



Town of Wheatfield

Internal Controls Over Financial Operations

Report of Examination

Period Covered:

January 1, 2008 — November 16, 2009

2010M-39



Thomas P. DiNapoli

Table of Contents

	Page
AUTHORITY LETTER	2
EXECUTIVE SUMMARY	3
INTRODUCTION	5
Background	5
Objectives	5
Scope and Methodology	5
Comments of Town Officials and Corrective Action	6
FINANCIAL CONDITION	7
Recommendations	13
CELLULAR TELEPHONES	14
Recommendations	16
APPENDIX A Response From Town Officials	17
APPENDIX B OSC's Comments on the Town Officials' Response	23
APPENDIX C Audit Methodology and Standards	24
APPENDIX D How to Obtain Additional Copies of the Report	25
APPENDIX E Local Regional Office Listing	26

State of New York Office of the State Comptroller

Division of Local Government and School Accountability

September 2010

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 Wheatfield, entitled Internal Controls Over Financial Operations. 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 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 Wheatfield (Town) is located in Niagara County in western New York State. The Town, which covers 28 square miles, has a population of approximately 17,000. The Town is governed by the Town Board (Board), which is composed of five elected members, including the Town Supervisor (Supervisor) and four council members. The Town provides various services to its residents, including sewer and water services, refuse collection, highway maintenance, snow removal, parks, public safety, fire protection and general government support. The majority of the funding to finance these services comes from sales tax, fees and State aid. The Town's 2008 operating expenditures totaled about \$11 million.

Scope and Objectives

The objectives of our audit were to assess the Town's financial condition and internal controls over cellular telephones for the period January 1, 2008 through November 16, 2009. To properly assess the Town's financial condition, we extended our review of certain financial statement information back to the 2005 fiscal year. Our audit addressed the following related questions:

- Does the Board properly manage Town finances by ensuring that budgets are realistic and supported?
- Has the Town established adequate internal controls over the use of cellular telephones to protect them from loss, waste, and misuse, and are those controls operating effectively?

Audit Results

The Town Board should improve its oversight of Town operations. Because the Board did not provide adequate oversight, the Town's financial condition has deteriorated. Furthermore, the Town provided cell phone service to non-employees.

We found that, while the Town has reported an accumulated combined deficit of \$715,000 at December 31, 2009 in the general, highway, and fire protection district funds, the actual deficit is as much as \$2,715,000. The Board did not levy any property taxes in the general or highway funds from the early 1970s until 2010. While it is commendable that the Board was able to avoid a tax levy for so long, the Town has accumulated a large deficit that will need to be repaid, most likely by taxes. Instead of taxes, the Board financed operations with declining levels of fund balance, one-shot revenues, and restricted moneys that should not have been used for operations and will have to be addressed. By operating with continuing deficits instead of raising enough taxes to fund operations, the Town has accumulated a liability that may require even higher taxes.

The Board did not adopt a policy governing the use of Town-provided cell phone service, conduct a needs assessment, define acceptable use, or assign cell phones to officials and employees in a cost-efficient manner. The Town purchased unnecessary cell phone services and paid for cell phone services for non-Town employees, which is an abuse of taxpayers' moneys. Further, the Town did not have a contract on file defining the rights and responsibilities of the Town and the vendor providing the wireless services. As a result, the Town may have to pay \$3,554 in disputed charges.

Comments of Town 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. Except as specified in Appendix A, Town officials generally agreed with our recommendations and indicated they planned to take corrective action. Appendix B includes our comments on issues raised in the Town's response letter.

Introduction

Background

The Town of Wheatfield (Town) is located in Niagara County in western New York State. The Town, which covers 28 square miles, has a population of approximately 17,000. The Town is governed by the Town Board (Board), which is composed of five elected members, including the Town Supervisor (Supervisor) and four council members.

The Town provides various services to its residents, including sewer and water services, refuse collection, highway maintenance, snow removal, parks, public safety, fire protection and general government support. The Town's 2008 operating expenditures totaled about \$11 million. Town records indicate that, from the early 1970s until 2010, the Town did not levy any real property taxes in the general or highway funds.

The Board is responsible for the general management and control of the Town. The Board is also responsible for adopting policies governing the use of Town-provided assets, such as cellular telephone service. The Supervisor is the Town's chief fiscal officer and is responsible for the Town's daily operations, including maintaining custody of moneys and accounting records, and preparing and providing the Board with monthly financial reports.

Objectives

The objectives of our audit were to assess the Town's financial condition and internal controls over cellular telephones. Our audit addressed the following related questions:

- Does the Board properly manage Town finances by ensuring that budgets are realistic and supported?
- Has the Town established adequate internal controls over the use of cellular telephones to protect them from loss, waste, and misuse, and are those controls operating effectively?

Scope and Methodology

We examined the Town's financial condition and internal controls over cellular telephones for the period January 1, 2008 through November 16, 2009. To properly assess the Town's financial condition, we extended our review of certain financial statement information back to the 2005 fiscal year.

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.

**Comments of
Town 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. Except as specified in Appendix A, Town officials generally agreed with our recommendations and indicated they planned to take corrective action. Appendix B includes our comments on issues raised in the Town's response letter.

