

City of Troy

Ethics Oversight

DECEMBER 2020



OFFICE OF THE NEW YORK STATE COMPTROLLER
Thomas P. DiNapoli, State Comptroller

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Report Highlights

City of Troy

Audit Objective

Determine whether City of Troy (City) officials used resources to meet certain ethics oversight standards.

Key Findings

City officials did not meet certain ethics oversight standards. The Ethics Commission (Ethics Board) did not:

- Receive or provide for ethics training, including making educational materials available, to officers and employees, as required by the code of ethics.
- Adequately administer the City's disclosure system that is intended to foster transparency and help identify conflicts of interest.
 - Four City Council (Council) member, 53 officer and employee and 47 other required filer annual statements of financial disclosure (disclosure statements) were not filed, filed late or had questions left blank.
- Review disclosure statements for potential conflicts of interest and completeness, review the code of ethics or prepare an annual report of its activities, as required.

The Council did not have adequate procedures in place to ensure the Mayor's and Ethics Board's responsibilities were followed, as required by the code of ethics.

Key Recommendations

- Ensure the Ethics Board provides for ethics training and education, and verifies all annual financial disclosure filers file complete and timely disclosure statements that are carefully reviewed for potential conflicts of interest.
- Adopt procedures to ensure the Mayor's and Ethics Board's responsibilities are followed, as required.

City officials generally agreed with our recommendations and indicated they planned to initiate corrective action. Appendix C includes our comment on an issue that was raised in the City's response letter.

Background

The City is located in Rensselaer County in the Capital District region of New York. The City is governed by the Council composed of seven elected Council members, one of whom serves as President.

The Mayor is the City's chief executive officer (CEO) and is responsible, along with other administrative staff, for day-to-day management.

The Council established an Ethics Board responsible for providing ethics oversight.

Quick Facts

Population	50,129
Officers and Employees	522
Required Disclosure Statement Filers	
2017	77
2018	86

Audit Period

January 1, 2017 – September 30, 2018

Ethics Oversight

How Can Local Governments Establish Proper Ethics Oversight?

In most circumstances, a city's governing body must establish a code of ethics to set forth the standards of ethical conduct reasonably expected of city officers and employees. The code of ethics must address certain provisions including disclosure of interest in legislation before the governing body, holding of investments in conflict with official duties, private employment in conflict with official duties and future employment.

To reduce risk that officers' and employees' actions could violate a city's code of ethics and public assets could be subject to misuse, the governing body should adopt a code of ethics that addresses each of the four required statutory provisions of GML and vigorously enforce the code provisions.¹

Within the code of ethics, the governing body may also set forth other standards of ethical conduct such as provisions addressing nepotism, public disclosures for recusals and abstentions and the proper use of municipal resources.² The city's CEO is responsible for distributing a copy of the code of ethics to every city officer and employee. Although not required, the city could also post the code of ethics on the city website.

In addition to establishing a code of ethics, cities with a population of 50,000 or more are required to have certain individuals annually complete a financial disclosure statement. Filing annual disclosure statements helps increase transparency about the private interests and activities of officers and employees, which may identify potential conflicts of interest.

A board of ethics may be established by the governing body to administer a system to maintain the financial disclosure statement filings.³ The board of ethics, if established, should develop procedures to review and examine the financial disclosure statements filed with the city, to promote compliance with the filing requirement, and verify that officials and employees are impartial and free from conflicts of interest in fulfilling their public responsibilities. A board of ethics can help ensure that the local government operates in a transparent and ethical manner, and local government officers and employees act in the best interests of taxpayers and are not conflicted by personal interests.

The governing body may also develop additional standards of conduct to provide more comprehensive ethical guidance to meet a city's specific circumstances. For example, the governing body may establish procedures to ensure that city officers

¹ New York State General Municipal Law (GML), Section 806

² State Comptroller's Model Code of Ethics – Local Governments available at: <https://www.osc.state.ny.us/localgov/pubs/ethics.htm>

³ GML provides that the board of ethics, if established by the governing body, is responsible for receiving the annual financial disclosure statements.

and employees receive ethics compliance training, including notifying officers and employees of the whistleblower provisions provided by State Law. In addition, the governing body could require that every officer and employee attest to receiving and reviewing the code of ethics at the time of their election or appointment and at least once every five years.

To help ensure proper ethics oversight, the CEO is responsible for posting a copy of certain portions of the conflict of interest statute in each city building.⁴ The statute must be posted in a place visible to its officers and employees.

