



Town of Poughkeepsie

Financial Operations

Report of Examination

Period Covered:

January 1, 2010 — July 31, 2011

2012M-38



Thomas P. DiNapoli

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State of New York Office of the State Comptroller

Division of Local Government and School Accountability

September 2012

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 Poughkeepsie entitled 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 Poughkeepsie (Town) is located in Dutchess County, covers an area of about 31 square miles, and serves approximately 43,000 residents. The Town is governed by the Town Board (Board) which comprises the Town Supervisor (Supervisor) and six Board members. The Board is responsible for the general management and control of the Town's financial affairs. The Supervisor, who serves as the chief financial officer, is responsible, along with other administrative staff, for the day-to-day management of the Town under the direction of the Board. The Town's 2010 and 2011 budgeted appropriations for all funds were approximately \$62 million and \$63 million.

Scope and Objective

The objective of our audit was to examine internal controls over the Town's financial operations for the period January 1, 2010 through July 31, 2011. We extended our review back to 2008 to identify financial trends and adjustments to the financial statements. Our audit addressed the following related questions:

- Is the Town in good financial condition?
- Are the Town's financial activities properly reported?
- Did Town officials use competitive methods, enter into written contracts and comply with Workers' Compensation Law when procuring professional services?

Audit Results

The Town is in poor financial condition. The Town has experienced unplanned operating deficits in its general town-wide, general town-outside-village and highway town-outside-village funds that caused a decline in those fund balances from \$77,501 in 2008 to (\$1,533,316) at the end of 2010. These deficits were caused by the failure of the Board to develop reasonable budget estimates and adjust budget estimates when it became clear that the anticipated results would not be achieved. The resulting decline in financial resources caused cash flow problems that the Town addressed by using interfund loans, mostly from the water fund, to pay for recurring expenditures. In addition, the Town Comptroller (Comptroller) appropriated \$400,000 in both 2010 and 2011 from the water fund to the general town-wide fund for services that he and the Supervisor purportedly rendered to the water district. However, there was no supporting documentation showing what these services were. As a result, there are taxpayer inequities arising from loans between different tax bases, and water service

users not getting the benefits for which they are paying. In addition, the continuity of needed services for Town residents cannot be ensured.

The Town's financial activities for each major fund were not reported separately as required by the Governmental Accounting Standards Board (GASB). For example, the general fund (A) was combined with the general town-outside-village fund (B). In addition, although the Town's financial statements were audited by a certified public accountant (CPA), the audit was not performed in a timely manner. As a result, the draft report, which included adjustments to fund balance in excess of \$750,000, was not submitted to Town officials until September 30, 2011. Furthermore, the Comptroller did not submit a copy of the audited financial statements to the Office of the State Comptroller (OSC) as required so that the information on file at OSC was not updated and accurate. As a result, users of the Town's financial statements did not have a clear picture of the Town's financial activities and could not properly assess the Town's financial condition.

Town officials did not use competitive methods, enter into written contracts or comply with Workers' Compensation Law when they procured professional services. Although the Board's procurement policy required requests for proposals (RFPs) to be obtained for procurements in excess of \$15,001, the policy was not implemented. Consequently, Town officials did not obtain proposals for professional services totaling \$1,924,386. In addition, the Board did not enter into written contracts with six of the providers who received payments totaling \$549,015. As a result, there is no assurance that professional services were procured in the most efficient manner and no means to determine the basis for compensation. Further, Town officials did not obtain the required proof of disability insurance or workers' compensation insurance and/or waivers for the 15 vendors we tested. Verification of insurance is necessary to ensure benefits are available if workers are injured. It also levels the playing field for honest businesses because they are less likely to be undercut by unscrupulous employers who gain a cost advantage by not carrying insurance.

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 disagreed with certain aspects of our findings and recommendations in our report, but indicated that they planned to implement some of our recommendations. Appendix B includes our comments on the issues raised in the Town's response letter.

Introduction

Background

The Town of Poughkeepsie (Town) is located in Dutchess County, covers an area of about 31 square miles, and serves approximately 43,000 residents. The Town is governed by the Town Board (Board) which comprises the Town Supervisor (Supervisor) and six Board members. The Board is responsible for the general management and control of the Town's financial affairs. The Supervisor, who serves as the chief financial officer, is responsible, along with other administrative staff, for the day-to-day management of the Town under the direction of the Board. The Town Comptroller (Comptroller) is responsible for the administration and management of the Town's finances, including cash management and investments, budget control, accounts receivable, accounts payable, auditing, payroll, debt administration, and management information services.

The Town provides various services to its residents including maintenance and improvements of Town roads, snow removal, and general government support. These services are financed mainly by real property taxes, departmental income, and State aid. The Town's 2010 and 2011 budgeted appropriations for all funds were approximately \$62 million and \$63 million.

Objective

The objective of our audit was to examine internal controls over the Town's financial operations. Our audit addressed the following related questions:

- Is the Town in good financial condition?
- Are the Town's financial activities properly reported?
- Did Town officials use competitive methods, enter into written contracts and comply with Workers' Compensation Law when procuring professional services?

Scope and Methodology

We examined financial condition, financial reporting and purchasing operations of the Town for the period January 1, 2010 to July 31, 2011. We extended our review back to 2008 to identify financial trends and adjustments to the financial statements.

