



Town of Sullivan

Internal Controls Over Selected Financial Operations

Report of Examination

Period Covered:

January 1, 2011 — December 31, 2012

2013M-267



Thomas P. DiNapoli

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State of New York Office of the State Comptroller

Division of Local Government and School Accountability

December 2013

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 Sullivan, entitled Internal Controls Over Selected 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

EXECUTIVE SUMMARY

The Town of Sullivan (Town) is located in Madison County (County) and has a population of approximately 15,340. The five-member Town Board (Board) is the legislative body responsible for the general management and control of the Town's financial and operational affairs. The Town Supervisor (Supervisor), who is a member of the Board, is responsible for the receipt, disbursement and custody of Town moneys.

The Town Clerk (Clerk) is an elected position. The Clerk maintains all Board meeting minutes, is the custodian of all official Town documents, and collects moneys for a variety of items. In addition, the Clerk is also the appointed Receiver of Taxes and is responsible for collecting Town and County real property taxes from January 1 to April 30. In 2012, the total tax warrant was approximately \$9.9 million.

Scope and Objective

The objective of our audit was to evaluate the selected Town financial operations for the period January 1, 2011 to December 31, 2012. We expanded the scope of our audit back to January 1, 2009 to review prior years' financial trends. Our audit addressed the following related questions:

- Did the Board adopt realistic budgets and take appropriate actions to maintain reasonable fund balances?
- Do the Clerk and Board have adequate policies and procedures to ensure that moneys received by the Clerk are recorded, deposited, remitted and reported timely and accurately?

Audit Results

The Board has not implemented adequate financial management policies and procedures to govern or monitor fund balance. As a result, the unexpended surplus funds¹ in the general outside-village fund, highway funds and the lighting, water and fire district funds are excessive. As of December 31, 2012,

¹ The Governmental Accounting Standards Board (GASB) issued Statement 54, which replaces the fund balance classifications of reserved and unreserved with new classifications: nonspendable, restricted, and unrestricted (comprising committed, assigned and unassigned funds). The requirements of Statement 54 are effective for fiscal years ending June 30, 2011 and beyond. To ease comparability between fiscal years ending before and after the implementation of Statement 54, we will use the term "unexpended surplus funds" to refer to that portion of fund balance that was classified as unreserved, unappropriated (prior to Statement 54), and is now classified as unrestricted, less any amounts appropriated for the ensuing year's budget (after Statement 54).

the unexpended surplus funds for the general fund outside-village fund totaled \$216,178, representing 87 percent of the following year's appropriations. The unexpended surplus funds for the highway town-wide fund totaled \$546,165, representing 49 percent of the following year's appropriations. The same was true of the highway-outside-village fund; the unexpended surplus in that fund was \$474,873 which represented 44 percent of the 2013 budgeted appropriations. The lighting, water and fire district funds had even higher percentages of unexpended surplus funds related to the following year's appropriations. Unexpended surplus funds for those three funds were \$110,071 for lighting districts, \$234,437 for the water districts and over \$1.1 million for the fire district,² with the respective percentages of unexpended surplus funds to following year's appropriations of 368 percent, 111 percent and 147 percent. Unrealistic budget estimates created operating surpluses, and, although fund balance was set aside as a financing source, the Town generally did not use it. In addition, the Board did not develop a comprehensive, multiyear financial and capital plan, nor did it have any other mechanism in place to adequately address the Town's long-term operational and capital needs. Such plans would be a useful tool for the Board to address the excessive fund balances.

We also found significant weaknesses with how the Clerk handled the \$17.1 million of tax and penalty payments collected during our audit period. The Board has not established policies and procedures nor provided the proper oversight to ensure that the Clerk properly performs all required duties related to her position as the Receiver of Taxes. Tax collections were not deposited in the bank or remitted to the Town and County in a timely manner. Tax collection money was not properly secured in the Clerk's office and \$3,140 went missing from the safe. The Clerk also did not perform bank reconciliations for the tax collection account. As a result, in 2011 the Clerk had \$4,500 of unidentified funds. However, in 2012 the Clerk used approximately \$4,200 of penalty moneys for other items including \$2,900 to correct errors. In addition, even though the Clerk's office is staffed with two part-time Deputy Clerks and a part-time assessor's clerk who assists with tax collections, the Clerk performs all aspects of transaction processing, including collecting cash receipts, recording transactions and preparing reports for the Board. Having responsibility for these transactions would allow the Clerk to misappropriate cash and make entries in the tax records to conceal the misappropriation. Lastly, the Clerk does not perform a monthly accountability of cash to liabilities for Clerk fees.

