



Town of Galen

Financial Management

Report of Examination

Period Covered:

January 1, 2013 – June 12, 2014

2014M-341



Thomas P. DiNapoli

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State of New York Office of the State Comptroller

Division of Local Government and School Accountability

June 2015

Dear Town Officials:

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

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

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

Respectfully submitted,

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



State of New York Office of the State Comptroller

EXECUTIVE SUMMARY

The Town of Galen (Town) is located in Wayne County, and the Village of Clyde (Village) is located within the Town's boundaries. The Town is governed by the Town Board (Board), which comprises four elected members and an elected Town Supervisor (Supervisor). The Supervisor is responsible for maintaining accounting records for the Town. For 2014, the Town's appropriations were \$1.5 million. The Town's operating funds include the town-wide (TW) general fund, TW highway fund, town-outside-village (TOV) general fund and TOV highway fund. Expenditures from those funds in 2013 totaled \$1.23 million. The TW funds have tax bases that encompass the entire Town. The TOV funds have tax bases that encompass only the portion of the Town that lies outside of the Village. In 2006, "operating authority" for the Clyde Fire Department ambulance service ("ambulance service"), formerly part of the Galen-Clyde Joint Fire District, was "transferred" to the Town. The "ambulance service" has an "executive committee," which creates a "budget." This budget is then approved by the "ambulance service" general membership. Subsequently, the budget is used by the Board when creating and adopting the Town's budget. For 2013, the ambulance service had revenues of \$130,000 and expenditures of \$78,000.

Scope and Objective

The objective of our audit was to examine the Board's oversight and management of financial operations and ambulance services for the period January 1, 2013 through June 12, 2014. We extended our scope back to January 1, 2009 to review budgeting trends and fund balance levels and to March 2006 to review the transfer of ambulance services to the Town. We also extended our scope forward to November 12, 2014 to review budgeting trends and project the Town's financial position at the end of 2014. Our audit addressed the following related questions:

- Is the Board providing adequate oversight and management of the Town's finances?
- Did the Board adequately oversee and manage the Town's ambulance service?

Audit Results

The Board does not provide adequate oversight and management of the Town's finances. Although the Town has 19 reserves totaling \$657,700, there are no policies for reserves and the Town is not properly accounting for the reserves within the operating funds that financed them. In addition, the Town does not budget to fund reserves and several reserves have not been properly established, may not be authorized by statute or have purposes that are unclear. The Board has also not established a budgeting policy, has consistently underestimated revenues and overestimated expenditures within the

TOV funds and has continued its poor budgeting practices through 2015. Furthermore, the Board did not create a comprehensive, multiyear financial or capital plan and did not audit the books and records of the Supervisor. As a result, the financial condition of the Town's operating funds is obscured, and the Town's reserves may be unnecessary, excessive or used for inappropriate purposes. In addition, the Town may be generating unnecessary tax revenues and hindering its ability to manage its finances and detect and correct discrepancies.

In 2006, "operating authority" for the Clyde Fire Department ambulance service ("ambulance service"), formerly part of the Galen-Clyde Joint Fire District, was transferred to the Town. However, the Board does not adequately oversee and monitor the operations and finances relating to the provision of Town ambulance services. For example, although revenues and expenditures for the Town's ambulance service function average \$127,000 and \$123,000 per year, a formal policy has not been developed for the billing, collection and enforcement processes, including the maintenance of an accounts receivable ledger. Further, the "ambulance service" operates, in several respects, as an independent entity, with its own bylaws, rather than as a Town department. Additionally, the Board does not set or approve the rates and fees and an "executive committee" ("Executive Committee") completes tasks without prior Board approval, including the determination of write-offs and salaries. Consequently, the method by which the ambulance service function currently operates results in a lack of clarity as to the status of the "ambulance service" and an increased risk that inappropriate charges or write-offs, or irregularities, could occur.

Comments of Local Officials

The results of our audit and recommendations have been discussed with Town officials, and their comments, which appear in Appendix A, have been considered in preparing this report. Town officials generally agreed with our recommendations and indicated they planned to initiate corrective action.

Introduction

Background

The Town of Galen (Town) is located in Wayne County and has approximately 4,300 residents. The Village of Clyde (Village) is located within the Town's boundaries. The Town is governed by the Town Board (Board), which comprises four elected members and an elected Town Supervisor (Supervisor). The Board is the legislative body responsible for the overall management of the Town, including overseeing the Town's operations and finances and adopting and monitoring the budget. The Supervisor serves as the Town's chief executive and chief fiscal officer and is responsible for maintaining adequate accounting records of all receipts, expenditures and account balances and for providing the Board with timely, accurate and useful financial information.