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
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 disagreed with certain aspects of our findings and recommendations in our report, but indicated that they planned to implement some of our recommendations. Appendix B includes our comments on the 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 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 consistently generate sufficient revenues to finance anticipated expenditures, and maintain sufficient cash flow to pay bills and other obligations when due, without relying on short-term borrowings. Conversely, local governments in poor financial condition often experience unplanned operating deficits. Persistent unplanned operating deficits are usually indicative of poor budgeting and can result in cash flow problems and/or deficits, and the need to borrow moneys to finance day-to-day operations.

The Town has experienced unplanned operating deficits in its general town-wide, general town-outside-village and highway town-outside-village funds that caused a decline in those funds balances from \$77,501 in 2008 to (\$1,533,316) at the end of 2010.¹ As a result, the Town had cash flow problems that were addressed by interfund loans, mostly from the water fund, to pay for recurring expenditures. In addition, the Comptroller appropriated \$800,000 from the water fund to the general town-wide fund for services that he and the Supervisor purportedly rendered to the water district, without supporting documentation. As a result, there are taxpayer inequities arising from loans between different tax bases, and water service users not getting the benefits for which they are paying. In addition, the continuity of services for Town residents cannot be ensured.

Budget Estimates

Board members must ensure that there is a process to prepare, adopt and amend budgets based on reasonably accurate assessments of the resources to fund appropriations. When estimating budgeted revenues, the Board and Town officials must have current and accurate information. They also should use historical data, such as prior years' actual results of operations, to guide them in determining whether revenues are reasonable.

As illustrated in the following table, the Town experienced revenue shortfalls in its major funds in both 2009 and 2010. The shortfalls were a result of continued overestimation of revenues. Revenues in the Town's major funds were overestimated by a total of approximately \$4 million and \$2 million in 2009 and 2010.

¹ See Table 3.

Table 1: Major Revenue Shortfalls by Fund				
	2009		2010	
	Budget	Variances	Budget	Variances
General Town-wide	\$6,730,573	(\$820,971)	\$6,211,467	(\$913,666)
General Town-Outside-Village	\$16,442,140	(\$1,324,322)	\$16,556,637	(\$435,405)
Highway Town-Outside-Village	\$5,442,758	(\$239,709)	\$5,851,291	(\$152,853)
Water	\$6,158,680	(\$578,122)	\$6,368,535	(\$273,634)
Sewer	\$4,860,189	(\$636,011)	\$4,727,879	(\$331,539)
Total	\$39,934,340	(\$3,599,135)	\$39,906,809	(\$2,107,097)

We reviewed the Town's 2009 and 2010 budget to actual report and noted that although estimated revenues were not realized in 2009, the 2010 estimates were not adjusted down to the 2009 realized revenues; instead, revenues were also overestimated for 2010. The following table illustrates examples of budget line items that were continuously overestimated.

Table 2: Line Items				
	2009		2010	
	Budget	Revenue Shortfall	Budget	Revenue Shortfall
General Town-wide				
Assessor Maintenance Aid	\$ 69,100	(\$13,997)	\$62,900	(\$62,900)
NYS Mortgage Tax	\$1,350,000	(\$637,875)	\$1,150,000	(\$672,542)
Fines and Forfeited Bail	\$655,288	(\$100,509)	\$650,000	(\$130,859)
Interest and Earnings	\$100,000	(\$97,325)	\$100,000	(\$87,155)
Total	\$2,174,388	(\$849,706)	\$1,962,900	(\$953,456)
General Town-Outside-Village				
Interest and Earnings	\$ 200,000	(\$186,561)	\$200,000	(\$187,861)
Rental of Real Property	\$360,000	(\$9,342)	\$360,000	(\$72,826)
Commercial Building Permit	\$350,000	(\$177,204)	\$265,000	(\$25,669)
Planning Board Fees	\$200,000	(\$157,200)	\$115,000	(\$50,886)
Total	\$1,110,000	(\$530,307)	\$940,000	(\$337,242)
Highway Town-Outside-Village				
Consolidated Local Street and Highway Improvement Program	\$355,535	(\$248,469)	\$249,484	(\$161,364)
Interest and Earnings	\$75,000	(\$69,246)	\$71,000	(\$66,835)
Total	\$430,535	(\$317,715)	\$320,484	(\$228,199)
Grand Total	\$3,714,923	(\$1,697,728)	\$ 3,223,384	(\$1,518,897)

In addition, although previous year budgeted revenues (2009 and 2010) were not met, the Town continued its overestimation of revenues for the 2011 budget. For example, for fines and forfeited bail the Town budgeted \$680,000 even though it budgeted similar amounts and had revenue shortfalls in both 2009 and 2010. Without realistic estimates, the Town will experience further revenue shortfalls and operating deficits.

Declining Fund Balance

Budgets are meant to balance revenues and expenditures so that local governments can provide needed services with the resources available. An operating deficit can be planned for and financed by appropriating fund balance. An unplanned operating deficit results from over expended appropriations, not receiving budgeted revenues, or a combination of the two. Persistent and recurring unplanned operating deficits are usually indicative of structurally imbalanced budgets and financial stress.

