

OFFICE OF THE NEW YORK STATE COMPTROLLER



DIVISION OF LOCAL GOVERNMENT
& SCHOOL ACCOUNTABILITY

Town of Marilla

Town Supervisor's Activities

Report of Examination

Period Covered:

January 1, 2009 — February 3, 2015

2015M-27



Thomas P. DiNapoli

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State of New York

Office of the State Comptroller

Division of Local Government and School Accountability

May 2015

Dear Town 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 Town Board 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 Town of Marilla, entitled Town Supervisor's Activities. 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 Town of Marilla (Town) is located in Erie County (County) and has a population of approximately 5,300. The elected five-member Town Board (Board) is the legislative body responsible for the general management and control of the Town's financial and operational affairs. The Town provides various services to its residents including street maintenance, snow removal, fire protection, refuse/garbage collection, water and general government support. The Town's 2015 budgeted appropriations for all funds total approximately \$2.8 million and are funded primarily by real property taxes, sales tax, State aid and grants.

The Town Supervisor (Supervisor) is the Town's chief executive and chief fiscal officer. The Supervisor, who is a member of the Board, has the overall responsibility for maintaining the accounting records, preparing monthly financial reports for the Board and preparing and filing annual financial reports. The Board contracts with an independent certified public accounting firm (CPA) to assist the Supervisor in maintaining the general ledgers,¹ reviewing the bank reconciliations and preparing the monthly financial report.

Scope and Objective

The objective of our audit was to review the Supervisor's financial records and reports for the period January 1, 2009 through February 3, 2015. Our audit addressed the following related question:

- Did the Supervisor maintain complete and accurate accounting records and reports to allow the Board to adequately monitor the Town's financial operations?

Audit Results

The Supervisor² relied on the CPA to maintain the Town's accounting records without providing any oversight, resulting in the Town not having accurate, complete and up-to-date accounting records. Furthermore, the CPA erroneously commingled debt and grant proceeds totaling \$1,866,359 for capital projects with the Town's operating funds. Therefore, debt proceeds of \$115,906 were not used as intended or reserved for future debt repayment, capital projects were over expended by about \$169,500, and the water districts' debt of \$166,617 was improperly paid by the general fund.

¹ This includes determining and posting journal entries to the general ledgers.

² The former Supervisor's term ended December 31, 2013 and the current Supervisor took office on January 1, 2014. Our audit findings relate to both of these individuals.

As a result, the Supervisor provided the Board with financial reports that were not accurate and reflected fund balances that were significantly different than what was actually recorded in the Town's accounting records. For example, the total fund balance as of December 31, 2013 was approximately \$326,000 less than what was reported to the Board and the total fund balance as of December 31, 2014 was approximately \$173,000 more than what was reported to the Board. In addition, the Board did not annually audit, or cause to be audited, all of the Supervisor's records, as required. The Board did contract with the CPA to audit water districts #2, #4 and #5 for 2012 and 2013. However, because the CPA provided accounting services to the Town for the same years, we question the CPA's independence to perform these audits.

Comments of Local Officials

The results of our audit and recommendations have been discussed with Town officials and their comments, which appear in Appendix A, have been considered in preparing this report. Town officials generally agreed with our findings and recommendations.

Introduction

Background

The Town of Marilla (Town) is located in Erie County (County) and has a population of approximately 5,300. The elected five-member Town Board (Board) is the legislative body responsible for the general management and control of the Town's financial and operational affairs. The Town provides various services to its residents including street maintenance, snow removal, fire protection, refuse/garbage collection, water and general government support. The Town's 2015 budgeted appropriations for all funds total approximately \$2.8 million and are funded primarily by real property taxes, sales tax, State aid and grants.

The Town Supervisor (Supervisor) is the Town's chief executive and chief fiscal officer. The Supervisor, who is a member of the Board, has the overall responsibility for maintaining the accounting records, preparing monthly financial reports for the Board and preparing and filing annual financial reports. The Board hires a part-time bookkeeper to enter day-to-day transactions like disbursements and cash receipts, processing transfers between bank accounts and preparing monthly bank reconciliations. The Board also contracts with an independent certified public accounting firm (CPA) to assist the Supervisor in maintaining the general ledgers,³ reviewing the bank reconciliations and preparing the monthly financial report.

Objective

The objective of our audit was to review the Supervisor's financial records and reports and addressed the following related question:

- Did the Supervisor maintain complete and accurate accounting records and reports to allow the Board to adequately monitor the Town's financial operations?

