



Town of Erin

Inappropriate Highway Purchases

Report of Examination

Period Covered:

January 1, 2007 — September 10, 2013

2014M-16



Thomas P. DiNapoli

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State of New York Office of the State Comptroller

Division of Local Government and School Accountability

August 2014

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 Erin, entitled *Inappropriate Highway Purchases*. 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*

Introduction

Background

The Town of Erin (Town) is located in Chemung County and has approximately 2,000 residents. The Town provides a variety of services to its residents, including street maintenance and improvements, snow removal, fire protection and general government support. The Town derives the majority of the moneys to finance these services from real property taxes and State aid. The Town's 2013 budgeted appropriations for the general and highway funds were \$316,984 and \$621,235.

The Town is governed by an elected Town Board (Board), which consists of the Town Supervisor (Supervisor) and four council members. The Board is responsible for the general management and control of the Town's financial affairs and the Supervisor is the chief fiscal officer of the Town. Although the Board is primarily responsible for the effectiveness and proper functioning of the Town's internal controls, the Supervisor and department heads also share the responsibility for ensuring that internal controls are adequate and working properly.

The Town has an appointed Highway Superintendent (Superintendent), who is responsible for overseeing all Highway Department (Department) operations, including maintaining Town roads, bridges and culverts and providing snow and brush removal services. The Superintendent is responsible for approving Department employees' timesheets, initiating and approving all Department purchases, preparing claim vouchers for Board audit and approval and monitoring the Department's budget. The Superintendent also is responsible for recording and monitoring the use of consumable inventories, such as gasoline and cleaning supplies that are purchased for use by the Department. Finally, the Superintendent is responsible for keeping maintenance records for all Department equipment.

Objective

The objective of our audit was to review the Department's purchasing practices. Our audit addressed the following related question:

- Were Department purchases appropriate?

Scope and Methodology

We examined the Town's internal controls over Department purchasing for the period January 1, 2007 to September 10, 2013.

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 B, have been considered in preparing this report. Town officials agreed with our recommendations and indicated they planned to initiate corrective action.

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.

Highway Purchases

The Board and Superintendent, as Town officials, have an obligation to act in a fiscally responsible manner, with honesty and integrity, in the best interest of the taxpayers. This responsibility includes conscientious Board oversight to ensure that Department purchases are appropriate Town expenditures, are used for legitimate Town purposes and that all purchases comply with legal and policy requirements. The Superintendent is responsible for initiating and approving all Department purchases, preparing claim vouchers for Board audit and approval and monitoring the Department's budget. The Superintendent also is responsible for recording and monitoring the use of consumable inventories, such as fuel, auto parts and maintenance supplies that are purchased for use by the Department, and for keeping all maintenance records for all Department equipment.

The Superintendent made inappropriate personal purchases totaling \$68,501, as shown in Appendix A, without detection by the controls in place at the Town. He was able to accomplish this by attaching the invoices for these personal purchases to Department claim vouchers that often listed Department equipment as the recipient of the parts. However, these personal purchases included parts and oil for repairs to his personal farm equipment. This was further covered up by the Superintendent because he failed to maintain complete and up-to-date maintenance records for Department equipment and inventory records for consumables such as gasoline, oil and supplies. Additionally, the Town has no assurance that consumable inventory purchases totaling \$25,044 were used for Town purposes. These acts occurred because the Board did not establish an adequate system of internal controls over Department purchases, including adopting a procurement policy or providing an adequate review of Department claims prior to approving them for payment.

On September 10, 2013, the Superintendent gave the Office of the Attorney General (OAG) a signed deposition that he used Town funds for his personal use for items such as oil, gasoline, tools and parts for his personal equipment. On October 1, 2013, the Superintendent was arrested for grand larceny in the second degree and four counts of offering a false statement for filing.

Purchases Diverted for Personal Use

It is important to maintain accurate and complete records of parts used and maintenance completed on Town vehicles to ensure that purchased parts and materials were actually used for valid Town purposes.

