payment”, or “until the committee’s report is complete” (ranked 7). If no time is specified the item or motion will need to be reintroduced at a future meeting.
- **Refer the Motion to a Committee** (8)
- **Amend the motion** (9) Besides amending a Main Motion, Subsidiary Motions can be amended as well. So although a motion such as Postpone the Motion (7) takes precedence over amending that same motion (9), the Motion to Postpone can itself be amended.\*\*\*\*\*

3. **Incidental Motions** do relate to the Main Motion, but they are considered *incidental* to it. They address how the Main Motion is being dealt with by the presiding officer or a Member. They can be made at any time. Common Incidental Motions include the motion to:
- **Appeal the Decision of the Chair** to bring a procedural decision of the chair to a vote by the Board. Maker states “I appeal the decision of the Chair”;
  - **Divide the Motion** to discuss and vote on the motion in separate parts. Maker states: “I move to divide the motion...”, and explains in what form;
  - **Withdrawal of Motion** to allow the maker to withdraw their motion from the floor at any point, without a second, before it is put to a vote the by the presiding officer, or before it is amended. The chair may ask for another Member to reintroduce the motion.\*\*\*\*\*

### **Requests of Inquiry and Order** (not considered motions)

- i. **Raise a Point of Order** to bring to the attention of the presiding officer a breach in the rules of procedure. Maker states: “point of order”, and explains what they believe is out of order. No second is required. It is decided by the presiding officer, and can be appealed to the Board if denied.
- ii. **Parliamentary Inquiry** to ask a question regarding proper parliamentary procedure concerning the matter under discussion. No second is required. The maker states “I have a question on meeting procedure”. It is answered by the presiding officer, as opposed to decided, and does not get appealed. The maker can accept the opinion or not.
- iii. **Request for Information** to request information germane to the matter under discussion. No second is required. Maker states: “I have a request for information.” If the presiding officer can answer the question or refer it to someone else.

### **S. AMENDMENT OF PROCEDURE\***

- Other than those based on Federal or State Law, the foregoing rules and procedures may be amended from time to time by a vote of the majority of the total authorized voting power of the Village Board. These rules and procedures should be reviewed at the annual organizational meeting.

# APPENDIX A

## GUIDELINES FOR EXECUTIVE SESSIONS

- Executive sessions will be held in accordance with Public Officers Law § 105:
  1. Upon a majority vote of its total membership, taken in an open meeting pursuant to a motion identifying the general area or areas of the subject or subjects to be considered, a public body may conduct an executive session for the below enumerated purposes only, provided, however, that no action by formal vote shall be taken to appropriate public moneys:
    - a. matters which will imperil the public safety if disclosed;
    - b. any matter which may disclose the identity of a law enforcement agent or informer;
    - c. information relating to current or future investigation or prosecution of a criminal offense which would imperil effective law enforcement if disclosed;
    - d. discussions regarding proposed, pending or current litigation; collective negotiations pursuant to article fourteen of the civil service law;
    - e. the medical, financial, credit or employment history of a particular person or corporation, or matters leading to the appointment, employment, promotion, demotion, discipline, suspension, dismissal or removal of a particular person or corporation;
    - f. the preparation, grading or administration of examinations; and
    - g. the proposed acquisition, sale or lease of real property or the proposed acquisition of securities, or sale or exchange of securities held by such public body, but only when publicity would substantially affect the value thereof.
  2. Attendance at an executive session shall be permitted to any member of the public body and any other persons authorized by the public body.

## APPENDIX B

### GUIDELINES FOR USE OF RECORDING EQUIPMENT AT PUBLIC MEETINGS\*

- All members of the public and all public officials are allowed to tape or video record public meetings.
- Recording is not allowed during executive sessions.
- The recording must be done in a manner which does not interfere with the meeting.
- The presiding officer may make the determination that the recording is being done in an intrusive manner, taking into consideration, but not limited to, brightness of lights, distance from the Board Members, size of the equipment, the amount of noise generated by the activity, and the ability of the public to still participate in the meeting.
- If the presiding officer determines that the recording is interfering with the meeting, the presiding officer may request the individual alter his behavior to eliminate the interference. If the presiding officer's request is not complied with, the officer may have the individual removed from the meeting room.