The Town incurred unplanned operating deficits in the general town-wide fund in 2008, 2009 and 2010, the general town-outside-village fund in 2008 and 2009, and the highway town-outside-village fund in 2009 and 2010. The deficits occurred because of unrealistic revenue estimates and the failure of Town officials to monitor and adjust budgeted revenues when it became clear that the anticipated results would not be achieved. As a result, the total unexpended surplus funds² in the general town-wide, general town-outside-village and the highway town-outside-village fund declined from \$77,501 in 2008 to (\$1,533,316) in 2010.

Fund	2008	2009	2010
General Town-Wide	(\$221,587)	(\$778,287)	(\$1,448,462)
General Town-Outside-Village	(\$492,593)	(\$1,065,098)	(\$468,698)
Highway Town-Outside-Village	\$791,681	\$980,294	\$383,844
Total	\$77,501	(\$863,091)	(\$1,533,316)
^a Unrestricted, unappropriated			

² The Governmental Accounting Standards Board (GASB) issued Statement 54, which replaces the fund balance classifications of reserved and unreserved with new classifications: nonspendable, restricted, and unrestricted (comprising committed, assigned, and unassigned funds). The requirements of Statement 54 are effective for fiscal years ending June 30, 2011 and beyond. To ease comparability between fiscal years ending before and after the implementation of Statement 54, we will use the term ‘unexpended surplus funds’ to refer to that portion of fund balance that was classified as unreserved, unappropriated (prior to Statement 54), and is now classified as unrestricted, less any amounts appropriated for the ensuing year’s budget (after Statement 54).

This decline was caused, in part, by the failure to adopt a policy and procedures to govern the level of unexpended surplus funds to be retained to provide a financial cushion in the event of an emergency.

The Town has addressed its need for cash in the short-term by using interfund loans, mostly from the water fund, to pay for recurring expenditures. For example, the water fund has a due-from beginning balance of \$3,519,491 in 2011 and the general town-wide and town-outside-village funds have payable balances of \$1,197,604 and \$2,164,408, respectively. Of the total \$4,435,968 of interfund transfers made as of December 31, 2010, 79 percent (\$3,519,491) were from the water fund as depicted in the following table:

Fund	Interfund Receivable	Interfund Payable	Net Amount
General Town-wide	\$0	\$1,197,604	(\$1,197,604)
General Town-Outside-Village	\$27,164	\$2,164,408	(\$2,137,244)
Highway Town-Outside-Village	\$453,718	\$0	\$ 453,718
Water	\$3,519,491	\$0	\$3,519,491
Sewer	\$121,458	\$876,809	(\$755,351)
Lighting	\$0	\$159,384	(\$159,384)
Capital Projects	\$0	\$2,085	(\$2,085)
Special Grant	\$232,466	\$2,845	\$229,621
Agency	\$0	\$27,164	(\$27,164)
Miscellaneous	\$79,586	\$5,669	\$73,917
Debt Service	\$2,085	\$0	\$2,085
Totals	\$4,435,968	\$4,435,968	\$0

The interfund loans balances have been accumulating for several years. They have not been repaid at the end of each fiscal year, with interest, to prevent inequities arising from different tax bases, as required by law.³

In addition, the Comptroller appropriated \$400,000 in both 2010 and 2011 from the water fund to the general town-wide fund for services that he and the Town Supervisor purportedly rendered to the water

³ General Municipal Law (GML) allows municipalities to temporarily advance monies from one fund to another with certain restrictions. Towns generally are not authorized to make budgetary transfers between funds that have different tax bases. When Town officials advance moneys between funds that have different tax bases, they must repay the advances, with comparable amounts of interest, by the end of the fiscal year in which the advances are made.

district. We were not provided with documentation to support these allocations.

Furthermore, the Comptroller stated that moneys from the water fund are used for other Town operations because the Town attorney stated that was legal. However, the Town's water fund is funded by a special tax assessment that all residents pay and by rents that are charged to residents who are hooked up to the water lines. Town officials have not complied with the Law because special tax assessment revenues have been used for non-water fund purposes without repayment, with interest, as required.⁴

Furthermore, moneys collected are comingled into one account, and the Comptroller stated that he does not track the two sources of water revenue separately. Therefore, he does not know if and when he uses moneys derived from special tax assessments. Furthermore, he stated that the water fund has not been repaid because there is no money in the general town-wide fund. Therefore, the water fund may never be repaid.

Not only is it illegal to use the water fund revenues from the special assessments in this way, but it is also unfair to the taxpayers who pay the assessments because they are not getting the benefits that they are paying for. Unless these problems are addressed, there is a risk that the Town may need to borrow funds externally to finance the deficit and the continuity of needed services for Town residents cannot be ensured.

Recommendations

1. The Board should develop reasonable revenue estimates, and monitor and adjust budgeted revenues if it becomes clear that the anticipated results will not be achieved.
2. The Board should adopt a policy and Town officials should establish procedures to govern the unexpended surplus funds that the Town should maintain. The Board should also develop a plan to address the negative fund balances from prior fiscal years.

