



# Town of Busti

## Taxpayer Equity

### Report of Examination

Period Covered:

January 1, 2014 – October 21, 2015

2015M-349



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**

March 2016

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 Busti, entitled Taxpayer Equity. 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*

# Introduction

## Background

The Town of Busti (Town) is located in Chautauqua County and has a population of approximately 7,350. The Town is governed by the Town Board (Board), which is composed of the Town Supervisor (Supervisor) and four Board members. The Board is responsible for the general management and control of the Town's financial affairs. The Supervisor is the Town's chief fiscal officer and budget officer. As the chief fiscal officer, the Supervisor is responsible for ensuring that all revenues and expenditures are properly recorded and accounted for. As the budget officer, the Supervisor is responsible for preparing and presenting to the Board a tentative budget that is in conformance with all relevant statutes. This budget is subject to modification and approval by the Board.

The Town has an elected Highway Superintendent (Superintendent), who is responsible for overseeing all highway department operations, including maintaining Town roads, bridges and culverts and providing snow and brush removal services. The Superintendent provides the Supervisor with estimates for the highway department's annual budget. The Supervisor is responsible for managing and controlling these funds and for keeping detailed books of account on the funds allocated to highway budget items.

The Town provides various services to its residents, including road maintenance, snow removal, water, sewer and general government support. The Town's primary funding sources are real property taxes, sales tax and State aid. The Town's 2015 budgeted appropriations for the highway funds total approximately \$1.1 million.

## Objective

The objective of our audit was to determine whether Town officials were properly budgeting and allocating highway department expenditures. Our audit addressed the following related question:

- Did Town officials properly budget highway department expenditures and allocate them between town-wide and town-outside-village funds?

## Scope and Methodology

We examined highway department operations for the period January 1, 2014 through October 21, 2015 to determine if expenditures were properly budgeted and allocated between highway funds.

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. Unless otherwise indicated in this report, samples for testing were selected based on professional judgment, as it was not the intent to project the results onto the entire population. Where applicable, information is presented concerning the value and/or size of the relevant population and the sample selected for examination.

**Comments of  
Town Officials and  
Corrective Action**

The results of our audit and recommendations have been discussed with Town officials, and their comments, which appear in Appendix A, have been considered in preparing this report. Town officials did not agree with our findings and recommendations. Appendix B includes our comments on issues raised in the Town's response letter.

The Board has the responsibility to initiate corrective action. A written corrective action plan (CAP) that addresses the findings and recommendations in this report should be prepared and forwarded to our office within 90 days, pursuant to Section 35 of 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.

## Taxpayer Equity

The Village of Lakewood (Village) is geographically located within the boundaries of the Town, and real property taxes levied for highway fund purposes are derived from two different tax bases. In a town with a village, two funds must be maintained – the town-wide highway fund and the town-outside-village highway fund. The town-wide highway fund has a tax base that encompasses the entire town, including the village. The town-outside-village highway fund has a tax base that includes only the portion of the town that lies outside the village’s boundaries. Because the Town’s financial transactions affect different tax bases, it is important for Town officials to accurately budget and record expenditures in the proper funds to maintain taxpayer equity.

In 2014, Town officials did not properly budget or allocate approximately \$135,000 in highway equipment purchases between the town-wide and town-outside-village highway funds. As a result, the Town unnecessarily increased tax rates for Town residents residing within the Village and subsequently lowered tax rates for Town residents living outside of the Village. These actions also caused the operations of those funds to be misstated and may result in an inequitable tax burden.

Generally, expenditures must be budgeted in the town-wide fund unless statute requires or permits them to be accounted for in the town-outside-village fund. New York State Highway Law sets forth the funds in which a town can budget and account for highway department expenditures. There are four major areas of highway expenditures:<sup>1</sup> general repairs and improvements to roads; bridge repair and construction; the purchase and repair of machinery; and the removal of road obstructions including brush, weeds and snow. Taxes for road repairs and improvements are raised in the area of the town-outside-village. Taxes for bridges, machinery and the removal of road obstructions are raised on an entire town, except that a board may, by resolution, exempt property within a village from taxes for machinery and obstruction removal and allocate these costs solely to the area outside of the village.

For the past five fiscal years, Town officials have budgeted and allocated costs for machinery and obstruction removal to the area of the Town outside of the Village. As such, a Board resolution would be required to reallocate these expenditures to the town-wide highway

<sup>1</sup> Commonly referred to as highway items one through four

fund. However, as of October 21, 2015, the Board had not adopted such a resolution.