## References

\*Based partly or wholly on procedures from the NYCOM Handbook for Village Officials, [www.nycom.org](http://www.nycom.org)

\*\*Based largely on the Bothel City Council Protocol Manual (3/19/09)  
<http://www.mrsc.org/policyprocedures/B67ccprotocol.pdf>

\*\*\*Suggested Rules of Procedure for a City Council, 3<sup>rd</sup> ed., 2000. A. Flemming Bell  
<http://kdhnc.com/documents/Administration/SRPCtxt.pdf>

\*\*\*\* Rules of Conduct and Decorum, Town of Tonawanda, NY.  
<http://townofwawayanda.com/images/Meeting%20Decorumresolution.pdf>

\*\*\*\*\*Rosenberg's Rules of Order: Simple Parliamentary Procedures for the 21<sup>st</sup> Century, David Rosenberg. League of California Cities, 2003.  
[http://www.cacities.org/resource\\_files/22486.ParliamentaryRevised.pdf](http://www.cacities.org/resource_files/22486.ParliamentaryRevised.pdf) : Rules developed by the author for use by small government boards.

Robert's Rules of Order Newly Revised, 10<sup>th</sup> ed., General Henry R. Robert. Da Capo Press, 2000. This is probably the best known guide to parliamentary procedure, considered by many to be the best and most complete. It is very useful as a reference even if it is not adopted as the parliamentary authority of a Board.

Robert's Rules of Order, Simplified and Applied, Second Edition. By Robert McConnell Productions. Webster's New World. : A very user friendly version of Robert's Rules.

The Standard Code of Parliamentary Procedure, 4<sup>th</sup> Edition. Alice Sturgis. McGraw-Hill, 2001. This is an alternate parliamentary authority designed to be simpler and with more understandable language than Robert's.

<http://www.mrsc.org/Subjects/Governance/council/parliament.aspx> : A good synopsis of Robert's Rules relating to municipalities.

A Guide for City Officials, Georgia Municipal Association. June, 2007  
<http://www.dca.ga.gov/development/PlanningQualityGrowth/programs/CPI/CPI.GMAParliamentaryProcedure.pdf> : A useful guide to municipal parliamentary procedure, with a sample meeting script.

Rules and Procedure, Township of Barnards, NJ.  
<http://www.bernards.org/resolutions/2009/090043.doc>

## **II. Code of Ethics**

### **Cold Spring Village Code, Chapter 9**

#### **§ 9-1. Legislative intent.**

The Village Board of the Village of Cold Spring recognizes that there are state statutory provisions mandating villages to establish rules and standards of ethical conduct for public officers and their employees which, if observed, can enhance public confidence in local government and tend to assure a high caliber of public administration. It is the purpose of this chapter to implement this objective. The standards, prohibited acts and procedures established herein are in addition to any prohibited acts, conflicts-of-interest provisions or procedures described by statute or by common-law rules and judicial decisions relating to the conduct of municipal officers.

#### **§ 9-2. Definitions.**

As used in this chapter, the following terms shall have the meanings indicated:

VILLAGE - Any board, commission, agency, department or unit of the government of the Village of Cold Spring.

VILLAGE EMPLOYEE - Any officer or employee of the Village of Cold Spring, whether paid or unpaid, whether serving in a full-time, part-time or advisory capacity.

**§ 9-3. Conflicts of interest.**

No Village employee shall have any interest, financial or otherwise, direct or indirect, or engage in any business or transaction or professional activity or incur any obligation of any nature, which is in substantial conflict with the proper discharge of his duties in the public interest.

**§ 9-4. Standards of conduct.**

No Village employee shall:

- A. Directly or indirectly solicit any gift, or accept or receive any gift having a value of seventy-five dollars (\$75) or more, whether in the form of money, service, loan, travel, entertainment, hospitality, thing or promise or in any other form, under circumstances in which it could reasonably be inferred that the gift was intended to influence him or could reasonably be expected to influence him in the performance of his official duties or was intended as a reward for any official action on his part.
- B. Disclose confidential information acquired by him in the course of his official duties or use such information to further his personal interests.
- C. Receive, or enter into any agreement, express or implied, for compensation for service to be rendered in relation to any matter before any municipal agency of which he is an officer, member or employee or before any municipal agency over which he has jurisdiction or to which he has the power to appoint any member, officer or employee.
- D. Receive, or enter into any agreement, express or implied, for compensation for services to be rendered in relation to any matter before any agency of this municipality, whereby his compensation is to be dependent or contingent upon any action by such agency with respect to such matter, provided that this subsection shall not prohibit the fixing at any time of fees based upon the reasonable value of the services rendered.
- E. Accept other employment which will impair his independence of judgment in the exercise of his official duties.
- F. Use or attempt to use his official position to secure unwarranted privileges or

exemptions for himself or others.