⁴ The special assessment generates revenue to cover outstanding debts and interest payment incurred for the maintenance and improvement of the water district. The proceeds from rents are supposed to be used for the water district's administrative and operating expenses. General Municipal Law (GML) allows a public utility, such as the Town's water service, to earn profit. Profits resulting from the operation of a public utility service may be used to pay expenses or obligations incurred for municipal purposes or refunds to consumers. However, the Law stipulates that only the profits from the water fund can be used, and special tax assessments cannot be considered to be profits. Therefore, the portion of water fund moneys derived from the special tax assessment should not have been used to finance non-water fund operations.

3. Town officials should repay interfund advances between tax bases, with comparable amounts of interest, by the end of the fiscal year in which the advances are made.
4. The Comptroller should maintain documentation to support the appropriation of \$400,000 annually from the water fund to the general fund for services purportedly rendered by the Comptroller and Supervisor.
5. The Comptroller should segregate revenues collected for water fund special assessments and water rents.
6. The Board should comply with the Law and not use water fund revenues from special assessments to finance Town operations.

Financial Reporting

A system of internal controls should ensure that timely and accurate financial reports are readily available to management, taxpayers and any other interested parties. The Governmental Accounting Standards Board (GASB) requires Town officials to report the financial activities for each major fund on separate financial statements, versions of which must be filed with the Office of the State Comptroller (OSC) within 60 days after the close of the fiscal year. Any adjustments to the financial statements based on an independent audit of those statements must be conveyed to the Town officials and the Office of the State Comptroller (OSC) in a timely manner to ensure that the financial statements contain reliable information on which to base decisions.

The Town's certified public accountant (CPA) did not report financial activities for each major fund separately as required by GASB. In addition, although the financial statements were audited by the CPA, the audit was not performed in a timely manner. As a result, the draft report for the 2010 fiscal year, which included adjustments to fund balance in excess of \$750,000, was not submitted to Town officials until September 30, 2011. Furthermore, the Comptroller did not submit a copy of the audited financial statements to OSC. As a result, users of the Town's financial statements could not properly assess the Town's financial activities or financial condition.

Fund Statements

GASB 34 stipulates that financial reporting should assist in fulfilling government's duty to be publicly accountable, assist users in evaluating the operating results of the governmental entity for the year and assist users in assessing the level of services that can be provided by the governmental entity and its ability to meet its obligations as they become due. GASB requires that financial reports provide detailed information about a government via separate fund financial statements that include a balance sheet and a statement of revenues, expenditures, and changes in all fund balance. Each of the fund statements should report separate columns for the general fund and for other major governmental funds. An annual audit provides an independent verification that records have been maintained in accordance with established procedures, and that transactions have been properly recorded. This provides assurance that the financial statements can be prepared in accordance with GASB requirements.

The Town contracts with a certified public accounting firm (CPA) every year to audit the Town's financial statements. However, the audited financial statements issued by the CPA do not comply with

GASB standards because the major governmental funds are not reported separately. For example, the general fund (A) is combined with the general town-outside-village fund (B), which is a special revenue fund. As a result, users of the Town's financial statements do not have a clear picture of the Town's financial activities and cannot properly assess the Town's financial condition.

Filing Adjustments

It is important for the Comptroller to prepare an accurate and complete annual financial report and make it available to the Board, other managers in the Town and the public as soon as possible after the end of the fiscal year. GML requires the Comptroller to prepare and file an annual financial report - also known as an annual update document (AUD) - with OSC within 60 days after the close of the fiscal year. When an external audit is performed by a CPA firm, a copy of all audit reports, including management letters, prepared in conjunction with the audit must be filed with OSC within 10 days of receipt.

The Town's CPA firm performed an annual audit of the Town's records for 2010, but did not perform the audit in a timely manner. As a result, the draft report for the fiscal year ended December 31, 2010 was not completed and submitted to the Town until September 30, 2011, after the Comptroller had already filed the 2010 AUD with OSC.

Furthermore, the year-end adjustments made by the CPA were significant, as they had been in previous years; the adjustments in 2008, 2009 and 2010 were \$2,721,682, \$1,309,120 and \$755,785. Finally, the Comptroller did not submit a copy of the audited financial statement or report adjustments made subsequent to the AUD filing to OSC; therefore, the Town's financial position in the AUD is different from the audited financial statements, as follows:

Fund	Description	Audited Financial Statement	AUD	Adjustment
A	General Fund	\$(1,068,971)	(\$1,286,150)	\$ 217,179
B	Town-Outside-Village	\$140,742	(\$398,674)	\$539,416
DB	Highway Town-Outside-Village	\$589,235	\$ 503,489	\$85,746
FX	Water fund	\$5,049,738	\$5,183,405	(\$133,667)
SL	Lighting	(\$199,202)	(\$199,202)	\$0
SS	Sewer Fund	\$1,051,933	\$1,004,732	\$ 47,201
Totals		\$5,563,475	\$4,807,600	\$755,875

As a result, the AUD filed with OSC is not accurate and therefore misleading to users of the report.

Recommendations

7. The Board should ensure that the CPA provides financial statements that include separate reporting for major governmental funds in accordance with GASB requirements.
8. The Board should ensure that the CPA firm performs an annual audit of the Town's records and presents adjustments to the financial statements based on that audit to Town officials in a timely manner.
9. The Comptroller should file audited financial statements and adjustments with OSC with 10 days of receipt.