Inadequate bank reconciliations and accountabilities increase the risk that moneys collected by the Clerk are not being remitted to the proper entity and also increase the Town's exposure to the possibility of fraud, abuse and misconduct. In addition, delays in remitting real property tax and other Town moneys to the Supervisor result in moneys not being available to fund Town operations. When moneys collected are not remitted timely, the risk that they could be used for inappropriate purposes increases.

Comments of Town 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. Except as specified in Appendix A, Town officials generally agreed with our recommendations and indicated they planned to take corrective action. Appendix B includes our comments on the issues raised in the Town's response letter.

² The Board appropriated a total of \$780,000 in the fire district fund for future equipment purchases; however, it never purchased the equipment or established a reserve. Even if the Town had placed the \$780,000 in a reserve, the fund would still have \$329,699 in unexpended surplus funds, or 44 percent of the following year's appropriations.

Introduction

Background

The Town of Sullivan (Town) is located in Madison County (County) and has a population of approximately 15,340. The five-member Town Board (Board) is the legislative body responsible for the general management and control of the Town's financial and operational affairs. The Town Supervisor (Supervisor) is the Town's chief executive officer and chief fiscal officer. The Supervisor, who is a Board member, has the overall responsibility for the receipt of Town moneys, maintaining the accounting records, and preparing financial reports. To assist the Supervisor, the Board has appointed a Town Comptroller as the accounting officer and thereby transferred the Supervisor's accounting duties to the Town Comptroller.

The Town Clerk (Clerk) is an elected position and the Clerk's responsibilities include collecting moneys for the sale of dog, marriage and conservation licenses, birth and death certificates, landfill tickets, building permits and certified copies. Generally, fees collected by the Clerk are the property of the State, County or the Town and must be allocated and remitted monthly to the appropriate government agencies with an applicable report. The Clerk must prepare a monthly report for the Supervisor no later than the 15th day of the month following the month in which the fees were received, summarizing the fees collected and identifying to whom they were paid.

The Clerk is also appointed as the Receiver of Taxes, whose responsibilities include collecting about \$9.9 million of Town and County real property tax each year. The Clerk is responsible for periodically remitting paid taxes to the Town for its share of the tax levy, penalties and interest and for payment to the County of the balance of the taxes collected. Unpaid taxes are returned to the County Treasurer for collection and enforcement proceedings.

Objective

The objective of our audit was to evaluate selected Town financial operations. Our audit addressed the following related questions:

- Did the Board adopt realistic budgets and take appropriate actions to maintain reasonable fund balances?
- Do the Clerk and Board have adequate policies and procedures to ensure that moneys received by the Clerk are recorded, deposited, remitted and reported timely and accurately?

**Scope and
Methodology**

We evaluated the Town’s financial management and examined real property tax collections and Clerk fees for the period January 1, 2011 to December 31, 2012. We expanded the scope of our audit back to January 1, 2009 to analyze prior years’ financial trends.

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 is included in Appendix C of this report.

**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. Except as specified in Appendix A, Town officials generally agreed with our recommendations and indicated they planned to take corrective action. Appendix B includes our comments on the 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 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 making sound financial decisions that are in the best interests of the Town and its residents. This requires the Board to balance the level of services desired and expected by the Town's residents with the ability and willingness of the residents to pay for the services. A basic component of local government budgeting is the prudent use of fund balance, which is the difference between revenues and expenditures accumulated over time. The Board should adopt policies and procedures to govern and monitor fund balance and should adopt budgets that include realistic estimates of revenues and expenditures and use surplus fund balance as a funding source, when appropriate. If these practices are followed, only the necessary amount of real property taxes will be raised.

The Board has not established adequate policies and procedures for long-term planning and providing guidance on maintaining a reasonable level of fund balance. The Town has excessive fund balances in the general-outside-village, highway-town-wide and highway-outside-village funds, the fire district fund, and the water and lighting district funds that resulted from unrealistic budget estimates. In addition, the Board has not developed a financial and/or capital plan or established reserves to ensure unexpended surplus funds³ are used as intended. As a result, there is an increased risk that more taxes may be raised than necessary.