The Town provides various services to its residents, including street lighting, ambulance service, snow removal, highway maintenance and general government support. For the 2014 fiscal year, the Town's budgeted appropriations were approximately \$1.5 million, funded primarily by real property taxes sales tax, and State and federal aid. The Town's main operating funds include the town-wide (TW) general fund, TW highway fund, town-outside-village (TOV) general fund and TOV highway fund. Expenditures from those funds in the 2013 fiscal year totaled approximately \$1.23 million. The TW funds have tax bases that encompass the entire Town, including the Village. The TOV funds have tax bases that encompass only the portion of the Town that lies outside of the Village.

In 2006, "operating authority" for the Clyde Fire Department ambulance service ("ambulance service"), formerly part of the Galen-Clyde Joint Fire District, was "transferred" to the Town. The "ambulance service" has an "executive committee," which creates a "budget." This budget is then approved by the "ambulance service" general membership. Subsequently, the budget is used by the Board when creating and adopting the Town's budget. For the 2013 fiscal year, the ambulance service had revenues of approximately \$130,000 and expenditures of approximately \$78,000.

Objective

The objective of our audit was to examine the Board's oversight and management of financial operations and ambulance services. Our audit addressed the following related questions:

- Is the Board providing adequate oversight and management of the Town's finances?

- Did the Board adequately oversee and manage the Town's ambulance service?

**Scope and
Methodology**

We examined the financial management and ambulance services of the Town for the period January 1, 2013 through June 12, 2014. We extended our scope back to January 1, 2009 to review budgeting trends and fund balance levels and to March 2006 to review the transfer of ambulance service to the Town. We also extended our scope forward to November 12, 2014 to review TOV budgeting trends and project the Town's financial position in these funds at the end of 2014.

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 B of this report.

**Comments of
Local Officials and
Corrective Action**

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

Financial Management

The Board is responsible for the general oversight and management of the Town's financial operations and for making sound financial decisions that balance the level of services desired and expected by the Town's residents with the ability and willingness of the residents to pay for such services. The Board can establish reserve funds to provide a mechanism for legally saving money to finance all or part of future infrastructure, equipment and other requirements. In addition, the Board must adopt structurally balanced budgets that provide sufficient revenues to finance recurring expenditures based on financial results from prior years and other relevant available data. It is also important for the Board to adopt a multiyear financial and capital plan to address long-term operational and capital needs. Finally, the Board is responsible for annually auditing the books and records of Town departments that receive or disburse cash.

The Board does not provide adequate oversight and management of the Town's finances. Although the accounting records list 19 reserves totaling \$657,700, there are no policies or procedures for reserves and the Town is not properly accounting for the reserves within the operating funds that financed them. In addition, the Town does not budget to fund reserves and several reserves have not been properly established, may not be authorized by statute or have a purpose that is unclear. The Board has also not established a budgeting policy, and has consistently underestimated revenues and overestimated expenditures within the TOV funds and has continued its poor budgeting practices through 2015. Furthermore, the Board did not create a comprehensive, multiyear financial or capital plan and did not audit the books and records of the Supervisor. As a result, the financial condition of the operating funds is obscured, and the Town's reserves may be unnecessary, excessive or used for inappropriate purposes. In addition, the Town may be generating unnecessary tax revenues and hindering its ability to effectively manage its finances and detect and correct discrepancies.

Reserves

The Board is responsible for monitoring the need for reserve funds¹ and for periodically assessing the reasonableness of the amounts accumulated in those reserves to ensure that they are maintained and accounted for in accordance with statutory requirements and in the best interest of the taxpayers. Any governing board that is planning to establish and finance reserve funds should develop a written policy

¹ Reserve funds are authorized by law and are used to set aside moneys to finance a variety of objects or purposes.

that communicates to taxpayers why the moneys are being set aside, the financial objectives and optimal funding levels for the reserves and the conditions under which the reserves will be used. Documentation supporting the establishment and use of the reserves should be readily available.

As of December 31, 2013, the Town's accounting records listed 19 reserves totaling \$657,700. There were no policies or procedures to guide the Town officials in the establishment, use and recordkeeping requirements of reserve funds. The Town also does not budget to fund reserves and instead funds reserves through transfers at the end of each fiscal year. In addition, the Town is not properly accounting for its reserves in the financial records, and several of the Town's reserves may not have been properly established or legally authorized. We noted the following conditions:

- Sixteen reserves totaling \$645,595 had no documentation supporting their establishment, including possible public participation requirements.
- All 19 reserves totaling \$657,700 were accounted for within capital reserves in the capital projects fund with a spreadsheet that was maintained to track individual balances. The proper accounting would be for each reserve to be recorded within the operating fund that financed it. The Board has been advised by its accountant for several years that the current practice is incorrect and that individual reserves should be accounted for within the operating funds to which they relate.
- Eight reserves totaling \$54,400 appear to be for purposes for which there is no authority to establish reserves. These include three health insurance reserves (\$12,100),² four office equipment reserves (\$30,200)³ and a combined highway garage equipment/repair reserve (\$12,100).⁴
- The insurance reserve totaling \$15,700 has an authorized purpose to fund certain uninsured losses, claims, actions or judgments for which the Town is permitted or required to purchase or maintain insurance. However, Town officials

² Although this reserve was established by Board resolution, the General Municipal Law that authorizes an insurance reserve specifically states it cannot be used for health insurance.