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.

Financial Condition

A local government's financial condition reflects its ability to provide and finance services on a continuing basis. A local government is considered to have sound financial health when it can generate sufficient current revenues to finance current expenditures, and maintain sufficient cash flow to pay bills and other obligations when due, without relying on borrowings or interfund advances. To maintain good fiscal health, it is imperative that local officials adopt structurally balanced budgets and monitor actual results against budgeted estimates routinely throughout the year. The proper computation and use of fund balance is an integral part of a good budgetary process. Conversely, local governments in poor financial condition place a heavy reliance on fund balance to finance current operations. When fund balance levels are consistently depleted, deficit fund balances result, and the Board is forced to significantly increase tax rates and/or user fees to maintain the same level of services.

The Board is responsible for the Town's effective financial management. The Board should monitor operating results with budgetary information to ensure that operating and capital budgets are not overspent and revenue estimates are realized. The Supervisor plays an important role in the Town's financial management by providing financial information to the Board on a monthly basis.

We found that, while the Town has reported an accumulated combined deficit of \$715,000 at December 31, 2009 in the general, highway, and fire protection district funds, the actual deficit is as much as \$2,715,000. The Board did not levy any real property taxes in the general or highway funds from the early 1970s until 2010. While it is commendable that the Board was able to avoid a tax levy for so long, the Town has accumulated a large deficit that will need to be addressed, most likely by taxes. Instead of taxes, the Board financed operations with declining levels of fund balance, one-shot revenues, interfund advances, and restricted moneys that should not have been used for operations and will have to be addressed. By operating with continuing deficits, the Town has accumulated a liability that may require even higher taxes. The Board did not monitor operating results with budgetary information to ensure that operating and capital costs were kept within budgeted estimates and that revenue estimates were realized. Furthermore, the Board did request, but the Supervisor did not provide, important financial information to the Board on a monthly basis.

General Fund — The Town’s general fund has been depleted by recurring operating deficits resulting from the appropriation of fund balance, inaccurate revenue and expenditure estimates, and over-reliance on sales tax and other revenues. Rather than using property taxes to fund the budget, the Board used various revenue sources, including funds from restricted sources, to finance the general fund’s expenditures. As indicated in the chart below, the general fund’s fund balance declined from \$1.5 million at December 31, 2005 to a deficit of more than \$78,000 at December 31, 2009.

General Fund: 2005 — 2009					
	2005	2006	2007	2008	2009
Budget					
Appropriated Fund Balance	\$488,722	\$670,374	\$711,425	\$590,269	\$ 8,923
Available Fund Balance	\$194,441	\$1,541,616	\$1,041,042	\$839,133	(\$132,242)
Difference	(\$294,281)	\$871,242	\$329,617	\$248,864	(\$141,165)
Actual					
Real Property Taxes	-	-	-	-	-
Non-Property Tax Items/ Sales Tax	\$1,664,084	\$1,743,444	\$1,768,996	\$1,624,308	\$2,546,721
State Aid	\$451,754	\$563,870	\$533,677	\$439,542	\$423,593
Federal Grant	\$2,000,000	-	-	-	-
Licenses and Permits	\$188,328	\$253,501	\$273,061	\$195,029	\$189,899
Other Income	\$405,745	\$ 450,892	\$810,645	\$ 439,196	\$481,284
Total Revenues	\$4,709,911	\$3,011,707	\$3,386,379	\$2,698,075	\$3,641,497
Total Expenditures	\$3,362,736	\$3,512,281	\$3,588,288	\$3,669,450	\$3,587,632
Operating Surplus (Deficit)	\$1,347,175	(\$500,574)	(\$201,909)	(\$971,375)	\$53,865
Beginning Fund Balance (Deficit)	\$194,441	\$1,541,616	\$1,041,042	\$839,133	(\$132,242)
Ending Fund Balance (Deficit)	\$1,541,616	\$1,041,042	\$839,133	(\$132,242)	(\$78,377)
Variances Favorable (Unfavorable)					
Revenues	\$1,928,911	\$250,107	\$378,429	(\$720,425)	(\$209,313)
Expenditures	(\$93,014)	(\$80,307)	\$131,087	\$339,319	\$272,101

The general fund has incurred cash flow deficiencies as a result of the Board’s inaccurate budgeting practices. The Board has provided cash for the general fund by use of restricted moneys from a \$2 million sewer grant received from the Environmental Protection Agency (EPA) in the 2005 fiscal year. The general fund would have reported a deficit fund balance of over \$450,000 had the grant not been recorded in that fund.

General Municipal Law restricted this grant to be reserved to pay for outstanding debt incurred in the construction of sewer lines, and the grant funds should not have been recorded as revenue in the general fund. A June 2005 letter from the Town’s engineers to the New York State Department of Environmental Conservation clearly indicated that the grant was to help pay for the Town’s sewer system bonds. As

of December 31, 2006, the Town reported in excess of \$8,000,000 in sewer district debt, some of which has been outstanding as far back as 1985. The grant funds should have been applied to pay down this debt, not used as a revenue source in the general fund.¹

Town officials indicated that they recorded the \$2,000,000 EPA grant in the general fund because the general fund had advanced funds to the sewer district to construct the sewer lines and was never repaid. However, prior to 2005, this loan was not reported in the accounting records or on the financial statements. Further, Town officials could not provide us with documentation to support their claim that the general fund loaned money for sewer projects.