The City Established an Ethics Board and Adopted a Code of Ethics

The City established an Ethics Board, which is responsible for receiving and reviewing the disclosure statements. The City adopted a code of ethics that provides general authority for the Ethics Board to ensure that the financial disclosure statements are filed and complete.

In addition, the City code of ethics provides that the Mayor is to distribute a copy of the code of ethics to each officer and employee. However, the code of ethics does not require officers and employees to periodically attest to receiving and reviewing the code of ethics.

The Code of Ethics Complied With GML but the CEO Did Not Post the Conflict of Interest Statute

The City Council adopted a code of ethics, which was posted on the City website. The code of ethics included all four statutorily required provisions set forth in GML.⁵ While the CEO was required to visibly post certain sections of GML in each City building, we found that the statutory provisions were not posted in the four buildings tested.

The Mayor told us that he was unaware that posting the conflict of interest statute is a statutory requirement.

The Ethics Board Did Not Provide for or Receive Ethics Training

The City code of ethics requires the Ethics Board to assist officers and employees by providing for training with respect to the requirements and obligations of the code, and to develop educational materials on the provisions of the code which must be filed with the City Clerk (Clerk) and Corporation Counsel. The Ethics Board Chair told us that he was unaware of this responsibility and that the Ethics Board did not provide for such training or develop educational materials.

⁴ GML, Section 807 requires the posting of GML Sections 800 through 809 in each public building.

⁵ GML, Section 806, refer to Appendix A, Figure 4

Further, the Council did not require or provide training for all Ethics Board members on the laws relating to conflicts of interest and ethics. In an effort to help ensure proper ethics oversight, the City may wish to have Ethics Board members complete training on the provisions of law relating to conflicts of interest and ethics. For example, training could relate to the provisions of Article 18 of GML, codes of ethics, annual financial disclosure and decisional law relating to conflicts of interest and ethics.

The Personnel Officer told us that they distribute the code of ethics to new employees hired as part of the employee handbook. Although not required by law, the Council could reinforce code of ethics awareness of officers and employees by periodically distributing the code of ethics to all officers and employees and having officers and employees attest in writing to their review of the City's code of ethics at the time of their hire, election, or appointment and at least once every five years. They could also distribute the code of ethics to all officers and employees whenever the code of ethics is amended.

Unless the Council vigorously enforces the code provisions, reinforces employee awareness of the code of ethics and ensures that the conflict of interest statute is posted in each City building, there is a higher risk that officers' and employees' actions may violate the City's code of ethics and public assets could be subject to misuse.

What Are the Responsibilities of a Board of Ethics for Reviewing the Code of Ethics and Disclosure Statements?

A board of ethics is responsible for making recommendations with respect to drafting, adopting or amending the code of ethics, upon the request of the governing body. Therefore, a periodic review of the code of ethics by the board of ethics may be appropriate to help ensure the code continues to comply with GML. If requested, the board of ethics may also provide recommendations to the governing body as it relates to other ethical considerations that may help ensure ethical awareness for officers and employees.

In addition, the responsibilities of a board of ethics include administering a system to receive annual financial disclosure statements. The board of ethics may also develop procedures to review and examine the financial disclosure statements to help ensure that the filings are complete.

When a board of ethics is established by the governing body to administer an annual financial disclosure system, the board of ethics should establish a process to verify that all required filers have submitted their disclosure statement with the board of ethics. In addition, the board of ethics should ensure that the disclosure statements submitted by the required filers are complete.

...[T]he responsibilities of a board of ethics include administering a system to receive annual financial disclosure statements.

To help verify the filing and completeness of the disclosure statements, the governing body could include procedures for an appointed official or support staff to assist the board of ethics in ensuring that each financial disclosure statement is filed, reviewed, all questions are addressed and any inconsistencies or missing information are followed-up on.

In addition, the board of ethics should develop procedures to help ensure that disclosure statements are reviewed to identify transactions that could pose conflicts of interest. For example, boards of ethics could maintain a list of filers' outside business interests, and supply the list to appropriate purchasing department personnel for their use in identifying potential interests in contracts that would be prohibited by GML.

Further, the board of ethics could obtain a list of vendors from the accounts payable department to reference during their review of the disclosure statements to help it identify potential conflicts of interest. If local governments' boards of ethics do not ensure compliance with filing requirements or review the information on disclosure statements to identify any conflicts of interest, taxpayers have less assurance that officers and employees in policy-making positions are free from conflicts of interest.