Fund Balance and Budgeting

The Town should retain a reasonable level of unexpended surplus funds as a financial cushion in the event of unforeseen financial circumstances. Each town needs to assess what is reasonable for its particular situation, considering various factors such as timing of receipts and disbursements, volatility of revenues and expenditures, and contingency appropriations. Town officials can legally set aside, or reserve, portions of fund balance to finance future costs for a specified purpose, designate a portion of fund balance to help finance the next year's budget and/or retain unexpended surplus funds for future use. When determining the appropriate level of fund balance

³ The Governmental Accounting Standards Board (GASB) issued Statement 54, which replaces the fund balance classifications of reserved and unreserved with new classifications: nonspendable, restricted and unrestricted (comprising committed, assigned and unassigned funds). The requirements of Statement 54 are effective for fiscal years ending June 30, 2011 and beyond. To ease comparability between fiscal years ending before and after the implementation of Statement 54, we will use the term "unexpended surplus funds" to refer to that portion of fund balance that was classified as unreserved, unappropriated (prior to Statement 54), and is now classified as unrestricted, less any amounts appropriated for the ensuing year's budget (after Statement 54).

to maintain, Town officials should consider whether to reduce or maintain the current levels of property taxes and fees.

The Board has not developed policies to establish appropriate levels of fund balance or how it will be used. As a result, the Board has accumulated significant unexpended surplus funds in the general-outside-village fund, both highway funds, special district funds, and the fire district fund.

General and Highway Funds — At December 31, 2009, the Town had excessive unexpended surplus funds of \$175,408 in the general-outside-village fund, or 90 percent of the following year’s appropriations; \$537,001 in the highway fund, or 52 percent of the following year’s appropriations; and \$539,263 in the highway-outside-village fund, or 57 percent of the following year’s appropriations. Table 1 illustrates the percentage of unexpended surplus funds in relation to the following years’ budgeted appropriations and taxes levied for completed fiscal years 2009 through 2012.

Table 1: Unexpended Surplus Funds In Comparison to Budgeted Appropriations and Taxes Levied 2009 – 2012					
Fiscal Year End	Appropriated Fund Balance for Ensuing Fiscal year	Unexpended Surplus Funds	Following Year's Budgeted Appropriations	Unexpended Surplus Funds as % of Following Year's Appropriations	Taxes Levied
General Fund – Outside-Village					
2009	\$50,000	\$175,408	\$194,770	90%	\$123,636
2010	\$40,000	\$190,428	\$217,320	88%	\$121,370
2011	\$45,832	\$201,158	\$237,313	85%	\$151,620
2012	\$65,000	\$216,178	\$247,842	87%	\$166,231
Highway Fund – Town-Wide					
2009	\$135,000	\$537,001	\$1,023,062	52%	\$769,703
2010	\$165,000	\$631,094	\$1,047,500	60%	\$777,072
2011	\$240,000	\$693,869	\$1,094,500	63%	\$773,500
2012	\$275,000	\$546,165	\$1,108,500	49%	\$734,500
Highway Fund – Outside-Village					
2009	\$135,000	\$539,263	\$952,664	57%	\$745,500
2010	\$140,000	\$623,587	\$982,934	63%	\$670,664
2011	\$139,459	\$607,269	\$1,065,491	57%	\$700,002
2012	\$265,000	\$474,873	\$1,085,013	44%	\$775,500

The Board appropriated fund balance in each of the recent years’ budgets; however, due to underestimating revenues and/or overestimating expenditures, the funds typically had operating surpluses. As a result, the Town did not always use the fund balance it appropriated and unexpended surplus funds generally continued to increase.

For example, the Town's budgets for the general-outside-village fund included planned operating deficits of \$40,000 for 2011 and \$45,382 for 2012 because the Board planned to use fund balance to partially fund operations. However, because of underestimated revenues and overestimated expenditures, the Town actually had an operating surplus of approximately \$16,500 in 2011 and \$34,200 in 2012. These budget variances created operating surpluses, and, as a result, the unexpended surplus funds were not reduced as planned by the Town's budgets.

In the highway town-wide fund's budgets, the Board included a planned operating deficit of \$165,000 in 2011 and \$240,000 in 2012. However, the Board overestimated budgeted expenditures by \$472,893 in total, or more than 22 percent, as compared to actual expenditures during the 2011 and 2012 fiscal years. We found approximately \$317,500 of this total was due to overestimated snow removal and employee insurance benefit expenditures. These overestimated amounts created an operating surplus of approximately \$137,700 in 2011 and an operating deficit of only approximately \$112,700 in 2012; therefore, the unexpended surplus funds were not reduced as planned by the Town's budgets.