Since the grant funds were committed for particular purposes, they must be used for sewer capital costs or restricted for debt service. As such, the general fund should reflect this liability as a due to other funds, which increases the deficit to approximately \$2,078,000.

In addition to using restricted revenue sources to fund the budget, the Board was overly optimistic in its revenue estimates. Although it also overestimated expenditures, it was not enough to offset the revenue shortfalls, which resulted in operating deficits from 2006 through 2008. Fund balance decreased from a surplus of about \$839,000 at December 31, 2007 to a deficit of more than \$132,000 at December 31, 2008, despite expenditures being overestimated by \$339,000. In 2008 the Board appropriated \$590,269 in fund balance and was overly-optimistic in budgeting 2008 revenues, which resulted in revenue shortfalls of \$720,425. Specifically, the Board budgeted \$400,000 in other income from “surplus equipment sales” but realized nothing. Furthermore, revenue from sales tax, mortgage tax, licenses, permits and fees were, in aggregate, \$332,000 less than budgeted estimates.

The Board continued these practices in 2009, which resulted in revenue shortfalls of \$209,313 and a deficit fund balance of more than \$78,000. The 2010 budget does not include provisions to address the deficit or to repay the restricted amounts so that they will be available for their intended purposes. Therefore, unless the Board corrects its budgeting practices, it is likely that the general fund will continue to experience operating deficits and deficit fund balances.

Highway Fund — In 2007, the Board adopted a structurally imbalanced highway fund budget that appropriated more fund balance than was available to finance budgeted expenditures. Fortunately, the amounts of over-budgeted fund balance were small, and although appropriations were over-expended at times, revenues exceeded estimates enough for the highway fund to maintain a small fund balance until the end of 2008.

¹ See General Municipal Law

Highway Fund: 2005 — 2009					
	2005	2006	2007	2008	2009
Fund Balance					
Appropriated Fund Balance	\$17,577	\$ 43,627	\$157,342	\$29,709	\$17,012
Available Fund Balance	\$71,882	\$75,838	\$133,631	\$84,948	\$77,758
Difference	\$54,305	\$32,211	(\$23,711)	\$55,239	\$60,746
Actual					
Real Property Taxes	-	-	-	-	-
Non-Property Tax Items/ Sales Tax	\$1,150,548	\$1,228,660	\$1,239,000	\$1,500,000	\$630,432
State Aid	\$49,351	\$98,454	\$209,199	\$88,901	\$67,964
Other Income	\$296,198	\$232,238	\$324,203	\$235,960	\$295,887
Total Revenues	\$1,496,097	\$1,559,352	\$1,772,402	\$1,824,861	\$994,283
Total Expenditures	\$1,492,141	\$1,501,559	\$1,821,085	\$1,832,051	\$1,488,155
Operating Surplus (Deficit)	\$3,956	\$57,793	(\$48,683)	(\$7,190)	(\$493,872)
Beginning Fund Balance (Deficit)	\$71,882	\$75,838	\$133,631	\$84,948	\$77,758
Ending Fund Balance (Deficit)	\$75,838	\$133,631	\$84,948	\$77,758	(\$416,114)
Variances Favorable (Unfavorable)					
Revenues	\$162,597	\$240,852	\$309,652	\$100,361	(\$1,165,867)
Expenditures	(\$141,064)	(\$139,432)	(\$200,993)	(\$77,842)	\$689,007

However, in 2009, the Board reduced its budgeted sales tax revenue from the 2008 budgeted amounts by \$850,000. Instead of balancing the 2009 budget with other valid revenue sources, it improperly budgeted \$1,250,000 as revenue sources in the highway fund from projects to be financed with debt. The Board properly accounted for these projects' actual revenues and expenditures in the capital projects fund, but, the highway fund's actual 2009 results of operations contained significant variances in revenues and expenditures. As a result of the Board's inaccurate budgeting practices, the highway fund ended 2009 with a deficit of more than \$416,000.

It appears that the Board attempted to address some of its inaccurate budgeting practices in the highway fund when adopting the 2010 budget. The highway fund's 2010 budget included estimated revenues from real property taxes of \$643,157 (its 2009 budget included \$0 in revenues from real property taxes), and budgeted \$700,000 in sales tax revenue. The Board must continue to adopt budgets that provide sufficient revenue to finance recurring expenditures to address the highway fund's deficit.

Fire Protection District — For the fiscal year ended December 31, 2008, the Town reported a deficit of \$177,454 in the fire protection district fund. This deficit was caused by the Board adopting budgets that raised less revenue than needed to fund known expenditures. The Board repeated its inaccurate budgeting practices in 2009; reported revenues were \$1,136,000 and expenditures were \$1,179,000, resulting in a fund deficit of approximately \$221,000 at December 31,

2009. The 2010 budget included a real property tax levy of \$1,134,727, which was \$150,727 higher than the 2009 levy of \$984,000, and appears to address some of the structural imbalances that existed in past budgets. The Board must continue to adopt budgets that provide sufficient revenue to finance recurring expenditures to address the fire protection district fund's operating deficits.