The City's code of ethics requires certain classes of officers and employees to file a disclosure statement.⁶ In addition, the code of ethics identifies other individuals who are required to file a financial disclosure statement, such as members of the various boards and commissions. During March each year, the Mayor is required to develop a list of names and offices or positions of all officers and employees required to file disclosure statements (to be filed with the Ethics Board) and notify all required filers of their obligation to file a disclosure statement.

The Ethics Board is required to review this list, determine whether the list is complete and accurate and add the names of any other officers or employees it determines should be required to file a disclosure statement. Completed disclosure statements are to be filed with the Ethics Board by May 15 each year. If an individual is hired or promoted into a required filer position after the filing deadline, they are to file disclosure statements within 30 days of employment.

The Ethics Board is the repository for disclosure statements and is responsible for reviewing the disclosure statements to determine whether all required filers have filed, any statements are deficient or reveal a possible violation of the code of ethics. As part of its review, the Ethics Board should verify that all annual disclosure statements are filed on time, are complete and address actual or implied conflicts of interests identified in the disclosure statements, if any.

⁶ The City code of ethics includes, in part, the following required filers: elected City officials and those appointed by them, department heads and their deputies and other persons authorized to act on their behalf, officers and employees in policymaking positions, officers and employees whose job duties involve the sale or purchase of property and heads of political parties.

The City's code of ethics also generally states that if a required filer fails to file, files a deficient disclosure statement or the Ethics Board's review reveals a potential violation of the code of ethics, the Ethics Board shall notify the individual in writing and provide the individual 30 days to cure any deficiency. If an individual fails to cure the deficiency within those 30 days, the Ethics Board shall send a notice of delinquency to the reporting individual and their appointing authority.⁷

In accordance with the City's code of ethics, the Ethics Board must meet quarterly to review all recent actions taken. Further, the Ethics Board is to prepare and submit an annual report to the Mayor and the Council (within 60 days of the end of the calendar year) summarizing the activities of the Ethics Board and make such recommendations, as it deems necessary.

In addition, the Ethics Board is required to make recommendations to the Mayor and the Council regarding changes to the code of ethics. The code of ethics also grants the Ethics Board the authority to request that the Mayor appoint staff to assist the Ethics Board in furtherance of its duties and responsibilities.

The Ethics Board Did Not Adequately Monitor the Filing of Disclosure Statements

Although the Ethics Board did not meet in 2017, it met quarterly in 2018, as required by the code of ethics. However, the Ethics Board did not adequately administer the City's disclosure system by ensuring all financial disclosure statements were actually filed, filed on time or complete. We found that a majority of the required disclosure statements were not filed, filed late or had questions left blank. Under these circumstances, there is an increased risk that potential conflicts of interest were not identified and/or not reported to the Ethics Board.

The Council generally assigned responsibility for administering the disclosure statement system to the Ethics Board. However, in 2017 and 2018, the Ethics Board did not ensure all required filers submitted a timely and complete disclosure statement.⁸ In 2017 and 2018, 28 percent of Council member (Figure 1), 59 percent of officer and employee (Figure 2) and 80 percent of other required filer (Figure 3)⁹ disclosure statements were not filed, were filed late or had questions left blank.

We found that a majority of the required disclosure statements were not filed, filed late or had questions left blank.

⁷ The City code of ethics provides alternative notice requirements if the reporting individual is an elected official.

⁸ In 2017, the number of officers and employees included seven political candidates required to file disclosure statements.

⁹ Other required disclosure statement filers included the following: members of the Board of Assessment Review, Civil Service Commission, Electrical License Board of Examiners, Ethics Board, Examining Board of Plumbers, Planning Commission and the Zoning Board of Appeals.

In 2017, seven Council members were required to file disclosure statements. However, two filed disclosure statements with questions left blank. In 2018, seven Council members were required to file. However, one did not file and one filed a disclosure statement with questions left blank.

In 2017, 43 officers and employees were required to file. However, 21 did not file and six filed disclosure statements with questions left bank. In 2018, 47 employees were required to file. However, 21 did not file, three filed statements with questions left bank and two filed late.

In 2017, 27 other individuals associated with the City were required to file. However, 10 did not file and 10 filed statements with questions left blank. In 2018, 32 other individuals associated with the City were required to file. However, 24 did not file, two filed statements with questions left blank and one filed late.

