



# Village of Cobleskill

## Section 8 Housing Payments

### Report of Examination

Period Covered:

January 1, 2010 — February 2, 2012

2012M-53



Thomas P. DiNapoli

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# State of New York Office of the State Comptroller

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## **Division of Local Government and School Accountability**

June 2012

Dear Village 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 Village 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 Village of Cobleskill, entitled Section 8 Housing Payments. 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

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# EXECUTIVE SUMMARY

The Village of Cobleskill (Village) is located in Schoharie County and administers a Federal Housing Choice Voucher Program sponsored by the U.S. Department of Housing and Urban Development. This program includes housing assistance for residents within Schoharie County, excluding the Towns of Gilboa, Conesville, and Jefferson. This program assists very low-income families, the elderly, and the disabled in affording decent, safe, and sanitary housing in the private market.

The Board of five elected Trustees (Board) governs the Village and is responsible for the general management and control over the Village's finances and operations, including the Federal Housing Choice Voucher Program. It also is responsible for auditing and approving all disbursements, including those relating to the Federal Housing Choice Voucher Program. The Mayor, who is a member of the Board, serves as the Village's chief executive officer. The Clerk-Treasurer serves as the Village's chief fiscal officer and is responsible for custody of all Village moneys, maintaining accounting records, and signing checks.

### **Scope and Objective**

The objective of our audit was to determine if Village officials were properly administering the Housing Choice Voucher program for the period January 1, 2010 to February 2, 2012. Our audit addressed the following related questions:

- Did the Mayor and Board ensure that payments made for Section 8 Housing benefits were for eligible program purposes?
- Do any Village officials have a prohibited interest in contracts with the Village?

### **Audit Results**

Based on our review, it appears that the Board and Mayor are properly overseeing the administration of the Section 8 Housing benefits for Schoharie County. As a result, housing is made available to residents that may not otherwise be affordable to them.

However, we found that a Board member has a prohibited interest in a Village contract. This Board member owns at least one rental unit in the Village and has entered into a Housing Assistance Payments (HAP) contract with the Village. The Board member has an interest in the contract because he receives a monetary benefit as a result of the payments made pursuant to the HAP contract.<sup>1</sup> Because the Board

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<sup>1</sup> See GML Section 800[3]

audits HAP claims for payment,<sup>2</sup> the Board member has a prohibited interest in the HAP contract. Village officers are accountable to the public, especially when the expenditure of taxpayer money is involved. When Village officers, in their private capacities, conduct business with the Village, the public may question the appropriateness of the transactions. Such transactions may create an actual conflict of interest or the appearance of impropriety and/or may result in the improper enrichment of the officers or employees at taxpayer expense.

### **Comments of Local Officials**

The results of our audit and recommendation have been discussed with Village officials and their comments, which appear in Appendix A, have been considered in preparing this report. Village officials generally agreed with our recommendation and indicated that they will initiate corrective action. Appendix B contains our comments on an issue raised in the Village's response letter.

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<sup>2</sup> See Village Law Section 5-524[2]

# Introduction

## Background

The Village of Cobleskill (Village) is located in Schoharie County and administers a Federal Housing Choice Voucher Program sponsored by the U.S. Department of Housing and Urban Development (HUD). This program includes housing assistance for residents within Schoharie County, excluding the Towns of Gilboa, Conesville, and Jefferson. This program assists very low-income families, the elderly, and the disabled in affording decent, safe, and sanitary housing in the private market.

The Board of five elected Trustees (Board) governs the Village and is responsible for the general management and control over the Village's finances and operations, including the Federal Housing Choice Voucher Program. It also is responsible for auditing and approving all disbursements, including those relating to the Federal Housing Choice Voucher Program. The Mayor, who is a member of the Board, serves as the Village's chief executive officer. The Clerk-Treasurer serves as the Village's chief fiscal officer and is responsible for custody of all Village moneys, maintaining accounting records, and signing checks.