In the highway-outside-village fund's budgets, the Board included a planned operating deficit of \$140,000 in 2011 and \$139,459 in 2012. However, the Board overestimated budgeted expenditures by \$240,010 in total, or about 12 percent, as compared to actual expenditures during the 2011 and 2012 fiscal years. While this fund had small operating deficits of approximately \$16,900 in 2011 and \$6,900 in 2012, it did not use as much of the planned appropriated fund balance as indicated by the Town's budgets and the unexpended surplus funds remained high.

Special Districts⁴ — The Board also accumulated a significant amount of surplus funds in the lighting and water districts. As of December 31, 2012, the Town had \$344,508 in unexpended surplus funds in its lighting and water districts, well in excess of the annual amounts needed to operate these districts.

The Town's lighting special district fund consists of nine individual districts and the water special district fund consists of 37 individual districts. The Town does not segregate what portion of its special district fund balance relates to each individual special district. As a

⁴ Special districts are established to offer service delivery to properties in a specific area of the town. Examples of special districts are lighting and water districts. Property owners within the boundaries of a special district are charged for services through assessments or fees. Therefore, it is essential for the Town to maintain separate accounting records for each individual special district.

result, the Town lacks a specific record of the separate fund balances for each special district, which must be carried forward from year-to-year. Because separate records are not maintained, we evaluated the financial condition of each type of special district in total.

Table 2 illustrates the percentage of unexpended surplus funds for each special district type in relation to the following years' budgeted appropriations and taxes levied for completed fiscal years 2009 through 2012.

Table 2: Unexpended Surplus Funds In Comparison to Budgeted Appropriations and Taxes Levied 2009 – 2012 for Special Districts					
Fiscal Year End	Appropriated Fund Balance for Ensuing Fiscal Year	Unexpended Surplus Funds	Following Year's Budgeted Appropriations	Unexpended Surplus Funds as % of Following Year's Appropriations	Taxes Levied
Lighting Districts					
2009	\$0	\$96,596	\$29,900	323%	\$29,900
2010	\$0	\$101,600	\$29,900	340%	\$29,900
2011	\$0	\$105,790	\$29,900	354%	\$29,900
2012	\$0	\$110,071	\$29,900	368%	\$29,900
Water Districts					
2009	\$0	\$174,117	\$214,328	81%	\$218,851
2010	\$0	\$196,783	\$205,494	96%	\$214,328
2011	\$0	\$214,505	\$206,243	104%	\$205,494
2012	\$0	\$234,437	\$210,838	111%	\$206,243

The Board overestimated expenditures in the lighting and water districts by approximately \$24,500 each year combined, as compared to actual expenditures. For example, approximately \$4,000 in contractual lighting expenditures and \$16,500 water distribution expenditures were overestimated each year. These overestimated amounts created consistent operating surpluses resulting in increasing unexpended surplus funds in both the lighting and water districts.

Fire District — The Town has a blended fire district⁵ that has excessive unexpended surplus funds. Table 3 illustrates the percentage of unexpended surplus funds in relation to the following years' budgeted appropriations and taxes levied for completed fiscal years 2009 through 2012.

⁵ A blended fire district is a component unit of the Town that has the same governing board as the Town. The fire district has three individual fire departments.

**Table 3: Unexpended Surplus Funds In Comparison to Budgeted Appropriations and Taxes Levied
2009 – 2012 for the Blended Fire District**

Fiscal Year End	Appropriated Fund Balance for Ensuing Fiscal Year	Unexpended Surplus Funds	Following Year's Budgeted Appropriations	Unexpended Surplus Funds as % of Following Year's Appropriations	Taxes Levied
Fire District					
2009	\$10,000	\$457,198	\$734,600	62%	\$572,511
2010	\$10,000	\$602,872	\$735,000	82%	\$593,661
2011	\$15,000	\$859,887	\$746,900	115%	\$594,061
2012	\$15,000	\$1,109,699	\$753,600	147%	\$598,961

The fire district fund had approximately \$788,000 in operating surpluses since the beginning of 2009, which has increased its unexpended surplus funds. The Board appropriated a total of \$780,000 for future equipment purchases from 2009 to 2012; however, it never purchased the equipment or established a reserve.⁶ Even if the Board had placed the \$780,000 in a capital reserve for future equipment purchases, the fund would still have \$329,699 in unexpended surplus funds, or 44 percent of the following year's appropriations.