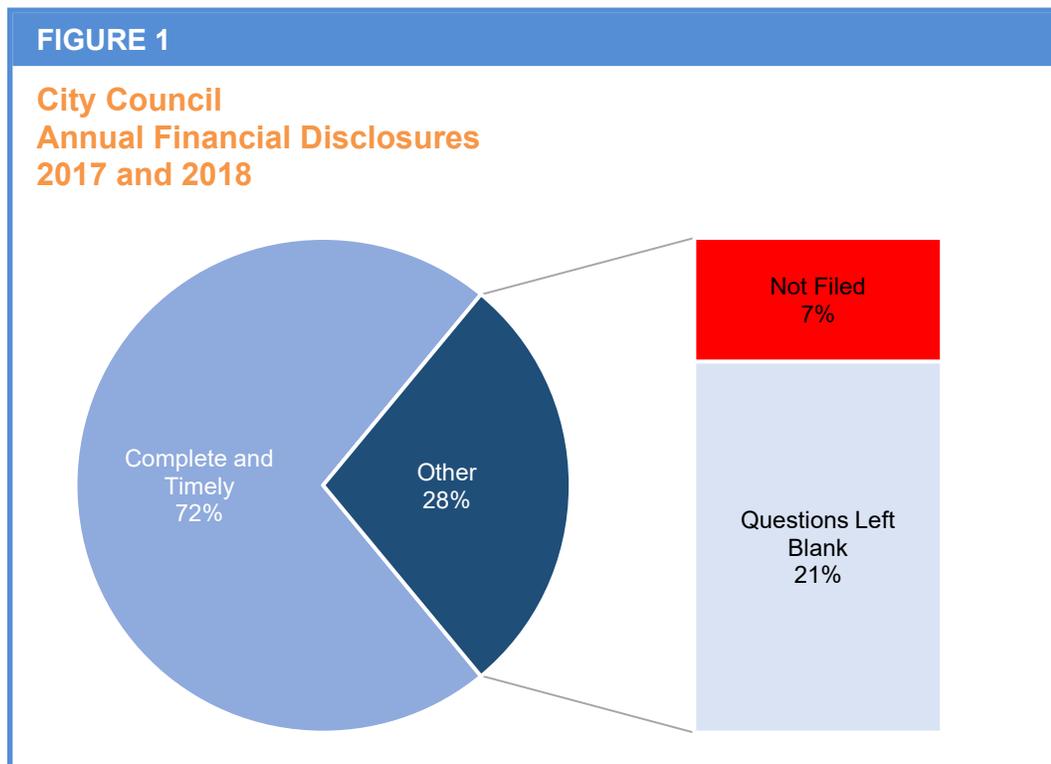


FIGURE 2

**Officers and Employees
Annual Financial Disclosures
2017 and 2018**

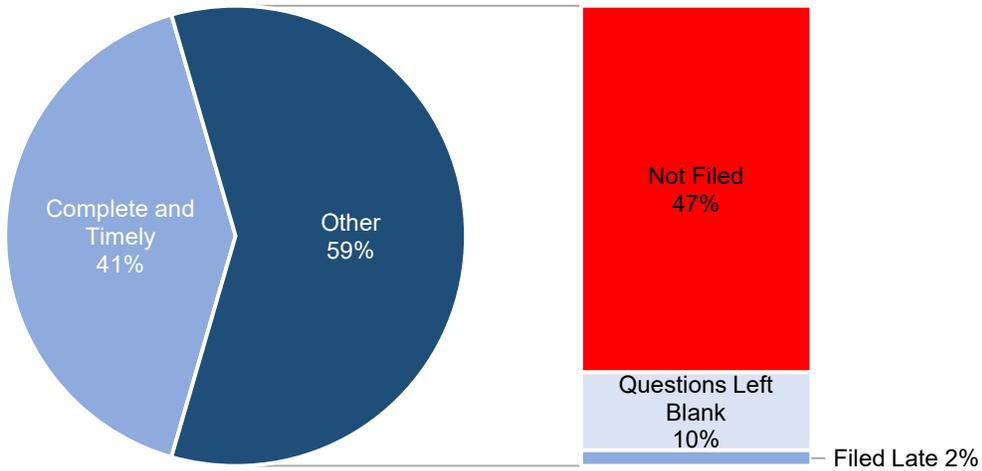
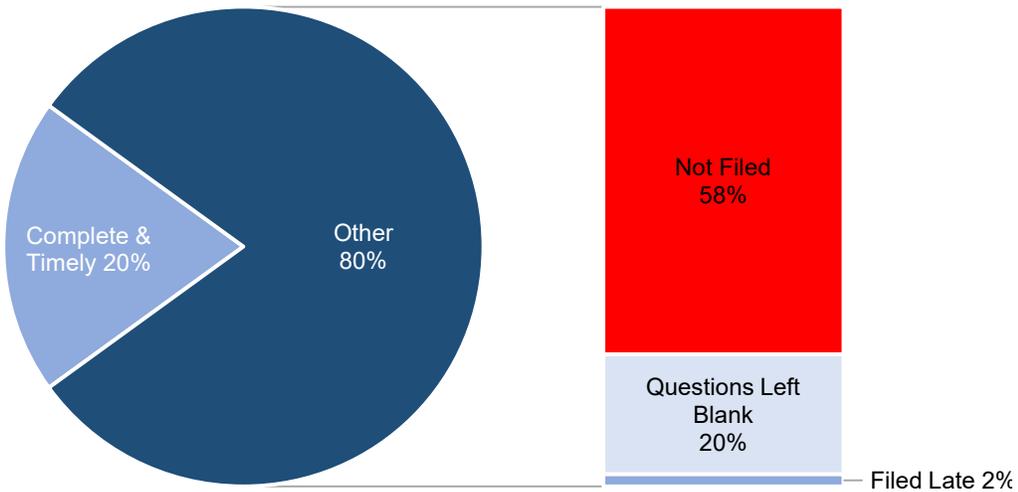


