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David Sullivan, Supervisor
Members of the Town Board
Town of Elmira
1255 W. Water Street
Elmira, NY 14905

Report Number: 2015M-226-F

Dear Supervisor Sullivan and Members of the Town Board:

One of the Office of the State Comptroller's primary objectives is to identify areas where local government officials can improve their operations and provide guidance and services that will assist them in making those improvements. The Office also works to develop and promote short-term and long-term strategies to enable and encourage town officials to reduce costs, improve service delivery and account for and protect their town's assets. In accordance with these objectives, we conducted an audit of the Town of Elmira (Town) to assess the financial condition of the Town. As a result of our audit, we issued a report, dated January 2016, identifying certain conditions and opportunities for Town management's review and consideration.

To further our policy of providing assistance to local governments, we revisited the Town on July 11, 2016 to review progress in implementing our recommendations. Our follow-up review was limited to interviews with Town personnel, analysis of financial data and inspection of certain documents related to the issues identified in our report. Based on our limited procedures, the Town has not made sufficient progress implementing corrective action.¹ Of the 10 audit recommendations, one recommendation was implemented, one recommendation was partially implemented and eight recommendations were not implemented. As a result, residents of the Town outside of the Village of Elmira Heights (Village) continue to bear an inequitable share of the cost of providing Town services.

Recommendation 1 – Multiyear Plan

The Board should develop and adopt a multiyear financial plan for long-term operating and capital needs. This plan should be monitored and updated on an ongoing basis.

Status of Corrective Action: Not Implemented

¹ In response to the 2015 report, the Town submitted a corrective action plan to our Office. This plan detailed corrective action that the Town planned to take regarding the recommendations.

Observations/Findings: According to the Town’s corrective action plan (CAP), the Town Supervisor (Supervisor) was constructing a detailed five-year projection for all funds to be shared with the Town Board (Board) and updated. The projection was to be used as a roadmap for future budgeting and planning.

Although the Supervisor prepared a five-year operational budget plan that was presented to the Board in December 2015, the minutes do not note any formal adoption of the plan. The five-year projection consisted of an Excel spreadsheet that projected revenues, expenditures, results of operations and total fund balance for each fund during the next five years. Although the spreadsheet included a few notes, it could be improved by expanding the rationale for the estimates. The plan also does not appropriately reflect expenditures of the Town-wide general (TW) and Town-outside-village general (TOV) funds. In both 2015 and 2016, expenditures that were legally required to be a charge of the TW fund were inappropriately recorded as TOV expenditures. As a result, the fund balance recorded in the projection is not accurately depicted.

The Supervisor continued to inappropriately allocate TW expenditures in future year projections, which made the results unreliable. The spreadsheet also did not include an analysis of fund balance, such as the amounts restricted and unrestricted, to determine its availability for use in the event of revenue shortfalls or unexpected expenditures. Other information critical to maintaining the Town’s fiscal health was not included, such as how the TW fund would pay back the TOV fund for the incorrect allocation of sales tax revenue, the goals to improve the long-term fiscal condition of the Town, the actions necessary to achieve the goals or the performance measures to determine progress in attaining the goals.

Finally, the CAP also stated that although large capital purchases were not frequent, the Supervisor and Board would develop a five-year capital plan as part of the budgetary projection. However, the projection did not include a separate detailed capital plan. The Supervisor told us that capital expenditures are limited; therefore, they have been built into the five-year operating plan. However, an effective capital plan should include a detailed capital asset inventory listing, prioritized capital projects, financing considerations and the budgetary impact.

Recommendation 2 – Policies and Procedures

The Board should adopt policies and procedures to govern budgeting practices and the reasonable level of fund balance to be maintained in each fund to meet the Town’s needs.

Status of Corrective Action: Not Implemented

Observations/Findings: The CAP stated that the Supervisor was developing a fund balance policy for Board approval to be completed in February 2016. Although the Board is in the process of revising a draft fund balance policy, the draft policy does not state the Board’s desired level of fund balance to be maintained. Instead, the draft policy states that an “appropriate level should be maintained,” which does not provide the necessary guidance in support of the Board’s goals. The Supervisor told us that they would like fund balance to be at 15 percent, but could not provide any rationale for this percentage.

Recommendation 3 – Plan to Eliminate Accumulated Fund Balance Deficits

The Board should implement a plan to eliminate the accumulated fund balance deficits.

