



# City of North Tonawanda

## Financial Operations

### Report of Examination

Period Covered:

January 1, 2011 — August 31, 2012

2012M-203



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

February 2013

Dear City 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 council 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 City of North Tonawanda, entitled Financial Operations. 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 City of North Tonawanda (City) is located in Niagara County and has approximately 32,000 residents. The City's general fund budget for the 2012 fiscal year is \$34.7 million, funded primarily by real property tax, sales tax, and State aid. The primary services financed by the general fund are police and fire, street maintenance, repair and plowing, refuse collection, youth programs, and general government support. The City is governed by a five member Common Council (Council). The Council has oversight responsibilities and can adopt and amend local laws, ordinances, and resolutions of the City. The Mayor has the responsibility to supervise, direct, and control the administration of all City government departments.

### **Scope and Objective**

The objective of our audit was to review the City's oversight of its volunteer fire companies and the City's purchasing process for the period January 1, 2011 to August 31, 2012. Our audit addressed the following related questions:

- Does the Council ensure that the fire companies are aware of their statutory duty to provide the Council with advance written notice of their fundraising activities?
- Are internal controls over the procurement of City materials and supplies properly designed and operating effectively?

### **Audit Results**

The Council did not review the fire companies' fundraising events held in 2011, because none of the fire companies provided the City with advance notice of these events as required by law. These events included chowder sales, food and beer tents at Canal Fest, and a variety of raffles, bingo, and other games of chance. We identified fire company fundraisers that operated at a loss and provided free alcohol to participants.

We tested 26 claims totaling \$40,744 from nine vendors who provided the City with materials and supplies totaling \$140,703 in 2011. We found that for all 26 claims tested, department supervisors did not maintain a record of the verbal or written quotes required by the procurement policy and, therefore, could not provide evidence that City funds were used in the most efficient and economical manner. These purchases were made by various departments including public works, recreation, building maintenance, and police.

## **Comments of Local Officials**

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

# Introduction

## Background

The City of North Tonawanda (City) is located in Niagara County and has approximately 32,000 residents. The City's general fund budget for the 2012 fiscal year is \$34.7 million, funded primarily by real property tax, sales tax and State aid. The primary services financed by the general fund are police and fire, street maintenance, repair and plowing, refuse collection, youth programs, and general government support. The City is governed by a five member Common Council (Council). The Council has oversight responsibilities and can adopt and amend local laws, ordinances, and resolutions of the City. The Mayor has the responsibility to supervise, direct, and control the administration of all City government departments.

The City Fire Department is supervised by a paid fire chief, who oversees 38 paid employees, and 60 volunteer firefighters who are members of six volunteer fire companies (companies) located in the City. Five of the six companies own their fire halls. The City owns the fire trucks and one fire hall. The City contracts with the companies for the services of their respective members to fight fires, for the use of truck bays and driver facilities, and for the use of company facilities for training, shelter, and other emergency purposes. The City has contracted with these six fire companies for many years. The City paid them a total of \$132,858 annually in 2011 and 2012.

The Council is required to adopt written policies and procedures for the procurement of goods and services that are not subject to competitive bidding requirements. These policies and procedures should indicate when City officials must obtain verbal or written quotes, indicate the procedures for determining which method will be used, and provide for adequate documentation of the actions taken. The Council adopted a procurement policy in 1994 and last updated the policy in January 2011. A goal of the policy is "to seek the maximum value for every dollar spent."

## Objective

The objective of our audit was to review the City's oversight of its volunteer fire companies and the City's purchasing process.

- Does the Council ensure that the fire companies are aware of their statutory duty to provide the Council with advance written notice of their fundraising activities?
- Are internal controls over the procurement of City materials and supplies properly designed and operating effectively?

**Scope and  
Methodology**

We examined fire company operations and City purchasing practices for the period January 1, 2011 to August 31, 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 B of this report.

**Comments of  
Local Officials and  
Corrective Action**

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

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

## Fire Company Fundraising

The Council should ensure that the fire companies are aware of their statutory duty to provide the Council with advance written notice of their fundraising activities.<sup>1</sup> The Council has statutory authority to prohibit the fire companies from engaging in fundraising activities, or in any general or specific fund raising activity. In addition, the Council may require the fire companies to provide insurance to protect the City against claims and actions for damages to third parties arising out of or in connection with a fund raising activity. The Council may also place reasonable conditions on the companies' fund raising activities, such as the submission of a financial report on the receipts and expenditures from such activities, and submission of books and records for audit.

The Council did not review any of the fire companies' fundraisers held in 2011 because none of the fire companies provided the City advance notice of these events as required by law.<sup>2</sup> These included chowder sales, food and beer tents at Canal Fest, and a variety of raffles, bingo, and other games of chance. We identified fire company fundraisers that operated at a loss and provided free alcohol to participants, as indicated below:

- Sweeney Hose Company ran a "beer tent" at Canal Fest for fundraising purposes. The Company purchased 200 cases of various alcoholic beverages in 12 oz. bottles, and 200 half kegs of beer. We estimated that sales from this activity should have totaled approx \$88,153, based on the volume of alcoholic beverages purchased, the sales price per serving, and other factors.<sup>3</sup> However, Company records showed that actual sales totaled only \$68,207, which was \$19,946 less than our estimates. We provided a Company official with our calculations for review. He indicated that not all the beer purchased was for sale at the beer tent. The Company sold approximately 10 kegs at cost<sup>4</sup> to other volunteer fire companies participating in Canal Fest, and "donated" 10 to 15 kegs for consumption by the runners and marchers in the

<sup>1</sup> See General Municipal Law 204-a(8)(a).