- G. Engage in any transaction as representative or agent of the Village with any business entity in which he has a direct or indirect financial interest that might reasonably tend to conflict with the proper discharge of his official duties.
- H. By his conduct give reasonable basis for the impression that any person can improperly influence him or unduly enjoy his favor in the performance of his official duties, or that he is affected by the kinship, rank, position or influence of any party or person.
- I. Pursue a course of conduct which will raise suspicion among the public that he is likely to be engaged in acts that are in violation of his trust.
- J. After termination of service or employment with the Village, appear before any board or agency of the Village in relation to a case, proceeding or application in which he participated during his period of service or employment.

#### **§ 9-5. Violations.**

In addition to any penalty contained in any other provision of law, any such Village employee who shall knowingly and intentionally violate any of the provisions of this chapter may be fined, suspended or removed from office or employment in the manner provided by law.

#### **§ 9-6. Board of Ethics.**

There is hereby established a Board of Ethics to consist of at least three (3) members, which shall be appointed by the Village Board, all of whom shall reside in the Village of Cold Spring and who shall serve without compensation. Said Board shall be appointed from time to time to serve at the pleasure of the Village Board for the purposes designated at the time of appointment thereof. A majority of members shall be persons other than Village employees. Such Board shall include at least one (1) member who is an elected or appointed Village Officer or employee. The Board of Ethics so established shall render advisory opinions to the Village Board upon written request and make recommendations to the Village Board as deemed advisable. The opinions of the Board of Ethics shall be advisory and confidential and in no event shall the identity of the Village employee be disclosed except to authorized persons and agencies. Such opinions shall be on the advice of counsel employed by the Board, or if none is employed, by the Village Attorney. The Board of Ethics shall promulgate its own rules and regulations as to the procedures followed for the handling of any requests and shall maintain appropriate records of its opinions and proceedings. Upon rendering its report to the Village Board, its duties shall be discharged unless further request is made of said Board of Ethics by the Village Board.

**§ 9-7. Administration.**

Upon adoption of this chapter, the Mayor of the Village of Cold Spring shall cause a copy thereof to be distributed to every Village employee of this Village. Failure to distribute any such copy or failure of any Village employee to receive such copy shall have no effect upon the duty of compliance with this code nor the enforcement of provisions hereof. The Mayor of the Village of Cold Spring shall further cause a copy of this chapter to be kept posted conspicuously in each public building under the jurisdiction of the Village. Failure to so post this chapter shall have no effect on the duty of compliance herewith nor the enforcement of provisions hereof.

**§ 9-8. Filing of copy.**

Within thirty (30) days of the adoption of this chapter, the Village Clerk shall file a copy hereof in the office of the State Comptroller and this shall be in addition to the regular filing requirements for the adoption of the local laws. [Editor's Note: The Municipal Home Rule Law § 27 provides for the filing of a certified copy of each local law in the office of the State Comptroller]

**§ 9-9. Appropriations.**

The Village Board may appropriate moneys from the general Village funds for the maintenance of and for personal services to a Board of Ethics that may be established from time to time under this chapter, but the Board of Ethics may not commit the expenditure of Village moneys without approval of the Village Board nor except within the appropriations provided herein.

### **III. Procurement Policy for the Village of Cold Spring**

#### **Procurement Policy for the Village of Cold Spring**

1. Every purchase to be made must be initially reviewed to determine whether it is a purchase contract or a public works contract. Once that determination is made, a good faith effort will be made to determine whether it is known or can reasonably be expected that the aggregate amount to be spent on the item or supply or service is not subject to competitive bidding, taking into account past purchases and the aggregate amount to be spent in a year.

The following items are not subject to competitive bidding pursuant to Section 103 of the General Municipal Law:

- purchase contracts under \$10,000 and public works contracts under \$30,000;
- emergency purchases;
- certain municipal hospital purchases;
- goods purchased from agencies for the blind or severely handicapped;
- goods purchased from correctional institutions;
- purchases under State and County contracts;
- surplus and second-hand purchases from another governmental entity.