Purchasing

GML requires the Board to adopt a policy for the procurement of goods and services when competitive bidding is not required, such as for the procurement of professional services. Such a policy can help ensure that the Town obtains goods and services of the required quantity and quality, at competitive prices, and protect the Town against favoritism, extravagance, fraud, and corruption. It is also important that the Board enter into written contracts with professional services providers to provide both parties with a clearly defined and mutually agreed-upon basis for determining entitlement to compensation. Workers' Compensation Law (WCL) requires Town officials to ensure that businesses applying for contracts carry workers' compensation and disability benefits insurance or provide certificates of exemption in instance where they may be exempt from this requirement.

Although the Board's adopted procurement policy requires Town officials to obtain requests for proposals (RFPs) for professional services in excess of \$15,001, Town officials did not comply with the policy. Consequently, Town officials did not obtain proposals for professional services totaling \$1,924,386. In addition, the Board did not enter into written contracts with six of the providers who received payments totaling \$549,015. As a result, there is no assurance that services were procured in the most efficient manner and no means to determine the basis for compensation. Further, Town officials did not obtain proof of disability or workers' compensation insurance and/or waivers for all 15 vendors we tested. Verification of insurance is necessary to ensure benefits are available if workers are injured and to prevent honest businesses from being undercut by unscrupulous employers who do not carry insurance.

Professional Services

Professional services generally include services rendered by attorneys, engineers, and certain other services that require specialized or technical skills, expertise or knowledge, the exercise of professional judgment, or a high degree of creativity. The procurement of professional services is not subject to competitive bidding. However, GML requires that the Town's procurement policy provides that alternative proposals be sought for these services with quotations, RFPs or any other method of competition. In addition, written contracts between the Board and professional service providers provide both parties with a clearly defined and mutually agreed-upon basis for entitlement to compensation. Written contracts should include the timeframe and description of services to be provided.

The Town's procurement policy requires that at least three written quotes be obtained for any professional services contracts between \$5,001 and \$15,000, and that proposals be obtained for contracts in excess of \$15,001. However, the policy was not implemented. The Town used 93 professional service vendors during our audit period. Of the 93 vendors, 28 received payments in excess of the \$15,001 threshold totaling \$3,509,705. We selected 10 of the 28 vendors, in a non-biased manner, who received payments totaling \$1,924,386. The Town did not obtain proposals from any of the 10 vendors, as follows:

- Three engineering firms that provided services totaling \$1,198,612
- Four legal service firms that provided services totaling \$448,066
- One CPA firm that provided auditing services totaling \$68,144
- One information technology provider who provided services totaling \$131,680
- One contractor that provided electrical repair services for street lights totaling \$77,884.

In addition, the Board did not enter into written contracts with six of the 10 vendors who received payments totaling \$549,015. The Comptroller stated that he is not required to use an RFP process to obtain professional services. Using an RFP process, as required in the Board's adopted policy, helps ensure that the Town receives the desired services under the most favorable terms. The appropriate use of competition also provides taxpayers with the greatest assurance that services are procured in the most efficient and economical manner and without favoritism. In addition, without written contracts, neither party has a clear means of determining the basis for compensation, and the Town may not be protected in the event that contractors default on their obligations or make excessive claims.

Workers' Compensation and Disability Insurance

Workers' Compensation Law (WCL) requires the heads of all municipal and State entities to ensure that businesses applying for contracts carry workers' compensation and disability benefits insurance. This requirement applies to both original contracts and renewals. Some businesses with no employees, out-of-State entities and religious organizations are exempt from the requirement to carry insurance but have to provide certificates of exemption.

The Town contracted with 169 businesses (vendors) during our audit period. We selected a non-biased sample of 15 vendors who were paid a total of \$1,422,980 for review. We found that the Town did not obtain the required proof of disability insurance or waiver of insurance from any of the 15 vendors, and did not obtain the required proof of workers' compensation insurance or waiver of insurance from 14 of the 15 vendors who received payments totaling \$1,374,699.

The Town's legal department is responsible for obtaining and retaining the insurance documents. However, the highway department obtains the insurance documents from vendors. Town employees, including those in the legal department, did not know they were required to obtain evidence of insurance or waivers of insurance from the contractors. We provided them with the "Prove It to Move It Program" publication issued by the New York State Workers' Compensation Board that details the requirements to be followed. Town officials told us that they would begin obtaining the required documents from all businesses with whom the Town contracts.

Verification of insurance is necessary to ensure benefits are available if workers are injured. It also levels the playing field for honest businesses because they are less likely to be undercut by unscrupulous employers who gain a cost advantage by not carrying insurance.

Recommendations

10. Town officials should comply with the Town's procurement policy by obtaining proposals for professional service contract amounts in excess of \$15,000.
11. The Board should enter into written contracts with all current and future professional services vendors that clearly stipulate the timeframe, description of the services to be provided and the compensation for those services.
12. Town officials should provide staff members with procedures to be followed to secure proof of insurance or waivers of insurance documents from all businesses with whom the Town contracts.

APPENDIX A

RESPONSE FROM LOCAL OFFICIALS

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

The Town's response letter refers to attachments that support the response letter. Because the Town's response letter provides sufficient details of its actions, we did not include the attachments in Appendix A.