According to Department employees, they performed only minor repairs and maintenance on Department equipment,¹ such as hydraulic hose and light replacements and oil changes. All large equipment repairs, such as engine rebuilds, clutch and transmission repairs and most brake, wheel seal and tire replacements were sent out to local repair shops. Because of the weak control environment, we analyzed all the Department's purchases for the period January 1, 2007 through May 10, 2013 totaling \$1,810,155.² We reviewed all Department claim vouchers with attached vendor invoices/statements and equipment maintenance records. We also interviewed all Department employees and various vendors to determine if purchases were for legitimate Department purposes (see Appendix C for the specific methodologies). We identified purchases totaling \$68,501 made by the Superintendent during the audit period that did not appear to have a legitimate Town purpose.³ We confirmed with Department employees and vendors that most of these purchases were for parts to repair the Superintendent's personal equipment and tractors.

On September 10, 2013, the Superintendent stated that he used Town funds for personal purchases to perform repairs and maintenance to his personal equipment.⁴ He stated that he attached the invoices for these inappropriate personal purchases to Department vouchers and often listed Department equipment as the recipient of the purchase. He also stated that he did this "so if I was ever asked, I could show it was for town equipment and not for my personal equipment." He did not detail the specific parts or the repairs he diverted for his personal use, but stated that he had the Town pay for items such as saw blades, drill bits and other tools, hydraulic hoses, oil and fuel filters, degreasers, soaps and oil in five-gallon containers. We noted the following part purchases that had no legitimate Town purpose and appeared to be for the Superintendent's personal use:

Ford Tractor – The Department has a 1970 Ford 5000 tractor that is denoted by the Superintendent as equipment number 13. During our audit period, the Superintendent charged almost \$17,000 of repairs and parts to this piece of equipment. However, we determined and confirmed with Department employees that most of the charges, \$12,150, were not for legitimate Town purposes. An image of the

¹ Department equipment included one pickup truck, six 10-wheelers, a grader, a backhoe, two loaders, a brush tractor, a roller, a dozer, a tractor, a sweeper, a Drott, a broom, a rake, a trailer, a wood chipper and a water truck.

² These vouchers were controlled by the Superintendent. Some vouchers, such as insurance payments for the Department, were controlled by the Supervisor and are excluded from this total.

³ See Appendix A for details of these purchases.

⁴ The Superintendent was a part-time farmer and performed equipment repairs for others.

tractor and a summary of some of the inappropriate charges are as follows:



- An engine overhaul kit, a used engine block and a rebuilt head were purchased for \$3,552, yet the tractor's engine has never been overhauled or replaced.
- A water pump and turbo were purchased for \$1,028, but the tractor does not have a turbo and the water pump was not replaced. Furthermore, the vendor stated that these parts do not fit Town equipment, but do fit a tractor that Department employees stated the Superintendent owns.⁵ Another \$2,873 in parts, such as a PTO fork, bearings, rings, pistons, tie rods and gears were also purchased from the vendor for this same model tractor that the Superintendent owned.
- Two radiators totaling \$995 were charged to this tractor, one purchased in September 2009 and one in February 2012. According to a Department employee, no radiators were replaced on this tractor.

Case Backhoe – The Department also has a 1977 Case 480 backhoe, denoted as equipment number seven. During our audit period, the Superintendent charged \$8,374 in repairs to this backhoe. However, almost all of these purchases, \$7,623, did not appear to be for legitimate Town purposes. The following are images of this backhoe and some of the purchases charged to this equipment:

⁵ The Superintendent owns a Case/David Brown 1494.



- Fuel pump repair at a cost of \$2,175, yet the model number listed on the invoice was for a model (1085B) that the Town did not own. No such repair was made to the model the Town did own per Department employees.
- Two tires and tubes were purchased for \$847 that Department employees stated were taken by the Superintendent for one of his tractors.
- A distributor and remanufactured hydraulic pump purchased for \$443 and \$380, respectively, yet the backhoe doesn't have a distributor and no pump was replaced per Department employees. In addition, the vendor confirmed that these parts would not fit the backhoe that the Town owns.
- Two purchases of backhoe teeth totaling \$142, but according to Department employees, the teeth were not replaced. One set of teeth was purchased in January 2013, yet the photo shown previously, which was taken in May 2013, shows rusted, worn-out teeth.
- A custom seat purchased for \$98, but the seat has not been replaced per Department employees (see photo of backhoe seat shown previously). In addition, the vendor stated that this seat would not fit a tractor that the Town owns.
- Switches were purchased for \$241, but Department employees stated no switches were changed and the vendor confirmed that the parts did not fit the backhoe but did fit a tractor that the Superintendent owned.
- A gasket kit was purchased for \$136, yet the Department employees stated no repair was made and the model number provided by the vendor is for a tractor that the Superintendent has stated that he owns.