<sup>2</sup> While one of the six fire companies provided a written request to the Council in 2010 for one of its fund raising events, the purpose of the notification was to request the use of City property, garbage totes, etc. The Council did not appear to treat this request as notification of the fundraising activity as required by GML 204-a(8)(a).

<sup>3</sup> The Company charged \$4.00 for a 12 oz. bottle, \$3.00 for a 14 oz. cup of tap beer, and \$9.00 for a 64 ounce pitcher of tap beer. Company officials told us they sold more pitchers of beer than cups of beer. For our estimate of revenues, we assumed that 55 percent of the beer from the kegs was sold in pitchers, and 45 percent was sold in 14 oz cups.

<sup>4</sup> The revenue from this sale at cost was presumably included in the total sales amount of \$68,207.

parade,<sup>5</sup> who are provided with tickets for free beer. He also estimated that the Company lost the equivalent of 28 half kegs of beer over the course of the eight-day event due to “spillage.” It is important to note that the estimates and approximations provided to us were not supported by any documentation with which to verify any of the assertions made by Company officials. They estimated beer tent revenues at \$72,544, which is only \$4,337 more than the amount of revenue recorded from the event.

The 10 to 15 half kegs of free beer provided to runners and marchers in the parade and the estimated 28 half kegs of “spillage” is also significant, in terms of reducing the “profit” from the fundraiser.

- In 2011 the Columbia Hook and Ladder Company held six chowder sales for fundraising purposes. The Company’s chowder sale report presented to its membership showed a net profit of \$935 from the six chowder sales. However, using available records, we determined that the Company realized a net loss of \$226 from these six events. Chowder expenditures consisted of one purchase for \$288 to a local restaurant supplier and \$736 in advances paid to one member. This one member was responsible for all aspects of the chowder sales which included purchasing supplies, collecting and depositing revenue, and reporting these activities to the Board. The Treasurer also confirmed that chowder sale revenue was used to purchase supplies. No receipts were provided to substantiate the advances or the purchases made directly from chowder sale proceeds. We provided our analysis to the Treasurer and offered him an opportunity to explain the differences between the net profit calculations but we never received a reply from him.
- The Rescue Fire Company operated bingo, raffle, and pull tab fundraisers in 2011. While the raffles and pull tab fundraisers were profitable, bingo recorded a \$6,265 loss. The Company is aware of the bingo loss which they attribute to a steady decline in bingo attendance. The Company is trying to implement some larger jackpots to increase attendance, but since the new prizes are not tied to participation, the Company has had to dip into their reserves to make the payouts. The Company will consider ending their bingo fundraiser if this fundraiser continues to operate at a loss.

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<sup>5</sup> The Company also purchased an additional 30 cases of beer for consumption by volunteers participating in the set up activities prior to the start of Canal Fest. This purchase is not included in our analysis.

The operation of fundraisers in a wasteful manner or at a loss could cause the fire companies to seek additional consideration from the City under future fire protection contracts. Therefore, it would be in the best interest of the City to facilitate the fire companies' compliance with the statutory notice requirement, and to condition approval of fund raising activities on the fire companies providing the City with detailed financial reports and access to their records for each fundraising event.

We also note that the receipt of written notice of fire company fundraisers involving the sale of alcoholic beverages could expose the City to liability for damages to third parties caused by intoxicated persons who purchased alcoholic beverages at the fundraiser. The City can protect itself from such liability by prohibiting or carefully restricting such fundraisers, or by requiring the fire company to procure adequate insurance coverage to protect the City against such liability.

## **Recommendations**

1. The Council should ensure that the fire companies are aware of their statutory obligation to provide the Council with advance written notice of their fundraising activities.
2. The Council should require, as a condition for the conduct of fund raising activities, that the fire companies submit to the City a financial report on the receipts and expenditures for each such activity, and provide City officials with access to the related books and records of the fire company.
3. In the event that the Council receives written notice of a fire company fundraiser involving the sale of alcoholic beverages, the Council should confer with the City's legal counsel as to the City's potential liability to third parties and the most appropriate manner for protecting the City against any such liability.

## Purchasing

The City's purchasing policy requires employees to obtain written or verbal quotes for goods and services which are not required by law to be competitively bid. The policy specifies dollar thresholds<sup>6</sup> for obtaining verbal or written quotes as well as the type of supporting documentation that should be retained by the department placing the order.<sup>7</sup> The policy also states that similar procurements to be made in a fiscal year will be grouped together for the purpose of determining whether a particular item is subject to the policy requirements.

City officials did not maintain records indicating they sought written or verbal quotes, as required by the purchasing policy. As a result, the Council and City officials cannot be assured that City funds were used in the most efficient and economical manner.