From January 1, 2014 through August 31, 2015, the Supervisor recorded approximately \$1.6 million in highway expenditures. We randomly selected<sup>2</sup> 81 expenditures totaling approximately \$443,000 that were recorded in the town-outside-village highway fund and found that all these expenditures were budgeted and accounted for appropriately. We also reviewed all three expenditures totaling approximately \$137,500 that were recorded within the town-wide<sup>3</sup> highway fund and found misclassified expenditures.

In 2014, Town officials budgeted and levied taxes for \$135,000<sup>4</sup> in apparent bridge-related expenditures within the town-wide highway fund. Although expenditures for bridge repairs and construction should be budgeted and accounted for within this fund, these expenditures were actually for machinery purchases and, therefore, should have been budgeted and accounted for within the town-outside-village highway fund.

The misclassified expenditures included \$135,000 for the purchase of a dump truck and associated equipment needed for road repair and obstruction removal and \$2,500 applied toward the purchase<sup>5</sup> of a pickup truck for general highway department use. This resulted in an increase in the tax rate for residents residing within the Village and a decrease in the tax rate for residents outside of the Village. For example, a resident living in the Village with a home assessed at \$100,000 would have had to pay an extra \$28 because of the misclassified expenditures.

The Supervisor told us that he intentionally misclassified these expenditures as bridge expenditures to allocate them to the town-wide fund because he wanted Village residents to pay what he perceived to be their fair share of highway expenditures. He said that the highway department already provides services<sup>6</sup> to Village residents at no cost; therefore, the reallocation of expenditures seemed appropriate.

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<sup>2</sup> See Appendix C, Audit Methodology and Standards, for details on our sample selection.

<sup>3</sup> Although the Town also appropriated approximately \$90,000 in the 2015 town-wide highway fund budget for bridge expenditures, no expenditures were recorded against this appropriation from January 1 through August 31, 2015.

<sup>4</sup> Actual recorded expenditures were approximately \$137,500. The Town used \$2,500 of the town-wide highway fund unrestricted fund balance.

<sup>5</sup> The Town was able to trade in a used 2012 truck plus \$2,500 cash for a new 2015 pickup truck.

<sup>6</sup> The Supervisor indicated these services include assisting the Village Department of Public Works with blacktopping projects and annual leaf and brush removal.

However, the decision to reallocate these expenditures and levy taxes upon the entire Town should have been made by the Board, not the Supervisor. In addition, according to the Superintendent, the Supervisor made this change even though the Superintendent had indicated to him that he did not think that it was allowed.

Because the Town's financial transactions affect different tax bases, it is important for Town officials to accurately budget and record revenues and expenditures in the proper funds to maintain equity among taxpayers and comply with statutory requirements.

## **Recommendations**

The Board should:

1. Review statutory requirements relating to the allocation of highway expenditures and adopt budgets that include revenues and expenditures allocated in the proper fund in accordance with these requirements.

The Supervisor should:

2. Correct prior year accounting errors relating to the improper recording of financial activity between town-wide and town-outside-village highway funds to correct the taxpayer inequity.



## **APPENDIX A**

### **RESPONSE FROM TOWN OFFICIALS**

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



Supervisor  
JESSE M. ROBBINS

Town Clerk  
DARLENE H. NYGREN

Highway Superintendent  
MELVIN J. PETERSON

Assessor  
KEVIN P. OKERLUND, IAO

Councilmen  
KENNETH J. LAWTON  
JAMES ANDREWS  
TODD M. HANSON  
RUDY MUELLER

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**TOWN OF BUSTI**  
125 CHAUTAUQUA AVENUE  
LAKEWOOD, NEW YORK 14750

March 10, 2016

**Office of the State Comptroller**  
**Jeffrey D. Mazula, Chief Examiner**  
295 Main St. Suite 1032  
Buffalo, New York 14203-2510

**RE: Response to Town of Busti Taxpayer Equity Report**

**Dear Mr. Mazula:**

Thank you for the review of the Town of Busti highway department expenditures from January 1, 2014 to October 21, 2015.

The following information is in response to Recommendation #1 and #2 (page 7 of draft):

- 1) The Board should review statutory requirements relating to the allocation of highway expenditures, adopt budgets that include revenues and expenditures allocated in the proper fund in accordance with these requirements.
- 2) The Supervisor should correct errors relating to the improper recording of financial activity between town-wide and town-outside-village highway funds to correct the taxpayer inequity.