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Re: Response: preliminary draft findings of report 2012 M-38- Town of Poughkeepsie

Dear Mr. Ellis:

Thank you for the opportunity to respond to the preliminary findings of the Report of Examination for our town for the period of January 1, 2010- July 31 2011.

We feel we had a mutually beneficial exit conference on Thursday June 7, 2012 where Supervisor Tancredi, [REDACTED] and myself cleared up a few of the discrepancies of the preliminary report.

1) We have worked very hard during these tough economic times to ensure our town is financially sound (we are currently rated by Moodys as A-1). We closed the 2011 year with over \$14,000,000 in the bank. We consistently pay all vendors in a timely manner. We do seek tax increases from our residents and business during these tough economic times:

2010 General tax Levy increase: 4.93%
2011 General tax Levy increase: 5.11%
2012 General tax Levy increase: 4.69%

We would appreciate you changing the poor financial comment rating: *The Town's financial condition reflects the difficult economic environment of the past five years.*

See
Note 1
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2) We take exception to the comment that our Board failed to develop reasonable budget estimates. During the above- mentioned exit interview it was determined that [REDACTED] Budgeting charts were inaccurate (this may have been a combination of a miscommunication and the timing of the reports). For example NYS Mortgage tax as reported/ achieved on our 2012 audited financial statements was \$680,032; [REDACTED] reported \$477,458. Our Budget for NYS Mortgage tax for same 2010 year was \$1,150,000 which was less than the average of the preceding three year average where we achieved the following (average = \$1,425,000):

See
Note 2
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Actual Mortgage tax receipts received

2007: \$2,185,724
2008: \$1,104,315
2009: \$986,327

Another shortfall of the report as discussed in the exit interview was the inaccuracy of Table 1: Major Revenue Shortfalls by Fund. The General Town- Wide Fund was reported at a negative variance of \$913,666. Of this variance \$672,542 reflects the NYS Mortgage tax shortfall where the actual dollar amount attained was \$680,032 as opposed to the \$477,457, thus the negative variance was incorrectly overstated by \$202,575. [REDACTED] failed to recognize the use of fund balance surplus as revenue in the Water fund. [REDACTED] reported shortfall in the Water fund in 2010 is inaccurate as we had budgeted the use of fund balance as a revenue in the amount of \$600,000, thus [REDACTED] reported variance in 2010 is incorrectly overstated by the same \$600,000. The same issue applies to both 2009 and 2010 for the Highway Town Outside Village, [REDACTED] completely ignores the use of \$300,000 and \$191,000 in fund balance as revenues for years 2009 and 2010 respectively, thus again incorrectly overstating [REDACTED] negative variances by same.

See
Note 3
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See
Note 4
Page 25

There were other examples as well where table 2 (page 9) of the audit report, where the table proved inaccurate (for example the [REDACTED] lists the use of Highway fund balance in both 2009 and 2010 as budget shortfalls, this is completely inaccurate. The use of excess fund balance when used appropriately is a good budget strategy as it is benefitting the current set of taxpayers who are entitled to said benefit.

See
Note 4
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In addition [REDACTED] completely ignores the reduction in appropriations that our town instituted when revenues started negatively trending. Case in point, in our Water fund in 2010 appropriations came in at \$4,986,308 on an appropriations budget of \$6,368,535 (a positive variance of \$1,382,227); thus 2010 was a positive year for our Water fund when adding the negative revenue variance of \$276,634 (adjusted for fund balance recognition) and the positive variance of Water fund appropriations of \$1,382,227 **equals a total positive year of \$1,105,593**. The same analysis proves true for the other funds listed in table 1. We believe it is imperative to the report that the entire picture be shown (both the positive and the negative).

See
Note 5
Page 25

	Four Year trend (budget)			
	2007	2008	2009	2010
Mortgage tax:	\$2,500,000	\$2,600,000	\$1,350,000	\$1,150,000
Sales Tax	\$2,200,000	\$2,400,000	\$2,300,000	\$2,105,540

We would appreciate you changing the Boards failure to develop reasonable budget estimates comment to rather: *the Town Board continues to budget to the best of their abilities particularly during these tough economic times.*

#3) The report criticized the use/ transfer of Town-wide Water fund surpluses to the General fund that are offsetting costs absorbed by the General fund. Again, we feel that as long as the Board approves said allocation this is a sound budget strategy. As Commissioner of Finance at the City of Poughkeepsie for eight years this practice (Fund support allocation) was consistently used and complimented as a sound budget strategy. Our General Fund spends much time supporting our strong Water fund. *Please refer to exhibit 1 for supporting documentation.* Our state of the art Water Plant produces water for over 100,000 residents and businesses at a cost of \$1.50 per unit (748 gallons). We also supplied [REDACTED] with documented Town Board minutes whereby in 2006 Town Board Attorney reported “According to Statute, which is GML, we are allowed to take excess water monies and place them in the General Fund. The report was silent in regard to this researched documentation. We also informed [REDACTED] during the exit interview that much of the **Town-Wide Water** surplus (audited balance at 12/31/2010 was \$5,041,352) is a function of the efficiency of our operation and maintenance.