Capital Projects Fund — A capital project is typically financed with proceeds of debt, which should not be commingled with other money. The Board should closely monitor the financial activity in each capital project to ensure that the project is not overspent, and the debt proceeds are used for their intended purpose. To the extent that the proceeds of debt are not applied directly to the cost of the capital project, they should be deposited into a debt reserve and applied only to the payment of principal and interest on the bonds.

The Town received over \$8.3 million from the issuance of Bond Anticipation Notes (BANs) from 2006 through 2009 to fund various capital projects, as indicated in the chart below:

	Water/ Sewer Dept Building	Youth Center	Rehab Pump Stations	Drainage	Water Meters	Building Improvements Replace Roof, Town. Hall, Garage	Parkland	Road Reconstruction Highway vehicles	Bridge Painting	Total
BAN Proceeds	\$1,195,230	\$1,770,500	\$440,000	\$1,745,000	\$985,000	\$317,500	\$675,000	\$705,000	\$500,000	\$8,333,230
Interest Earnings	\$155,144	\$114,490	\$5,522	\$108,297	\$5,572	\$18,090	\$16,440	\$663	\$817	\$425,035
Total Funds Available	\$1,350,374	\$1,884,990	\$445,522	\$1,853,297	\$990,572	\$335,590	\$691,440	\$705,663	\$500,817	\$8,758,265
Project Expenditures	\$1,104,040	\$2,004,902	\$531,947	\$1,470,319	\$982,694	\$337,735	\$665,320	\$276,027	\$14,734	\$7,387,718
Under (Over) Budget	\$246,334	(\$119,912)	(\$86,425)	\$382,978	\$7,878	(\$2,145)	\$26,120	\$429,636	\$486,083	\$1,370,547

The Board failed to closely monitor the financial activity in these capital projects. Three completed projects were overspent by approximately \$208,000 at December 31, 2009. Town officials funded the over-expenditures with bond proceeds intended for other authorized projects. Normally, this would create a cash deficiency for the ongoing projects, but in this instance, the Town borrowed more than it needed to complete its capital projects.

Over \$1.3 million in BAN proceeds (and interest income earned on the proceeds) remained unspent at December 31, 2009. Of this amount, approximately \$500,000 (38 percent) had been inappropriately loaned to other funds for cash flow purposes at December 31, 2009 (see interfund advances below) while the remaining cash balance was approximately \$800,000. Town officials indicated that the purchase

of highway vehicles did not occur as planned and the bridge painting project (\$500,000) was canceled.

Given the amount of cash unspent as of December 31, 2009, we question whether Town officials borrowed more than was necessary. Nevertheless, if the projects are complete or canceled, the remaining bond proceeds must be deposited in a reserve fund for the purpose of retiring the outstanding obligations.

Interfund Advances — The Board is required to approve all interfund advances and must ensure that all temporary borrowings are repaid as soon as funds are available and no later than fiscal year end.² Furthermore, when an advance is made between funds supported by different tax bases, repayment must include an amount reasonably equivalent to the amount that would have been earned on the investment of the moneys advanced. Money held by the Supervisor in a trust or fiduciary capacity, or that which, by law, may be used only for stated purposes (such as capital projects), may not be advanced to other funds. This limitation on the authority to make interfund advances applies to, among other things, moneys from the proceeds of BANs. Loaning BAN proceeds for cash flow purposes not only represents an inappropriate use of the money, but the failure to repay money loaned could jeopardize the funding of a planned capital project.

Because of the fiscal stress resulting from imprudent budgeting practices, the Town was in danger of not having sufficient cash resources to finance operations in late 2009. At the budget meeting held on November 19, 2009, the Town's Acting Budget Director reported that the Town had only \$15,000 in cash available to fund operations. The Acting Budget Director also informed us that, due to turnover of the Budget Director position, reconciliations of recorded cash balances to the bank balances had not been performed since March 31, 2009, increasing the uncertainty as to the amount of cash available to finance operations. The Town reported zero cash balances in the general, highway, fire protection district, and refuse district funds at December 31, 2009.

At December 31, 2009, the net interfund payables in the general, highway and fire protection district funds totaled \$133,548, \$448,842, and \$85,713, respectively. This money was loaned mainly by the water and sewer districts and the capital projects fund. The Town has no plan in place to repay these interfund loans, and due to the poor

² General Municipal Law specifies the legal conditions under which interfund advances can be made. This statute also requires that repayment be made as soon as moneys are available, but no later than the close of the fiscal year in which the advance was made.

financial condition of the general, highway and fire protection district funds, it is unlikely that the loans will be repaid soon.

Town officials have also made interfund advances in the past to relieve cash flow problems in the general and highway funds. Financial statements for the 2006, 2007 and 2008 fiscal years all show net interfund payables in the general and highway funds at year end. The Board's proceedings did not indicate that it had authorized these interfund advances.

