



City of Auburn

Hydroelectric Power Operations and Software Management

Report of Examination

Period Covered:

July 1, 2015 – March 9, 2017

2017M-99



Thomas P. DiNapoli

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State of New York Office of the State Comptroller

Division of Local Government and School Accountability

December 2017

Dear City Officials:

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

Following is a report of our audit of the City of Auburn entitled Hydroelectric Power Operations and Software Management. This audit was conducted pursuant to Article V, Section 1 of the State Constitution and the State Comptroller's authority as set forth in Article 3 of the New York State General Municipal Law.

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

Respectfully submitted,

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



State of New York Office of the State Comptroller

EXECUTIVE SUMMARY

The City of Auburn (City) is located in Cayuga County and has a population of approximately 28,000 residents. The City Council (Council) serves as the legislative and governing body. The Mayor serves as the Council's presiding officer. The Council appoints a City Manager¹ to serve as the chief executive officer. The City Manager appoints a City Comptroller to serve as the chief financial officer.

The City employs approximately 330 full- and part-time employees. The City provides various services to its residents such as public safety, road maintenance, community services, economic opportunity and development, water, sewer, culture and recreation and general governmental support. These services are primarily financed by real property and sales taxes, and user fees. The City's total budgeted appropriations for the 2016-17 fiscal year are \$53.03 million.

The City's Department of Municipal Utilities, headed by the Director of Municipal Utilities (DMU),² provides, operates and maintains a variety of services for the benefit of its residents. One of these services is hydroelectric power, in which the City currently operates the Mill Street Dam Hydroelectric (MSDH) facility and will have the North Division Street Hydroelectric (NDSH) facility operational by fall 2017. Power generated from the City's hydroelectric facilities is used to meet the City's own energy needs.

The City has an information technology (IT) department, which is headed by the Office Systems and Training Coordinator (IT Coordinator). To assist the IT Coordinator with her responsibilities, the City has also hired an independent IT consultant who performs network and general computer support for the City. The City has approximately 170 computers, including networked desktops, laptops and tablets.

Scope and Objectives

The objectives of our audit were to assess the City's hydroelectric power operations and software management for the period July 1, 2015 through March 9, 2017.³ We also extended our scope back to January 1, 2011 to review certain historical information related to the City's hydroelectric power projects and facility operations. Our audit addressed the following related questions:

¹ The current City Manager was appointed in October 2016 and served as the interim City Manager prior to his appointment.

² The current DMU was appointed in May 2016.

³ Specific point in time testing for software installations was performed on December 7 and 8, 2016.

- Does the Council provide adequate oversight over hydroelectric power operations?
- Are City officials effectively and efficiently managing software assets?

Audit Results

The Council did not provide adequate oversight over the City’s hydroelectric power operations. The Council did not adopt policies and procedures which adequately govern certain procurement practices, including requests for qualifications or proposals or energy performance contracts (EPCs). The Council also did not adopt formal long-term financial plans or develop adequate capital plans related to their hydroelectric power facilities.

City officials awarded an EPC for the MSDH project totaling approximately \$3.9 million. City officials based their decision to award the EPC for the MSDH project on inaccurate financial projections, which showed the project having a net positive cash flow by the end of the second year of operations. These projections were not based on the correct project cost and did not account for operating expenditures. The MSDH project incurred operating deficits in fiscal years 2014-15 and 2015-16, its first two years of operations, totaling \$117,000. Furthermore, updated financial projections indicate that the project will generate a deficit of approximately \$516,958 for fiscal years 2017-18 through 2046-47.

Due, in part, to the issues experienced during the MSDH project, the City opted to pursue a more traditional design-bid-build approach for the NDSH project. Compared to the MSDH project, City officials better documented the rationale for their procurement decisions for the NDSH project when awarding the various contracts for design/consultant, turbine sale and purchase and construction. The decision to pursue the NDSH project was also based on better financial information, which forecasted annual operating surpluses, allowing it to break even⁴ in the 15th year.

City officials and IT staff did not ensure compliance with the Council-adopted acceptable use policies. Computers are not regularly monitored or reviewed to ensure that all software installed served an appropriate business need and was legally obtained. Furthermore, administrative rights are granted on the majority of the City’s computers. As a result, five of the 25 computers reviewed had nonbusiness appropriate software applications installed that included games, a browser rewards application, adware and multiple pre-installed entertainment applications. This may be exposing the City’s computers to unnecessary risk, such as hacking or other malicious events.

Comments of Local Officials

The results of our audit and recommendations have been discussed with City officials, and their comments, which appear in Appendix A, have been considered in preparing this report. Except as indicated in Appendix A, City officials generally agreed with our recommendations and indicated they plan to initiate corrective action. Appendix B includes our comments on issues City officials raised in their response.

⁴ Point at which project costs no longer exceed realized savings.

Introduction

Background

The City of Auburn (City) is located in Cayuga County and has a population of approximately 28,000 residents. The City Council (Council) serves as the legislative and governing body. The Mayor serves as the Council's presiding officer. The Council is responsible for establishing legislation and providing oversight of City operations. The Council appoints a City Manager⁵ to serve as the chief executive officer. The City Manager is responsible for ensuring legislation adopted by the Council is implemented and keeping the Council apprised of City operations. The City Manager appoints a City Comptroller to serve as the chief financial officer. The City Comptroller is responsible for the administration of the City's financial affairs, including budget preparation and maintenance, forecasting and capital financing. The City Manager and Comptroller, along with department heads, are responsible for the City's day-to-day operations.

The City employs approximately 330 full- and part-time employees. The City provides various services to its residents such as public safety, road maintenance, community services, economic opportunity and development, water, sewer, culture and recreation and general governmental support. These services are primarily financed by real property and sales taxes, and user fees. The City's total budgeted appropriations for the 2016-17 fiscal year are \$53.03 million.

The City's Department of Municipal Utilities, headed by the Director of Municipal Utilities (DMU),⁶ provides, operates and maintains a variety of services for the benefit of its residents. One of these services is hydroelectric power, which the City has a long history of producing. Currently, the City operates the Mill Street Dam Hydroelectric (MSDH) facility and will have the North Division Street Hydroelectric (NDSH) facility operational by fall 2017. Power generated from the City's hydroelectric facilities is used to meet the City's own energy needs. In addition, the Council established an advisory board in 2004 called the Auburn Municipal Power Agency (AMPA) to determine, develop and implement the delivery of low cost, safe and reliable public energy services, enabling the City to become an energy independent community and advance economic development. During its time in existence, the AMPA was influential in the City's hydroelectric projects. The Council disbanded the AMPA in 2016.

⁵ The current City Manager was appointed in October 2016 and served as the interim City Manager prior to his appointment.

⁶ The current DMU was appointed in May 2016.

The City has an information technology (IT) department, which is headed by the Office Systems and Training Coordinator (IT Coordinator). The IT Coordinator is responsible for overseeing the City's daily IT operations and functions. To assist the IT Coordinator with her responsibilities, the City has also hired an independent IT consultant who performs network and general computer support for the City. The City has approximately 170 computers, including networked desktops, laptops and tablets.

Objectives

The objectives of our audit were to assess the City's hydroelectric power operations and software management. Our audit addressed the following related questions:

- Does the Council provide adequate oversight over hydroelectric power operations?
- Are City officials effectively and efficiently managing software assets?