FIGURE 3

**Other Individuals Associated With the City
Annual Financial Disclosures
2017 and 2018**



Although, the code of ethics stipulates that the Mayor is to produce a list of all positions required to file annual financial disclosure statements, and the Ethics Board is to verify its completeness, the procedures in place were inadequate to ensure that disclosure statements submitted by required filers holding such positions were collected and verified for completeness.

The Mayor told us that he was unaware that he was responsible for developing a list of required filers and providing the list to the Ethics Board. An Ethics Board member and the Ethics Board Chair, told us that the Corporation Counsel's office was responsible for sending out disclosure statement forms and collecting completed disclosure statements from required filers.

Further, the Ethics Board Chair told us that in 2017 the Ethics Board was not properly functioning and therefore did not meet to review disclosure statements. He told us that in 2018 the Ethics Board reviewed disclosure statements for completeness but did not receive or request a list of required filers from the Mayor to determine whether all required filers actually filed disclosure statements as required. In addition, an Ethics Board member told us that he did not believe the Ethics Board was responsible for ensuring filing compliance and that he believed this was the Corporation Counsel's office responsibility because they collect the disclosure statements.

The Clerk told us that she took over the responsibility of collecting the disclosure statements as of 2019 and she compiled a master list of titles of those officers and employees required to file disclosure statements according to the code of ethics. In addition, the Clerk told us that the list of job titles has been reviewed by the Mayor, Deputy Mayor and the Ethics Board.

Based on the job title list obtained from the Clerk, we identified 77 instances where required filers did not file disclosure statements during 2017 and 2018. In 2017, 31 required filers did not file disclosure statements. In 2018, 46 required filers did not file disclosure statements. Our review of all 86 disclosure statements filed in 2017 and 2018 revealed that 24 (28 percent) left questions blank.

We recognize that an individual who leaves one or more questions blank may have done so because the question was not applicable. However, the City's annual disclosure statement states "If the answer to any of the following questions is 'NONE,' please so indicate." Without a response to each question, a reviewer would not know if the section was not applicable or if the officer or employee chose not to provide the information.

For example, the Personnel Officer's disclosure statements 2017 and 2018 omitted answers to the following:

- City Employee's Outside Employer(s) or Business(es) – List the name of any outside employer of business from which you received compensation for

The City's annual disclosure statement states "If the answer to any of the following questions is 'NONE,' please so indicate."

services rendered or good sold or produced or of which you are a member, officer or employee. Also, include any entity in which you have an ownership interest, except a corporation of which you own less than five percent (5%) of the outstanding stock. Identify the type of business (i.e., partnership, corporation, self-employment, or sole proprietorship) and your relationship to the employer or business (i.e., owner, partner, director, member, employee or shareholder).

- Spouse’s Employer of Business – List the name of any outside employer or business from which your spouse receives compensation for services rendered or goods sold or produced or of which your spouse is a member, officer or employee. Identify the nature of the business. Identify the type of business (i.e., partnership, corporation, self-employment, or sole proprietorship) and your spouse’s relationship to the employer of business (i.e., owner, partner, director, member, employee or shareholder). If your spouse’s ownership exceeds five percent set forth your spouse’s percentage of ownership.