³ Office equipment would only be appropriate if it were the original equipment in a building when constructed, reconstructed or acquired.

⁴ Due to differing requirements for the establishment and use for capital items and repairs, separate reserves need to be established.

could not identify any losses that would not be covered by the Town's insurance coverage, so it is not apparent why they established this reserve.

- Nine of the 16 reserves totaling \$68,740 had no activity or only interest activity over the last several years. Therefore, we question the necessity of these reserve funds.

As a result, the financial condition of the operating funds is obscured, and the Town's reserves may be unnecessary, excessive or used for inappropriate or unauthorized purposes.

Town-Outside-Village Budgeting

The New York State Town Law (Town Law) provides the framework for the adoption of the Town's budget. It is important that the Board adopt policies and procedures that provide detailed guidance on preparing and monitoring the annual budget, including the level of unexpended surplus funds to be maintained. Such policies and procedures will help ensure that the Board adopts budgets that include realistic estimates of revenues and expenditures to sufficiently fund operations and that unexpended surplus funds are used as a funding source, when appropriate. It is important that the Board adopt budgets based on actual financial results from prior years along with other relevant available data. The TOV general (B) and highway (DB) funds are used to account for services provided for the benefit of the residents and taxpayers residing in the area of the Town that is outside of the Village. The Board may, by resolution, authorize the transfer of surplus moneys from the B to the DB fund.

The Board has not established a budgeting policy, including details on preparing and monitoring the budget, budgetary reporting and fund balance to be maintained. As shown in Figure 1, the Town typically underestimates sales tax revenues in the B fund. This is because the Board does not accurately base its estimates for sales tax revenues on prior year actual sales tax revenues received. In addition, the Town significantly overestimated certain DB expenditures in 2011 through 2013.⁵

⁵ Other B and DB expenditures were also overestimated but were not included because the variances were not as significant. Overall, B and DB expenditures were overestimated from 2011 through 2013.

Figure 1: B and DB Budget-to-Actual Significant Variances				
	Sales Tax Revenues (B)	General Repairs - Personal Services (DB)	General Repairs - Contractual Expense (DB)	Employee Benefits - Social Security (DB)
2011				
Budgeted	\$110,000	\$89,760	\$75,000	\$11,000
Actual	\$162,279	\$76,296	\$9,870	\$5,837
Variance	\$52,279	(\$13,464)	(\$65,130)	(\$5,163)
Variance Percentage	48%	(15%)	(87%)	(47%)
2012				
Budgeted	\$110,000	\$91,330	\$75,000	\$11,000
Actual	\$162,177	\$57,615	\$34,344	\$4,671
Variance	\$52,177	(\$33,715)	(\$40,656)	(\$6,329)
Variance Percentage	47%	(37%)	(54%)	(58%)
2013				
Budgeted	\$110,000	\$92,928	\$90,000	\$11,000
Actual	\$171,534	\$50,505	\$176,783	\$3,864
Variance	\$61,534	(\$42,423)	\$86,783	(\$7,136)
Variance Percentage	56%	(46%)	96%	(65%)
Total Net Variance	\$165,990	(\$89,602)	(\$19,003)	(\$18,628)

Because sales tax was the main source of funding in the B fund (accounting for an average of 86 percent of revenues), these significant underestimations resulted in a total of \$165,000 in unanticipated revenue in 2011 through 2013. The Town also received real property taxes in the B fund for 2012 and 2013 and more than doubled its total tax levy from approximately \$20,000 to \$45,000, even though the Town had been receiving additional sales tax revenues. As a result, the Town has experienced increasing B fund surpluses for the past three years, totaling \$508,996, as shown in Figure 2.

Figure 2: B Fund Analysis

	2011	2012	2013	Totals
Revenues				
Budgeted Revenues	\$114,875	\$115,075	\$154,075	\$384,025
Actual Revenues	\$168,973	\$192,072	\$219,848	\$580,893
Variance	\$54,098	\$76,997	\$65,773	\$196,868
Variance Percentage	47%	67%	43%	51%
Expenditures				
Budgeted Appropriations	\$39,809	\$40,100	\$40,354	\$120,263
Actual Expenditures	\$23,462	\$23,727	\$24,708	\$71,897
Variance	(\$16,347)	(\$16,373)	(\$15,646)	(\$48,366)
Variance Percentage	(41%)	(41%)	(39%)	(40%)
Surplus/(Deficit)				
Operating Surplus/(Deficit)	\$145,511	\$168,345	\$195,140	\$508,996
Planned (Deficit) - Appropriated Fund Balance	(\$5,000)	(\$5,000)	(\$5,000)	(\$15,000)
Fund Balance				
Beginning Fund Balance	\$188,023	\$251,218	\$320,220	
Operating Surplus/(Deficit)	\$145,511	\$168,345	\$195,140	\$508,996
Net Interfund Transfers Out ^a	(\$82,316)	(\$99,343)	(\$125,400)	(\$307,059)
Year End Fund Balance	\$251,218	\$320,220	\$389,960	
Year End Fund Balance as a percentage of Actual Expenditures and Interfund Transfers Out	237%	260%	260%	
^a Interfund transfers have been excluded from both budget and actual amounts. They are included in this table for perspective.				