The Town should retain a reasonable level of unexpended surplus funds as a financial cushion in the event of unforeseen financial circumstances. However, when it retains excessive unexpended surplus funds, more taxes may be raised than necessary. The Board should adopt budgets that are based on realistic estimates and should use the fund balance that it appropriates. This will help ensure that only necessary real property taxes are levied.

Long-Term Planning

An important Board oversight responsibility 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 developing 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 the use of unexpended surplus funds to finance operations. It is essential that any long-term financial plans are monitored and updated on an ongoing basis to ensure that decisions are guided by the most accurate information available.

⁶ Reserve funds are authorized by law and they provide a mechanism to set aside moneys to finance a variety of objects or purposes.

The Board did not develop a comprehensive, multiyear financial and capital plan, nor did it have any other mechanism in place to adequately address the Town's long-term operational and capital needs. Such plans would be a useful tool for the Board to address the excessive unexpended surplus funds.

Recommendations

1. The Board should develop a fund balance policy that establishes a reasonable amount of fund balance that should be maintained in order to meet the Town's needs.
2. The Board should develop a formal plan to use the unexpended surplus funds in the general-outside-village fund, both highway funds, the fire district fund, and the lighting and water district funds in a manner that will benefit taxpayers. If the Board believes it is necessary to accumulate money for a future purpose, it should consider formally establishing authorized reserves. Other uses of the surplus funds could include, but are not limited to, financing one-time expenses and reducing property taxes.
3. The Supervisor and Board should develop and adopt budgets that include realistic estimates for revenues, expenditures and appropriated fund balance.
4. The Board should determine the portions of the special districts' fund balance related to each individual special district and should monitor each special district's financial condition individually.
5. The Board should develop and adopt comprehensive multiyear financial and capital plans to establish the goals and objectives for funding long-term operating and capital needs. These plans should be monitored and updated on an ongoing basis.

Town Clerk Operations

The Clerk and the Board must establish a system of internal controls to safeguard taxpayer dollars. The Clerk is responsible for receiving, recording, depositing, disbursing and reporting all moneys collected in an accurate and timely manner. This requires maintaining accurate and complete records and reports, ensuring that collections are physically secure, promptly depositing moneys into the Town's bank accounts and disbursing moneys to the appropriate entities. An effective system of internal control needs to be in place to provide for the separation of duties so that no one individual controls all phases of a transaction. Proper division of responsibilities should provide that the work of one employee is independently checked in the course of another employee's regular duties. When duties cannot be properly segregated, compensating controls should be implemented.

We found significant weaknesses with how the Clerk handled the \$17.1 million of tax and penalty payments collected during our audit period. The Board has not established policies and procedures, nor provided the proper oversight to ensure that the Clerk properly performs all required duties related to her position as the Receiver of Taxes. Tax collections were not deposited in the bank or remitted to the Town and County in a timely manner. Tax collection money was not properly secured in the Clerk's office and \$3,140 went missing from the safe. The Clerk also did not perform bank reconciliations for the tax collection account. As a result, in 2011 the Clerk had \$4,500 of unidentified funds. However, in 2012 the Clerk had to use approximately \$4,200 of penalty moneys for other items including \$2,900 to correct errors. In addition, even though the Clerk's office is staffed with two part-time Deputy Clerks and a part-time assessor's clerk who assists with tax collections, the Clerk performs all aspects of transaction processing, including collecting cash receipts, recording transactions and preparing reports for the Board. Having responsibility for these transactions would allow the Clerk to misappropriate cash and make entries in the tax records to conceal the misappropriation. Lastly, the Clerk does not perform a monthly accountability of cash to liabilities for Clerk fees.

Receiver of Taxes

The Clerk, as the Receiver of Taxes, is accountable for all tax moneys collected by her office. Moneys received are required to be deposited in the official bank within 24 hours of collection. The Clerk should also perform a monthly accountability. The Clerk is required to remit tax collections, including interest on late payments and penalties, no later than the 15th day of each month following receipt, first to the Supervisor to satisfy the Town's tax warrant, and then to the County

Treasurer. It is important for the Clerk to verify the accuracy of financial records and establish control over cash by reconciling bank accounts. The Clerk should ensure that the tax money in her custody is physically secured and that unauthorized access to that money is prevented. At the end of the collection period, the Clerk is required to settle with the County Treasurer and must be able to account for the taxes collected, amounts remitted to the Supervisor and County Treasurer, any adjustments to the tax roll and the taxes that remain unpaid. At the end of the tax collection period, all moneys in the tax collection account should have been distributed to the Town and County, and the bank account should have a zero balance.