We also noted the following miscellaneous parts that did not appear to have a legitimate Town purpose:

- A set of bulldozer tracks totaling \$2,649 was purchased but charged to two 10-wheel plow trucks. Department employees stated that the tracks were not installed on the Town bulldozer. The Superintendent stated he was unsure why he purchased them.
- Engine parts were purchased and a crank shaft straightened totaling \$2,121 that was charged to truck number 4. Department employees stated no engine repairs were ever made to this vehicle and this type of work was not performed in the Department's garage.
- Four tires and rims were purchased totaling \$1,416 and charged to a dump truck. These tires were not the correct size for the dump truck and were placed on the Superintendent's skidsteer, according to Department employees. The vendor confirmed that these tires would not fit the dump truck.
- A fuel injector pump was purchased totaling \$898 and charged to the Town excavator, but according to Department employees, the pump was placed on the Superintendent's tractor.
- Two carburetors were purchased totaling \$583 and charged to the pickup truck that is fuel injected and would not use these parts.
- Two forklift tires were purchased totaling \$267; however, the Department does not own a forklift.
- Four jack stands were purchased totaling \$172. The Superintendent told Department employees that he took these home to make an engine stand to separate his tractors.

The Superintendent stated he made purchases for his Michigan Loader.⁶ Through interviews with Department employees and vendors, we identified purchases of approximately \$2,000 that were for this loader but charged to Town equipment. In addition, the Superintendent stated that he had the Town pay for items such as saw blades, drill bits and other tools, hydraulic hoses, oil and fuel filters, degreasers, soaps and oil in five-gallon containers that he used for his personal business. The following illustrate these types of purchases:

⁶ The Town does not own a loader of this type.

- Saw blades (over 1,000 reciprocating saw blades were purchased at a cost of \$3,121; however, the Department does not own a reciprocating saw).
- Oil in five-gallon pails (\$3,123 of the oil was purchased; the Department used bulk oil for Town equipment).
- Drill bits (a total of 39 drill bit sets totaling \$2,241 were purchased from six vendors).

Consumable Purchases

The Superintendent also purchased various consumable products, such as diesel fuel, gasoline, degreaser, cleaners, stone and culvert pipes, for use by the Department. Consumable products are highly susceptible to waste, misuse and theft. However, the maintenance of perpetual inventory records for consumable products, when combined with physical inventories, can help to mitigate the risk by accounting for the amount purchased, used and the balance remaining. The ending balances in the perpetual records should be periodically reconciled to physical inventories, and material discrepancies investigated and resolved. It is also important for the Board to periodically review these inventory records to ensure that consumable products are used only for Department purposes and that all are properly accounted for.

The Superintendent did not maintain perpetual inventory records or complete physical inventories of the Department's consumable products. In addition, the Board did not request to review these records or question the excessive purchase of some consumable products.

The Superintendent's statement to the OAG included admissions about his personal use of some of these consumable products, such as degreaser, cleaners, hydraulic hoses, oil and fuel filters. Because of a lack of inventory records, we were unable to determine the actual value of the consumable products taken by the Superintendent for his personal use. The following examples detail some of the consumable products purchased by the Superintendent that were not properly inventoried and accounted for:

- Almost 200 hydraulic hoses were purchased from two vendors totaling \$7,664.
- Degreaser was purchased from four vendors in five-gallon pails, cases of 12 spray cans and gallon containers at a total cost of \$3,326.
- Cleaner was purchased from six vendors in various sizes and containers at a cost of \$3,063.

- There were 140 cans of rust converter purchased totaling \$1,290.
- There were 41 filters purchased totaling \$994 that could not be associated with any of the Department's equipment.