Although the Town has overestimated certain DB expenditures in 2011 through 2013, the Town continues to appropriate and use DB fund balance to fund operations and experienced an unplanned operating deficit of \$183,330 in 2013. The Town continued to raise taxes in the B and DB funds, and it increased the tax levy in the B fund from 2011 through 2013.

Figure 3: DB Fund Analysis

	2011	2012	2013	Totals
Revenues				
Budgeted Revenues	\$146,594	\$152,480	\$149,955	\$449,029
Actual Revenues	\$198,569	\$177,113	\$189,182	\$564,864
Variance	\$51,975	\$24,633	\$39,227	\$115,835
Variance Percentage	35%	16%	26%	26%
Expenditures				
Budgeted Appropriations	\$315,910	\$337,480	\$374,955	\$1,028,345
Actual Expenditures	\$270,174	\$260,657	\$447,512	\$978,343
Variance	(\$45,736)	(\$76,823)	\$72,557	(\$50,002)
Variance Percentage	(14%)	(23%)	19%	(5%)
Surplus/(Deficit)				
Operating Surplus (Deficit)	(\$71,605)	(\$83,544)	(\$258,330) ^b	(\$413,479)
Planned (Deficit) - Appropriated Fund Balance	(\$85,000)	(\$85,000)	(\$75,000) ^b	(\$245,000)
Fund Balance				
Beginning Fund Balance	\$362,558	\$343,269	\$319,069	
Operating (Deficit)	(\$71,605)	(\$83,544)	(\$258,330)	(\$413,479)
Net Interfund Transfers ^a	\$52,316	\$59,344	\$140,000	\$251,660
Year End Fund Balance	\$343,269	\$319,069	\$200,739	
Year End Fund Balance as a Percentage of Actual Expenditures	127%	122%	45%	
^a Interfund transfers have been excluded from both budget and actual amounts. They are included in this table for perspective. Amounts include interfund transfers in and out. ^b Unplanned deficit = \$258,330 - \$75,000 = \$183,330				

The budgeting practices have resulted in large surpluses accumulating in the B fund. Large interfund transfers from the B fund to the DB fund have not been enough to offset the growth in B fund surplus as shown in Figure 2. Operating deficits that would reduce the B fund surpluses have largely been offset by these interfund transfers primarily from the B fund totaling \$307,716. In 2013, the DB fund had a larger than originally expected reduction in surplus because of a decision to complete a major road project in 2013 rather than to complete the project in two phases spanning 2013 and 2014.

Town officials could not provide reasonable explanations for the significant variances that occurred in the previously identified revenue and expenditure items.⁶ Information is regularly available to the Board to allow for more accurate budgeting, including detailed monthly budget status reports, but officials did not attempt to improve budgeting practices until 2014 after discussions were held with Office of the State Comptroller (OSC) staff.⁷ We obtained year-to-date information

⁶ Explanations were primarily related to the fact that the Board budgets conservatively or that it is difficult to predict what the Town's actual expenditures will be.

⁷ The Board adjusted budgeting practices to more closely reflect prior year actual amounts in 2014.

for the B and DB funds in November 2014⁸ and budget information for 2015 to determine if B and DB actual figures to date were more closely related to the budgeted figures than in previous years and if the 2015 budget had been adjusted based on historical trends. Based on the information provided and discussion with Town officials, we projected revenues and expenditures for the final month of 2014. We determined that sales tax for 2014 was underestimated, and the Town has continued its conservative estimation of sales tax by budgeting the same amount for 2015 as 2014. The DB fund general repairs-personal services and general repairs-contractual accounts are also projected to have significant variances compared with budgeted amounts for 2014. We anticipate that overall revenues will be underestimated and expenditures will be overestimated for 2014. Overall, we anticipate both the B and DB funds will end 2014 with operating surpluses of \$50,000 and \$1,000, resulting in significant increases to fund balance. The Town has increased its 2015 B budget by approximately \$7,000 while decreasing its DB budget by approximately \$32,000.

Due to a lack of adequate budgeting policies and procedures and the Town's practice of underestimating revenues and overestimating expenditures in TOV funds, the Town may be generating unnecessary tax revenues in the TOV funds. Additionally, by budgeting for certain TOV revenues and expenditures for consistent amounts each year, rather than adjusting the budgeted amounts based on prior year actuals, the Board is not appropriately planning for its annual needs, as evidenced by its continued poor budgeting for 2014 and 2015.