Deposits — The Clerk did not deposit all collections within 24 hours as required. We reviewed 84 tax bills⁷ totaling \$205,199 over fiscal years 2011 and 2012. The payment of these tax bills consisted of 92 payments totaling \$200,789 which included \$1,810 in penalties for late payments. Of the 92 total payments collected by the Clerk, 41 payments (45 percent) totaling \$46,735 were not deposited timely, averaging nine days from date received to date deposited.

Bank Reconciliations — The Clerk did not perform monthly bank reconciliations. In addition, when she returned unpaid taxes⁸ to the County for collection in 2011, she had a remaining balance of \$4,500 in her tax collection bank account that was unidentified. We performed an analysis of collections recorded and deposited compared to the final settlement of paid and unpaid taxes. We were able to identify \$951 from an erroneously returned unpaid tax bill but were unable to identify the remaining amount of \$3,549. The Clerk did not know why there was a difference. While the Clerk did ultimately remit the \$4,500 to the Supervisor in November 2011, she would have been able to identify the money if she had been reconciling her bank account on a monthly basis.

Our analysis of 2012 did not find any unidentified moneys; however, when the Clerk settled with the County, she again failed to accurately report unpaid taxes. As a result, the County sent delinquent notices to taxpayers who had already paid their tax bills. In addition, the Clerk paid the Town about \$4,200 less in penalties than she collected, because she used the penalties to pay other items. One of these was the \$951 from 2011, which the Clerk paid the County from the 2012 penalty moneys. There were also three other taxpayers who paid over \$5,000 during 2012 but were reported to the County as unpaid. The

⁷ For the 84 taxpayers in our sample, we found a total of 92 tax payments; some taxpayers paid in installments and some taxpayers never paid the Town, but were delinquent and the tax payments were recovered by the County.

⁸ At the end of the collection period, the Clerk must submit a list or account to the County Treasurer showing the taxes on the roll that remain unpaid.

Clerk also used about \$2,900 of penalty moneys for the following tax collection errors:

- A cash payment of \$2,640 was collected by the Clerk's office but not recorded, deposited or remitted. The County sent a delinquent letter to the taxpayer requesting payment of his property tax; however, the taxpayer had a copy of his tax bill marked paid and collected by the Clerk. The Clerk remitted the money to the County using penalties collected from other late tax payments. The Clerk's office employees recall the taxpayer making such payment but had no explanation of where the money had gone.
- A payment totaling \$2,403 was mailed to the Town; however, the envelope with the payment had not been opened. Therefore, the payment was never recorded or deposited. The County sent a letter to the taxpayer stating the payment was delinquent which caused the taxpayer to contact the Town. Upon review of the situation, Town officials discovered the mailed-in payment had been received but not opened. Because the payment was subsequently sent to the County, the taxpayer paid the County \$223 in late penalty fees. The Clerk reimbursed the taxpayer for these fees in December 2012 using penalties collected from other late tax payments because it was an error of the Clerk's office.
- Another payment of \$51 was collected by the Clerk's office but recorded and deposited under an incorrect tax map number. The County sent a delinquency letter to the taxpayer requesting payment of his property tax; however, the taxpayer had a copy of his tax bill marked paid and collected by the Clerk. The Clerk subsequently remitted the \$51 to the County using tax collection moneys for 2012 to correct the error.

In addition, the clerk paid \$509 in tax software fees out of penalties (\$66 in 2011 and \$443 in 2012). Monthly software application fees are automatically withdrawn from the Clerk's tax collection bank account. These fees should have been approved through the claims audit process and paid by the Supervisor as a regular operating expense and not taken out of the tax collection account by the vendor. The Clerk does not have authority to use penalty money for Town expenditures or to cover shortages.

Remittances — Tax remittances were not always timely. For example, in 2011 the Board adopted a resolution to have all taxes collected as of January 17, 2011 remitted to the Supervisor at that time. After that, the Clerk was required to remit collections to the Supervisor

and/or County by the 15th of the month following collection.⁹ The first payment for \$1.5 million was made on January 20 – three days late. As of March 15, 2011, \$936,918 in tax collections was not yet remitted to the Supervisor and/or County Treasurer. An additional \$387,969 collected in March was not remitted to the Supervisor and/or County Treasurer by April 15, and the Clerk did not remit penalties to the Supervisor until May 19, 2011. Furthermore, the Clerk did not remit the \$4,500 unidentified balance until November 11, 2011 – six months later.