The Village contracted with Schoharie County Rural Preservation Corporation (SCRPC)<sup>3</sup> on July 1, 1987 to assist in applying for, initiating, and administering the 165-unit Housing Choice Voucher Program. The Village disburses this money to SCRPC based on a voucher and attached monthly program information prepared by SCRPC. SCRPC then disburses the money to the landlords from its own bank account to subsidize the rent on behalf of the participating tenants. The tenant is responsible for the difference between the actual rent charged by the landlord and the amount subsidized by the program. During the 2010 calendar year, the Village received \$876,968 from HUD to fund this program and disbursed \$877,247 to SCRPC for rent subsidies.

## Objective

The objective of our audit was to determine if Village officials were properly administering the Housing Choice Voucher program. Our audit addressed the following related questions:

- Did the Mayor and Board of Trustees ensure that payments made for Section 8 Housing benefits were for eligible program purposes?

<sup>3</sup> SCRPC is a private non-profit organized as a 501(c)3 corporation.

- Do any Village officials have a prohibited interest in contracts with the Village?

**Scope and  
Methodology**

Our overall goal was to assess the adequacy of the internal controls put in place by officials to safeguard the Section 8 Housing Voucher Program. To accomplish our objective, we examined the Section 8 Housing payments for the period January 1, 2010 to February 2, 2012.

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 Village officials and their comments, which appear in Appendix A, have been considered in preparing this report. Village officials generally agreed with our recommendation and indicated that they will initiate corrective action. Appendix B contains our comments on an issue raised in the Village's response letter.

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

## Section 8 Housing Payments

The Mayor and Board are responsible for ensuring that payments made with money received through the Federal Housing and Urban Development Agency are for eligible program purposes. This includes establishing procedures to verify that recipients are eligible for the assistance and reside in safe housing. Village officials also must determine that rent is reasonable, subsidy payments are being made to the correct landlords, and these payments are supported by proper documentation. Further, to ensure that resources are not being abused, Village officials should verify that recipients of Section 8 Housing subsidies are not also receiving housing subsidies from other sources. When these monitoring services are provided by a third-party vendor, Village officials must establish additional controls to verify that the vendor meets these requirements.

The Mayor and Board ensured that payments for Section 8 Housing benefits were paid for eligible program purposes. The Board established adequate procedures and engaged an independent audit firm to verify the third-party vendor was complying with the Section 8 Housing program regulations. Also, the Board received monthly claims that listed the property owner, tenant, and other allowable related costs. We reviewed one tenant file<sup>4</sup> maintained by the vendor and verified that sufficient documentation was available regarding tenant eligibility and housing safety inspections. We also drove by 10 tenants' residences<sup>5</sup> to verify that the residences existed and were apparently in reasonable condition. We verified that these same tenants were not also receiving housing benefits through the Schoharie County Department of Social Services that SCRPC was not aware of, which could have made them ineligible for Section 8 Housing subsidies.

Based on our review, it appears that the Board and Mayor are properly overseeing the administration of the Section 8 Housing Assistance Program for Schoharie County. As a result, housing is made available to residents that may not otherwise be affordable to them.

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<sup>4</sup> See Appendix B, Audit Methodology and Standards, for details on our sample selection.

<sup>5</sup> See Appendix B, Audit Methodology and Standards, for details on our sample selection.

## Conflict of Interest

Article 18 of General Municipal Law (GML) limits the ability of municipal officers and employees to enter into contracts in which both their personal financial interests and their public powers and duties conflict. Unless a statutory exception applies, GML prohibits municipal officers and employees from having an “interest” in contracts with the municipality for which they serve when they also have the power or duty – either individually or as a board member – to negotiate, prepare, authorize, or approve the contract; to authorize or approve payment under the contract; to audit bills or claims under the contract; or to appoint an officer or employee with any of those powers or duties. For this purpose, a contract includes any claim, account, demand against, or agreement with a municipality.