The decision that a purchase is not subject to competitive bidding will be documented in writing by the individuals making the purchase. This documentation may include written or verbal quotes from vendors, a memo from the purchaser indicating how the decision was arrived at, a copy of the contract indicating the source which makes the item or service exempt, a memo from the purchaser detailing the circumstances which led to an emergency purchase, or any other written documentation that is appropriate.

2. All goods and services will be secured by use of written requests for proposals, written quotations, verbal quotations, or any other method that assures that goods will be purchased at the lowest price and that favoritism will be avoided, except in the following circumstances:

- purchase contracts over \$10,000 and public works contracts over \$30,000;
- goods purchased from agencies for the blind or severely handicapped pursuant to Section 175-b of the State Finance Law;
- goods purchased from correctional institutions pursuant to Section 186 of the Correction Law;
- purchases under State Contracts pursuant to Section 104 of the General Municipal Law;
- purchases under county contracts pursuant to Section 103 (3) of the General Municipal Law; or purchases pursuant to subdivision 6 of this policy.

3. The following method of purchase will be used when required by this policy in order to achieve the highest savings:

Estimated Amount of Purchase Contract Method:

\$1,000-\$2,999 - three verbal quotations

\$3,000-\$9,999 - three written/fax quotations or written request for proposal or written request for bids

Estimated Amount of Public Works Contract Method:

\$1,000-\$2,999 – three verbal quotations

\$3,000-\$4,999 - three written/fax quotations

\$5,000-\$19,999 – three written/fax quotations or written request for proposals or written request for bids

\$20,000 - \$29,999 public notice of Request for Quotes advertised and publication on the Hudson Valley Municipal Purchasing website, and three written/fax quotations.

A good faith is required to obtain the required number of proposals or quotations. If the purchaser is unable to obtain the required number of proposals or quotations, the purchaser will document the attempt made at obtaining the proposals. In no event shall the failure to obtain the proposals be a bar to the procurement.

4. Documentation is required of each action taken in connection with each procurement.
5. Documentation and an explanation is required whenever a contract is awarded to other than the lowest possible offer. This documentation will include an explanation of how the award will achieve savings or how the offeror was not responsible. A determination that the offeror is not responsible shall be made by the purchaser and may not be challenged under any circumstances.
6. Pursuant to General Municipal Law Section 104-b (2) (f), the procurement policy may contain circumstances when, or types of procurements for which, in the sole discretion of the governing body, the solicitation of alternative proposals or quotations will not be in the best interests of the municipality. In the following circumstances it may not be in the best interests of the Village of Cold Spring to solicit quotations or document the bases for not accepting the lowest bid:
  7.
    - a. Professional services or services requiring special or technical skill, training or expertise. The individual or company must be chosen based on accountability, reliability, responsibility, skill, education and training, judgment, integrity, and moral worth.
    - b. These qualifications are not necessarily found in the individual or company that offers the lowest price and the nature of these services are such that they do not readily lend themselves to competitive procurement procedures. In determining whether a service fits into this category the Village Board of Trustees shall take into consideration the following guidelines:
      - whether the services are subject to State licensing or testing requirements; or whether substantial formal education or training is a necessary prerequisite to the performance of the services; and

- whether the services require a personal relationship between the individual and municipal officials. Professional or technical services shall include but not be limited to the following: services of an attorney; services of a physician; technical services of an engineer engaged to prepare plans, maps and estimates; securing insurance coverage and/or services of an insurance broker, services of a certified public accountant, investment management services; printing services involving writing, editing or art work; management of municipally owned property; and computer software or programming services for customized programs, or services involved in substantial modification and customizing of pre-packaged software.
- Emergency purchases pursuant to Section 103 (4) of the General Municipal Law. Due to the nature of this exception, these goods or services must be purchased immediately and a delay in order to seek alternate proposals may threaten the life, health, safety or welfare of the residents. This section does not preclude alternate proposals if time permits.
- Purchases of surplus and second-hand goods from any source. If alternate proposals are required, the Village of Cold Spring is precluded from purchasing surplus and second-hand goods at auctions or through specific advertised sources where the best prices are usually obtained. It is also difficult to try to compare prices of used goods and a lower price may indicate an older product.
- Goods or services under \$1,000. The time and documentation required to purchase through this policy may be more costly than the item and would therefore not be in the best interests of the taxpayer. In addition, it is not likely that such de minimis contracts would be awarded based on favoritism.