In 2012, the Board adopted a resolution to have all taxes collected as of January 16 to be remitted to the Supervisor at that time. As of January 16, the Clerk had collected approximately \$1.1 million in taxes of which only \$700,000 was remitted to the Supervisor on January 17. As of March 15, \$236,557 in tax collections was not remitted to the Supervisor and/or County Treasurer timely and an additional \$450,026 was collected but not remitted timely as of April 15. The Clerk did not remit penalties¹⁰ and bank interest to the Supervisor until December 11, 2012, seven months after the end of the collection period.

Physical Security — The Clerk is responsible for ensuring assets in her custody are physically secured and that unauthorized access to assets is prevented.¹¹ The Clerk did not properly secure tax collections. The Clerk’s office has a vault and a safe within the vault where cash is placed until deposited in the bank.¹² However, the Clerk does not lock the safe because she does not know the combination and would not be able to reopen it. In addition, the vault is unlocked and opened during business hours and access is not always monitored throughout the day. As a result, there were two instances of missing tax collections totaling \$3,140. This includes the taxpayer who paid his tax bill in cash totaling \$2,640. Because the money was not secured until deposit, it is gone. In addition, an \$892 tax payment was later found to be short

⁹ Town Law requires the Clerk to deposit tax collections within 24 hours of receipt in a bank account to the credit of the Supervisor until paid in full, pursuant to the warrant. However, the Board may, by resolution, direct the Clerk, as Receiver, to deposit collections into an account in her name as Receiver, within 24 hours of receipt instead. Then, the Receiver must remit the collections to the Supervisor as specified in the resolution, which may not be later than the 15th day of each month following receipt. After the Supervisor has been paid in full, pursuant to the tax warrant, the Clerk must pay the remainder to the County not later than the 15th day of each month following receipt.

¹⁰ The Clerk used some of the penalties collected to pay other items. Therefore, this payment to the Supervisor did not include all of the penalties collected.

¹¹ Undeposited cash must be secured in a vault or other locked storage medium until deposited in the bank. Access to the vault or other storage medium must be restricted.

¹² The safe/vault is used for storage of all Clerk receipts, both taxes and Clerk fees.

\$500, which the Clerk told us she replaced with her personal money. During our audit fieldwork, we recommended that the Clerk contact a locksmith to reset the combination to the safe and limit the number of employees who have access. When cash is not secured, there is an increased risk of loss or misuse.

By not performing bank reconciliations and accountabilities, the Clerk cannot be sure all tax receipts are accounted for. Additionally, by not securing cash receipts prior to deposit, they are at greater risk for loss or misuse. Finally, delays in remitting real property tax and other Town moneys to the Supervisor result in moneys not being available to fund Town operations. When tax money is collected but not deposited and remitted timely, the risk that it could be used for inappropriate purposes increases. As of June 20, 2012, Town officials passed a resolution authorizing tax collection at the bank beginning with the 2013 tax collection period, thus improving the timeliness of deposits and reducing the risk that cash will be misappropriated.

Clerk Fees

Town clerks must report and remit collections to other governments (for example, the New York State Department of Health for marriage license fees or the County Treasurer for landfill residential punch cards) and the supervisor. The Clerk, on a monthly basis, should prepare a monthly accountability to compare cash, both on hand and on deposit in the bank, to a detailed list of liabilities, including amounts due to various State and local agencies to ensure that all moneys are identified and accounted for properly.

The Clerk did not prepare monthly accountabilities and did not reconcile bank statements. The Clerk prints out a monthly bank statement and decreases the ending balance by the amount to be remitted to entities; however, she never determines to whom the remaining cash belongs. Due to this weakness, we performed a reconciliation as of December 31, 2012 for the Clerk's two bank accounts and found the Clerk's available cash exceeded known liabilities¹³ by \$2,889. The Clerk was able to identify \$2,089, which consisted of dog license fees collected for the period January 2011 through December 2012. These fees are no longer remitted to the County but should have been remitted to the Supervisor.¹⁴ In addition, during our reconciliation, we found that \$25 received in December 2012 for Department of Environmental Conservation (DEC) commissions had not yet been remitted to the Supervisor. The Clerk was unable to identify the reason for the remaining excess cash balance totaling \$775. The payment of

¹³ As stated on the monthly Clerk's report

¹⁴ Effective January 2011, the dog license revenue-sharing structure changed (between localities and New York State). Except for New York State Animal Population Control Program surcharges, 100 percent of revenue associated with dog licensing is retained by the town setting the fee.

the DEC commissions to the Supervisor was not made in a timely manner, as required by Law; however, the other remittances were generally made in a timely manner.