Not completing a disclosure statement in its entirety could be a misrepresentation to the Ethics Board and creates a risk that potential conflicts could go undetected. Although not required to do so, the Ethics Board did not compare disclosed business interests to vendor payments or compile a list of filers’ outside business interests for the purchasing department to identify potential interests in contracts that would be prohibited by GML. Lack of procedures that require reviewing the submitted information reduces its usefulness.

Without careful review of the information reported on disclosure statements, and procedures to identify transactions that could pose a conflict of interest, taxpayers have less assurance that the City has a strong stance on transparency and identifying conflicts of interest of its officers and employees that could compromise impartiality in decision-making.

The Ethics Board Did Not Review the Code of Ethics or Prepare an Annual Report

The Ethics Board did not review the code of ethics during our audit period or prepare an annual report for the Mayor and Council summarizing its activities and making recommendations.

Two Ethics Board members told us that the Ethics Board was not functional in 2017. However, five Ethics Board members were appointed in July and August 2017, but the Ethics Board did not meet until February 2018. The Ethics Board did not prepare a report for the Mayor and Council in 2017 or 2018.

As a best practice, a review of the code of ethics, at least every five years or when deemed necessary, helps to ensure it adequately addresses the expected

...[A] review of the code of ethics... helps to ensure it adequately addresses the expected conduct for all officers and employees including the required standards stipulated by law.

conduct for all officers and employees including the required standards stipulated by law.

What Do We Recommend?

The City Council should:

1. Amend the code of ethics to require all officers and employees to attest in writing to the receipt and review of the code of ethics at the time of their election or appointment, at least once every five years, and upon amendment to the code.
2. Have Ethics Board members complete training on the provisions of law relating to conflicts of interest and ethics.
3. Develop procedures to provide for a more thorough and meaningful review of the contents of financial disclosure statements in an effort to better identify transactions that could pose conflicts of interest.
4. Review or request the Ethics Board to review the code of ethics, at least every five years or sooner, if deemed necessary.
5. Adopt procedures to ensure the Mayor's and Ethics Board's responsibilities are followed, as required by the code of ethics.

The Mayor should:

6. Visibly post GML Sections 800-809 of the conflict of interest statute in each City building.
7. Develop a list of the names and offices or positions of all officers and employees required to file annual disclosure statements to the Ethics Board during March each year.

The Ethics Board should:

8. Provide for training and education, including making educational materials available to all officers and employees via the Clerk and the Corporation Counsel on the requirements of the code of ethics.
9. Verify that all individuals covered by annual financial disclosure requirements file a complete and timely disclosure statement.
10. Obtain a list of vendors from the accounts payable department to reference during its review of the disclosure statements to help identify potential conflicts of interest and maintain a list of filers' outside business interests to supply to appropriate purchasing department personnel

for their use in identifying potential interests in contracts that would be prohibited by GML.

11. Carefully review information contained on the disclosure statements to identify interests that could pose a conflict of interest.
12. Prepare and provide an annual report to the Mayor and City Council, summarizing its activities and recommending changes to the code of ethics, as required.

Appendix A: City Code of Ethics Information

Figure 4: Required Code of Ethics Provisions^a and Other Ethical Considerations^b

Required Provisions	Included in the City's Code of Ethics?
Disclosure of Interests in Legislation Before the Local Governing Body	Yes
Future Employment	Yes
Holding of Investments in Conflict With Official Duties	Yes
Private Employment in Conflict With Official Duties	Yes
Other Ethical Considerations	
Applicability	Yes
Confidential Information	Yes
Definitions	Yes
Enforcement	Yes
Effective Date	Yes
Establishing a Board of Ethics	Yes
Gifts	Yes
Interests in Contracts	No
Nepotism	No
Political Solicitations	Yes
Posting and Distributing the Code of Ethics	Yes
Prohibition on Use of Municipal Position for Personal or Private Gain	Yes
Purpose of the Code of Ethics	No
Recusal and Abstention	Yes
Ethics Board Members Term Limits ^c	Yes

a GML, Section 806

b Refer to OSC's Model Code of Ethics for Local Governments available at: <https://www.osc.state.ny.us/localgov/pubs/ethics.htm>

c Not included within OSC's Model Code of Ethics for Local Governments but should be considered as a best business practice

Figure 5: City Council Member, Officers and Employees, and Other Individuals Associated With the City Who Did Not File an Annual Financial Disclosure Statement