Scope and Methodology

We assessed the City's hydroelectric power operations and software management for the period July 1, 2015 through March 9, 2017.⁷ We also extended our scope back to January 1, 2011 to review historical information related to, and the operational aspects of, the City's hydroelectric power projects.

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

Comments of Local Officials and Corrective Action

The results of our audit and recommendations have been discussed with City officials, and their comments, which appear in Appendix A, have been considered in preparing this report. Except as indicated in Appendix A, City officials generally agreed with our recommendations and indicated they plan to initiate corrective action. Appendix B includes our comments on issues City officials raised in their response.

⁷ Specific point in time testing for software installations was performed on December 7 and 8, 2016.

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

Hydroelectric Power Operations

The Council and City officials have a duty to manage City operations as economically as possible in compliance with statutory requirements. These responsibilities include oversight of the City's overall fiscal affairs, which involves ensuring adequate policies and procedures are developed, appropriate contracts and agreements are executed and projects are in the City's best interests. Specifically, the Council is responsible for ensuring that competition is sought to ensure the best value, and that significant project cost over-runs or estimation errors are avoided, which can be exercised by requesting regular status reports. City officials must also ensure that multiyear financial and capital plans are developed in relation to all City operations and projects to ensure that they are viable in the long-run and that potentially costly maintenance is properly planned for.

The Council did not provide adequate oversight over the City's hydroelectric power operations. The Council did not adopt policies and procedures which adequately govern certain procurement practices, including requests for qualifications (RFQs) or proposals (RFPs) or energy performance contracts (EPCs). The Council also did not adopt formal long-term financial plans or develop adequate capital plans related to their hydropower facilities.

City officials awarded an EPC for the Mill Street Dam Hydroelectric (MSDH) project totaling approximately \$3.9 million. City officials based their decision to award the EPC for the MSDH project on inaccurate financial projections, which showed the project having a net positive cash flow by the end of the second year of operations. These projections were not based on the correct project cost and did not account for operating expenditures. The MSDH project incurred operating deficits in fiscal years 2014-15 and 2015-16, its first two years of operations, totaling \$117,000. Furthermore, updated financial projections indicate that the project will generate a deficit of approximately \$516,958 for fiscal years 2017-18 through 2046-47.

City officials opted to pursue a more traditional design-bid-build approach for the North Division Street Hydroelectric (NDSH) project. This was due to a variety of reasons, including but not limited to, the issues experienced during the MSDH project, the promotion of the former Junior Engineer to the position of Director of Municipal Utilities (DMU) and the addition of a new City Comptroller⁸ with the

⁸ The position of City Comptroller was not continuously staffed throughout the period when the MSDH project was approved.

financial background to prepare more accurate projections. Compared to the MSDH project, City officials better documented the rationale for their procurement decisions for the NDSH project when awarding the various contracts for design/consultant, turbine sale and purchase and construction. The decision to pursue the NDSH project was also based on better financial information, which forecasted annual surpluses, allowing it to break even⁹ in the 15th year.

Mill Street Dam Hydroelectric Facility

Unless an exception applies, General Municipal Law (GML) requires that purchase contracts in excess of \$20,000 be awarded to the lowest responsible bidder or on the basis of best value and that contracts for public work in excess of \$35,000 be awarded to the lowest responsible bidder.

One exception to the competitive bidding requirements is EPCs. EPCs are authorized under the Energy Law, and are typically used by local governments to help increase energy efficiency, improve operations and save money on energy costs.¹⁰ As part of an EPC, the local government may engage an energy service contractor to conduct an energy audit of its assets and identify potential cost-saving energy improvements. A local government may also enter into a single contract with a contractor to provide both engineering and construction services. The Energy Law provides that, in lieu of bidding under GML, the local government may solicit competition for the contractor by issuing and advertising a written RFP in accordance with the local government's procurement policies and procedures.¹¹

Though an EPC may require significant initial investment, the purpose of an EPC should be to generate energy savings or revenues under the contract to cover all or part of the cost of new equipment and other capital improvements over the life of the contract. One advantage of entering into an EPC is that energy savings associated with the project may be guaranteed by the contractor, which serves as a single point of accountability. Energy savings should also be measured and verified to provide further assurance that improvements are performing as originally planned. Depending on the agreed upon terms of the EPC, if the projected savings fail to materialize, the contractor may be responsible for covering the energy-savings shortfall and replacing

⁹ Point at which project costs no longer exceed realized savings.

¹⁰ An EPC is defined in the Energy Law as "an agreement for the provision of energy services, including but not limited to electricity...in which a person agrees to install, maintain or manage energy systems or equipment to improve the energy efficiency of, or produce energy in connection with, a building or facility in exchange for a portion of the energy savings or revenues" (Energy Law Section 9-102).

¹¹ GML §104-b requires the local government to adopt procurement policies and procedures governing procurements which are not subject to competitive bidding.

any failed equipment. The City entered into an EPC to undertake and manage redevelopment work at the MSDH facility.

History and Background – The City has a long history of hydroelectric power, which dates back to the 1800s. The MSDH facility was originally placed into operation in the early 1980s. Due to the facility’s inefficiencies and inability to meet the City’s energy needs, it was placed offline prior to redevelopment work that commenced in 2013. In conjunction with the County, the City completed a Comprehensive Sustainable Energy and Development Plan in 2009, which identified priority projects from the community’s perspective. Based on surveys completed for this plan, one of the top priority projects was the re-initiation of the City’s hydroelectric power plants. Therefore, the City decided to investigate options for rehabilitating the MSDH facility.

In 2011, the City applied for “energy credits” through the New York State Energy Research and Development Authority (NYSERDA). Additionally, around this same time period City officials attended presentations for Siemens Industry, Inc. (Siemens) and received information from Siemens representatives relating to the use of EPCs, including sample language for a RFQ for EPCs.

The City was subsequently awarded a contract under which NYSERDA would purchase “renewable energy attributes” from the City, with a maximum amount payable to the City totaling \$310,839¹² over a 10-year period, and entered into the agreement in January 2012. The terms of the agreement, however, included strict timeline requirements for the City to get the MSDH facility operational. City officials indicated to us that this timeframe led them to opt towards pursuing an EPC for this project because it would allow the City to avoid multiple bids or proposals for design services, equipment and construction, and allow the City to achieve NYSERDA’s deadline to receive the energy credits.

