

Village of Little Valley

Capital Project Management

JANUARY 2021



OFFICE OF THE NEW YORK STATE COMPTROLLER
Thomas P. DiNapoli, State Comptroller

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Report Highlights

Village of Little Valley

Audit Objective

Determine whether the Village of Little Valley (Village) Board of Trustees (Board) properly planned and sufficiently monitored the waste water treatment plant (WWTP) project.

Key Findings

The Board properly planned the WWTP project but could have better managed certain aspects of the project.

- The Board developed a financial plan that addressed the impact of project debt payments.
- Village officials incurred \$67,000 in additional expenses because they were unable to comply with certain grant funding requirements.
- Project delays and project scope changes added an additional \$220,000 to the WWTP project costs.
- The initial project completion date was December 2017 but was completed in October 2020.

Key Recommendations

- Adhere to original project designs, to the extent possible, and carefully evaluate all change orders, to ensure the project is completed in a timely manner and avoid unnecessary costs.

Village officials agreed with our findings and indicated they plan to initiate corrective action on future projects.

Background

The Village is located in Cattaraugus County (County) and is governed by the Mayor and a four-member Board. The Board is responsible for the general management and oversight of financial operations. The Clerk-Treasurer serves as the chief financial officer.

In December 2015, the Board accepted an engineering services proposal for upgrades to the WWTP. The firm (Firm) acted as the “clerk of the works” throughout the project and was responsible for providing timely updates regarding project status to the Board.

Quick Facts

Estimated Project Cost	\$5.1 million
Debt Issued	\$3.2 million
Original Construction Timeline	March 2016 – December 2017
Actual Construction Timeline	July 2018 – October 2020
Population	1,150

Audit Period

June 1, 2015 – May 4, 2020

Project Planning and Management

Local governments undertake capital projects to acquire, develop, improve or maintain various facilities, other infrastructure and/or equipment. These projects are generally large in scale, require large sums of money and are often completed over a period of several years. With concerns over aging infrastructure, increasing repair costs and diminished processing capacity, the Board approved the WWTP project in July 2015 with an estimated maximum cost of \$5.1 million. Improvements are expected to enhance processing capabilities, allowing for new or existing business expansions. The project was financed through a combination of grants, totaling approximately \$1.9 million, and an interest-free New York State Environmental Facilities Corporation (EFC) loan of approximately \$3.2 million. The WWTP project was initially expected to be completed in December 2017 but was completed in October 2020.

Figures 1 and 2 include images of rotating biological contactors (RBCs), which were included in the WWTP project. The RBCs promote growth of biological organisms that break down the bacteria. Prior to the project, the Village had three RBCs, but one had not worked in years and another was constantly needing repair (Figure 1). The Village now has four brand new fully functioning RBCs (Figure 2).

Figure 1: RBC in Need of Repair



Figure 2: Four New RBCs



How Should the Board Plan and Monitor Capital Projects?

The board is responsible for the oversight and management of capital projects, including ensuring that projects are properly planned and managed, project funding is authorized and costs are kept within the approved budget while minimizing the possibility of cost overruns that could have a negative impact on finances. Proper planning requires a thorough understanding of the project's overall scope and cost. Initial estimated costs must be realistic so that the board can evaluate methods and costs of financing. Additionally, when the board issues debt to fund a capital project, it needs to assess the operating fund's revenue streams and determine whether they are sufficient to finance the debt service costs that will be added to the budget.

Once a capital project budget has been established and the project has begun, local officials and/or their designees should properly manage the project and monitor activity on a regular basis. Because the board authorizes construction contracts and professional service contracts, it must also review proposed changes to these agreements. A change order is a formal construction contract modification, agreed upon by both local officials and the contractor, to authorize a change in the work, an adjustment in the project cost or a change in the contract

time. Change orders should be presented to the board for approval in a timely manner and should be reviewed by the board as promptly as possible to help ensure each change order is approved before any additional work is started. The board should document its review and approval of change orders in the meeting minutes.

The Board Properly Planned the Project but Funding Restrictions Resulted in Construction Delays and Additional Project Costs

The Board properly planned the project and developed a financing plan based on the project's scope and cost estimates. To fund the WWTP project, the Board appropriately planned the financing by properly seeking out and applying for grants and no-interest loans. The project was funded with loans and grants, three of which had certain funding restrictions or stipulations. Because of circumstances outside the Village's control, the Village encountered difficulties meeting two of the funding stipulations, which resulted in construction delays and increased costs.

The Board and officials also adequately assessed the budgetary impact of bond repayment and created a comprehensive financial plan to help ensure the sewer fund had sufficient revenues for annual debt service payments. In anticipation of project debt payments,¹ the Board authorized two sewer rate increases which became effective on June 1, 2017 and June 1, 2018. Combined, these rate increases created approximately \$32,800 in additional annual sewer rent revenue.²

Additionally, the Village paid off other outstanding debt in the sewer fund that had annual debt service payments totaling \$33,000. The portion of sewer fund revenues that had been used to make the debt service payments on the retired debt could now be used to help repay the new project-related debt.