Multiyear Planning

An important responsibility of the Board is to plan for the future by setting adequate long-term priorities and goals. To address this responsibility, it is important to develop comprehensive, multiyear financial and capital plans to estimate the future costs of ongoing services and future capital needs. Effective multiyear plans project operating and capital needs and financing sources over a three- to five-year period. Planning on a multiyear basis allows Town officials to identify revenue and expenditure trends and set long-term priorities and goals. It also allows them to assess the impact and merits of alternative approaches to financial issues, such as accumulating money in reserve funds and using fund balance to finance operations. It is essential that any long-term financial plans be monitored and updated on an ongoing basis to ensure that decisions are guided by the most accurate information available.

The Town has not developed a comprehensive, multiyear financial or capital plan, and it did not have any other mechanism to address the Town's long-term operational and capital needs. The Board has

⁸ Actual figures through November 12, 2014

attempted to establish reserves and frequently discussed equipment replacement informally with the Highway Superintendent, but these equipment replacement plans were not documented. The Highway Superintendent does provide an annual equipment inventory to the Town Board, as required by Highway Law, which includes recommendations for equipment that he believes the highway department needs. Based on our review of the most recent equipment inventory, there are several older vehicles in the Town's fleet.⁹ As a department's equipment and vehicles age, the likelihood and cost of repairs will generally increase and replacement may become a more economical option.

By not developing comprehensive plans, the Town hinders its ability to effectively manage its finances and plan for future needs. Without a formal plan, the Town risks adverse impact to the highway department's ability to provide services and may not be able to procure the best price for a new vehicle or equipment item in the event of a sudden replacement need. Additionally, the Town risks significant financial impact if it is necessary to replace equipment without properly planning or budgeting, possibly resulting in significant depletion of fund balance or reserves.

Annual Audit

Town Law requires all Town officers and employees who receive or disburse moneys during the year to account for these transactions and present their books and records to the Board for audit by January 20th of the following year. The Board must then audit the records or contract with an independent public accountant to do so. After the audit is complete, it should be entered in the minutes of the Board's proceedings and documentation should be filed detailing the records reviewed and results of the audit. This annual audit provides the Board and taxpayers with a measure of assurance that the Town's financial records and reports contain reliable information on which to base management decisions and gives the Board the opportunity to monitor the Town's fiscal procedures.

The Board did not audit, or contract with an independent public accountant to audit, the books and records of the Supervisor. Although the Board contracted with an independent auditor to perform annual audits¹⁰ of the records of the Justice Court, Town Clerk and Tax Collector, the same auditor could not conduct an annual audit of the Town's financial records because he had already provided assistance

⁹ As of September 30, 2013

¹⁰ These audits are based on "Agreed Upon Procedures," in which the independent auditor completes a review of the books and records for each department based on checklists provided in OSC's Local Government Management Guides.

in that area.¹¹ As a result, the Board's ability to effectively monitor the Town's financial operations is diminished and could result in discrepancies occurring and remaining undetected and uncorrected.

Recommendations

The Board should:

1. Develop and implement a comprehensive policy for establishing and using reserve funds that includes optimal or targeted funding levels and the conditions under which reserve funds will be used or replenished.
2. Include both the funding and use of all reserves in their adopted budget to provide increased transparency to taxpayers.
3. Ensure each reserve is recorded and accounted for within the operating fund that financed it.
4. Ensure reserves are established or re-established based on legal requirements for the purposes designated.
5. Review existing reserves and determine the amounts that are not necessary and reasonable and develop a plan for using any surplus amounts.
6. Use the unexpended surplus fund balance in a manner that benefits taxpayers in the TOV. Such uses could include, but are not limited to, increasing necessary reserves, paying off debt, financing one-time expenses or reducing Town and/or County property taxes levied on those taxpayers.
7. Establish written policies and procedures governing the budgeting process.
8. Develop and adopt budgets that include realistic estimates for TOV revenues and expenditures.
9. Develop a comprehensive, multiyear financial and capital plan that projects operating and capital needs and financing sources for a three- to five-year period.
10. Annually audit the records and reports of the Supervisor or engage the services of an independent public accountant or auditor to conduct an audit.

¹¹ The auditor had a lack of independence arising from the assistance he had already provided to the Town, including completing the Town's annual financial report that the Town was required to submit to OSC.