Status of Corrective Action: Not Implemented

Observations/Findings: The CAP stated that the Supervisor had developed a budget plan to eliminate the deficits in the TW and the traffic district fund balances over a number of years. However, the Board has not implemented a specific plan to eliminate the accumulated fund balance deficits. Instead, the Supervisor and County Treasurer² told us that they have tightly monitored expenditures and used the multiyear plan to show that fund balance deficits will be eliminated in a few years. The Supervisor's spreadsheet projects a positive fund balance for the TW fund at the end of 2017 (6.4 percent) and for the traffic district at the end of 2018 (1.6 percent). However, the improvement in the TW fund is dependent on improperly shifting expenditures to TOV residents. This is not an allowable method to improve the financial condition of the TW fund. Further, the Town has not considered the TW fund's need to repay the TOV fund for interfund advances from previous years and the impact this will have on the TW fund balance.

Recommendation 4 – Appropriated Fund Balance

The Board should limit the appropriation of fund balance to amounts that are available.

Status of Corrective Action: Partially Implemented

Observations/Findings: According to the CAP, as a result of assistance from the County Treasurer's office, the 2014 Town audit was completed and statements were issued in July 2015. This more timely and accurate information improved the budget process for 2016. We compared appropriated fund balance in the 2016 budget to fund balance available at the end of 2015 and found that the Board limited the appropriation of fund balance to amounts that were available for most funds. We noted the Board appropriated negative fund balance for the TW (\$872) and traffic district (\$5,967) funds as a way to help reduce the deficits.³ While not appropriating fund balance in amounts greater than what is available is a positive step, the amounts noted have minimal impact on eliminating the accumulated fund balance deficits.

Recommendation 5 – Proper Sales Tax Allocation

The Board should properly allocate sales tax revenues in accordance with statutory requirements and develop a plan to repay the TOV funds for amounts improperly credited to the TW fund.

Status of Corrective Action: Not Implemented

² In 2014, the Town contracted with the County to assist with their accounting.

³ Appropriating negative fund balance is not an appropriate budgeting practice; rather, the account named Budgetary Provision for Other Uses should be used.

Observations/Findings: The CAP did not adequately address the recommendation as it stated that a formula was developed and expenditures in the 2015 budget were reallocated from TOV to TW. We note that the Town's CAP switched the terms TOV and TW. However, while this formula may assist in the Board's plan to repay the TOV funds, it appears as though no formula should be necessary to properly allocate sales tax revenues in accordance with statutory requirements. Specifically, when a town and a village within the town both receive sales tax revenue from the county, the town must budget and record the sales tax revenue in the TOV funds, unless real property taxes in those funds have been reduced to zero. Additionally, the Board should ensure that the budget accounts for expenditures in the appropriate funds. The purpose for maintaining separate TW and TOV funds is to account for transactions which are required, by law, to be included in those respective funds.

The Supervisor addressed the improper allocation of sales tax revenues by amending the 2015 budget to eliminate the transfer and not including the transfer in the 2016 budget. However, to compensate the TW fund for the elimination of the sales tax revenue, the Supervisor⁴ inappropriately recorded expenditures of a similar amount that were required by law to be the responsibility of the TW fund as TOV fund expenditures. In effect, one improper practice was substituted for a different improper practice.

We reviewed the 2015 annual report and found that the Supervisor inappropriately reported TW expenditures in the TOV fund in 2015 that are not allowed by law. This included total expenditures for auditor, attorney, assessor and clerk offices and related salary benefits (such as retirement, social security and health insurance costs). The TW expenditures moved to the TOV fund totaled approximately \$375,000, which was similar to the total amount previously advanced from the TOV fund (\$331,000 in 2014) to the TW fund. The Board has little discretion to determine whether or not certain transactions are budgeted and accounted for as TOV activities. Generally, all expenditures must be accounted for as TW activities, unless there is a New York State statute that requires or permits any given expenditure to be included in only the TOV area of the Town, such as code enforcement, building inspection, planning and zoning.

The Supervisor stated that the initial plan enacted in the 2016 budget was to move approximately 50 percent of the TW fund expenditures to the TOV fund. We reviewed the 2016 budget and found that, compared to the adopted 2015 budget, \$457,180, or 52 percent of expenditures, was moved from the TW fund to the TOV fund. The Board accomplished this by moving almost half of nearly every appropriation in the TW fund budget to the TOV fund budget, including expenditures that are not authorized to be made in the TOV fund, such as Town Board compensation. Therefore, there is still inequity among taxpayers. The Supervisor and County Treasurer told us that they are in the process of looking again at the allocation of expenditures between these funds.

Additionally, the Board did not develop a plan to repay the TOV fund for amounts improperly credited to the TW fund and furthered the inequity by moving inappropriate expenditures to the TOV fund. The Supervisor and County Treasurer told us that they did not plan to repay the TOV funds because they thought that expenditures were misallocated in the past; thus, the incorrect allocation of sales tax revenue would be offset.