Job Title	2017	2018
City Council		
Council Member		Not Filed
Officers and Employees		
Assistant Planner (2)	Not Filed	
Assistant Planner (3)		Not Filed
Assistant Police Chief	Not Filed	
Assistant Police Chief (2)		Not Filed
Chief Account Clerk	Not Filed	Not Filed
Chief Electrical Inspector		Not Filed
City Marshall	Not Filed	Not Filed
Computer Network Manager		Not Filed
Confidential Secretary to Council		Not Filed
Corporation Counsel		Not Filed
Deputy City Clerk	Not Filed	Not Filed
Deputy Comptroller for Finance and Operations	Not Filed	
Deputy Corporation Counsel (2)	Not Filed	Not Filed
Fire Chief	Not Filed	
Fire Chief (2)		Not Filed
Planning Technician (2)	Not Filed	Not Filed
Police Chief	Not Filed	
Police Chief (2)		Not Filed
Political Candidates (7)	Not Filed	
Purchasing Agent	Not Filed	Not Filed
Other Individuals Associated With the City		
Board of Assessment Review (4)		Not Filed
Board of Electrical Examiners		Not Filed
Board of Ethics	Not Filed	
Board of Ethics (6)		Not Filed
Board of Plumbers		Not Filed
Board of Zoning Appeals	Not Filed	Not Filed
Civil Service Board (3)		Not Filed
Planning Commission (4)	Not Filed	
Planning Commission (6)		Not Filed
Zoning Board (4)	Not Filed	
Zoning Board (2)		Not Filed

() represents the number of individuals that did not file a disclosure statement

Appendix B: Response From City Officials



Wm. Patrick Madden
Mayor, City of Troy

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City Hall
433 River Street
Troy, New York 12180

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Fax: (518) 270-4546
mayorsoffice@troyny.gov

October 5, 2020

Julie Landcastle, Chief Examiner
Statewide Audit Unit
New York State Office of the State Comptroller
Binghamton State Office Building
44 Hawley Street, Room 1702
Binghamton, NY 13901

Dear Ms. Landcastle:

I write on behalf of the City Council, the Ethics Commission, and the Mayoral Administration of the City of Troy. Please consider this letter the City of Troy's response to the draft Report of Examination S9-19-13 that you provided, concerning the results of the audit of the City's system of ethics oversight for the period January 1, 2017 – September 30, 2018.

We acknowledge that your staff identified several weaknesses and deficiencies in our program. Although no actual ethics violations were identified (and we believe none actually occurred), we take our oversight responsibilities seriously. Our standards of integrity are high. We intend to implement the Report's recommendations fully in order to strengthen our practices and procedures in regard to ethics oversight.

We do, however, think that a word of explanation is in order. Your Report notes that the City Council has passed a proper Ethics Code into law and has created an independent Ethics Commission to enforce it. But the period covered by your audit, January 1, 2017 through September 30, 2018, is somewhat unfortunate. That was a period of transition for our Ethics Commission. The prior Commission was essentially dysfunctional and in a state of decomposition at the time the current Mayor and City Council President came into office. Working in a collaborative fashion, the new Administration and the Council President sought to reinvigorate the Commission by appointing an entirely new membership and leadership. Considerable progress has been achieved already. The Commission now meets quarterly as required, and over the course of 2018 and 2019, addressed four complaints of alleged ethics violations and issued seven advisory opinions.

Also, contrary to a misstatement in your Report, the City's Ethics Commission did issue a report for 2018 (copy attached), as well as for 2019, and will issue a report for 2020. The present Commission is more robust, and actively engaged in reviewing the ethical questions brought before it. The suggestions you have made in respect of offering additional ethics training and

See Note 1 Page 18

education to employees and subjecting disclosure forms to closer scrutiny will not be unwelcome.

Indeed, it should also be noted that just after your audit closed in September 2018, the procedure for filing annual disclosure statements was changed and improved. The City Clerk now has a master list of personnel required to file. That list is reviewed and updated annually by the Mayor, Deputy Mayor, and the Chair of the Ethics Commission. The City Clerk collects all of the disclosure forms and transmits them to the Commission. In instances of non-compliance or other filing inadequacy, the Commission follows up with the individual and requires corrective action. Of course, our goal is and has been 100% compliance. We believe we will reach that goal in 2020.

These are a few of the steps we took before your Report was provided to the City. We have taken more since in accordance with your recommendations, and will continue our ongoing efforts to fortify the ethical framework of the City of Troy government.

We look forward to the submission of our CAP following publication of your final audit report.

In the meantime please feel free to contact me if you have any questions relative to this Audit Response.