Ambulance Service

Towns are authorized by General Municipal Law (GML) to provide an emergency medical service, a general ambulance service or a combination of such services for the purpose of providing pre-hospital emergency medical treatment or transporting sick or injured persons found within the boundaries of a town to a hospital, clinic, sanatorium or other place for treatment of such illness or injury. GML authorizes towns to provide this function by, among other methods, acquiring, supplying and equipping vehicles and operating, maintaining and repairing the vehicles directly as a town-wide function, or by contracting with third parties for the operation and maintenance of town vehicles. If ambulance service is provided by a town directly as an in-house town-wide function, it is essential that the Board oversee and monitor the operations and finances of the ambulance service as a Town department. As a Town department, it should be clearly identified as being funded by the Town and should be clearly and obviously governed by the Town Board, rather than operating as if it were a separate entity. Towns are required to formulate rules and regulations relating to the use of ambulance equipment and apparatus and may establish a schedule of fees or charges for persons using ambulance services. The Board should also establish guidelines in a written policy for the billing, collection and enforcement processes for ambulance services and procedures to ensure that all services are billed and collected. The Board should approve all billing adjustments prior to such adjustments being made, and the reasons for all adjustments should be documented and retained for audit purposes. Appropriate prior approval ensures that adjustments are consistent and reduces the opportunities for unauthorized adjustments. Before a delinquent charge is written off as uncollectible, the governing board should take reasonable steps to collect the charge.

In 2006, “operating authority” for the Clyde Fire Department ambulance service (“ambulance service”) formerly part of the Galen-Clyde Joint Fire District, was transferred to the Town. However, the Board does not adequately oversee and monitor the operations and finances relating to the provision of Town ambulance services. For example, although revenues and expenditures for the Town’s ambulance service function average \$127,000 and \$123,000 per year, a formal policy has not been developed for the billing, collection and enforcement processes, including the maintenance of an accounts receivable ledger. Further, the “ambulance service” operates, in several respects, as an independent entity, with its own bylaws, rather than as a Town department.¹² Additionally, the

¹² The “ambulance service” has its own bylaws, which it operated under prior to the transfer of the “operating authority” to the Town department and continues to operate under presently.

Board does not set or approve the rates and fees¹³ and an “executive committee” (“Executive Committee”)¹⁴ completes tasks without prior Board approval, including the determination of write-offs and salaries. Consequently, the method by which the ambulance service function currently operates results in a lack of clarity as to the status of the “ambulance service” and an increased risk that inappropriate charges or write-offs, or irregularities, could occur.

Policies and Procedures — Establishing guidelines in a written policy would enable officials and employees to understand the Board’s expectations regarding billing, collection and enforcement of fees for ambulance services. Procedures should include a reconciliation process to ensure all services rendered are billed. In the Town, emergency medical technicians (EMTs) complete patient care reports (PCRs) for all ambulance service calls and provide the reports to the “ambulance secretary.”¹⁵ Annual revenues related to PCRs total approximately \$127,000. PCRs are forwarded to a third-party billing service (Third Party) to create patient bills and collect fees.¹⁶ The Third Party forwards the fees collected to the Supervisor for deposit in a Town bank account. The Third Party charges the Town a fee for its services based on the total number of PCRs submitted. Controls over the risk of missing PCRs are lacking and do not mitigate the risk of missing PCRs. PCRs are not sequentially numbered, and a formal list of all calls is not maintained to compare with all PCRs submitted for billing, so there is no assurance that all PCRs are completed, forwarded to the Third Party and properly billed. Furthermore, the “ambulance secretary” does not maintain an adequate accounts receivable ledger; the “ambulance secretary” tracks gross billings sent out to customers, but not the portion of which is owed to the Town at any period in time. As a result, there is no documented assurance that all services provided are actually billed for properly and that revenues from billings are received.

¹³ Rates are set by the Town’s third-party billing vendor.

¹⁴ This is the “governing board” of the “ambulance service,” which existed prior to the transfer of “operating authority.” The “Executive Committee” consists of the President, Vice President, Secretary, Treasurer and Director of Operations.

¹⁵ See discussion below on the appointment of, and fixing salaries for, personnel involved in the ambulance function

¹⁶ It is a general rule that the function of collecting municipal moneys may not be delegated to a third party absent express statutory authority (e.g., OSC Opinion No. 2005-7). GML Section 122-b(2) is a statute that provides such express authority; however, it is limited to collection by a third party with which the town has a contract for the provision of ambulance services. The Third Party here is not an organization furnishing ambulance services under a contract with the Town. Therefore, to the extent the contract provides for collection of fees by the Third Party, it does not fall within the statutory authority of GML Section 122-b(2) and that function should be eliminated from future contracts for billing services.