The Superintendent also stated that he had some of the Department's tools at his home, such as drill bits, wrenches and saw blades.⁷ Because Department tools were not inventoried or marked with asset tags, these items are also highly susceptible to theft. Furthermore, Department employees stated that they saw the following items arrive at the Department's shop but then disappeared - four wrench sets totaling \$450 and one free wrench set received with a value of \$40. There was also a duplicate payment of \$200 for a wrench that Department employees stated went missing.

Fuel and gasoline are consumable products that were not inventoried. Although the Superintendent required Department employees to manually log the fuel that they dispensed from the Department's bulk fuel and gas tanks on a form that hung on a clipboard in his office, we found these records to be inadequate and incomplete. We were unable to complete an analysis of diesel fuel and gasoline usage because of the poor records and the fact that the pump on the fuel tank was replaced multiple times during our audit period. However, we did identify large purchases of gasoline that do not appear to be appropriate considering that the Town only uses gasoline for one water truck that is rarely used, one pickup truck, and lawn mowing and small equipment, such as chain saws.

The pickup truck was purchased new in 2008 for the Superintendent's use and had a 100-gallon fuel tank in the back that was filled and dispensed without any record. We found that from the time the pickup truck was purchased through May 2013, the Town purchased 11,382 gallons of gasoline at a cost of \$31,600. As of June 2013, the pickup truck had 71,779 miles on it. Using the standard miles per gallon (MPG) rating for this pickup truck of 8.7 MPG, the pickup truck would have used 8,250 gallons of gasoline. Therefore, 3,132 gallons of gasoline at a price of \$8,707 would have been used for lawn mowing and small equipment, which seems unlikely.

Failure to maintain adequate inventory records of consumable products and tools allowed these items to be taken and used for non-Town purposes without detection.

⁷ All of the saw blade purchases were considered personal purchases because the Department does not own a saw that uses these blades.

Department Controls

The Superintendent and Board are responsible for establishing a system of internal controls over Department operations. For example, the Board must adopt a procurement policy requiring that competitive bids and quotations be obtained before purchasing goods and services. Further, the Board must conduct a thorough review of all claims prior to approving them for payment. Finally, the Superintendent should maintain accurate records of consumable inventories, such as auto parts and fuel, and maintenance records for equipment, which should be periodically reviewed by the Board. These controls will help ensure that taxpayer dollars are expended in the most effective manner and only for legitimate Town purposes.

The Board did not establish an adequate system of internal controls over Department operations. The Board did not adopt a procurement policy and did not provide an adequate review of claims prior to approving them for payment. The Board did not ensure that claims contained documentation that clearly described the item purchased or demonstrated that the item purchased served a legitimate Town purchase. Furthermore, Department inventory records for consumables such as fuel and auto parts were not adequate. Perpetual inventory records were not maintained nor were physical inventories taken. Maintenance records were not complete and, by the Superintendent's admission, had fraudulent entries. The Board did not ensure that maintenance records were up to date and accurate, that entries were for appropriate parts and that amount of repairs and maintenance appear appropriate. This lack of controls exposed Town assets to waste and abuse.

Had the Board taken a more active role in reviewing and approving claim vouchers prior to payment, these personal purchases could have been prevented or, at the very least, identified sooner. The Board also failed to request or review the equipment maintenance records that were supposed to be maintained by the Superintendent. Had they reviewed these records they would have found them to be inadequate, incomplete and not up-to-date. Without accurate and complete maintenance records detailing the parts used and services performed, Town officials cannot ensure taxpayers that all purchased parts and materials were used for valid Town purposes.

Recommendations

1. The Board should adopt an adequate system of internal controls over Department operations, including:
 - Adopting a procurement policy;
 - Conducting a proper audit of claims prior to approving them for payment;

- Periodically reviewing inventory, maintenance records and gasoline reconciliations; and
 - Ensuring that the Highway Superintendent is properly maintaining complete, accurate and up-to-date vehicle maintenance records and gasoline reconciliations.
2. The Board should seek reimbursement for the \$68,501 in improper purchases made by the Superintendent.
 3. The Superintendent should maintain complete, accurate and up-to-date maintenance records and perpetual consumable inventory records. (Records should be periodically reconciled to physical inventories. Any differences should be promptly investigated and resolved.)