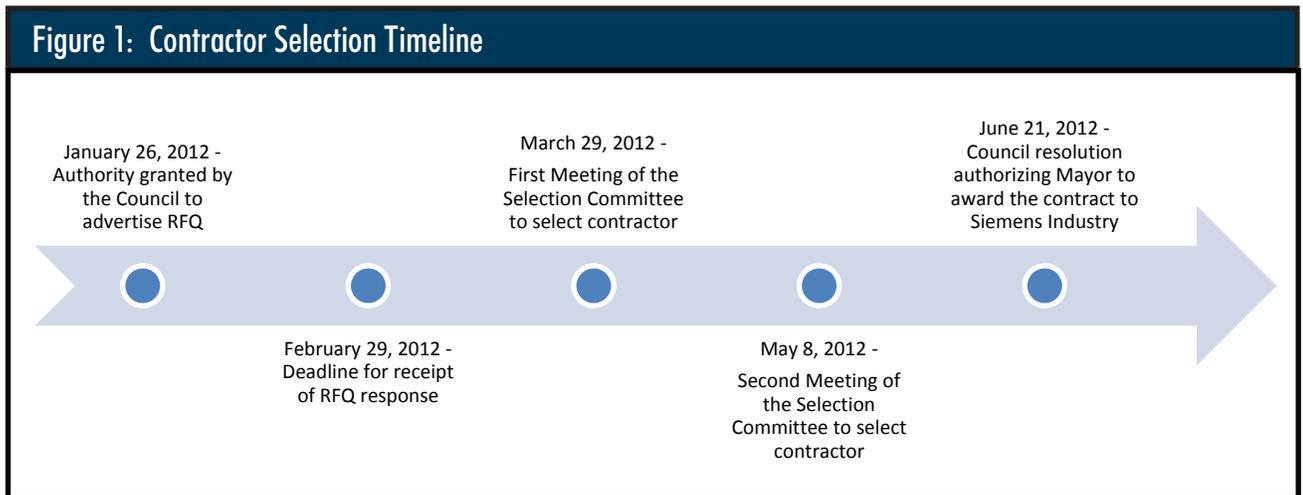
Procurement Process – Although the Council has adopted a procurement policy, this policy does not specifically outline requirements for the procurement of goods or services via a RFQ or RFP, including documentation to be maintained to support decisions made. Further, the City’s procurement of the MSDH project was flawed due to a lack of adequate procedures, which resulted in a decision that was not adequately supported.

The City advertised a RFQ seeking a qualified contractor for the MSDH project in January 2012, with responses due by the end of February 2012. After responses were received, a five-member

¹² This amount was subsequently reduced to \$199,665.

selection committee (MSDH Selection Committee) consisting of the former City Manager, Superintendent of Engineering Services, former DMU and two members from the Auburn Municipal Power Agency (AMPA) were to review and score each respondent based on criteria outlined in the RFQ. At the meeting to select the contractor, the two AMPA members were not in attendance. Additionally, the scoring rubrics for the three MSDH Selection Committee members that were present were not completed or could not be provided.

The MSDH Selection Committee recommended awarding the EPC to one of the respondent contractors. However, Siemens¹³ contacted the City to express its displeasure in this decision because not all members of the MSDH Selection Committee were present at the selection meeting. Therefore, another selection meeting was held, which resulted in a new recommendation for the originally selected contractor and Siemens to each be awarded an EPC for different scope areas.¹⁴ Figure 1 demonstrates the timeline of selection events.



The City approved the EPC with Siemens for the MSDH project without proper due diligence. Although the City used a RFQ process to garner competition, there were several flaws that existed. Specifically:

- Siemens representatives had prior knowledge of the City’s interest in EPCs, potentially giving the company an unfair advantage in the procurement process. In addition, Siemens representatives provided the City with sample RFQ language, which the City used in its RFQ.

¹³ One of the original RFQ respondents not initially recommended by the Selection Committee to be a contract recipient.

¹⁴ Siemens was awarded an EPC for the redevelopment of the MSDH facility.

- The MSDH Selection Committee did not maintain adequate, documented evidence of its decision regarding which contractor to award the EPC to. Additionally, after a contractor was initially selected, and after complaints were made by Siemens (a contractor not initially selected), the MSDH Selection Committee then altered this decision without adequate documentation to support its reasoning.
- The Council approved the EPC with Siemens without obtaining a detailed cost breakdown. The cost details were determined after the Council’s approval to execute a contract with Siemens.
- The City did not independently verify projections provided by Siemens supporting guaranteed savings from the project. Siemens projected savings ranging between \$2,362 and \$9,028 for the first year and \$14,248 and \$24,576 for the second year.¹⁵ However, these projections were unrealistic as, amongst other things, they assumed an incorrect energy service classification¹⁶ for energy sales, did not account for the facility’s annual operating costs, and understated initial capital costs by approximately \$250,000. Therefore, instead of the savings projected by Siemens for the first two years, actual operations resulted in operating deficits of \$71,627 and \$45,184.
- The EPC for the MSDH project was provided as a template by Siemens, and was substantially executed as provided, without significant changes.

Because the Council did not adopt specific policies pertaining to RFQs or RFPs, City officials could not ensure that a fair and unbiased process was followed in the procurement of the MSDH project. Additionally, a lack of documentation to support procurement decisions may also lead to further questions regarding whether a decision was justified.

Energy Performance Contract – The Energy Law provides that the duration of an EPC may be up to 35 years; however, the duration may not exceed the “reasonably expected useful life” of the energy

¹⁵ This was to allow for price fluctuations within the projected energy service class.

¹⁶ Service classifications ultimately determine the amount that a customer will pay for power. Power usage is one of the primary factors used in determining service class. Higher usage customers get better (cheaper) pricing. SC6 (the City’s desired class) is for “low voltage” users (less than 480 V), while SC3 is for “high voltage” users. Those high voltage users in SC3 are typically also commercial and have demand billing. SC3 users receive lower rates for the power they produce and sell.

facilities or equipment. The Council entered into an EPC with Siemens for the redevelopment of the MSDH facility totaling approximately \$3.9 million.¹⁷ We determined that the EPC does not include a liability clause limiting the appropriation of additional moneys for the purpose of the contract. We were told, however, that the City experienced several issues related to the construction of the MSDH project, resulting in the need to appropriate additional funds beyond the amount initially provided in the EPC. Specifically, the City spent an additional \$541,923 on improvements necessary to comply with safety requirements and to ensure the plant was operating at its full potential and efficiency.

Further, after the facility was placed in operation in October 2014, the City's energy provider found in May 2015 that the facility did not meet the requirements for the "energy service classification" desired by the City. In particular, the MSDH facility receives credit for energy produced through a remote net metering program.¹⁸ The City's desired service classification, SC6, was the energy service classification used to calculate savings projections for the project. The City spent approximately \$92,000 on additional upgrades to the facility to comply with SC6 requirements in order to be eligible to receive higher rates for the energy produced by the MSDH facility. City officials retained \$80,000 previously withheld from Siemens as a project retainer to partially offset the cost of these upgrades. As of the end of our fieldwork, Siemens had not reimbursed the City for the remaining \$12,000.

Since the MSDH project was completed in 2014, and the facility was placed in operation in October 2014, it has operated at a deficit. For fiscal years 2014-15 and 2015-16, operating deficits totaled approximately \$117,000, related to a shortfall in the anticipated revenues associated with the energy service classification. Because the City's hydroelectric operations were not self-sustaining for the 2014-15 and 2015-16 fiscal years, additional stress was placed on the City's general fund for support.

Furthermore, the City did not receive an independent assessment of energy savings and, as of completion of fieldwork, had not done its own assessment or obtained an independent assessment.

¹⁷ Included \$3.809 million for the EPC, and an approximately \$91,000 contingency.

¹⁸ According to the energy provider's website, "Remote Net Metering allows non-residential customer generators to apply excess generation credits from the customer's generator ("Host Account") to other meters on property that is owned or leased by the same customer and resides within the same load zone as the generator ("Satellites")."