Clarification — Town departments should be clearly identified as part of the respective governmental structure of towns within which they function. They should not hold themselves out as constituting a separate entity, in the absence of express statutory authority.¹⁷ A town may have paid town employees and/or town volunteers operate and maintain town-owned ambulances as a direct town function. A town may also contract with qualified individuals, municipal corporations, associations or individuals to operate and maintain town ambulances, or enter into contracts with such third parties for the provision of a “full service” ambulance function. Although the Town owns the ambulances and operates the ambulance service function, the individuals engaged in providing ambulance services act, in several respects, as if they are part of a separate entity, rather than a town department. The “ambulance service,” for example, operates under a set of established bylaws, which existed prior to the Town undertaking ambulance operations. Although the bylaws identify the ambulance service function as a Town department and the “ambulance service” as “owned and operated” by the Town, there are also other indicia of the “ambulance service” constituting a separate organization. These include bylaw provisions establishing an “executive committee” and offices (e.g., president, vice-president, secretary, treasurer), fixing “stipends” for certain officers and vesting certain supervision and control over volunteer “members,” rather than the Town Board appointing personnel, fixing any compensation and exercising control and supervision over personnel of a town department. Further, it appears that certain disbursements are made by the “ambulance service” using funds “controlled” by the “service” and that the “ambulance service” is separately audited. These are characteristics of an autonomous entity, not a town department.¹⁸ In addition, the fact that bylaws even exist for a department within a town is not typical, and brings into question whether the ambulance service functions truly as a Town department. It appears that the intent was for the structure and function of the prior fire department rescue squad to be substantially carried over after the Town began operating the ambulance function. We also found that the Town has not entered into any agreement with a third-party contractor to provide operation and maintenance of town ambulance vehicles. Rather, the Town owns the vehicles operated directly by Town volunteers/employees. In addition, the two ambulances owned and insured by the Town are inscribed with “Clyde Ambulance Service.” Because the ambulances are owned by the Town of Galen, the reference to the Village of Clyde on the ambulances could result in confusion. Although the Town is operating the ambulance service as a Town

¹⁷ Compare Not-for-Profit Corporation Law Section 1402, authorizing the establishment of fire corporations

¹⁸ Compare, e.g., Town Law Sections 27(1), 29(1), 123

department, the “ambulance service” also continues to operate as if it were an independent entity in certain aspects.

Schedule of Fees — Prior to fees being charged for Town emergency medical services (EMS), the Board must fix a schedule of fees or charges to be paid by persons requesting the use of said services;¹⁹ however, a municipal fee for this service must be reasonably related to the Town’s cost of providing the service and not be designed to generate a profit.²⁰ We found that the Board does not set fees for EMS. Instead, rates and fees for these services are set by the Third Party and are not reviewed or approved by the Board. However, we did find that current rates are reasonable in relation to the expenditures and future plans for equipment purchases. Because the Board does not establish and approve fees for EMS, it has relinquished an important aspect of public control, raised potential questions as to the legal propriety of the fees and increased the possibility that users may be charged more than necessary.

Write-Offs — The Board should approve all billing write-offs and adjustments for EMS rendered prior to such write-offs and adjustments being made. The reasons for all write-offs and adjustments should be documented and retained for audit purposes. The Town does not have any policies regarding account write-offs or adjustments for EMS services rendered. The “Executive Committee” established in the bylaws determines write-offs and adjustments to patient bills, without prior approval from the Board. In addition, the “ambulance service” will not go to collections for unpaid bills. Therefore, if a patient provides a letter of hardship, the “Executive Committee” will write off the charges without further question. Appropriate prior approval ensures that adjustments, write-offs and refunds are authorized by the Town’s governing board and made in a consistent manner. To avoid contravening the constitutional prohibition against gifts,²¹ before a delinquent charge is written off, it is incumbent on Town officials to take reasonable steps to collect the charges. The lack of proper approval of write-offs and adjustments by the Board could lead to reduced Town revenues because inappropriate write-offs and adjustments could be made without detection.

Monitoring and Oversight — The Board is the legislative body responsible for the overall management of the Town, including overseeing of the Town’s operations and finances and adopting and monitoring the budget. These oversight responsibilities include the ambulance service function, which should be operated as a department of the Town. However, the Board does not appropriately

¹⁹ See, e.g., OSC Opinion Nos. 2005-1, 98-9

²⁰ See, e.g., OSC Opinion No. 2005-8

²¹ NY Constitution, Article VIII, Section 1

and completely oversee the payroll and accounting practices for the ambulance service function. The “secretary” for this function is being paid an annual salary of approximately \$2,500 that is not approved by the Board. Instead, the secretary’s salary is established by the “Executive Committee.” Furthermore, volunteers who respond to ambulance calls are being paid “incentive payments” for their service, also established by the “Executive Committee,” rather than by the Board fixing salaries.²² The Town is also not receiving or accounting for donations received for the ambulance service function. Donations are deposited in a separate “ambulance service” bank account, as if the “ambulance service” were a separate entity and not a Town department, rather than being remitted to the Supervisor and deposited in a Town bank account.²³ As a result, the Board does not adequately ensure that all donations for this Town function are properly accounted for, and the likelihood of detecting possible irregularities in finances related to the ambulance function is diminished.

Recommendations

The Board should:

11. Take action to establish and approve fees for ambulance services, if the Board wishes to impose fees.
12. Establish written policies and procedures that provide guidance for the billing, collection and write-off of outstanding fees; these procedures should include a reconciliation of services rendered and billed to ensure all services are billed.
13. Oversee the write-off/adjustment process and take reasonable steps to collect unpaid fees for ambulance services rendered.
14. In consultation with the Town’s attorney as appropriate, oversee and manage the ambulance service as a Town department in accordance with law, including budgeting, setting employee salaries and ensuring proper receipt and deposit of donations.