If the collectability of an interfund receivable is doubtful or not expected to be liquidated in the near term, the effect on fund balance of the lender fund must be considered because a portion of fund balance is not available for appropriation. In this instance, available fund balance in the water district and sewer district could be adversely impacted if the interfund receivables are not repaid in the near future. Further, the capital projects fund is restricted from loaning funds that are intended for specific purposes, and the Board should not have allowed these funds to be loaned to other funds.

Recommendations

1. The Board should appropriate only available fund balance to finance operations in succeeding years' budgets.
2. The Board should budget to eliminate the fund balance deficits in the general, highway, and fire protection district funds.
3. The Board should monitor expected revenues and expenditures to ensure that they are in line with budgeted estimates.
4. Town officials should deposit funds associated with capital projects on which debt has been issued into a mandatory debt reserve and use these funds to pay the principal and interest on outstanding debt.
5. The Board should take steps to ensure that interfund advances to other Town funds are made only from those funds permitted by law, and are repaid in a timely manner.

Cellular Telephones

The widespread use of cellular telephones (cell phones) in the workplace requires that officials establish explicit guidelines to determine the need to be assigned a Town-provided cell phone, define acceptable use, and assign cell phones to officials and employees in a cost-efficient manner. Like any other Town asset, it is important that cell phones be properly controlled and their usage carefully monitored.

The Board did not adopt a policy governing the use of Town-provided cell phone service. The Board did not conduct a needs assessment, define acceptable use, nor assign cell phones to officials and employees in a cost-efficient manner. Further, the Town did not have a contract on file defining the rights and responsibilities of the Town and the vendor providing the wireless services.

From February 2008 through July 2009, the Town paid \$37,440 for cell phone services. In June 2009, 89 Town cell phones were assigned in the following manner: elected officials (eight),³ a former employee (one), family members and friends of officials and employees (seven), other non-Town employees (six), and current employees (59). Eight of the cell phones were listed as not assigned to anyone in particular. Virtually every full-time Town employee and some part-time employees were assigned cell phones. The Town should not have purchased cell phone service for all of these individuals, especially the non-employees. These unnecessary purchases abused taxpayers' moneys.

The former Supervisor generally allocated each cell phone a maximum of 150 minutes of use per month. The Town's Budget Director billed the participant for any usage over 150 minutes and billed non-employees a fixed amount of either \$18 or \$25 monthly for the cell phone service provided by the Town. In certain instances, the Budget Director did not bill non-employees at all. There was no procedure in place to determine if all participants were billed at the correct amount and paid the amount due.

We reviewed three bills for five cell phones totaling \$986 prepared by the Budget Director to determine if individuals paid them on a timely basis. We found that two individuals paid their cell phone bills in a timely manner. However, the former Supervisor did not pay bills for cell phone service for three of his family members in a timely manner.

³ Four members of the Town Board, the Supervisor, Superintendent of Highways, Town Clerk, and Judge

The Budget Director billed the former Supervisor \$858 for his three family members in April 2008. This bill included charges totaling \$797 from previous periods. The former Supervisor's personal check to pay for these cell phone costs was dated July 25, 2009, over a year later. The Budget Director indicated that the former Supervisor objected to the amount billed to him by the cell phone provider and had withheld payment until he could challenge the amount, even though the Town had already paid the vendor for the service. Further, the Budget Director did not deposit the check until October 29, 2009 and indicated that the deposit delay was an oversight on his part.

We also reviewed five months of cell phone billings for the seven family members and friends of employees totaling \$665 to determine if the Budget Director billed the correct amount for cell phone services. We found that the actual cost of the basic service to these seven individuals was greater than the amount billed.⁴

Further, in December 2008, charges for texting and data services began to appear on the Town's bills. These charges totaled \$3,554 for approximately the first half of 2009. The Budget Director indicated that the Town is contesting these charges. However, without a signed contract between the Town and vendor, it is unclear whether the Town requested these services and is therefore uncertain if the Town will be successful in reducing its liability. Because the Town did not pay for these charges, the Town did not bill the charges to individuals participating in the Town's cell phone plan.

Because the Board did not adopt a policy governing the use of Town-provided cell phone service, conduct a needs assessment, define acceptable use, and assign cell phones to officials and employees in a cost-efficient manner, the Town cannot be assured that all 89 cell phones are necessary and in the best interest of the Town's taxpayers. Since Town cell phone services were provided to non-employees, Town taxpayers were paying for personal cell phone use for the former Supervisor's family, among others. Purchasing unnecessary cell phone service and paying for cell phone services for non-Town employees is an abuse of taxpayers' moneys. Further, the Town did not have a contract on file defining the rights and responsibilities of the Town and the vendor providing the wireless services. As a result, the Town may be responsible for paying \$3,554 in disputed charges.

Subsequent to our fieldwork, the current Supervisor told us that he reviewed cell phone distribution and reduced the number of cell phones, including those assigned to non-employees, the former

⁴ For a five month period tested, the aggregate amount of the difference was \$213.

Supervisor, and his family members. The former Supervisor had paid all outstanding cell phone charges when he left office.