Yours truly,

Wm. Patrick Madden
Mayor

cc: Hon. Ryan Manley, Troy Ethics Commission, Chair
Hon. Carmella Mantello, Troy City Council President
Troy City Council Members
Richard Morrissey, Corporation Counsel, City of Troy

2018 REPORT OF THE CITY OF TROY ETHICS COMMISSION

Commission Members:

Ryan Manley, Karen Pelland, Daquetta Jones, Marcia Keefe, Steve Muller. Kevin Reilly and Laurie Kennedy appointed in advance of November 29th meeting. Laurie Kennedy did not attend November 29th meeting.

Meeting Dates:

February 22nd;

April 26th;

August 30th;

November 29th;

Ethics Complaints Addressed:

- 1) Ayotte complaint regarding neighbor dispute: Report failed to allege ethics violation;
- 2) Piscitella complaint regarding unprofessional behavior by Chair of City of Troy Zoning Board of Appeals: Report failed to allege ethics violation;
- 3) McGrath complaint regarding failure to provide documents: Report failed to allege ethics violation.

Advisory Opinions Issued:

- 1) A05082018- Advisory Opinion Regarding River Street Planning and Development;
- 2) A09102018- Advisory Opinion Regarding The Hiring of Dylan Turek as Economic Development Coordinator;
- 3) A09142018- Advisory Opinion Regarding a Troy Housing Program Applicant;
- 4) A11262018- Advisory Opinion Regarding Revolving Door Provision.

Appendix C: OSC Comment on the City's Response

Note 1

The Ethics Board report referred to in the City's response regarding Ethics Board activities during 2018 was prepared subsequent to our audit period. The Ethics Board did not prepare annual reports during our audit period, which would have reflected Ethics Board activities for the previous years (2016 and 2017).

Appendix D: Audit Methodology and Standards

We conducted this audit pursuant to Article V, Section 1 of the State Constitution and the State Comptroller's authority as set forth in Article 3 of the New York State General Municipal Law. To achieve the audit objective and obtain valid audit evidence, our audit procedures included the following:

- We interviewed City officials, employees and Ethics Board members to gain an understanding of the governing and ethics oversight.
- We reviewed policies, procedures, City Council and Ethics Board minutes related to ethics.
- We reviewed all 86 disclosures for the audit period to determine whether they were completely and properly filed on time and any potential conflict of interests were reported to the Ethics Board.
- We reviewed all advisory opinions issued by the Ethics Board during the audit period.
- We reviewed procedures to receive ethical complaints from the public, which consist of submitting a sworn complaint either via email or regular mail to the Ethics Board.
- We used our professional judgment to select a sample of four of five City buildings and walked through these buildings to determine whether the conflict of interest statute was posted. For our sample, we selected the building where we conducted a majority of our fieldwork and three additional nearby City buildings, with no expectations of greater or lesser results.

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 objective. We believe that the evidence obtained provides a reasonable basis for our findings and conclusions based on our audit objective.

Unless otherwise indicated in this report, samples for testing were selected based on professional judgment, as it was not the intent to project the results onto the entire population. Where applicable, information is presented concerning the value and/or relevant population size and the sample selected for examination.

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

Appendix E: Resources and Services

Regional Office Directory

www.osc.state.ny.us/sites/default/files/local-government/documents/pdf/2018-12/regional_directory.pdf

Cost-Saving Ideas – Resources, advice and assistance on cost-saving ideas

www.osc.state.ny.us/local-government/publications?title=&body_value=&field_topics_target_id=263196&issued=All

Fiscal Stress Monitoring – Resources for local government officials experiencing fiscal problems

www.osc.state.ny.us/local-government/fiscal-monitoring

Local Government Management Guides – Series of publications that include technical information and suggested practices for local government management

www.osc.state.ny.us/local-government/publications?title=&body_value=&field_topics_target_id=263206&issued=All

Planning and Budgeting Guides – Resources for developing multiyear financial, capital, strategic and other plans

www.osc.state.ny.us/local-government/resources/planning-resources

Protecting Sensitive Data and Other Local Government Assets – A non-technical cybersecurity guide for local government leaders

www.osc.state.ny.us/sites/default/files/local-government/documents/pdf/2020-05/cyber-security-guide.pdf

Required Reporting – Information and resources for reports and forms that are filed with the Office of the State Comptroller

www.osc.state.ny.us/local-government/required-reporting

Research Reports/Publications – Reports on major policy issues facing local governments and State policy-makers

www.osc.state.ny.us/local-government/publications?title=&body_value=&field_topics_target_id=263211&issued=All

Training – Resources for local government officials on in-person and online training opportunities on a wide range of topics

www.osc.state.ny.us/local-government/academy

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