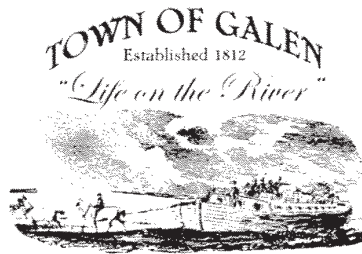
²² Town Law Section 27(1)

²³ See Town Law Sections 27(1), 29. The “ambulance secretary” stated that donations received by the “ambulance service” are typically minimal, approximately \$250 annually.

APPENDIX A
RESPONSE FROM LOCAL OFFICIALS

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

Steven J. Groat - Supervisor
Norma Lancaster - Town Clerk
Paul Plucinik - Hwy. Supt.
Telephone - 315 923 7259
Fax - 315 923 3421



MARENGO - LOCK BERLIN - LOCKPIT - CLYDE

TOWN COUNCIL
Noreen Kanaley - Deputy Supervisor
Jeff Montemorano
Michael Kise
Frank Sebastiano

May 20, 2015

Office of the State Comptroller
The Powers Building
16 W. Main Street, Suite 522
Rochester, NY 14614

Dear Sir or Madam,

This letter constitutes the initial response to the recent Town of Galen audit and draft findings review meeting held in our Board room at 1:00 p.m. on Thursday, May 7th of this year. Representing the Town at this session was Town Clerk, **Norma Lancaster** and myself, **Steven Groat**, Galen Town Supervisor.

First, I would like to express my appreciation for the professional and courteous manner in which the staff conducted themselves during the lengthy audit process.

Secondly, the audit team made **real-time corrective action suggestions** that allowed us to take the necessary steps for improvement of our day to day operations. This technique was extremely beneficial to the entire office staff. It allowed us to implement corrections of the internal controls immediately.

The twenty-three pages of corrective action recommendations will undoubtedly assist Galen in the advancement of conducting business at the highest operational levels possible. Although no major errors were revealed in the findings report, the Galen board fully understands that these suggestions are totally in the **best interest of the board and its constituents**.

Please be assured that a full comprehensive corrective action plan will be submitted in the time allowed by the State Comptroller's office. This report will be consistent with the guidelines found in the brochure titled, "how to respond to an audit."

Again, I want to thank all of the staff that worked on the Galen audit. Their precise monitoring of our operational methods and what I call "**constructive criticism**," will assist us in a more efficient method of serving the public.

Sincerely,

Steven J. Groat, ^rGalen Town Supervisor

6 South Park Street Clyde, NY 14433-1345
E-MAIL: townofgalen@rochester.rr.com WEBSITE: townofgalen.org

APPENDIX B

AUDIT METHODOLOGY AND STANDARDS

Our overall objective was to examine the Board's oversight and management of financial operations and ambulance services for the period January 1, 2013 through June 12, 2014. To achieve the objective of this audit and obtain valid audit evidence, we performed the following audit procedures:

- We interviewed Town officials and employees to obtain an understanding of the Town's budgeting practices, financial operations, reserves and long-term planning, and to determine internal controls in place.
- We reviewed documents, such as Town policies, Board minutes and financial records and reports.
- We reviewed and analyzed each of the Town's individual reserves for proper establishment, authorization per statute, recording, reporting, funding and use.
- We reviewed monthly reports provided to the Board, which included revenue, expenditure and budget status information for all of the Town's major operating funds (TW general, TW highway, TOV general, TOV highway), reserves and individual department activity.
- We compared selected revenues, expenditures, assets and liabilities as reported on the annual update document (AUD) for 2013 with year-end financial reports from the accounting system to determine if the most recent AUD filed was accurate, complete and supported by the accounting records.
- We analyzed interfund activity to identify interfund loans and transfers and determine whether this activity was properly recorded, budgeted and in accordance with statute.
- We performed a financial analysis for 2011 through 2013 to assess the Town's financial condition and overall trends related to reserves, fund balance, revenues and expenditures.
- We reviewed the budgeting practices and trends in the TOV general and highway funds for 2011 through 2013 and analyzed individual line item budget to actual results. Further inquiry and investigation was performed for any line item variances greater than \$1,000 and 30 percent in two or more consecutive years.
- We reviewed the most recently completed highway equipment inventory, as of September 30, 2013.
- We reviewed the CPA reports for the most recently completed reviews for the following departments/positions: Justices, Town Clerk and Tax Collector.
- We interviewed Town officials and ambulance service members regarding ambulance operations, including general background information, financial policies and procedures,

billing, collections and payment enforcement, accounts receivable, write-offs, budgeting, employee salaries, ambulance equipment and storage.

- We reviewed ambulance service contracts and agreements, specifically those related to billing, and the lease agreement with the Fire Department to house the ambulances.
- We reviewed documents related to the Town acquiring ambulance service operations in 2006 and the ambulance service bylaws.

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

APPENDIX C

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