North Division Street Hydroelectric Facility

Because City officials used a contract template provided by the contractor without making sufficient alterations, it did not ensure the contract was in the City's best interests. Based on our projections, the MSDH facility will not produce enough savings over the duration of the EPC to offset the cost of rehabilitating the facility, despite the fact that the facility has received service classification SC6.

Purchase contracts involving expenditures in excess of \$20,000 and contracts for public works involving expenditures in excess of \$35,000 are typically subject to competitive bidding under GML. When using competitive bidding, contracts are awarded to the "lowest responsible bidder" after public advertisement for sealed bids. Local governments may elect to award "purchase contracts," which exceed the monetary threshold, on the basis of "best value," as an alternative to awarding contracts to the "lowest responsible bidder." A relatively traditional approach to project procurement is design-bid-build, which is a project delivery system involving three sequential project phases. The design phase requires the services of an engineer and/or architect who will act as the project designer, while the bid phase involves selection of a contractor and the build or construction phase involves the actual construction of the project. The City pursued a design-bid-build approach for the NDSH project.

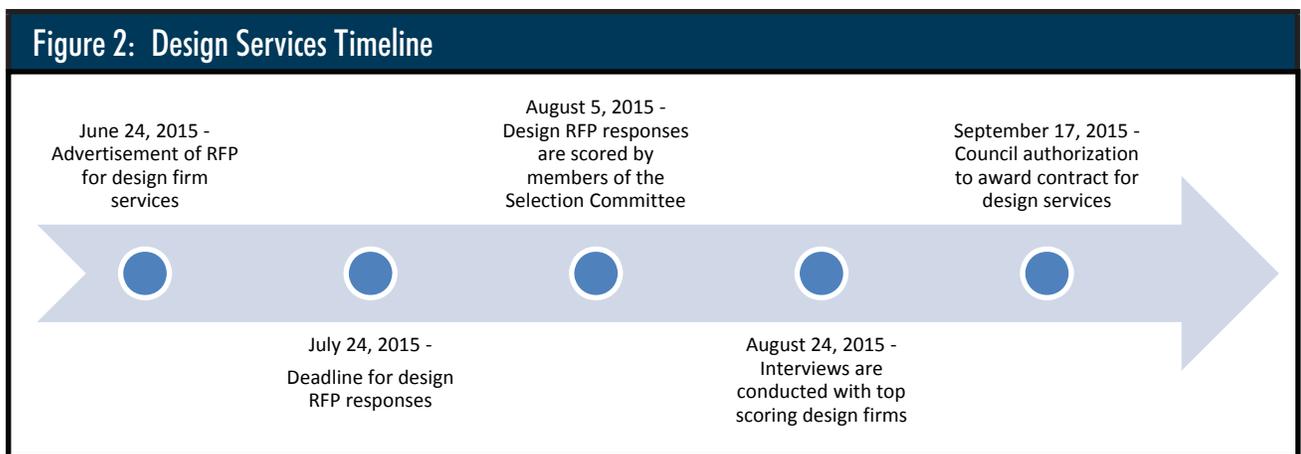
History and Background – The NDSH facility is another hydroelectric power facility the City owns and previously operated. The NDSH facility was operational until 2013, when it was taken out of service due to turbine and other equipment issues that did not allow the facility to operate and generate power efficiently. The City determined that it would undertake rehabilitation of the NDSH facility after redevelopment work at the MSDH facility was completed. The City initially intended to complete work at the NDSH facility under the same model as the MSDH facility. However, due to the issues experienced with the EPC for the MSDH project, the City opted to pursue a more traditional design-bid-build approach for the NDSH project. Therefore, the City was more actively involved in the management of the NDSH project. Similar to the MSDH project, the City also received energy attributes through NYSERDA for this project. The attributes that the City will receive total \$881,550 over a period of 20 years. In total, the City anticipates the NDSH project will cost approximately \$6 million.¹⁹

Procurement Process – Although the City's procurement policy does not specifically address the procedures governing RFQs or RFPs, City officials ensured that the NDSH project procurement process

¹⁹ Originally, the City anticipated a \$5 million total project cost. However, initial discussion and responses for Phase 2 construction work revealed that the costs for this work would be higher than anticipated by approximately \$1 million.

was adequately documented and appropriately followed GML requirements. The City established a selection committee (NDSH Selection Committee) for this purpose, which included the Mayor, Superintendent of Engineering Services, Hydro Chief Operator, one member of the AMPA, Director of Capital Projects and Grants, former DMU and Junior Engineer.²⁰

To seek an engineer to design and assist in managing redevelopment work at the NDSH facility, the City advertised an RFP. The responses to the RFP were scored and subsequent interviews were conducted using criteria that analyzed each firm’s skills and experience. City officials adequately documented the scoring of each respondent to justify their decision. Figure 2 demonstrates the timeline of selection events.