7. This policy shall go into effect August 7, 2012 and will be reviewed annually

## **IV. INVESTMENT POLICY For Village of Cold Spring**

### **I. SCOPE**

This investment policy applies to all monies and other financial resources available for investment on its own behalf, on behalf of any other entity or individual.

### **II. OBJECTIVES**

The primary objectives of the local government's investment activities are, in priority order,

- to conform with all applicable federal, state and other legal requirements (legal);
- to adequately safeguard principal (safety);
- to provide sufficient liquidity to meet all operating requirements (liquidity); and
- to obtain a reasonable rate of return (yield).

### **III. DELEGATION OF AUTHORITY**

The governing boards' responsibility for administration of the investment program is delegated to the Treasurer who shall establish written procedures for the operation of the investment program consistent with these investment guidelines. Such procedures shall include adequate internal control structure to provide a satisfactory level of accountability based on a database or records incorporating description and amounts of investments, transaction dates, and other relevant information to regulate the activities of subordinated employees.

### **IV. PRUDENCE**

All participants in the investment process shall seek to act responsibly as custodians of the public trust and shall avoid any transaction that might impair public confidence in the Village of Cold Spring.

Investments shall be made with judgment and care, under circumstances then prevailing, which persons of prudence discretion and intelligence exercise in the management of their own affairs, not for speculation, but for investment, considering the safety of the principal as well as the probable income to be derived.

All participants involved in the investment process shall refrain from personal business activity that could conflict with proper execution of the investment program, or which could impair their ability to make impartial investment decisions.

### **V. DIVERSIFICATION**

It is the policy of the Village of Cold Spring to diversify its deposits and investments by financial institution, by investment instrument, and by maturity scheduling.

### **VI. INTERNAL CONTROLS**

It is the policy of the Village of Cold Spring for all monies collected by any officer or employee of the government to transfer those funds to the Village Accountant or deposit funds within 3 days, or within the time period specified in law, whichever is shorter.

The treasurer is responsible for establishing and maintaining an internal control structure to provide reasonable, but not absolute, assurance that deposits and investments are safeguarded against loss from unauthorized use or disposition, that transactions are executed in accordance with management's authorization and recorded properly, and are managed in compliance with applicable laws and regulations.

## **VII. DESIGNATION OF DEPOSITARIES**

The banks and trust companies authorized for the deposit of monies up to the maximum amounts are:

<u>Depository Name</u>	<u>Maximum Amount</u>
M & T Bank	\$5,000,000

## **VIII. COLLATERALIZING OF DEPOSITS**

In accordance with the provisions of General Municipal Law 10, all deposits of the Village of Cold Spring, including certificates of deposit and special time deposits, in excess of the amount insured under the provisions of the Federal Deposit Insurance Act shall be secured:

1. By a pledge of "eligible securities" with an aggregate "market value" as provided by General Municipal Law §10, equal to the aggregate amount of deposits from the categories designated in Appendix A attached to this policy.
2. By an eligible "irrevocable letter of credit" issued by a qualified bank other than the bank with the deposits in favor of the government, for a term not to exceed 90 days, with an aggregate value equal to 140% of the aggregate amount of deposits and the agreed upon interest, if any. A qualified bank is one whose commercial paper and other unsecured short-term debt obligations are rated in one of the three highest rating categories by at least one nationally recognized statistical rating organization or by a bank that is in compliance with applicable federal minimum risk-based capital requirements.
3. By an eligible surety bond payable to the government for an amount at least equal to 100% of the aggregate amount of deposits and the agreed upon interest, if any, executed by an insurance company authorized to do business in New York State, whose claims-paying ability is rated in the highest rating category by at least two nationally recognized statistical rating operations.

## **IX. SAFEKEEPING AND COLLATERALIZATION**

Eligible securities used for collateralizing deposits shall be held by a third party bank or trust company subject to security and custodial agreements.

