This opinion represents the views of the Office of the State Comptroller at the time it was rendered. The opinion may no longer represent those views if, among other things, there have been subsequent court cases or statutory amendments that bear on the issues discussed in the opinion.

LIBRARIES -- Contracts (with town library by village) -- Grants (by village to town library)
VILLAGES -- Powers and Duties (contract for library services with, or grant to town library)

EDUCATION LAW, §256: A village may contract with a town public library which was established by the town within which the village is located and which is supported by town-wide taxes, for library services beyond those already available to all town residents, or may grant moneys to the town library.

We are in receipt of your letter asking whether a village may contract for library services with a town public library which was established by the town within which the village is located and which is funded by town-wide taxes.

Section 256 of the Education Law authorizes villages and other public entities to contract with the trustees of "a public library registered by the regents to furnish library services to the people of the" village or other entity under such terms and conditions as may be stated in the contract. Since section 256 authorizes a village to contract with a "public library" without reference to geographical location, there is no prohibition in section 256 against a village contracting with the trustees of a town public library which serves the town within which the village is located (see 1970 Opns St Comp No. 70-502, unreported).

Although a village may contract with a town public library, the contract must be for the library "to furnish library services" to the people of the village. Therefore, it is our opinion that section 256 contemplates the mutual exchange of consideration between the library and the village with the village providing, generally, cash consideration in exchange for library services provided to village residents (see 1983 Opns St Comp No. 83-117, p 146).

In the instant case, however, the town library is supported by town taxes levied against the taxable real property of the entire town including incorporated villages (see Education Law, §§255[1], 259[1]; 1972 Opns St Comp No. 72-918, unreported) and town residents who also reside in the village are already paying for and entitled to utilize the services of the town library (cf. Education Law, §256[2] providing that where a town and village within the town jointly contract for library services, the amounts appropriated by a town to fund its share of the contract are charged only to the taxable property of that part of the town outside of the village). Therefore, unless the library agrees under the contract to provide consideration to the village in the form of services beyond those already provided to all town residents, such as by providing enhanced or additional services for the particular benefit of village residents, the village would be paying additional moneys for library services to which
they were already entitled as residents of the town. In the absence of enhanced or additional services, the village would not be receiving any consideration for the moneys paid under the contract as contemplated by section 256 (see Opn No. 70-502, supra; see also 1988 Opns St Comp No. 88-69, p 137).

Section 256, however, in addition to authorizing a village to contract with a town library, also authorizes the village to "grant moneys for the support of the cost of maintaining or the cost of any capital improvement to or expenditure for one or more" public libraries registered by the regents. We have interpreted the term "grant" as used in section 256 to contemplate a gift or donation of moneys to the library (1982 Opns St Comp No. 82-305, p 389; 1980 Opns St Comp No. 80-448, unreported; 1979 Opns St Comp No. 79-410, p 74). Therefore, the village board may determine to grant moneys to the town library even though the library is already supported by town-wide taxes and the library does not specifically agree, in return, to provide consideration to the village (see 1979 Opn No. 79-410, supra).

February 20, 1990
Daniel J. Kwarta, Mayor
Village of East Bloomfield