This is regarding the truck that was purchased and paid for under the DA account. This is a valid procedure according to the NY state auditing. And the reason that this is allowable is because of the large amount of time that Busti Highway spends assisting and helping the Village of Lakewood highway. The following are just some of the many ways that the Town of Busti assists the Village of Lakewood during the year:

- Paving of Village roads – including a hot-mix paver, a number of 10 wheelers, rollers and Busti manpower
- Snow removal from village streets and public areas when there are large snowfalls when Lakewood needs assistance
- Assisting Lakewood with the annual 'spring clean-up'
- Assisting Lakewood with their annual Fall brush and leaf pickup

See  
Note 1  
Page 11

- Use of the Busti track-hoe to clean out the Crescent Creek approximately every 2 to 3 years – which also included the purchase of a new track the last time we helped because the track broke while we were actually helping clean out Crescent Creek
- Busti trucks are involved when any drainage issues occur in the village
- Man-power from Busti is used whenever the brush grinder is being used in the village
- Busti built (including the welding) a new wing and plow frame for a village truck in 2014 – the village paid for the parts and the town provided the welder and pay for his time
- In 2015, Busti dug out all the foundation and footers for addition to village highway garage

These are just a few of the many things that the Busti Highway provides for the Village of Lakewood. In light of all of these things that we do regularly for the village highway, I, and the Town Board, felt justified in charging the DA account to share the purchase of the new truck. This was NOT a decision that was made lightly. The cost of the new truck was \$135,000, which the village paid for approximately \$60,000. So over a 12 year period – which is how long we usually keep a truck – this means that village taxpayers pay \$5,000 cost per year for use of this vehicle and the manpower that comes along with it.

The New York State Auditor has made the following recommendation to the Busti Town Board:

The Board should review statutory requirements relating to the allocation of highway expenditures, adopt budgets that include revenues and expenditures allocated in the proper fund in accordance with these requirements.

In response, the Supervisor and the Town Board will make a resolution, not a motion, as part of the Town Board meeting minutes when such a purchase happens in the future to indicate that all expenses for machinery or repairs for that budget year be budgeted in the appropriate DA or DB account.

The New York State Auditor has made the following recommendation to the Busti Supervisor:

The Supervisor should correct errors relating to the improper recording of financial activity between town-wide and town-outside-village highway funds to correct the taxpayer inequity.

See  
Note 2  
Page 11

**March 10, 2016**  
**Office of the State Comptroller**  
**Page 3**

In response, the Supervisor and the Town Board are satisfied and justified in the procedure they have utilized. However, the Board will not be adjusting the fund account as recommended because of the large amount of assistance that Busti highway gives Lakewood highway and it is fair and just that they pay a portion of one vehicle in return for the service that Busti provides Lakewood

I would like to take this opportunity to thank the New York State Comptroller's Office for the valued assistance with this matter.

Sincerely yours,

**Town of Busti**

**By: Jesse M. Robbins**  
**Supervisor**

## **APPENDIX B**

### **OSC COMMENTS ON THE TOWN'S RESPONSE**

#### Note 1

The Board can choose to levy taxes for machinery purchases upon the entire Town, including the Village, and allocate these costs to the town-wide highway (DA) fund, but it must first pass a resolution stating its intention to do so.

#### Note 2

The report represents the collective view of the Office of the State Comptroller and not the view of an individual auditor.

## APPENDIX C

### AUDIT METHODOLOGY AND STANDARDS

To achieve our audit objective and obtain valid evidence, we performed the following procedures:

- We interviewed Town officials to gain an understanding of the internal controls over the Town's budgeting practices and recording of highway expenditures.
- We interviewed Town officials and reviewed Board meeting minutes and adopted budgets to assess the history of budget allocations within the highway funds.
- We interviewed Town officials to determine how personal service costs were allocated within the highway funds.
- We reviewed and compared the 2014 and 2015 adopted budgets and expenditure reports to determine if expenditures were properly accounted for in the town-wide and town-outside-village funds in accordance with statute. We tested all recorded town-wide highway fund expenditures and used a random number generator to select our sample for town-outside-village highway fund expenditures for each budget account code.
- We reviewed the 2014 tax levy and compared it against the proper accounting of highway expenditures to determine the effect of improper budgeting on Town residents.

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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