Scope and Methodology

We examined the Supervisor's financial records and reports for the period January 1, 2009 through February 3, 2015.

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 is included in Appendix B of this report.

Comments of Local Officials and Corrective Action

The results of our audit and recommendations have been discussed with Town officials, and their comments, which appear in Appendix A, have been considered in preparing this report. Town officials generally agreed with our findings and recommendations.

³ This includes determining and posting journal entries to the general ledgers.

The Board 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 the 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 Board to make this plan available for public review in the Town Clerk's office.

Town Supervisor's Activities

The Supervisor, as the Town's chief fiscal officer, is responsible for maintaining accounting records and preparing accurate and timely financial reports. The Supervisor must submit these reports to the Board so that it can monitor and manage the Town's financial operations and assess the Town's financial condition. If the Supervisor assigns these duties to a bookkeeper and a CPA, he should provide sufficient oversight to ensure that the records are reliable and up-to-date. Finally, the Board is responsible for annually auditing, or having an independent public accountant audit, the Supervisor's records as required by law. The annual audit helps the Board fulfill its fiscal oversight responsibilities by helping to detect and correct any errors or irregularities.

The Town does not have complete, accurate and up-to-date accounting records. The Supervisor⁴ relied on the CPA to maintain the Town's accounting records without providing sufficient oversight, resulting in the Board receiving inaccurate financial information. In addition, the CPA incorrectly commingled debt and grant proceeds totaling \$1,866,359 for capital projects with the Town's operating funds. Consequently, debt proceeds of \$115,906 were not used as intended or reserved for future debt repayment, capital projects were over expended by about \$169,500 and the water districts' debt of \$166,617 was improperly paid by the general fund.

Poor accounting records resulted in the Supervisor providing the Board with financial reports that were not accurate and reflected fund balances⁵ that were significantly different than what was actually recorded in the Town's accounting records. In addition, the Board did not annually audit, or cause to be audited, all of the Supervisor's records, as required. Although the CPA audited water districts #2, #4 and #5 for 2012 and 2013, we question the CPA's independence to perform the audits. The CPA provided bookkeeping services for the Town during the same period, such as preparing the accounting records and determining and posting journal entries. In effect, the CPA was auditing its own work.

⁴ The former Supervisor's term ended December 31, 2013 and the current Supervisor took office on January 1, 2014. Our audit findings relate to both of these individuals.

⁵ Total fund balance as of December 31, 2013 was approximately \$326,000 less than what was reported to the Board. As of December 31, 2014, fund balance was approximately \$173,000 more than what was reported to the Board.

Accounting Records and Reports

The Supervisor is responsible for carrying out the Town's accounting functions. This includes maintaining complete and accurate accounting records as well as providing monthly financial reports to the Board. If the Supervisor assigns his financial duties to another individual or the CPA, the Supervisor must provide sufficient oversight to ensure suitable records are maintained and financial information is recorded accurately and in a timely manner. It is essential that the Board receives regular financial reports from the Supervisor to fulfill its responsibility of monitoring financial operations.

In addition, financial records for each capital project should contain sufficient information to document the project's complete financial history and establish accountability for resources made available for a particular purpose. Maintenance of individual capital project records assists officials in monitoring the status of each project and provides the Board with the information necessary to ensure that expenditures are within the amounts authorized and that funding sources are used in accordance with approved financing plans.

The CPA performed virtually all of the Supervisor's financial duties without his oversight. This resulted in incomplete and inaccurate accounting records. Although the Board received monthly budget-to-actual reports and financial reports summarizing the Town's financial position and results of operations, the reports were untimely and inaccurate.

Cash and Bank Accounts – We reviewed all of the December 31, 2013 and 2014 bank reconciliations and found that the bookkeeper and the CPA did not properly reconcile the bank accounts. Although the cash appeared to have been reconciled, the bank accounts were not reconciled to each of the Town's individual funds. As a result, the reconciled bank balances did not agree with the December 31, 2013 cash balances reported on the Town's Annual Update Document (AUD) (i.e., annual financial report) or the financial reports provided to the Board as of December 31, 2013 and 2014.⁶

For example, the workers' compensation reserve's reconciled bank balance as of December 31, 2013 was \$235,592, but only \$173,354 in workers' compensation reserved cash was reported on the Town's AUD. The same reserve's bank balance was \$278,288 as of December 31, 2014, but only \$173,354 of this reserve's cash was reported on the financial reports provided to the Board. Neither Town officials nor the CPA could explain the differences.

⁶ As of the close of our audit fieldwork, the Town's 2014 AUD was not available for our review.