We reviewed the 2020-21 adopted budget and found that budgeted revenues were sufficient to cover budgeted appropriations including debt service payments. Additionally, the sewer fund is financially healthy with adequate fund balance.³ However, if expenditures increase, the Board and officials may have to consider additional sewer rate increases or rely on fund balance to meet future obligations.

The Village received \$600,000 in Community Development Block Grant (CDBG) funding with contract terms that required the project be completed in a two-year span beginning in December 2015 and ending in December 2017.⁴ However,

To fund the WWTP project, the Board appropriately planned the financing by properly seeking out and applying for grants and no-interest loans.

1 Approximate annual payments of \$106,000 over 30 years

2 Sewer rent revenues from residential and commercial customers

3 Fund balance is the difference between revenues and expenditures accumulated over time. The sewer fund's reported unrestricted fund balance (available for use) as of May 31, 2019 totaled approximately \$238,000.

4 The initial construction start date was estimated to be March 2016.

as the WWTP project design was commencing, a brewery was proposed to be located within the Village. Because the brewery's discharges could affect the WWTP processing capabilities, the project engineers required additional time to study the brewery's potential impact, resulting in the postponement of the contractor bid award and construction delays. As a result, to meet the CDBG project deadline and preserve grant funding, the Village had to break the project into two phases and request a grant extension, extending the expected project completion date to October 2018.

The Village also encountered difficulties satisfying requirements of the interest-free EFC loans it was using to finance a portion of the project. The EFC loans required that all iron and steel (AIS) products permanently incorporated into the project to be manufactured in the United States⁵ unless the recipient had requested and obtained a waiver.⁶ However, the Firm's lead engineer told us that many contractors were unable to secure AIS-qualified components in a timely manner because of supply shortages and that the Village was unable to secure these parts in time to meet the CDBG grant deadline date.

Officials said, ultimately, to meet the Phase 1 deadline to secure CDBG grant funding, they purchased and installed non-compliant valves in Phase I assuming they would be able to use a portion of the CDBG grant to pay for the valves which would not be eligible for EFC funding. After purchasing the non-compliant valves totaling \$67,000, the Village applied for a waiver from EFC to use the valves but the waiver was denied. As a result, the Village had to find and install compliant valves in Phase II before any additional EFC funding would be released. Because the parts cannot be returned or refunded, the Village is holding these valves in inventory. Officials stated they plan to retain several for future use and are considering selling the remainder. However, WWTP employees indicated that the valves rarely fail, used valves have little value and most municipal capital projects would require AIS-compliant parts. As such, the Village's likelihood of recouping any of these funds seems unlikely.

Good planning and ongoing project management usually allows projects to be completed within the original cost and scope. Because the Firm kept the Board informed and the Board took appropriate action, the Village was able to manage the difficulties encountered and ensure grant funding and other financing was received.

The Board Could Have Better Managed Certain Aspects of the Project

Overall, the Board provided sufficient oversight of the project by attending periodic progress meetings with engineers and receiving construction and budget status

⁵ Section 608 of the Clean Water Act and known as the AIS requirement

⁶ The waiver would require approval by the Environmental Protection Agency.

reports. However, subsequent to the award of the construction contract in Phase II, the Board requested changes to certain aspects, which resulted in added expenses and contributed to project delays. Although officials indicated that the project was completed within budget, it finished approximately three years behind schedule.

Board requests for modifications to the project design resulted in \$220,000 more than anticipated in engineering and financial services expenses. With the splitting of the project into two phases, the majority of the engineering general services budget was spent during Phase I, requiring an additional \$100,000 be added for work in Phase II. Additional expenses also included extra design work for the brewery (\$45,000)⁷ and extending the financial services contract an additional two years at a maximum amount of \$25,000.⁸ Turnover in both Village administration and management at the WWTP also resulted in items being added back to the project⁹ that had been initially removed. These changes, as well as additional enhancements, resulted in \$50,000 in additional engineering costs. Officials told us that the features originally removed were added back because they would enable the WWTP to shift from mechanical control systems to more advanced automated processes.

However, it is unclear why these features were removed from the project or whether the Board authorized their removal. According to the engineers, these changes began with the chief operator and were discussed during project progress meetings. The changes also were subsequently documented through field orders authorized by the prior Mayor or the plant operator.¹⁰ The Clerk-Treasurer stated that although she believed the entire Board was aware of the field directives, there were no formal Board approvals. Because the Village's financing plan had sufficient contingency funding, the costs for additional engineering and financial services were absorbed within the original project budget and there were no cost overruns.