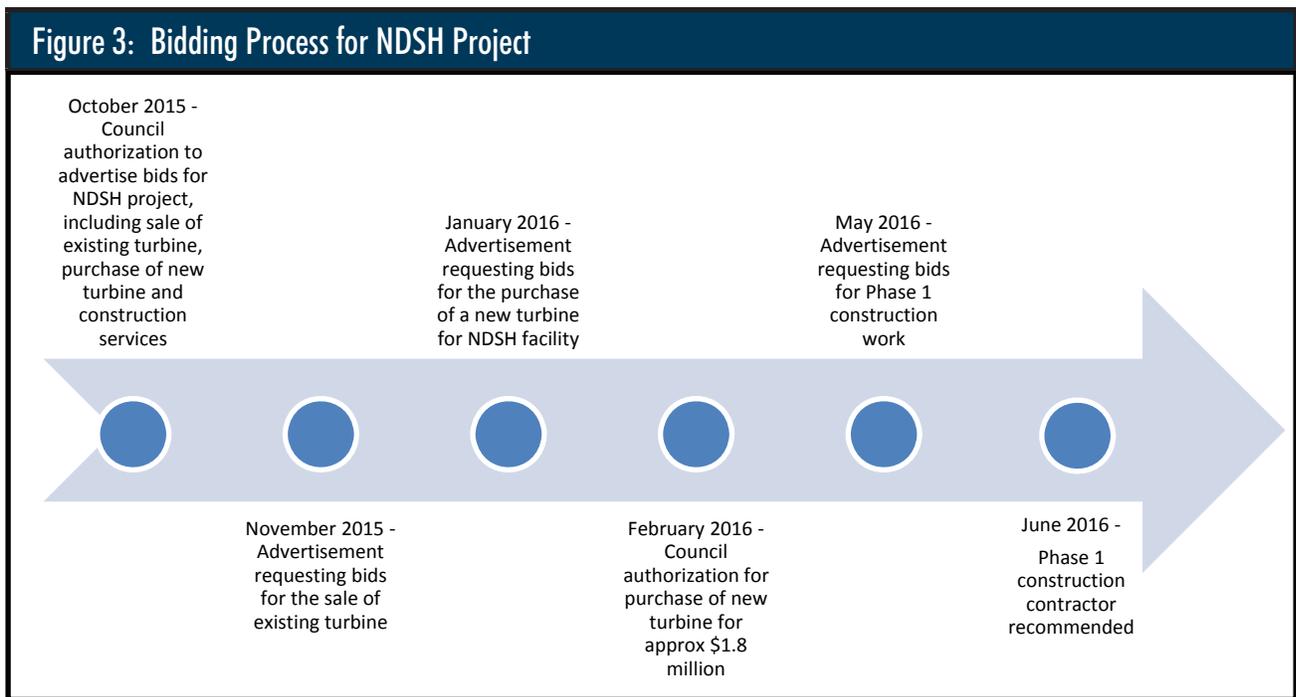


The City also advertised inviting sealed bids for the acquisition of a new turbine and for initial construction work to be completed.²¹ The City received two bids for the purchase of a new turbine, but only one of these bids included information as requested in the original advertisement. Therefore, the one firm that responded completely and as requested was awarded the contract. The City received three responses for Phase 1 construction work at the NDSH facility. The NDSH Selection Committee adequately documented the scoring process for each of the respondents and ultimately awarded the contract for Phase 1 construction work to the lowest responsible bidder. The City developed and provided the contract language to each of the selected contractors for the various phases of the project. Figure 3 shows the timeline of events for the NDSH bidding process.

²⁰ The former Junior Engineer is the current DMU.

²¹ Construction at the facility will be completed in two phases: Phase 1 and Phase 2. The advertisement for Phase 2 was completed near the end of audit fieldwork, but contracts for this phase were not awarded prior to fieldwork completion.

Figure 3: Bidding Process for NDSH Project



Lack of clear procurement guidance withstanding, City officials decided to pursue a design-bid-build approach for the NDSH project, rather than an EPC, which allowed them to be more directly involved throughout the project’s various stages. As a result, City officials tried to ensure the same missteps made during the procurement of the MSDH project were not replicated on the NDSH project. Therefore, City officials have better assurances of the NDSH project’s long-term viability with the added benefit of meeting a portion of the City’s energy needs with renewable energy.

Long-term Planning

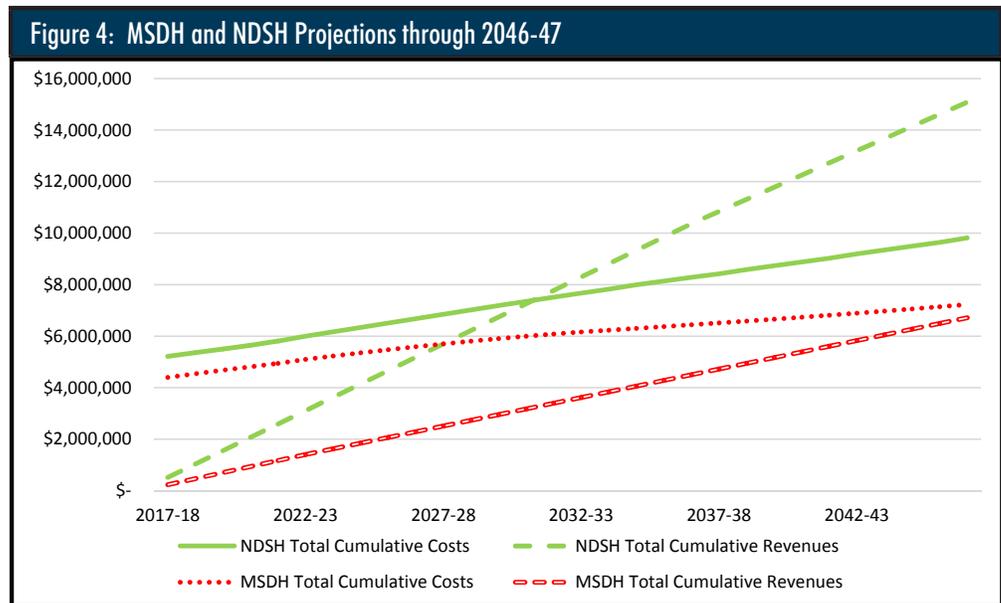
It is important for City officials to develop comprehensive multiyear financial and capital plans to estimate the future costs of ongoing services and capital needs. A multiyear financial plan projects revenues and expenditures for several years into the future. The plan illustrates the City’s ability to pay for and provide services within a set of policy and economic assumptions. These projections help City officials assess expenditure commitments, revenue trends, financial risks, affordability of new services and the accumulation of money in reserve funds. City officials should monitor and update long-term plans on an ongoing basis to ensure that decisions are guided by the most accurate information available. These plans work in conjunction with policies and procedures to provide necessary guidance to employees regarding financial priorities and goals set by City officials.

Prior to audit fieldwork, City officials did not have a formal, multiyear financial plan related to the City’s hydroelectric facilities. City officials developed a five-year financial plan during audit fieldwork. However,

the Council has not reviewed or approved this plan. In addition, the City’s five-year capital improvement plan does not specifically detail an on-going source of funds to carry out necessary maintenance or improvement expenses pertaining to its two hydroelectric facilities.

To gain a better understanding of the long-term viability of these endeavors, we projected²² the operating results of each facility for a 30-year period (through 2046-47, as indicated in Figure 4) to determine the likelihood of either project breaking even. Over this period, the MSDH facility is anticipated to generate a cumulative deficit of \$516,958. Therefore, in the event that the City is unable to hold the EPC contractor accountable for any of the promised savings shortfalls, this project may end up costing residents money instead of producing any savings.

Conversely, due to projected annual operating surpluses, it is anticipated the NDSH facility may break even around year 2031-32. However, even with such an extended payback period, we caution that this is a best case projection that assumes no major mechanical breakdowns, needed capital improvements, changes to economic or environmental factors or other unanticipated negative events. Given the City’s own historical experience with operating hydroelectric facilities, it is likely that one or more of these scenarios will affect the current projections during the expected useful life of these facilities.



²² Projections are based on the best information available to us at the time, including historical operating results, and should be considered hypothetical given the long-range nature. Additionally, projections assume no further significant capital outlay that may be necessary to ensure the facilities are producing energy at desired or required levels, or economic or environmental factors that could affect production. Furthermore, the NDSH revenue projections were based upon the best forecasts available, as the facility was not yet functional and had not yet generated any revenue.

The lack of formal, adequate multiyear plans in the event of adverse economic or environmental change will inhibit the City's ability to effectively manage its finances and address the City's needs without overburdening residents. In the case of the City's hydroelectric facilities, significant unplanned expenditures related to these facilities could cause undue strain on other funds through interfund transfers or advances because the enterprise utility fund currently does not have the means to support such unplanned events. Therefore, City officials must remain cognizant of future needs and available revenue streams when strategically planning.

Recommendations

The Council should work with City officials to:

1. Ensure comprehensive oversight over the City's capital projects and hydroelectric power operations is provided, including requesting appropriate and detailed financial information, if necessary, to help ensure an appropriate level of understanding for various technical aspects of operations. Ensure that operations are self-sustaining without requiring transfers or additional support from the general fund.
2. Revise the procurement policy and develop procedures governing RFPs and RFQs to specify documentation requirements, including the rationale for decisions made.
3. Develop policies and procedures governing the procurement processes to be followed related to EPCs.
4. Thoroughly and independently review any projected cost savings or revenue estimates before entering into an EPC.
5. Develop, as appropriate, monitoring procedures to include timely reviews of the City's energy consumption and related costs and compare these reviews to the EPC.
6. Consult the City's Corporation Counsel, as appropriate, to review the terms and conditions of the EPC to help ensure that any applicable guarantees, have been met.
7. Develop and adopt formal multiyear financial and adequate capital plans for a three- to five-year period that specifically address the hydroelectric facilities' anticipated operating results, including how capital and maintenance needs will be financed, and any economic or environmental factors which could affect the plans.