The Supervisor also did not maintain a separate bank account for capital projects that are financed partially or totally from debt proceeds as required by New York State Local Finance Law. We found that debt proceeds totaling \$1,767,000 for six⁷ capital projects⁸ and grant proceeds totaling \$99,359 for one water project⁹ were deposited into the operating funds' bank accounts and improperly recorded on the operating funds' balance sheet as cash, with no interfund liability being recorded as due to the capital projects fund. These debt proceeds should have been recorded in the capital projects fund. For example, debt proceeds were recorded as revenue totaling \$100,000 and \$15,906 in the highway and general funds, respectively. However, there were no corresponding project expenditures relating to these revenues in either of these funds.

As a result, cash was overstated in the water, general and highway funds by \$1,066,359,¹⁰ \$510,000 and \$290,000, respectively. Therefore, cash was understated in the capital projects fund by \$1,866,359. Further, this money was improperly commingled with the Town's operating cash rather than being restricted¹¹ for only capital project-related expenditures.

Capital Project Activity – We also found that the financial records for each capital project did not sufficiently contain the project's complete financial history or provide an accountability of the resources provided for the project's funding. Further, the CPA did not properly record all capital projects' receipts and disbursements. As a result, two projects were over expended by about \$169,500¹² and the general fund improperly paid various¹³ water districts' debt¹⁴ totaling \$166,617 without recording an interfund loan receivable with the capital fund. Therefore, the general fund has been subsidizing these water districts and creating taxpayer inequities, as some general fund taxpayers are paying for services they did not receive.

⁷ There was no debt issued for two of the eight capital projects we reviewed: the town hall improvement and building acquisition projects.

⁸ The debt proceeds were used for the following projects: in 2013 - a garbage truck (\$190,000); in 2012 - a plow truck (\$100,000), water tower painting (\$250,000) and water district #5 construction (\$967,000); and in 2009 - a garbage truck (\$160,000) and a plow truck (\$100,000).

⁹ Water district #5

¹⁰ Includes bond anticipation note proceeds of \$967,000 and a water project grant of \$99,359.

¹¹ Local Finance Law requires towns to use debt proceeds only for the purpose for which the debt was issued.

¹² The 2012 water district #5 construction project (\$166,000) and the 2013 garbage truck project (\$3,299)

¹³ Water districts #2, #3 and #4

¹⁴ During the period October 1, 2013 through September 30, 2014

Recording capital project expenditures among the different operating funds and subsequently reclassifying certain financial activity to the capital projects fund made it difficult to track the total cost of the various capital projects. As a result, misclassifications and other accounting errors occurred, resulting in misleading reporting of the capital project and operating funds' financial activity.

Fund Balance – We compared both the December 31, 2013 and 2014 fund balances¹⁵ in the monthly summary balance sheet report the Supervisor presented¹⁶ to the Board to the balance sheet report we obtained directly from the Town's accounting software and found significant differences. These differences occurred throughout the various operating funds as well as the capital projects fund. (See Figure 1 below.) In addition, Board members indicated they did not receive the reports in a timely manner and the reports were difficult to understand.

Figure 1: Fund Balance Differences

December 31, 2014						
	General	Highway	Sanitation	Water	Capital Projects	Total
Town's Balance Sheet	\$502,486	\$104,758	\$80,911	\$593,155	\$1,195,418	\$2,476,728
CPA's Balance Sheet	\$329,132	\$104,758	\$80,911	\$593,155	\$1,195,418	\$2,303,374
Differences	\$173,354	\$0	\$0	\$0	\$0	\$173,354
December 31, 2013						
	General	Highway	Sanitation	Water	Capital Projects	Total
Town's Balance Sheet	\$697,395	\$8,166	\$76,644	\$328,144	\$1,174,918	\$2,285,267
CPA's Balance Sheet	\$580,496	\$2,206	\$82,057	\$521,432	\$1,424,918	\$2,611,109
Differences	\$116,899	\$5,960	(\$5,413)	(\$193,288)	(\$250,000)	(\$325,842)

Due to the poor condition of the Town's financial records and reports, the Board was not in a position to appropriately evaluate the Town's true financial condition or effectively monitor the Town's financial operations. When the Board and the Supervisor place undue reliance on the CPA, controls are weakened and there is an increased risk that Town funds could be misappropriated and improper transactions concealed.

Annual Audit

New York State Town Law requires the Supervisor to present his books and records to the Board for audit by January 20th of the following year.¹⁷ An annual audit helps the Board fulfill its fiscal

¹⁵ We reviewed all the major operating funds: general, highway, sanitation, water and capital projects.