The security agreement shall provide that eligible securities are being pledged to secure local government deposits together with agreed upon interest, if any, and any costs or expense arising out of the collection of such deposits upon default. It shall also provide the conditions under which the securities may be sold, presented for payment, substituted or released and the events, which will enable the local government to exercise its right against the pledged securities. In the event that the securities are not registered or inscribed in the name of the local government, such securities shall be delivered in a form suitable for transfer or with an assignment to the Village of Cold Spring or its custodial bank.

The custodial agreement shall provide that securities held by the bank or trust company, or agent of and custodian for, the local government, will be kept separate and apart from the general assets of the custodial bank or trust company and will not, in any circumstances, be commingled with or become part of the backing for any other deposit or other liabilities. The agreement should also describe that the custodian shall confirm the receipt, substitution or release of the securities. The agreement shall provide for the frequency of revaluation of eligible securities and for the substitution of securities when a change in the rating of a security may cause ineligibility. Such agreement shall include all provisions necessary to provide the local government a perfected interest in the securities.

## **X. PERMITTED INVESTMENTS**

As authorized by General Municipal Law, 11, the Village of Cold Spring authorizes the treasurer to invest monies not required for immediate expenditure for terms not to exceed its projected cash flow needs in the following types of investments:

- Special time deposit accounts;
- Certificates of deposit;
- Obligations of the United States of America;
- Obligations guaranteed by agencies of the United States of America where the payment of principal and interest are guaranteed by the United States of America;
- Obligations of the State of New York;

- Obligations issued pursuant to LFL24.00 or 25.00 (with approval of the State Comptroller) by any municipality, school district or district corporation other than the Village of Cold Spring.
- Obligations of public authorities, public housing authorities, urban renewal agencies and industrial development agencies where the general State statutes governing such entities or whose specific enabling legislation authorizes such investments.
- Certificates of Participation (COPs) issued pursuant to GML 109-b.
- Obligations of this local government, but only with any monies in a reserve fund established pursuant to GML 6-c, 6-d, 6-e, 6-g, 6-h, 6-j, 6-k, 6-l, 6-m, or 6-n.

All investment obligations shall be payable or redeemable at the option of the Village of Cold Spring within such times as the proceeds will be needed to meet expenditures for purposes for which the monies were provided and, in the case of obligations purchased with the proceeds of bonds or notes, shall be payable or redeemable at the option of the Village of Cold Spring within two years of the date of purchase.

## **XI. AUTHORIZED FINANCIAL INSTITUTIONS AND DEALERS**

The Village of Cold Spring shall maintain a list of financial institutions and dealers approved for investment purposes and establish appropriate limits to the amount of investments, which can be made with each financial institution or dealer. All financial institutions with which the local government conducts business must be credit worthy. Banks shall provide their most recent Consolidated Report of Condition (Call Report) at the request of the Village of Cold Spring. Security dealers not affiliated with a bank shall be required to be classified as reporting dealers affiliated with the New York Federal Reserve Bank, as primary dealers. The treasurer is responsible for evaluating the financial position and maintaining a listing of proposed depositaries, trading partners and custodians. Such listing shall be evaluated at least annually.

## **XII. PURCHASE OF INVESTMENTS**

The treasurer is authorized to contract for the purchase of investments:

1. Directly, including through a repurchase agreement, from an authorized trading partner.
2. By participation in a cooperative investment program with another authorized governmental entity pursuant to Article 5G of the General Municipal Law where such

program meets all the requirements set forth in the Office of the State Comptroller Opinion No. 88-46, and the specific program has been authorized by the governing board.

3. By utilizing an ongoing investment program with an authorized trading partner pursuant to a contract authorized by a governing board.

All purchased obligations, unless registered or inscribed in the name of the local government, shall be purchased through, delivered to and held in the custody of a bank or trust company. Such obligations shall be purchased, sold or presented for redemption or payment by such bank or trust company only in accordance with prior written authorization from the officer authorized to make the investment. All such transactions shall be confirmed in writing to the Village of Cold Spring by the bank or trust company. Any obligation held in the custody of a bank or trust company shall be held pursuant to a written custodial agreement as described in General Municipal Law, 10.

The custodial agreement shall provide that securities held by the bank or trust company, as agent of and custodian for, the local government, will be kept separate and apart from the general assets of the custodial bank or trust company and will not, in any circumstances, be commingled with or become part of the backing for any other deposit or other liabilities. The agreement shall describe how the custodian shall confirm the receipt and release of the securities. Such agreement shall include all provisions necessary to provide the local government a perfected interest in the securities.