We tested 26 claims totaling \$40,744 from nine vendors who provided the City with materials and supplies totaling \$140,703 in 2011. We found that for all 26 claims tested, department supervisors did not maintain a record of the required verbal or written quotes and, therefore, could not provide evidence that City funds were used in the most efficient and economical manner. For example, verbal and/or written quotes were not maintained for the purchase of \$8,955 in chemicals, \$5,139 in supplies from a local home building store,<sup>8</sup> \$4,700 in janitorial supplies, \$4,179 in automotive parts and supplies, \$3,945 in printing materials, \$2,470 in paint, and \$1,183 in technology software and supplies. These purchases were made by various departments including public works, recreation, building maintenance, and police.

We identified two factors that may have contributed to the lack of documented written or verbal quotes. First, the City Charter states that all claims must be presented in writing and be approved by the Council. However, when claims were approved for payment by the Council, no request was made to review quotation documentation. If Council members had requested this documentation, they would have

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<sup>6</sup> For purchases and public works contracts costing \$500 to \$2,999, three verbal and/or written quotes are required. For purchases and public works contracts costing \$3,000 to \$19,999 and \$3,000 to \$35,000 respectively three written quotes are required.

<sup>7</sup> The policy states that, for verbal quotations, a record will be maintained which will set forth, at a minimum, the date, item or service to be provided, price quoted, name of vendors, and the name of each vendor's representative. For written quotations, vendors will provide, at a minimum, the date, description of the item or details of service to be provided, price quoted, and name of contact. A summary sheet of the quotations will be maintained by the issuing department.

<sup>8</sup> Purchases included paint supplies, ceiling tile, wood materials, small tools, etc.

found that the procurement policy was not being followed. Second, the City's decentralized purchasing system does not require any efforts to aggregate planned purchases and coordinate the solicitation of written or verbal quotations for purchases of items that are used by other departments as well.

The primary purpose for obtaining written and verbal quotes is to encourage competition in the procurement of supplies, equipment and services that will be paid for with public funds. Without the appropriate use of competition, taxpayers have no assurance that goods and services are procured in the most prudent and economical manner, that goods and services of desired quality are being acquired at the lowest possible price, and that procurement is not influenced by favoritism, improvidence, extravagance, fraud, and corruption.

### **Recommendations**

4. The Council should verify that department heads obtain the required verbal or written quotes for the procurement of goods not subject to competitive bidding requirements by reviewing supporting documents as part of the claims audit process.
5. The Mayor should encourage Departments to coordinate the solicitation of written or verbal quotations for purchases of select items used by all departments.
6. Department supervisors should maintain a record of the verbal or written quotes required by the procurement policy.

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

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

# *Office of the Mayor*

ROBERT G. ORTT

January 31, 2013

Robert E. Meller, Chief Examiner  
Office of the State Comptroller  
295 Main Street, Suite 1032  
Buffalo, NY 14203-2510

Dear Mr. Meller:

This letter is in response to your correspondence dated January 2, 2013, and the preliminary draft findings of the recent examination of the City of North Tonawanda.

On behalf of the City of North Tonawanda, I wish to express its appreciation for the professionalism exhibited by the Senior Examiner throughout the entire phase of the field examination. The City appreciates the comprehensive scope of your office's review.

I have had an opportunity to review and discuss the preliminary draft findings and recommendations of the examination with other City officials. I wish to advise you that our objective will be to resolve all of the audit findings identified, and to have a solution and/or procedures put in place to resolve each finding.

Please do not hesitate to contact me if you have any questions or require anything further.

Faithfully yours,

Robert G. Ortt  
Mayor

## APPENDIX B

### AUDIT METHODOLOGY AND STANDARDS

Our overall goal was to assess City operations and identify areas where the City could realize efficiencies and protect assets from loss or misuse. To accomplish this, our initial assessment included a review of financial condition, payroll, purchasing, cash receipts, information technology, and fire company operations. During the initial assessment, we interviewed appropriate City officials and staff, performed limited tests of transactions, and reviewed pertinent documents, such as the City Charter, policy and procedure manuals, Council minutes, and financial records and reports.

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 then decided on the reported objective and scope by selecting for audit those areas most at risk. We selected the City's oversight of the volunteer fire companies and the City's procurement practices for further audit testing.

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

- For all six fire companies, we reviewed their bylaws, fire protection contracts, and 2011 and 2012 financial records such as cash receipt and cash disbursement reports with supporting documents, bank statements, and fundraising reports, where available.
- We interviewed City and company officials to determine if 2011 written fundraising requests were submitted by the companies for Council approval.
- We obtained a report of 2011 purchases, by check number, and sorted the data by vendor. We then selected all twelve material and supply vendors that had 2011 aggregate purchases greater than \$9,000 for further testing. We eliminated three vendors who were on the State contract vendor list. Of the nine remaining vendors, we selected 26 vouchers with purchases made by a variety of City departments that required written or verbal quotations.
- We met with various City officials to determine if verbal and written quotes were obtained and if records of this information, along with receiving documents, were retained at the accounting department and/or departmental level.

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.

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