Municipal officers and employees have an interest in a contract when they receive a direct or indirect monetary or material benefit as a result of a contract. Municipal officers and employees are also deemed to have an interest in the contracts of their spouse, minor children and dependents (except employment contracts with the municipality); a firm, partnership, or association of which they are a member or employee; and a corporation of which they are an officer, director or employee, or directly or indirectly own or control any stock. As a rule, interests in actual or proposed contracts on the part of a municipal officer or employee, or his or her spouse, must be publicly disclosed in writing to the municipal officer’s or employee’s immediate supervisor and to the governing board of the municipality.

As a rule, interests in actual or proposed contracts on the part of a Village officer or employee must be publicly disclosed in writing to the Board, and included in the official record of the Board’s proceedings. This disclosure, however, does not allow for a prohibited interest under article 18 of GML.

We found that a Board member has a prohibited interest in a Village contract. This Board member owns at least one rental unit in the Village and has entered into a Housing Assistance Payments (HAP) contract with the Village. The Board member has an interest in the contract because he receives a monetary benefit as a result of the payments made pursuant to the HAP contract.<sup>6</sup> Because the Board audits HAP claims for payment,<sup>7</sup> the Board member has a prohibited interest in the HAP contract unless a statutory exception applies.<sup>8</sup>

<sup>6</sup> See GML Section 800[3]

<sup>7</sup> See Village Law Section 5-524[2]

<sup>8</sup> See GML Section 801

GML<sup>9</sup> provides an exception when a municipal officer or employee has an interest in a contract when the contract was entered into prior to the time the individual was elected or appointed as an officer or employee. This exception, however, does not apply to the renewal of the contract. In this case, this Board member was elected to the Board after he began participating in the housing program. The HAP contract between the Village and the Board member, however, is renewed on an annual basis, and has been renewed since this individual became a Board member. Therefore, it does not appear that the statutory exception applies. Since there is no indication that any other statutory exception applies to this circumstance, the Board member has a prohibited interest in the contract.

Village officers are accountable to the public, especially when the expenditure of taxpayer money is involved. When Village officers, in their private capacities, conduct business with the Village, the public may question the appropriateness of the transactions. Such transactions may create an actual conflict of interest or the appearance of impropriety and/or may result in the improper enrichment of the officers or employees at taxpayer expense.

## **Recommendation**

1. The Board should establish and implement controls to ensure that the Village does not enter into contracts in which an officer or employee has a prohibited interest.

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<sup>9</sup> GML Section 802(1)(h)

**APPENDIX A**  
**RESPONSE FROM LOCAL OFFICIALS**

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

**Mayor**  
Mark A. Galasso

**Deputy Mayor**  
Robert P. Hotaling

**Clerk-Treasurer**  
Sheila Hay-Gillespie

**Code Enforcement**  
Mike Piccolo

## Village of Cobleskill

378 Mineral Springs Road, Suite 2  
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June 26, 2012

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Binghamton, New York 13901-4417

RE: Village of Cobleskill  
Section 8 Housing Payments  
Report of Examination  
2012M-053

Please consider this correspondence as a combined response and corrective action plan for the above referenced report of examination.

### Audit Recommendation

The Board should establish and implement controls to ensure that the Village does not enter into contracts in which an officer or employee has a prohibited interest.

### Position Concerning Audit Findings

The members of the Board of Trustees of the Village of Cobleskill take seriously their fiduciary responsibilities to the taxpayers of the Village of Cobleskill. The Village Board does not dispute the fact that an HAP contract for housing exists between one of its members and the Village, it does however feel that under the circumstances, that the Comptroller's finding of the prohibited conflict of interest occurred after the board member was elected, as the housing contract between the Village and the board member existed for years prior to such board member being elected to the Board of Trustees, and feels that because the monthly amount of the contract payable to that board member relative to the total monthly disbursements of the program as a whole is minuscule, that such finding is unsubstantiated and is unnecessarily critical of a board and board member doing much more justifiable good for the Village of Cobleskill than the perceived negative effect of the Comptroller's finding of conflict of interest could ever produce.