Recommendations

6. The Town should stop the practice of providing cell phones to non-employees.
7. The Town should recover from the non-employees all amounts paid for cell phones that have not already been reimbursed.
8. The Town should conduct a needs assessment to determine who should be issued a cell phone.
9. The Board should adopt a formal cell phone use policy that clearly defines the Town employees who should be issued a cell phone, define what is allowable use, and how reimbursement for personal use is billed and paid to the Town.
10. The Town should have on file a contract with its cell phone vendor indicating the rights and responsibilities of each party to the agreement.

APPENDIX A

RESPONSE FROM TOWN OFFICIALS

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

TOWN HALL
WHEATFIELD
THE OFFICE OF THE SUPERVISOR



July 29, 2010

Robert E. Meller, Chief Examiner
of Local Government and School Accountability
Office of the State Comptroller
295 Main Street, Room 1032
Buffalo, New York 14203-2510

Dear Mr. Meller:

RE: Response to Audit Report
January 1, 2008 to November 16, 2009

We are in general agreement with the comments and recommendations noted in the audit report with one exception. We disagree with the comment that the \$2,000,000 EPA grant must be repaid. It is our opinion that the grant was a reimbursement of additional costs due to numerous factors beyond the control of the Town. This included site conditions, differences in regulations between EPA and DEC which resulted in additional construction, administrative and engineering costs due to delays in completing the project and changes in the allowance of gravity sewers versus grinder pumps. Despite the delays and additional costs, the Town continued with the projects absorbing the additional costs so that the residents would have its much needed sewers. These costs were paid by the Town's general and sewer funds. When the grant funds were received and recorded as a 2005 revenue in the general fund, discussions were held with our independent CPA auditors and they agreed with the Town's conclusion that it was a reimbursement of additional costs and did not object to the town recording the grant as a revenue in the general fund. A copy of the Town's correspondence letter dated August 15, 2006 addressed to our independent CPA auditors is attached as documentation.

See
Note 1
Page 23

Also, although not specifically mentioned in the attached correspondence, another reason that the CPA auditors raised no objections is because the tax base of the general fund and the sewer fund is substantially, if not exactly, the same. Therefore, no town resident was adversely affected by recording the revenue in the general fund rather than the sewer fund.

See
Note 2
Page 23

Finally, the Town's share of the costs of the sanitary sewer installation was funded by the issuance of serial bonds through the New York State Environmental Facilities Corporation. Since 2006, the town has made \$1,835,000 in principal payments on its serial bonds that have been issued by the Town through the New York State Environmental Facilities Corporation. An

additional \$115,000 principal payment will be made on November 15, 2010 bringing the total principal payments by the end of the current year to \$1,950,000.

In effect, by the end of this current fiscal year, most of the grant will be paid back in the form of principal payments on outstanding debt. On April 15, 2011, an additional principal payment of \$150,000 will be made bringing the total principal payments to \$2,100,000. Therefore, within the next 9 months, the entire grant will, in effect, be paid back in the form of principal payments on its outstanding debt for this project. In conclusion, we respectfully disagree with the comment regarding the repayment of this EPA grant.

See
Note 3
Page 23

As previously stated, we are in general agreement with the other comments and recommendations as noted in the audit report. The Supervisor and Town Board have already taken a number of actions and implemented a number of new policies to correct the deficiencies and lack of adequate financial control that existed under the prior administration.

The following are our comments regarding the financial recommendations listed in the report:

1. For future budgets, the current Supervisor and Town Board will only appropriate available fund balance to finance operations in succeeding years' budget.
2. The current Supervisor and Town Board will prepare future budgets and will take other appropriate steps to eliminate the fund balance deficits in the general, highway and fire protection districts funds. Over the objections of the former Supervisor, the Town Board made changes to his proposed 2010 budget in November 2009 by reducing estimated expenditures by almost \$180,000 and imposing a highway tax in the amount of \$643,157 to begin to address these deficits. In addition, during 2010, the current Supervisor and Town Board approved the sale of two permanent easements for cell towers for \$145,000 and \$115,000 on March 8th and June 21st, respectively. These unanticipated revenues for 2010 will help reduce and may even eliminate the fund balance deficit in the general fund. The current Supervisor and Town Board will continue to take other additional steps to reduce and eventually eliminate the fund balance deficits but it may take several years to accomplish this.
3. As of February 2010, the current Supervisor and Town Board have been receiving monthly budgetary revenue and expense reports in a summary and detail departmental format from the Budget Director so they are now monitoring the 2010 budget. The monthly budgetary reports in the detail departmental format are also being submitted to the department heads. Under the administration of the previous Supervisor, these budgetary reports were not being provided to the Town Board although requested by motion as part of the town's Annual Organization Meeting and requested verbally on numerous occasions. Also during the early part of 2010, the current Supervisor and Town Board revised its purchasing procedures to better monitor expenditures. All purchases over \$500 now require the separate approval of the Supervisor. In addition, a purchase order system has been purchased and is now fully implemented.

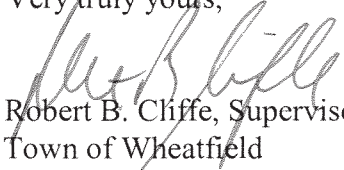
4. All funds associated with the capital projects are now segregated into a separate bank account and all excess funds representing either accumulated interest income or excess borrowing, once the individual projects are completed, will be reserved to pay the principal and interest on outstanding debt.
5. The current Supervisor and Town Board will closely monitor interfund advances in the future and will repay them in a timely manner. Once the deficits have been eliminated, the interfund advances will be kept at a minimum and will be repaid before the end of the fiscal year.