⁴ There was no indication in the Board minutes that the Board approved these budget amendments.

Because sales tax revenues were improperly allocated and interfund activity was improperly recorded, Town residents were not treated equitably. Furthermore, these actions have resulted in an inaccurate depiction of the actual financial condition of certain Town operating funds.

Recommendation 6 – 2015 TW Fund Budget Amendment for Improper Sales Tax Revenue

The Board should make immediate adjustments to the TW fund’s 2015 budget to correct the improper inclusion of \$108,000 in sales tax revenue.

Status of Corrective Action: Not Implemented

Observations/Findings: Although Town officials amended the 2015 budget to eliminate the transfer from the TOV fund to the TW fund, they inappropriately moved certain expenditures from the TW fund to the TOV fund that are not allowed by law.

Recommendation 7 – Interfund Advances

The Board should ensure that all interfund borrowing is repaid in accordance with New York State General Municipal Law.

Status of Corrective Action: Not Implemented

Observations/Findings: The CAP did not address this recommendation. Also, the County Treasurer told us that the Town had not made any changes in this area. The Supervisor continued to disburse money from the commingled bank account, regardless of whether the responsible fund had sufficient cash available to pay the expenditures. Further, the Supervisor did not record interfund advances during the year or get Board approval for them as they occurred. As a result, there has been no interest paid from the receiving fund to compensate the lending fund.

We reviewed interfund advances at the end of 2015 and identified new loans that should have been known and approved by the Board. In addition, the previous amounts owed to the TOV funds for the improper allocation of sales tax to the TW fund in previous years have not been included in the Town’s financial records and there is no plan for repayment.

Recommendation 8 – Cost Savings and Revenue Enhancement

The Board should continue to evaluate and explore cost-saving measures or revenue enhancements to help offset the Town’s loss of sales tax revenues.

Status of Corrective Action: Fully Implemented

Observations/Findings: The Board continued to seek cost savings, which included switching to a higher deductible health insurance plan, capping the Town’s portion of retiree health insurance so the retiree is required to pay any increases in premiums and reducing the Town’s contribution toward health insurance premiums for future employees. The Board also approved the upgrade of

the Town's loader through the vendor's lease program because the Highway Superintendent calculated that it would cost less than upkeep (maintenance and new tires) on the current loader.

Recommendation 9 – Correct Accounting Records

The Supervisor should correct the accounting records in the TOV fund and the TW fund to properly reflect the improper allocation of \$351,726 in sales tax revenue from 2012 through 2014.

Status of Corrective Action: Not Implemented

Observations/Findings: The Supervisor and County Treasurer told us that they did not plan to adjust the records because they thought that there were expenditures that should have been in the TOV fund instead of the TW fund in the past that would offset the improper allocation of sales tax revenue. However, their interpretation that these expenditures were TOV expenditures is not correct. This misinterpretation has resulted in the Town continuing the practice of having residents in the Town, outside of the Village, pay expenditures that legally should be the responsibility of the Town and Village residents. The cost of this error to those residents outside of the Village totaled approximately \$375,000 in 2015 and approximately \$385,000 in the 2016 budget. Unless action is taken, the amount misallocated between the funds will exceed \$1.1 million by December 31, 2016.

Recommendation 10 – Monthly Cash Flow Projections for Each Fund

The Supervisor should provide monthly cash flow projections for each fund to the Board to assist in making informed financial decisions.

Status of Corrective Action: Not Implemented

Observations/Findings: The CAP did not address this recommendation. Also, the Supervisor is not providing the Board with the necessary cash flow projections for each fund to assist the Board in making informed financial decisions. The Supervisor told us that he has provided a fund balance report and a bank balance report to the Board by email each month since December 2015, and, beginning in June 2016, both of these reports were included in the Board minutes.

Because money is commingled into a common bank account for all the Town's operating and capital projects funds, it is imperative that the Board receive cash flow projections for each fund in order to ascertain if sufficient money is available prior to approving payments. Without cash flow projections, the Board continued to approve payments throughout 2015 when money was not available in the respective funds. As a result, interfund advances occurred that were not approved or recorded, which increased the inequities among taxpayers. Furthermore, the fund balances detailed in the Supervisor's reports were incorrect. The Supervisor told us that he thought providing these two reports was sufficient to address the recommendation.

During our review, we discussed the basis for our recommendations and the operational considerations relating to these issues. We encourage Town officials to continue their efforts to fully implement our recommended improvements.

Thank you for the courtesies and cooperation extended to our auditors during this review. If you have any further questions, please contact Edward V. Grant Jr, Chief Examiner of our Rochester Regional Office, at (585) 454-2460.

Sincerely,

Gabriel F. Deyo
Deputy Comptroller