### **XIII. REPURCHASE AGREEMENTS**

Repurchase agreements are authorized subject to the following restrictions:

1. All repurchase agreements must be entered into subject to a Master Repurchase Agreement.
2. Trading partners are limited to banks or trust companies authorized to do business in New York State and primary reporting dealers.
3. Obligations shall be limited to obligations of the United States of America and obligations guaranteed by agencies of the United States of America, where principal and interest are guaranteed by the United States of America.
4. No substitution of securities will be allowed.
5. The custodian shall be a party other than the trading partner.

## **V. Criteria for Auditing Claims**

(from Improving the Effectiveness of Your Claims Auditing Process, Office of the New York State Comptroller <http://www.osc.state.ny.us/localgov/pubs/lgmg/claimsauditing.pdf>)

Auditing claims demands more than a “rubber stamp” of the claim packages. Instead, it should entail a thorough and deliberate examination to determine that the claim is a legal obligation and proper charge against the local government or school district. As a general rule, a claim package should contain enough detail and documentation so that the auditing body or official is supplied with sufficient information to make that determination. The following criteria should be applied to the audit of claims:

- **Is the claim for a valid and legal purpose?**

First and foremost, each claim must be for a legitimate purpose of the local government or school district. Examples of claims that are not for a legitimate purpose of the local government or school district include gifts and donations to private entities in violation of article VIII, Section 1 of the State Constitution,<sup>2</sup> travel expenses of spouses of officers and employees, personal entertainment expenses, and any claims for which services or goods were not received. Expenses for alcoholic beverages generally are not proper local government or school district purposes.

<sup>2</sup> Article VIII, Section 1 of the State Constitution prohibits local governments and school districts from making gifts or loans of money or property to or in aid of any individual, or private corporation, association or undertaking.

- **Was the purchase authorized and approved?**

All required approvals and authorizations should be documented or attached to the claim form. The official who initiated the purchase should document his/her approval of the claim, even when not required by law. If vendor certification or verification of claims is required, the claim should be scrutinized to ensure proper certification or verification.

- **Are there sufficient appropriations to pay the claim?**

Generally, no claim should be paid if sufficient budgetary appropriations are not available. In many cases, the availability of appropriations is verified electronically, usually as part of the purchase order or the accounts payable software. In other units (especially small units), it may be necessary to check the availability of appropriations manually.

- **Is the claim mathematically correct?**

All claims should be scanned for the reasonableness of mathematical calculations. When extensions (quantities x unit price) and totals do not appear reasonable, the claim should be mathematically verified. Calculations for discounts should also be verified when necessary.

- **Is the claim sufficiently itemized?**

The claim should be understandable to someone unfamiliar with the transaction. Information like weight, quantity, size, grade, unit price and totals should be provided. Part numbers or abbreviations should be supplemented by a full description of the goods or services provided. Claims for multiple deliveries of similar items, such as gas and fuel oil, should be supported by delivery tickets signed by the person accepting delivery.

- **Does the claim meet the legal and policy requirements in relation to competitive bidding and the requirements of the locality's procurement policy?**

Competitive bidding is generally required for goods purchased over \$10,000 and for contracts for public work (e.g., construction, services other than professional services) over \$20,000. If the claim is for an expenditure that required competitive bidding, be sure there is documentation available to support that the lowest responsible bidder was awarded the contract after public advertisement for sealed bids. A locality's procurement policy generally should establish requirements for obtaining quotations or proposals for procurements of goods and services below the bidding thresholds, and for other procurements that are exempt from bidding requirements, such as professional services.

- **Have other adopted policies been followed?**

In addition to each locality's procurement policy, there may be other adopted policies that cover specific types of expenses such as travel and conference expenses and reimbursement for meals or other food served at meetings.

- **Was the purchase made by using a State or county contract (as an exception to bidding requirements) and is this information included on the claim form?**

If the purchase was made from a State or county contract that has been extended to local governments and school districts, the contract number should be included on the claim. The person who approved the purchase should be able to provide a copy of the contract that was used.

- **Are there any sales tax charges for exempt expenses?**

Your local government or school district is generally exempt from paying sales tax. Therefore, sales tax should not be included on the claim.<sup>3</sup>

- **Does the claim include all discounts that your local government or school district is entitled to?**

Bulk purchases or early payments may entitle you to receive discounts on purchases.