See  
Note 1  
Page 13

Corrections Planned

As a result of steps being taken to resolve an unrelated matter, the Village of Cobleskill is currently seeking approval of the Board of Supervisors of Schoharie County for the county to take over the administration of the Section 8 Housing Program. Should the Schoharie County Board of Supervisors decide to take over the administration of the Section 8 Housing Program for the Village of Cobleskill, the Comptroller's finding of a prohibited interest or conflict of interest will automatically be eliminated.

Implementation Date of Corrective Action

The Village of Cobleskill is seeking approval of the Schoharie County Board of Supervisors to take over the administration of the Section 8 Housing Program effective January 1, 2013.

Person Responsible for Implementation

The Mayor of the Village of Cobleskill, as Chief Executive Officer of the Village, is the person who has been authorized by the Board of Trustees of the Village of Cobleskill to request the Section 8 Housing Program be administered by Schoharie County.

This response and corrective action plan has been shared with and approved by the Board of Trustees of the Village of Cobleskill.

Sincerely,



Mark A. Galasso  
Mayor

## **APPENDIX B**

### **OSC COMMENT ON THE VILLAGE'S RESPONSE**

#### Note 1

The legal requirements are very clear in this situation. While General Municipal Law (GML) provides an exception to this conflict of interest provision when the contract was entered into prior to the time the individual was elected or appointed as an officer or employee, this exception ends when the contract is renewed. The Housing Assistance Payments (HAP) contract between the Village and the Board member has been renewed since this individual became a Board member. The latest renewal was effective April 1, 2012.

In addition, although GML does provide an exception if the total consideration paid during the fiscal year does not exceed \$750, the annual rent the Trustee received in 2011 (\$4,722) significantly exceeds this threshold. Moreover, GML does not contain any exceptions relating to the purpose of the contract or other justification of the service provided.

## APPENDIX C

### AUDIT METHODOLOGY AND STANDARDS

Our overall goal was to assess the adequacy of the internal controls put in place by officials to safeguard the Section 8 Housing Voucher Program. 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 appropriate Village and Schoharie County Rural Preservation Corporation officials and employees and performed limited tests of transactions. We also reviewed pertinent documents, such as the contracts between SCRPC and the Village, and financial records and reports including the external audit report, the respective work papers, and peer review. 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 performed the following procedures:

- We interviewed Village and SCRPC officials and employees about existing internal control systems over the Section 8 Housing Voucher Program.
- We obtained the engagement letter from the Clerk-Treasurer to determine what services the Board engaged the external auditor to provide and reviewed the report prepared for the year ending December 31, 2010.
- We interviewed an employee at the external auditor's office to determine what services the auditor provided. We also obtained copies of the work papers that related to the auditor's audit of the Section 8 Housing Voucher Program and the auditor's most recent peer review.
- We obtained the most recent Section 8 Housing Choice spreadsheet compiled by SCRPC, dated March 12, 2012, and selected a non-biased judgmental sample of 10 tenants from the 154 tenants listed by selecting every 15th tenant listed. We obtained the tenant files for these individuals and drove by the rented residences to verify that the residences actually existed and appeared to be in reasonable condition. We also made inquiries of a Senior Social Welfare Examiner from the Schoharie County Department of Social Services for these same 10 tenants to determine if they were receiving temporary assistances that SCRPC was not aware of.
- We also judgmentally selected the one tenant that received assistance from the Schoharie County Department of Social Services from the 10 tenants and reviewed the respective tenant file maintained by SCRPC to determine if the available documentation was sufficient and included tenant eligibility and safety inspections.
- We reviewed the voucher summary spreadsheets prepared by SCRPC for January 2010 to December 2011 to determine if there were any Board members receiving payments through the Section 8 Housing Choice Voucher Program and totaled those payments any Board members may have received.
- We also obtained the original contract, along with the most recent amendments, between SCRPC and the Board member, to determine when they were signed by the parties.

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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Andrew A. SanFilippo, Executive Deputy Comptroller  
Steven J. Hancox, Deputy Comptroller  
Nathaalie N. Carey, Assistant Comptroller

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