The following are our comments regarding the cell phones recommendations listed in the report:

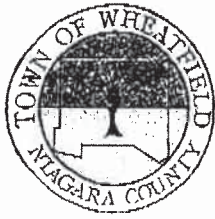
6. All cell phones issued to non-employees have already been eliminated.
7. The current Supervisor and Town Board is currently reviewing the recovery from non-employees all amounts that have not already been reimbursed to the town.
8. The current Supervisor and Town Board are currently performing a needs assessment to determine which employees should be issued a cell phone. The current Supervisor has reduced the number of town issued cell phones from 89 to approximately 49 and is considering additional reductions.
9. The current Supervisor and Town Board are currently preparing a formal cell phone use policy for all cell phones issued by the Town for use by town employees.
10. The current Supervisor and Town Board has contacted its cell phone vendor to obtain a copy of it's contract with the Town and will keep it on file.

I would like to thank the auditors for the cooperation and courtesy that they provided while conducting their examination.

Very truly yours,


Robert B. Cliffe, Supervisor
Town of Wheatfield

cc: Honorable Town Board
Robert J. O'Toole, Town Attorney



TOWN OF WHEATFIELD NIAGARA COUNTY

2800 Church Road
North Tonawanda, NY 14120-1099
Phone: (716) 694-6440 Fax: (716) 694-5419
www.wheatfield.ny.us

August 15, 2006

[REDACTED]

Dear [REDACTED]:

As you requested, the following is the background concerning the recent EPA award to replenish Town of Wheatfield monies used to complete the sanitary sewer project starting back in 1977.

The following attempts to provide the project and events caused by conflicting federal department opinions that resulted in the Town completing the project with its own resources.

During the period of 1977 through 1983, the Town of Wheatfield had been actively installing sanitary sewers in accordance with State and Federal regulations, receiving grants provided by both governmental agencies. Various projects had unanticipated costs due to site conditions, differences in regulations between EPA and DEC which resulted in change orders, additional administrative and engineering fees and general contract costs due to delays in completing the projects. Changes in allowance of gravity sewers versus grinder pumps also resulted in grant monies withheld which had originally been authorized.

Despite these delays and additional costs, the Town of Wheatfield continued the installation of sanitary sewers absorbing the additional costs in order to provide its residents with much needed sewers.

Since these grant monies originally approved for Wheatfield Sanitary sewers had been held by NYS DEC, the Town officials appealed to the Federal EPA for release of claim for these additional costs incurred which had been absorbed and funded totally by the Town in preventing the delay of sanitary sewer installation.

In November, 2004, the Federal EPA approved the Town's claim and authorized the NYS DEC to reimburse \$2,000,000 for the additional cost of the projects from the grant funds as appropriated by Congress. On April 28, 2006, the Town of Wheatfield received payment of these funds.


Page 2
August 15, 2006

It took years of effort to secure some financial relief and the \$2,000,000.00 EPA grant did that.

Sincerely,



EDWARD M. McALLISTER
Budget Director



WINSTON MOELLER
Consultant

EMM/fib

Enclosures

APPENDIX B

OSC COMMENTS ON THE TOWN OFFICIALS' RESPONSE

Note 1

As indicated in the report, we asked for, but were not provided with, any documentation to demonstrate that the general fund paid costs associated with the sewer projects. While the Town's response letter continues to make this assertion, it does not provide any evidence of the particular expenses incurred by the general fund. With respect to the repayment of the EPA funds, we clarified the report language to indicate that the grant money should be reflected as a due to other funds on the general fund balance sheet.

Note 2

According to the Uniform System of Accounts and Generally Accepted Accounting Principles, financial transactions relating to the general fund and the sewer district should be accounted for separately, especially since they represent different tax bases. With respect to the tax base issue, we contacted the Town Assessor and found that the town-wide taxable value for the general fund was approximately \$820 million, while the taxable value for the sewer district was approximately \$960 million. As such, a substantially smaller tax base benefits from the \$2 million in EPA funds that inappropriately remain in the general fund.

Note 3

We found that the debt payments discussed here were correctly budgeted and paid with sewer district money generated primarily from taxes levied on taxable property within the district. The debt service was not paid from the general fund. Accordingly, it is unclear how the debt service payments that have been made by the sewer district justify the Town's decision to continue to account for the \$2 million of grant money in the general fund.

APPENDIX C

AUDIT METHODOLOGY AND STANDARDS

Our overall goal was to determine if internal controls over selected financial activities were appropriately designed and operating effectively. To accomplish this, we performed an initial assessment of internal controls so that we could design our audit to focus on those areas most at risk. Our initial assessment included evaluations of the following areas: financial condition, cash receipts and disbursements, purchasing, payroll, the Town Clerk's office, and information technology.

During our initial assessment, we interviewed Town officials, performed limited tests of transactions and reviewed pertinent documents such as adopted policies and procedures, Board minutes, and financial records and reports. Further, we reviewed the Town's internal controls and procedures over the computerized financial databases to help ensure that the information produced by such systems was reliable.