- **Has this claim been paid before, in whole or in part?**

For vendors with frequent and similar claims, ensure that the current claim is not a duplicate of a previous claim and that current billing does not include the same goods or services included in a prior claim. For installment purchases, it may be necessary to ensure that the payment is not for an expired contract and that the entire contract has not been paid previously.

- **Does the attached documentation support the claim being audited?**

The approved purchase order, if applicable, should match the goods or services on the original invoice and/or the claim form. The original invoice should agree with the total being claimed for payment. We generally recommend that you do not pay aggregate “past due” amounts unless the original invoices are attached to support the amount claimed as past due.

- **Were the goods or services actually received?**

There should be documentation that confirms that the goods were received or services rendered, e.g., a receiving slip.<sup>4</sup>

<sup>3</sup> Because it is not practical to present a sales tax exemption form for individual restaurant meals and it is not a common practice for restaurants to accept exemption forms, your local government or school district may consider sales tax as an actual and necessary expense incidental to the meal when incurred in connection with travel on official business.

<sup>4</sup> The Town Law requires that claims be accompanied by a statement by the officer whose actions gave rise or origin to the claim that he or she approves the claim and that the services were actually rendered or goods actually delivered.

## **VI. Definition of Conflict of Interest**

(From Conflicts of Interest of Municipal Officers and Employees, Office of the New York State Comptroller. <http://www.osc.state.ny.us/localgov/pubs/conflictinterest.pdf>)

- Article 18 of the General Municipal Law prohibits municipal officers and employees from having interests in contracts with the municipality for which they serve, but only under certain circumstances. In order for a municipal officer or employee to have a prohibited interest in a contract (one that violates the law), four conditions must be met:
  1. there must be a contract;
  2. the individual must have an interest in the contract;
  3. the individual, in his or her public capacity, must have certain powers or duties with respect to the contract; and
  4. the situation must not fit within any of the exceptions listed in law.
- If you have an interest in a contract, and you do not have any of the powers or duties that could cause the interest to be prohibited, or if one of the statutory exceptions applies, then the interest is permitted. However, in most cases you will have to disclose your interest.

- A contract includes any claim, account, demand against or agreement with a municipality – verbal or written, express or implied. Almost any business dealing you have with your municipality will involve a contract.
- You have an interest in a contract when you receive a direct or indirect financial or material benefit as a result of a contract with your municipality. You are also deemed to have an interest in the contracts of certain individuals and business entities with which you have relationships. With one exception, you are deemed to have an interest in the contracts of your spouse, your minor children and your dependents. The one exception is for contracts of employment which these individuals have with your municipality. You are also deemed to have an interest in the contracts of any firm, partnership or association of which you are a member or employee.
- To have a prohibited interest in a contract, you must have the power or duty, either individually or as a member of a board, to:
  1. Negotiate, prepare, authorize or approve the contract, or authorize or approve payment under the contract;
  2. Audit bills or claims under the contract; or
  3. Appoint an officer or employee who has any of the powers or duties set forth in “a” or “b” above.

## VII. Reference Links

<http://www.osc.state.ny.us/localgov/pubs/listacctg.htm#lgmg>: Local Management Guides from the New York State Office of the Comptroller.

<http://www.osc.state.ny.us/localgov/pubs/lgmg/claimsauditing.pdf>: Auditing of Claims Local Government Guide

[http://www.osc.state.ny.us/localgov/pubs/lgmg/internal\\_controls.pdf](http://www.osc.state.ny.us/localgov/pubs/lgmg/internal_controls.pdf): Improving Internal Controls Local Government Guide

<http://www.osc.state.ny.us/localgov/pubs/lgmg/budgetprocess08.pdf>: Understanding the Budget Process Local Government Guide

<http://www.osc.state.ny.us/localgov/pubs/conflictinterest.pdf>: Conflicts of Interest Local Government Guide

[http://www.osc.state.ny.us/localgov/pubs/lgmg/fiscal\\_oversight.pdf](http://www.osc.state.ny.us/localgov/pubs/lgmg/fiscal_oversight.pdf): Fiscal Oversight Local Government Guide

<http://law.justia.com/newyork/codes/village/index.html>: NY State Village Law