APPENDIX A

PERSONAL PURCHASES

| Table 1: Personal Purchases by Vendor | |
|---------------------------------------|-----------------|
| Vendor | Amount Spent |
| Cook Brothers | \$22,602 |
| Monroe Tractor | \$17,361 |
| NAPA Auto Parts | \$6,569 |
| California Contractors Supply | \$4,658 |
| Parmenter, Inc. | \$3,895 |
| Williams Lubricants, Inc. | \$3,413 |
| Auto Electric | \$2,085 |
| S.C. Hansen Inc. | \$1,467 |
| Custom Rebuilders | \$933 |
| Starver Hydraulics Company Inc. | \$817 |
| Ace Industrial Supply | \$627 |
| ACI Supply Co. | \$557 |
| Five Star Equipment Inc. | \$501 |
| Applied Industrial Tech. | \$497 |
| Tractor Supply | \$472 |
| Frey Heavy Duty | \$420 |
| Thompson & Johnson | \$282 |
| Beam Mack Sales & Service Inc. | \$274 |
| Van Dusen Machinery | \$265 |
| Horseheads Do-It-Center | \$239 |
| Momar Incorporated | \$224 |
| Reynolds Manufacturing Inc. | \$165 |
| Chemung Supply Co. | \$119 |
| Car Care Products Inc. | \$59 |
| Total | \$68,501 |

APPENDIX B

RESPONSE FROM LOCAL OFFICIALS

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

Town of Erin
1138 Breesport Road
Erin, New York 14838

June 19, 2014

Edward V. Grant, Jr.
Chief Examiner
Division of Local Government
And School Accountability
Office of The State Comptroller
The Powers Building
16 West Main Street – Suite 522
Rochester, New York 14614

Dear Edward,

After a detailed review meeting with [REDACTED] from your office on the 2014M-16, Town of Erin Inappropriate Highway Purchases Report of Examination period covered January 1, 2007 – September 10, 2013; I have a clear understanding of the findings of the report and have no issues with the report reviewed or recommendations presented.

The Town Board has taken action to address several financial management/purchasing procedural process inefficiencies over the past 5 month and are continuing to implement new managed procedures noted in the report. Further details of the changes will be presented in the Board approved CAP after the August Board meeting.

Should you have any question please contact me.

Sincerely,

Dawn H. Schmidt
Town of Erin Supervisor

cc: [REDACTED] Division of Local Government And School Accountability
[REDACTED], Division of Local Government And School Accountability
Tim Bocek, Town Council

APPENDIX C

AUDIT METHODOLOGY AND STANDARDS

Our overall goal was to assess the adequacy of the internal controls put in place by Town officials to safeguard Town assets. We limited our focus to the Town's Department purchasing process. We obtained an understanding of the Town's highway purchasing process by interviewing appropriate Town officials, performing tests of transactions and reviewing pertinent documents, Board minutes and financial records and reports.

The objective of our audit was to determine if Highway Department purchases were appropriate. To accomplish our objective, we reviewed highway purchasing controls for the period January 1, 2007 to September 10, 2013. To achieve the objective of this audit and obtain valid evidence, we performed the following audit procedures:

- We interviewed Town officials to gain an understanding of Town processes and operations and to determine if internal controls were in place over highway purchases.
- We reviewed the Board meeting minutes from January 1, 2009 through February 13, 2013 for significant activity related to purchasing.
- We interviewed all Town highway employees.
- We reviewed all highway claims for the period January 1, 2007 through May 10, 2013. We compared the claims to the equipment maintenance records.
- We reviewed the equipment maintenance records for adequacy and accuracy.
- We researched information on the various pieces of highway equipment to determine if the parts being purchased would fit into the Town's equipment.
- We met with vendors to determine if the parts would work and fit properly in Town equipment.
- We reviewed large Town purchases for compliance with bidding requirements.
- We reviewed the interests of Town officials for conflicts with Town purchases.
- We reviewed the Town's gasoline log for adequacy.
- We obtained the mileage of the Superintendent's truck to calculate the approximate number of gallons of gasoline necessary to fuel the truck.

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

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