While change orders are often a necessary part of capital projects, the ultimate goals and scope of a project should not change significantly. Although the Board had a well-developed financing plan in place, and certain delays were unavoidable, modifying certain scope items contributed toward construction delays and additional costs. Had the Board carefully considered the impact of allowing changes to the project design on the overall project goals, and timeliness of project completion, additional costs and project delays may have been avoided.

Although ...
the project
was completed
within budget,
it finished
approximately
three years
behind
schedule.

7 This occurred prior to original design completion and construction bid.

8 The initial contract of \$50,000 was for four years. January 2020 Board minutes approved the extension but indicated they would only be paid through the end of the project.

9 Prior to awarding the construction bid for Phase II

10 According to officials, routine change orders during construction are forwarded to the Board for final approval.

What Do We Recommend?

The Board should:

1. Adhere to original project designs, to the extent possible, and carefully evaluate all changes, to ensure the project is completed in a timely manner and avoid unnecessary costs.
2. Formally approve all necessary change orders and/or field directives and ensure that approval is documented in the Board minutes.

Appendix A: Response From Village Officials

Village of Little Valley

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Robert B. Young
Public Works Superintendent

James F. Bowen
Mayor

Peggy M. Root
Clerk Treasurer

November 6, 2020

Jeffrey D. Mazula, Chief Examiner
Office of the State Comptroller
Buffalo Regional Office
295 Main Street, Suite 1032
Buffalo, NY 14203-2510

Dear Mr. Mazula:

The Village of Little Valley is in receipt of the Draft Audit Report - Capital Project Management for the period of June 1, 2015 through May 4, 2020 prepared by the Office of State Comptroller. After reviewing the draft report and meeting with the State auditors we are in agreeance with the key findings and recommendation presented.

On behalf of the Village of Little Valley I would like to thank the auditors and the staff at the NYS Comptroller's office for the professionalism that was shown and constructive feedback that they provided to us.

Sincerely,


James F. Bowen
Mayor

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Appendix B: Audit Methodology and Standards

We conducted this audit 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. To achieve the audit objective and obtain valid audit evidence, our audit procedures included the following:

- We interviewed officials to gain an understanding of the procedures taken to obtain project funding, to assess the project's overall goals and the Village's overall capital project process.
- We held discussions with the engineer, financial services personnel and the WWTP operator to gather information regarding project timeline and scope, funding sources and key restrictions of grants or loans and the purchasing of AIS-compliant components.
- We reviewed Board minutes for relevant information and significant discussions regarding the project. We also reviewed related correspondence and records including construction bid awards, engineering and financial services contracts, grant award notifications and debt schedules.
- We reviewed financial information the Clerk-Treasurer and financial services personnel provided to assess whether the Board had adequate information to properly monitor project activity and to determine whether final project costs are within budgeted amounts.
- We evaluated the sewer fund's financial condition as of May 31, 2020 and reviewed the adopted 2020-21 budget to assess the impact of project-related debt and the impact of recent rate increases on the overall sewer fund budget.

We conducted this performance audit in accordance with GAGAS (generally accepted government auditing standards). 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.

A written corrective action plan (CAP) that addresses the findings and recommendations in this report should be prepared and provided 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 Village Board to make the CAP available for public review in the Village Clerk-Treasurer's office.

Appendix C: Resources and Services

Regional Office Directory

www.osc.state.ny.us/sites/default/files/local-government/documents/pdf/2018-12/regional_directory.pdf

Cost-Saving Ideas – Resources, advice and assistance on cost-saving ideas

www.osc.state.ny.us/local-government/publications?title=&body_value=&field_topics_target_id=263196&issued=All

Fiscal Stress Monitoring – Resources for local government officials experiencing fiscal problems

www.osc.state.ny.us/local-government/fiscal-monitoring

Local Government Management Guides – Series of publications that include technical information and suggested practices for local government management

www.osc.state.ny.us/local-government/publications?title=&body_value=&field_topics_target_id=263206&issued=All

Planning and Budgeting Guides – Resources for developing multiyear financial, capital, strategic and other plans

www.osc.state.ny.us/local-government/resources/planning-resources

Protecting Sensitive Data and Other Local Government Assets – A non-technical cybersecurity guide for local government leaders

www.osc.state.ny.us/sites/default/files/local-government/documents/pdf/2020-05/cyber-security-guide.pdf

Required Reporting – Information and resources for reports and forms that are filed with the Office of the State Comptroller

www.osc.state.ny.us/local-government/required-reporting

Research Reports/Publications – Reports on major policy issues facing local governments and State policy-makers

www.osc.state.ny.us/local-government/publications?title=&body_value=&field_topics_target_id=263211&issued=All

Training – Resources for local government officials on in-person and online training opportunities on a wide range of topics

www.osc.state.ny.us/local-government/academy

Contact

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