¹⁶ This report was prepared by the CPA.

¹⁷ The Board may also engage the services of a certified public accountant or public accountant to perform the annual audit within 60 days of the close of the fiscal year.

oversight responsibilities by providing it with an opportunity to assess the reliability of the books, records and supporting documents. It also serves to identify conditions that need improvement and provides useful information to help the Board oversee the Town's financial operations.

We found that the Board did not annually audit, or provide for a proper audit of, the Supervisor's books and records, as required. The Board contracted with the CPA to provide bookkeeping services such as the preparation of accounting records and determining and posting journal entries for all funds. However, the Board also contracted with the CPA to audit water districts #2, #4 and #5 for 2012 and 2013. We question the CPA's independence to perform this audit because it provided bookkeeping services to the Town during the same period.

In order to satisfy independence requirements and professional auditing standards, a CPA hired for an audit function is to maintain independence from the Town's business operations. An auditor's acceptance of responsibility for the preparation and fair presentation of financial statements that the same auditor will subsequently audit would impair that auditor's independence. In essence, the CPA audited its own work, which violates the independence auditing standard. Additionally, the remaining Supervisor's records were not audited by the Board or the CPA.

The Supervisor's failure to provide the Board with timely and accurate financial reports and the Board's failure to perform the required annual audit diminishes the Board's ability to effectively monitor the Town's financial operations and resulted in errors occurring and remaining undetected and uncorrected.

Recommendations

The Board should:

1. Require the Supervisor to provide monthly financial reports that include necessary information in a more useful format, including summarized cash balances for all funds at month end.
2. Ensure that debt proceeds are expended only for the purpose for which such obligations were issued.
3. Identify all money improperly residing in the operating funds and return the money to the debt service fund or capital projects fund, as required.
4. Ensure that debt is paid by the appropriate fund.

5. Perform, or contract with an independent accounting firm to perform, an annual audit of the Supervisor's records.

The Supervisor should:

6. Resolve the fund balance variances identified in our report.
7. Ensure that monthly bank reconciliations are properly performed and reviewed.
8. Properly monitor the CPA's work to ensure that accounting records are complete and accurate and that the CPA is performing adequately. If not, he should work with the Board and issue requests for proposals for accounting services.

APPENDIX A

RESPONSE FROM LOCAL OFFICIALS

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



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MARILLA, NEW YORK 14102

(716) 652-5350
FAX: (716) 652-2541
TDD 1-800-662-1220

May 11, 2015

State of New York
Office of The State Comptroller
110 State Street
Albany, New York 12236

Re: Town of Marilla 2015 Audit

I, Earl Gingērich Jr., Town of Marilla Supervisor accept the findings of the Audit from the Office of The State Comptroller's office.

Sincerely,

Earl Gingērich Jr.
Supervisor

"This institution is an equal opportunity provider, and employer"

APPENDIX B

AUDIT METHODOLOGY AND STANDARDS

The objective of our audit was to determine whether the Supervisor properly recorded financial activity and reported to the Board. To accomplish this, we interviewed appropriate Town officials, tested selected records and examined pertinent documents for the period January 1, 2009 through February 3, 2015. Our procedures included the following:

- We interviewed the Supervisor, Board members, other Town officials and the CPA.
- We reviewed Board minutes to obtain an understanding of the Town's accounting practices and capital project activity.
- We reviewed Board minutes and relevant financial records and reports available, such as the bank statements, a list of outstanding debt as of December 31, 2013 and annual financial reports, to determine the Town's financial plan for capital projects, including authorization amounts, funding sources and bond resolutions.
- We reviewed the CPA's accounting service contracts and auditing engagement letter to determine responsibilities and the CPA's independence to perform the audit.
- We reviewed the accounting records for the capital projects fund to determine if the capital projects and related debt activity were properly accounted for.
- We reviewed all bank reconciliations for the months of December 2013 and December 2014 to determine if they were properly prepared and reported. We selected these months for review because they were the last months in the Town's fiscal years.
- We reviewed the Supervisor's financial information provided to the Board to determine if it was sufficient, timely and relevant. We interviewed Board members to determine if the information allowed them to provide proper financial oversight.
- We analyzed fund balances as of December 31, 2013 and 2014 to determine whether they were properly classified.
- We analyzed results of operations as of December 31, 2013 and 2014 in the major operating funds and compared budget to actual results to determine whether significant revenues and expenditures were properly recorded.

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

APPENDIX C

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