After reviewing the information gathered during our initial assessment, we determined where weaknesses existed, and evaluated those weaknesses for inherent control risks. We then decided on the reported objective and scope by selecting for audit those areas most at risk. We selected financial condition and cell phones for further audit testing.

For financial condition, we analyzed the changes in fund balance of the Town's funds for the 2005 through 2008 fiscal years, determined fund deficit trends, and reported fund balance levels through December 31, 2009. We evaluated major factors that contributed to annual operating deficits and negative fund balances. We analyzed reported revenue and expenditure trends from 2005 through 2009. We compared budget estimates to actual revenues, expenditures, and fund balances to determine if estimates were reasonable, and whether sufficient fund balances were available. We reviewed minutes of the meetings of the Board and inquired whether interfund advances were authorized. We interviewed Board members to determine if they received monthly financial reports from the Supervisor.

For cell phones, we made inquiries to determine if the Board had adopted a cell phone policy, and if any other rules and regulations had been established. We also asked officials for the contract between the Town and the cell phone service provider. We obtained a list of cell phone users, we reviewed recent cell phone bills, Town billings and related cash collections for cell phone services provided to selected individuals.

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

APPENDIX D

HOW TO OBTAIN ADDITIONAL COPIES OF THE REPORT

To obtain copies of this report, write or visit our web page:

Office of the State Comptroller
Public Information Office
110 State Street, 15th Floor
Albany, New York 12236
(518) 474-4015
<http://www.osc.state.ny.us/localgov/>

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

Steven J. Hancox, Deputy Comptroller
John C. Traylor, Assistant Comptroller

LOCAL REGIONAL OFFICE LISTING

ALBANY REGIONAL OFFICE

Kenneth Madej, Chief Examiner
Office of the State Comptroller
22 Computer Drive West
Albany, New York 12205-1695
(518) 438-0093 Fax (518) 438-0367
Email: Muni-Albany@osc.state.ny.us

Serving: Albany, Columbia, Dutchess, Greene,
Schenectady, Ulster counties

BINGHAMTON REGIONAL OFFICE

Patrick Carbone, Chief Examiner
Office of the State Comptroller
State Office Building, Room 1702
44 Hawley Street
Binghamton, New York 13901-4417
(607) 721-8306 Fax (607) 721-8313
Email: Muni-Binghamton@osc.state.ny.us

Serving: Broome, Chenango, Cortland, Delaware,
Otsego, Schoharie, Sullivan, Tioga, Tompkins counties

BUFFALO REGIONAL OFFICE

Robert Meller, Chief Examiner
Office of the State Comptroller
295 Main Street, Suite 1032
Buffalo, New York 14203-2510
(716) 847-3647 Fax (716) 847-3643
Email: Muni-Buffalo@osc.state.ny.us

Serving: Allegany, Cattaraugus, Chautauqua, Erie,
Genesee, Niagara, Orleans, Wyoming counties

GLENS FALLS REGIONAL OFFICE

Karl Smoczynski, Chief Examiner
Office of the State Comptroller
One Broad Street Plaza
Glens Falls, New York 12801-4396
(518) 793-0057 Fax (518) 793-5797
Email: Muni-GlensFalls@osc.state.ny.us

Serving: Clinton, Essex, Franklin, Fulton, Hamilton,
Montgomery, Rensselaer, Saratoga, Warren, Washington
counties

HAUPPAUGE REGIONAL OFFICE

Ira McCracken, Chief Examiner
Office of the State Comptroller
NYS Office Building, Room 3A10
Veterans Memorial Highway
Hauppauge, New York 11788-5533
(631) 952-6534 Fax (631) 952-6530
Email: Muni-Hauppauge@osc.state.ny.us

Serving: Nassau, Suffolk counties

NEWBURGH REGIONAL OFFICE

Christopher Ellis, Chief Examiner
Office of the State Comptroller
33 Airport Center Drive, Suite 103
New Windsor, New York 12553-4725
(845) 567-0858 Fax (845) 567-0080
Email: Muni-Newburgh@osc.state.ny.us

Serving: Orange, Putnam, Rockland,
Westchester counties

ROCHESTER REGIONAL OFFICE

Edward V. Grant, Jr., Chief Examiner
Office of the State Comptroller
The Powers Building
16 West Main Street – Suite 522
Rochester, New York 14614-1608
(585) 454-2460 Fax (585) 454-3545
Email: Muni-Rochester@osc.state.ny.us

Serving: Cayuga, Chemung, Livingston, Monroe,
Ontario, Schuyler, Seneca, Steuben, Wayne, Yates counties

SYRACUSE REGIONAL OFFICE

Rebecca Wilcox, Chief Examiner
Office of the State Comptroller
State Office Building, Room 409
333 E. Washington Street
Syracuse, New York 13202-1428
(315) 428-4192 Fax (315) 426-2119
Email: Muni-Syracuse@osc.state.ny.us

Serving: Herkimer, Jefferson, Lewis, Madison,
Oneida, Onondaga, Oswego, St. Lawrence counties