Software Management

Managing software licenses is essential to safeguarding City assets and data. Therefore, local governments need to have an understanding of the software they own, how it is used and how best to track user rights to ensure licensing compliance. Effectively managing software also includes ensuring that only appropriate business software is installed to reduce the risk of unwanted consequences that could result from unauthorized software. This can be done, in part, by establishing a strong acceptable use policy, limiting users' ability to install software, regularly reviewing computers to identify installed software and taking action to remove any unauthorized software.

City officials and IT staff can more effectively and efficiently manage software assets. They did not ensure compliance with the Council-adopted acceptable use policies. The IT Coordinator developed a comprehensive software inventory list that contains all software which the City owns and has purchased licenses for.²³ However, computers are not regularly monitored or reviewed to ensure that all software installed served an appropriate business need and was legally obtained. Furthermore, administrative rights are granted on the majority of the City's computers.²⁴ As a result, five of the 25 computers reviewed had nonbusiness appropriate software applications installed that included games, a browser rewards application, adware and multiple pre-installed entertainment applications.²⁵ The installation of nonbusiness appropriate or unlicensed software may be exposing the City's computers to unnecessary risk, such as hacking or other malicious events.

Software Inventory

The purpose of a software license is to grant an end user permission to use one or more copies of software in accordance with copyright law. When a software package is sold, it is generally accompanied by a license from the manufacturer that authorizes the purchaser to use a certain number of copies of the software. Local governments must obtain licenses commensurate with the number of copies in use. Implementing a complete and comprehensive software inventory list is crucial to safeguard IT assets from potential unlicensed software being installed on computers. As a best practice, the list should include all City-owned and authorized software installed on computers and

²³ This inventory was compiled after being addressed with the IT Coordinator during the risk assessment, and was provided to the audit team prior to the commencement of audit fieldwork.

²⁴ With the exception of certain desktops at the police and fire stations.

²⁵ These applications were pre-installed on the tablets reviewed and included applications for shopping, music, television, movies, photographs, gaming and travel.

the number of copies currently in use. Furthermore, the list should be used in regularly reviewing all City-owned computers to ensure that all software installed is properly approved and licensed.

Prior to the commencement of the audit, the City's IT staff did not maintain an inventory of City-owned software. However, when we brought this to the IT Coordinator's attention, she developed and provided a comprehensive software inventory list to the audit team during our fieldwork. Additionally, City and IT staff provided supporting documentation for certain programs included on this inventory list.²⁶

Although City IT staff developed a comprehensive inventory list, we found no evidence that they performed regular audits of software installed on computers. IT staff also did not develop procedures for the regular review of individual computers. The IT Coordinator told us the City has tools available to aid in such reviews for computers that are connected to the network. The regular review of City computers is especially critical because City officials told us that they provide the majority of users with administrative rights on their devices. Therefore, users are able to download and install software without prior permission or approval. As a result, the IT staff were not aware of all installed software, which led to nonbusiness-related software being installed on certain computers.

Software Monitoring

The Council adopted acceptable computer use policies to provide employees with guidelines for IT asset use and security. The policies, which are included in the 2015 employee handbook, prohibit employees from downloading or installing software without department head approval, and require all approved software to be installed by the IT Department. Additionally, the policies prohibit installing any unauthorized or unlicensed software on computers which may result in possible copyright infringement. The acceptable use policies also provide that any observed instances of non-compliance will be dealt with by taking disciplinary action against the offending employee, up to and including potential suspension from service.

We reviewed 25 computers²⁷ and identified 913 software programs,²⁸ of which 873 were appropriate for business purposes. The remaining 40 programs were not for legitimate business purposes and included games, a browser rewards application, adware and multiple pre-

²⁶ See Appendix C, Audit Methodology and Standards, for more information.

²⁷ Ibid.

²⁸ A portion of these programs included upgrades and components of larger software programs.

installed entertainment applications.²⁹ We found that 98 of the appropriate installations required licensing. We verified that the City had adequate licensing for 94 of these programs. We identified two installed programs in which the City was using a free version when a premium/purchased version was required for business users. The IT Coordinator was unaware of the licensing requirements for these programs, and told us that she would remove the free versions from City computers.

We also found two installed programs which were owned by the City Assessor. We were informed that, although the City had not reimbursed the Assessor for the cost of these programs, the Assessor had obtained approval from the IT Department before installing them on his computer. However, the IT Coordinator could not provide us with any documentation to support this claim.

Without proper controls in place, City officials and IT staff were unable to identify software lacking a business purpose. Therefore, violations of the City's acceptable use policies went undetected. Unauthorized and inappropriate software may increase the risk that unauthorized access or modification to the computer system may occur, and the individual computer or network may be exposed to harmful events.

Recommendations

City officials should work with IT staff to:

8. Ensure a complete and comprehensive inventory of all City-owned software and the total number of licenses is maintained and regularly updated.
9. Ensure that administrative rights are limited to only those City employees with a need for such access.
10. Formalize procedures to perform reviews of software installed on the City's computers and compare results to the City's software inventory listing.
11. Monitor users to ensure compliance with the acceptable use policies and ensure software installed on City computers is business appropriate.

²⁹ These applications were pre-installed on the tablets reviewed and included applications for shopping, music, television, movies, photographs, gaming and travel.

APPENDIX A
RESPONSE FROM LOCAL OFFICIALS

The local officials' response to this audit can be found on the following pages.



November 16, 2017

Edward V. Grant Jr., Chief Examiner
Office of the State Comptroller
Division of Local Government and School Accountability
16 West Main Street #522
Rochester, New York 14614

Dear Mr. Grant:

The City has reviewed, and is in general agreement with, the findings of the Office of State Comptroller's audit of the City's hydroelectric power operations and software management. Throughout the audit, City staff worked cooperatively with OSC auditors as they evaluated the hydroelectric power operations and the city-wide management of software. The hydroelectric power operations are comprised of the Mill Street and North Division Street Hydroelectric Facilities.

During the first year of operations, it became clear that there were weaknesses associated with the use of an Energy Performance Contract used to procure services for the Mill Street Hydroelectric Facility and with the financial projections provided by the EPC contractor. Procurement and review of the financial projections was partially completed under the guidance of the Auburn Municipal Power Agency for the Mill Street Project. This Agency has since been disbanded.

Recognizing past problems with EPC managed projects, the City utilized a traditional municipal design-bid-build procurement procedure for the North Division Street Hydroelectric Facility. As a result, the financial projections were able to be thoroughly reviewed and scrutinized by Management and City Council to ensure they were conservative and realistic. The North Division Street Hydroelectric Facility is expected to generate operating surpluses in its first full year of operation.

The repowering of the City's hydroelectric facilities to produce "green" energy was outlined as a community priority in both the City's Comprehensive Plan and Energy and Development Plan. This must be taken into consideration when discussing the financial impact of the hydroelectric facilities. Green energy is a social economic and quality of life decision.