See
Note 6
Page 25

#4) [REDACTED] purported that the major funds of our town are not reported separately. We prepare the basis for the CPA external audit with our Annual Financial Report (AUD) which we transmit to Albany by April 30th of every year. This AUD is broken out separately by major fund. I have requested a letter response from our Outside auditors explaining their position on this matter. *I will attach said response and label it exhibit 2.* [REDACTED] also claims that our CPA external audit is not timely. We are required by law (federal single audit requirement) to have our report filed by September 30, 20xx. **We have always met this deadline.** Based on discussions with [REDACTED] the town will now file an updated AUD if there are significant adjustments subsequent to the filing of the original AUD; all entries were made to the 2011 AUD and we don’t feel the 2011 will have a major change to the filed AUD. I will ensure that copies of the audited financials statements are sent of the Office of the State Comptroller immediately upon receipt (I will make this part of the Corrective action plan). Both our annual CPA external audit and AUD are placed up on town official website immediately upon receipt/ completion.

See
Note 7
Page 26

5) In regard to the Towns declining Fund balance (re: table 3, page 10 of the audit report). I believe there was a timing/ miscommunication issue here as well. The audited figures per our CPA external audit reflect the following amounts for year ended 2010.

<u>Fund</u>	<u>Surplus/ (Deficit) per CPA audit</u>	<u>State draft report</u>
General Town Wide	(\$1,068,971)	(\$1,448,462)
General Town Outside Village	\$140,742	(\$468,698)
Highway Town Outside Village	\$589,235	\$383,844

This positive variance (final CPA external audit reflects a deficit balance combined of \$338,994 as opposed to the draft report of \$1,533,316) has to do with material journal entries that were made in conjunction with the CPA audit team and myself subsequent to the AUD being filed. In the future all journal entries will be recorded prior to the filing of the AUD (this process was initiated and followed in 2011). In addition, results from 2011 and 1st quarter of 2012 are encouraging toward our efforts in reaching the goal of total available surplus in these three funds. The two remaining major funds of the town reflect the following positive fund balance surpluses as of 12/31/2010:

Fund balance surplus

Water Fund:	\$5,049,738
Sewer Fund	\$1,051,933

6) In regard to Table 4: Interfund loans @ 12/31/2010: We are currently working on a plan that will begin to reduce the Interfund loan balances. This plan will be spelled out in the corrective action plan we will be filing with the Office of state Comptroller. The major component of this issue is the Water Fund which is funded through two sources:

1) A special assessment, we continue to reduce as our debt and principal reduce. We had a major Water Plant upgrade at our Water Plant beginning in 2002 that had cost of over \$10,000,000. The special assessment has been reduced from \$2,973,837 in 2007 to \$2,569,635 in 2012. Our goal here is to reduce our special assessment so that it equates dollar for dollar with our debt exposure.

2) Water rents at \$1.50 per unit (748 gallons) this rate which is by far the lowest in our surrounding area has not been increased since 1983. These surplus monies from the operation and maintenance are the monies earmarked for supporting general municipal purposes expenses. The easy answer here would be to simply increase the water rate to an appropriate level (the water fund budget in 1983 excluding debt was \$1,693,518; the 2012 water fund budget without debt equals \$4,657,359; a 275% increase) and reduce the special assessment). Our Town Board is proud of the fact that we are able to provide a fine water source to our residents and businesses at the lowest possible cost. The average homeowner in 2012 paid \$200 per year including the special assessment.

7) In regard to our town not following our own procurement policy for professional contracts we are in agreement. We have spent much time on this issue and we plan on making this part of our Corrective action plan. Our town has always prided itself on the hiring of only the most skilled professionals available even if they don't come at the lowest price. We do however take exception with the comment that "*Town employees including those in the legal department did not know they were required to obtain evidence or waivers of insurance from contractors*". Our efficient legal department does ensure that all appropriate insurances are in effect prior to a contract being authorized for Board approval. Effective immediately we are requiring all perspective vendors to supply us with form C-105.2. The Highway department keeps their own vendors information separate from the Legal department (where no actual bid is required) as they work off of a board approved vendor pricing list that is approved every January by the Town Board.

Supervisor Tancredi requested me to retest the 14 random vendors for workers compensation compliance that [REDACTED] reported were not in compliance. My documented results are as follows (all files were rechecked and vendors were called for additional verification): (please refer all attached-Exhibit 3)

See
Note 9
Page 26

<u>Company</u>	<u>documented compliance attached</u>
Highway Rehab Corp	yes
Adams Fences	yes
Shirk pole	yes
Avello Bros.	yes
Pat Scanlan landscaping	yes
Area land construction	waiver- sole proprietor
Denardo Excavating	waiver- sole proprietor
Double Dee Excavating	yes
Easy Street Cleaning, Inc	yes.
Derosa Tennis Contractors, Inc.	yes
Clove Excavators, Inc.	yes
B&K Excavators	yes
RLJ Electric Corp	yes
Gannon's Plumbing & Heating	yes

We look forward to continued dialog in regard to changes/ corrections to the draft report.

Very truly yours

James M. Wojtowicz, CPA
Town Comptroller

Todd N. Tancredi
Town Supervisor

APPENDIX B

OSC COMMENTS ON THE TOWN'S RESPONSE

Note 1

The decline in the Town's financial condition has been caused by the failure to develop reasonable revenue estimates, and to monitor and adjust budgeted revenues when it became clear that the anticipated results would not be achieved.