The City understands the importance of having secure, properly managed and safeguarded information technology assets. The City will be complying with all of the OSC recommendations with regard to information technology.

The City would like to thank the OSC examiners for meeting to discuss the audit findings and for allowing us to provide clarification and feedback. The City will be submitting a Corrective Action Plan following this letter to explain any new procedures and/or actions that will be completed to comply with the OSC's recommendations related to the City hydroelectric power operations and management of the City software assets.

Sincerely,

Jeffrey Dygert, City Manager
City of Auburn

//ljw

CC: City Council
City Management
File

Enc: Corrective Action Plan

Corrective Action Plan

Unit Name: City of Auburn
Audit Report Title: Hydroelectric Power Operations and Software Management
Audit Report Number: 2017M-099

The City of Auburn has reviewed the State Comptroller's recommendations outlined in the Audit Report and the following is our corrective action(s) proposed or implemented. Explanations have been included for recommendations where corrective action has not been proposed or implemented.

Audit Recommendations & Plan of Actions for Hydroelectric Power Operations

Recommendation #1) Ensure comprehensive oversight over the City's capital projects and hydroelectric power operations is provided, including requesting appropriate and detailed financial information, if necessary, to help ensure an appropriate level of understanding for various technical aspects of operations. Ensure that operations are self-sustaining without requiring transfers or additional support from the general fund.

Plan of Action #1) Management and City Council have provided adequate fiscal and operational oversight over the North Division Street Hydroelectric Project and will continue to do so through its completion along with any future capital projects. The City Council receives monthly reports on the financial operations of the City and receives a detailed breakdown of operations each year by each department head during the annual budget process. Beginning for the month of October 2017, the monthly reports will be reported on a whole fund basis instead of in separate revenue and expense/expenditure reports.

Due to a service class reclassification in 2015 at the Mill Street Hydroelectric Facility, the City lost a significant amount of revenue. This reclassification combined with drought conditions in the summer of 2016 led to an operating income but an overall loss on the project in its first two years of operations. The service class issue has since been rectified, therefore, the City expects significantly better operating results going forward.

The City disagrees with the Mill Street projections prepared by the State as they contemplate annual inflation increases of 2% in operating expense and 5% in medical benefit expenses but do not contemplate any inflation on the revenue side. The City initially prepared five year projections with these parameters to ensure the projections were conservative but Management does not believe that 0% revenue growth over 30 years is reasonable. With a 2% revenue inflationary factor through fiscal 2047 the Mill Street project would produce a surplus of over \$1 million.

See
Note 1
Page 31

Management is making every effort, regardless of this audit, to ensure the hydroelectric operations are self-sufficient.

- Implementation Date - Reporting: November 7, 2017

- Implementation Date - Service Class: January 2017
- Department Responsible: Municipal Utilities and Finance

Recommendation #2) Revise the procurement policy and develop procedures governing RFPs and RFQs to specify documentation requirements, including the rationale for decisions made.

Plan of Action #2) The City has complied with this recommendation and an updated procurement policy was adopted on November 2, 2017. Please see the attached procurement policy for further information.

- Implementation Date: November 2, 2017 via Council Resolution #159 of 2017
- Department Responsible: Finance

Recommendation #3) Develop policies and procedures governing the procurement processes to be followed related to EPCs.

Plan of Action #3) The City has complied with this recommendation and an updated procurement policy was adopted on November 2, 2017. Please see the attached procurement policy for further information.

- Implementation Date: November 2, 2017 via Council Resolution #159 of 2017
- Department Responsible: Finance

Recommendation #4) Thoroughly and independently review any projected cost savings or revenue estimates before entering into an EPC.

Plan of Action #4) The City agrees with this recommendation. The current management, with support from the current City Council, thoroughly reviewed the financial impact of the North Division St. Hydroelectric project. The City will continue to review any projections in the future. The updated procurement policy, adopted November 2, 2017, includes safeguards to protect the City of Auburn's financial interests prior to engaging in a long term energy performance contract.

- Implementation Date: November 2, 2017 via Council Resolution #159 of 2017
- Department Responsible: Finance

Recommendation #5) Develop, as appropriate, monitoring procedures to include timely reviews of the City's energy consumption and related costs and compare these reviews to the EPC.

Plan of Action #5) The City has entered into an energy management agreement for many reasons including monitoring the success of the EPCs. This energy management service will allow the City to analyze energy consumption on a location by location basis. In addition, as per the City's agreement with NYSERDA, an annual energy production

report is created and compared against the original energy projections stated in the EPC for the Mill Street Hydroelectric Facility. This annual report allows for an energy and financial status update on an annual basis. This report is generated in the last quarter of each calendar year.

- Implementation Date: Ongoing
- Department Responsible: Municipal Utilities and Finance

Recommendation #6) Consult the City's Corporation Counsel, as appropriate, to review the terms and conditions of the EPC to help ensure that any applicable guarantees, have been met.

Plan of Action #6) If, in the future, the City is desirous of entering into another EPC agreement, it will be reviewed in consultation with the City's Corporation Counsel or, if necessary, outside Counsel specializing in EPCs to ensure the City is fully indemnified. The updated procurement policy, adopted November 2, 2017, includes safeguards to protect the City of Auburn's financial interests prior to engaging in a long term energy performance contract.

- Implementation Date: Not Applicable at this Time
- Department Responsible: City Manager and Corporation Counsel's Office

Recommendation #7) Develop and adopt formal multiyear financial and adequate capital plans for a three- to five-year period that specifically address the hydroelectric facilities' anticipated operating results, including how capital and maintenance needs will be financed, and any economic or environmental factors which could affect the plans.

Plan of Action #7a) The City prepares a financial plan on an annual basis for the general fund. The power utility fund which houses the hydroelectric facilities is included in this projection by virtue of needing general fund support. The City prepared and presented to the City Council a formal five year financial plan for the Power Utility Fund on October 26, 2017. This will continue to be provided as requested by City Council or, at a minimum, on an annual basis.

- Implementation Date: October 26, 2017
- Department Responsible: Finance and Capital Projects

Plan of Action #7b) The City disagrees with the portion of the recommendation regarding capital plans. The City has prepared capital plans for the last twenty years with a five year outlook on an annual basis which includes projects in the power utility fund. The estimated useful life for a hydroelectric facility as estimated by NYSERDA is fifty years. There are no capital needs currently forecasted over the next five years. The City does not include the operations and maintenance needs of a project within the capital plan. Those

See
Note 2
Page 31

costs are estimated and forecasted as part of the annual operating budget which is reviewed and approved by City Council.

- Implementation Date: Not Applicable
- Department Responsible: Finance and Capital Projects

Audit Recommendations & Plan of Actions for Software Management

Recommendation #8) Ensure a complete and comprehensive inventory of all City-owned software and the total number of licenses is maintained and regularly updated.

Plan of Action #8) An inventory was created as requested by the OSC auditors and is now being maintained on an ongoing basis. In addition, language has been added to the City's Computer Use Policy specifically setting forth that the IT Department is responsible for maintaining an up to date inventory of all City-owned software and hardware.