Note 2

During the exit conference, we explained our findings in the audit report, elaborated on the deficiencies concerning the Town's accounting practices and encouraged the Supervisor to take immediate action to prevent even further deterioration of the Town's financial condition. Our report correctly states that the mortgage tax for 2010 was estimated to be \$1,150,000. Actual revenues totaled \$477,458 resulting in a revenue shortfall of \$672,542. Town officials refer to 2012 revenues of \$680,032 that were not within the scope of our audit period, and therefore not addressed in our audit report. Although the 2010 revenue estimate for the mortgage tax was similar to the three year average as shown in the Town's response, overestimating of revenues occurred in those years as well. For example, in 2009, the estimate was \$1,350,000 but there was a revenue shortfall of \$637,875.

Note 3

The information in the audit report was obtained from the Town's financial system, which is maintained by the Town Comptroller. The Town's external auditing firm had to record significant adjustments to the Town's financial statements because the Town did not record all material accruals for accounts receivable, accounts payable, retirement and encumbrances. The amount of the mortgage tax reported to OSC and shown in the Town's financial report was \$477,457 in 2010. As such, the revenue shortfalls in our report are accurate.

Note 4

We have amended our report to remove the use of fund balance as a revenue as discussed with Town officials during the exit conference.

Note 5

The Town appropriated fund balance in the water and highway funds but never used the amounts appropriated. As such, we believe the budgeted use of fund balance was misleading to Town taxpayers and that the Town generated more revenues than necessary to fund operations.

Note 6

While it is permissible to charge the water fund for services that are accounted for in the general town-wide fund, supporting documentation for the amounts charged to the water fund was not provided

during fieldwork. In addition, while it is permissible to make interfund loans from the water fund to the general town-wide fund, the Comptroller did not segregate special assessment revenues and water rents. It is both illegal and unfair to the taxpayers who pay assessments to use special tax assessment revenues for non-water fund purposes without repayment, with interest.

Note 7

Our audit report does not state that the annual financial report - also known as an annual update document (AUD) - is not broken out separately by major fund. The Town's response confuses the AUD with the audited financial statements issued by the CPA. The audited financial statements do not comply with GASB 34 because the major governmental funds are not reported separately. We discussed this deficiency with both the Town Comptroller and the external auditor and mentioned as an example that the general fund (A) is combined with the general town-outside-village fund (B) in the audited financial statements.

In addition, our report does not state that the CPA did not file the audited financial statement in a timely manner. It states that the Town Comptroller did not submit a copy of the audited financial statement or report adjustments made subsequent to the AUD filing to OSC. During our fieldwork, the Town's CPA sent the draft report to the Comptroller in an email dated September 30, 2011. Because it was not finalized, it was late even though the final report posted on the Town's website was dated September 29, 2011.

Note 8

The amounts in the Town's response under "State draft report" refer to Table 3, which reports unrestricted, unappropriated fund balance for each of the funds listed. The amounts under "per CPA audit" refer to the total fund balance for all funds. These are two different lines in the financial statements. We have amended Table 3 to clarify that unrestricted, unappropriated balances are reported. In addition, the CPA figures listed in the Town's response are discussed in our report under the section "Filing Adjustments".

Note 9

During our fieldwork, Town employees told us that they did not know that they were required to obtain evidence of insurance from contractors. In addition, none of the departments, including the legal department, had any evidence of insurance (or waiver eligibility) on file for the contractors we reviewed.

APPENDIX C

AUDIT METHODOLOGY AND STANDARDS

Our overall goal was to examine internal controls over the Town's financial operations. To accomplish this, we performed an initial assessment of the internal controls so that we could design our audit to focus on those areas most at risk. During the initial assessment, we interviewed Town officials, performed limited tests of transactions, and reviewed pertinent documents such as Town policies and procedures, Board minutes, and financial records and reports.

After reviewing the information gathered during our initial assessment, we determined where weaknesses existed, and evaluated those weaknesses for the risk of potential fraud, theft and/or professional misconduct. We then decided upon the reported objective and scope by selecting for audit those areas most at risk. We selected financial condition, financial reporting and purchasing for further testing. To achieve our audit objective and obtain valid audit evidence, we performed the following procedures:

- We interviewed Town officials responsible for financial oversight and for maintaining accounting records to gain an understanding of the Town's policies and procedures.
- We obtained revenue and expenditure comparison reports for the fiscal years ending 2008 through 2010 and analyzed the budgets when compared to actual results, and 2011 budget estimates and trend for those years.
- We analyzed unexpended surplus funds and fund balances for 2008 through 2010.
- We examined interfund advances.
- We reviewed the Town's financial statements to assess compliance with Governmental Accounting Standards Board (GASB) requirements. We also inquired as to financial statement adjustments and compliance with filing requirements.
- We reviewed the Board's procurement policy and documentation related requests for proposals to determine if the Town used competition when obtaining professional services.
- We reviewed documentation related to professional service providers to determine if the Board entered into written contracts with them.
- We reviewed businesses the Town contracted with to determine if the Town obtained the required proof of insurance or waiver of insurance documents for workers' compensation or disability insurance.

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

APPENDIX D

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