- Implementation Date: December 2016
- Department Responsible: Information Technology

Recommendation #9) Ensure that administrative rights are limited to only those City employees with a need for such access.

Plan of Action #9) A new section has been added to the City's Computer Use Policy, entitled "Computer User permissions," setting forth that all network users with the exception of IT staff, the Chief and Deputy Chief of Police and Police Detectives will be "Standard Users." The Police Department personnel noted must retain administrative rights so that at all hours of the day they may install software needed to review security footage. The IT department is currently in the process of removing administrative rights from all computers and expects this project to be completed by the end of November 2017.

- Implementation Date: October 26, 2017
- Department Responsible: Information Technology

Recommendation #10) Formalize procedures to perform reviews of software installed on the City's computers and compare results to the City's software inventory listing.

Plan of Action #10) Language has been added to the City's Computer Use Policy specifically setting forth that the IT Department is responsible for an annual review of the software inventory listing. This annual scan was performed on October 18, 2017.

- Implementation Date: October 18, 2017
- Department Responsible: Information Technology

Recommendation #11) Monitor users to ensure compliance with the acceptable use policies and ensure software installed on City computers is business appropriate.

Plan of Action #11) This annual scan was performed on October 18, 2017. In addition, language has been added to the City's Computer Use Policy specifically setting forth that the IT Department will monitor use by conducting a network-wide software scan annually to ensure compliance.

- Implementation Date: October 18, 2017
- Department Responsible: Information Technology

Signed:

Date: 11/17/17

Jeffrey Dygert, City Manager
City of Auburn

COUNCIL RESOLUTION #163 OF 2017

**APPROVING A CORRECTIVE ACTION PLAN FOR THE
OFFICE OF THE STATE COMPTROLLER**

By Councilor Giannettino

November 16, 2017

WHEREAS, the Office of the State Comptroller (OSC) selected the City of Auburn for a routine audit in October 2016; and

WHEREAS, the audit fieldwork took place between October 2016, and March 2017, and the scope of the audit included the City's Hydroelectric Power Operations and Software Management; and,

WHEREAS, the OSC identified eleven recommendations relating to the City's Hydroelectric Power Facilities and Software Management; and

WHEREAS, the City has prepared a corrective action plan to respond to the OSC recommendations, which is attached hereto and made a part of this Resolution; and

WHEREAS, the City Council must approve of the corrective action plan prior submission to the OSC.

NOW, THEREFORE, BE IT RESOLVED that the City Council does hereby approve the corrective action plan for submission to the Office of the State Comptroller.

Seconded By Councilor Carabajal

	Ayes	Noes
Councilor McCormick	X	
Councilor Giannettino	X	
Councilor Cuddy	X	
Councilor Carabajal	X	
Mayor Quill	X	
Carried and Adopted	X	

City of Auburn, New York

STATE OF NEW YORK)
) SS.:
COUNTY OF CAYUGA)

I, CHARLES MASON, Clerk of the City of Auburn, Cayuga County, New York (the "City"), DO HEREBY CERTIFY:

That I have compared the annexed abstract of the minutes of the meeting of the Council of the City (the "Council"), held on the 16th day of November, 2017, including the Council Resolution #163 of 2017 contained therein, with the original thereof on file in my office, and the attached is a true and correct copy of said original and of the whole of said original so far as the same relates to the subject matters therein referred to.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed the seal of the City this 17th day of November, 2017.

Charles Mason, Clerk
City of Auburn, Cayuga County, New York

APPENDIX B

OSC COMMENTS ON THE CITY'S RESPONSE

Note 1

Our calculations did consider revenue inflation due to market fluctuations in electricity prices. However, we did not increase revenue projections due to additional factors the City failed to consider, such as the effect of the aging system's decline in turbine efficiency, which would decrease overall electricity produced. Therefore, since the City would be selling less for more, we projected revenues would be flat. Also, as explained in footnote 22, our projections are based on the best information available to us at the time, including historical operating results, and should be considered hypothetical given the long-range nature. Additionally, projections assume no further significant capital outlay that may be necessary to ensure the facilities are producing energy at desired or required levels, or economic or environmental factors that could affect production.

Note 2

The City's capital plan was not comprehensive in that it did not include adequate information regarding the hydro facilities, especially given the significant investment of taxpayer funds. City officials contend that operations and maintenance expenses are accounted for in their annual financial plan. However, our guidance, as well as guidance from the Government Finance Officers' Association (GFOA), explains why it is important that, for planning purposes, municipalities include these costs in their capital plan, so that they will have a better idea of whether to pursue a particular project based on the project's impact on the overall budget. Per OSC's *Multiyear Capital Planning Local Government Management Guide*, a multiyear capital plan should provide accurate, reasonable estimates of each project's budgetary impact, including debt service costs, impact on capital reserve funds and fund balance, and future operating expenditures. For further information, refer to:
http://www.osc.state.ny.us/localgov/pubs/lmg/capital_planning.pdf

APPENDIX C

AUDIT METHODOLOGY AND STANDARDS

To achieve our audit objectives and obtain valid evidence, we performed the following procedures:

- We interviewed current and former City officials to obtain an understanding of the procurement processes for the redevelopment of the hydroelectric facilities.
- We reviewed relevant documentation, including policies and procedures, Board minutes and resolutions.
- We reviewed available documentation for the selection of vendors through the RFP process, along with vendor responses to the RFPs, for each of the hydroelectric projects.
- We reviewed the EPC for pertinent information and to ensure compliance with applicable laws and regulations.
- We reviewed grant applications and agreements for terms and amount of awards.
- We reviewed budget status reports for the enterprise utility fund for fiscal years 2015 through 2016 to determine annual operating results for the hydroelectric facilities.
- We reviewed long-term financial projections for the hydroelectric facilities to determine the long-term viability of hydroelectric operations.
- We interviewed City officials and staff and reviewed IT policies and procedures to determine the internal controls in place.
- We obtained a computer inventory list of active and networked computers from IT staff which was sorted by machine type (i.e., desktops, tablets, laptops). We judgmentally included approximately 15 percent of the City's total population of active and networked computers (170 total) in our audit sample. We included a proportionate number of desktops, laptops and tablets in our sample, based on the total percentage of the population that each device accounted for. We then randomly selected a total of 25 City-owned computers: 17 desktops (65 percent), five laptops (21 percent) and three tablets (14 percent). We used specialized audit software to obtain a list of all software installed on each machine. We reviewed the installations for licensing requirements and determined whether they served a legitimate business purpose.
- We reviewed the City's software inventory list to determine whether the City authorized all software and whether it maintains appropriate licensing for the software installed on each of the computers reviewed. We also reviewed supporting documentation for seven programs included on this inventory (such as purchase orders or license agreements), to ensure that the list was comprehensive and complete.

We conducted this performance audit in accordance with GAGAS. Those standards require that we plan and perform the audit to obtain sufficient, appropriate evidence to provide a reasonable basis for our findings and conclusions based on our audit objectives. We believe that the evidence obtained provides a reasonable basis for our findings and conclusions based on our audit objectives.

APPENDIX D

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OFFICE OF THE STATE COMPTROLLER
DIVISION OF LOCAL GOVERNMENT
AND SCHOOL ACCOUNTABILITY

Andrew A. SanFilippo, Executive Deputy Comptroller
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