Recommendations

6. The Board should establish policies and procedures to provide adequate internal controls to ensure that tax money collected is recorded and deposited in an accurate and timely manner.
7. Town officials should follow up with their bonding company and/or recoup the \$2,640 lost tax payment from the Receiver of Taxes.
8. The Clerk, as the Receiver of Taxes, should deposit all tax moneys timely and intact.
9. The Clerk, as the Receiver of Taxes, should perform bank reconciliations to ensure that all moneys collected are properly safeguarded and recorded and that deposit amounts correspond to receipts received and recorded.
10. The Clerk, as the Receiver of Taxes, should ensure tax collections are physically secured in a locked vault or other locked storage medium until deposited and should limit access to collections.
11. The Clerk, as the Receiver of Taxes, should remit all tax moneys to the Supervisor and County in a timely manner.
12. The Clerk should segregate duties, such as collecting, recording and depositing of receipts. Someone independent of the collection process should reconcile the Clerk's bank statements.
13. The Clerk should perform accountability analyses to ensure that all moneys are identified and accounted for properly.
14. The Clerk should remit the \$2,089 dog license moneys to the Town along with the \$775 of unidentified moneys retained in the bank account.

APPENDIX A

RESPONSE FROM TOWN OFFICIALS

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

The Town's response letter refers to page numbers that appeared in the draft report. The page numbers have changed during the formatting of this final report.

CHARLOTTE A. FERSTLER
TOWN CLERK
TOWN OF SULLIVAN
7507 LAKEPORT ROAD
CHITTENANGO, NY 13037
315-687-7221 OFFICE
315-687-5315 FAX
315-263-9361 CELL

November 26, 2013

[REDACTED]
Office of the State Comptroller
State Office Building
333 E. Washington Street
Syracuse New York 13202

Dear [REDACTED]

First, let me take this opportunity to state that both [REDACTED] and [REDACTED] were both great Representatives of the New York State Comptroller's Office. I respect both of them and the job they do. They do their job in a very efficient but "Nice" manner.

Now, to my written audit response. I did not receive the full Audit Report that would have the Report Number on it but I did receive a copy of the section for Town Clerk Operations. I received this on November 26, 2013. I agree with your audit summation. I also agree that policies and procedures should have been initiated, by myself and by the Board a long time ago. However, I have done the same procedures for as many years as I have been here and really just followed the procedures that were started long before I became Town Clerk/Receiver. I also question why new policies and procedures were not started or suggested following prior audits.

I feel that I must clarify one point in the report which referenced my two part time clerks. These Clerks, both part time, worked either mornings or afternoon. During tax season, they would work the counter, while I did the entries. Following the [REDACTED] [REDACTED] helped during the busy times. If she was entering, I would wait on the counter. As you both know, it can get very hectic in this office, but when it came to collecting taxes, the

girls called me a tyrant and worse because I did not want any mistakes and did not tolerate anything but total concentration at the counter. I taught [REDACTED] how to enter the tax payments and other than a few minor, correctable mistakes, she entered probable fifty percent of the bills for 2012. When she started I told her that the report, cash and checks always had to match the deposit slip exact before posting and it always did. She would always show me that it matched before she did so. I never went to the bank with a deposit that was off.

This brings me to the Bank Deposits. Through my own fault, I was never aware that there was a time limit for checks to be cashed. During collection periods, people would ask that we hold the check until their social security check or pay check was deposited and we would. I did not know that this was a problem. With the number of checks that we deposit, we have, during a bad year, maybe five checks returned for insufficient funds. We have, which to you is not enormous but to us it was, approximately 7000 tax bills. One of the biggest problems was the amount of mail that would come at the end of a penalty period. This process was also slower than it should have been until [REDACTED] started. She would only enter bills for me approximately 8 to 10 hours a week, however, when she did this would free my time for other duties that were put off during tax time. I am not trying to make excuses and believe me I am glad that the payments are now made through the Bank. However, I just didn't want you to think that I had three people in this office and I didn't let them do anything. One of the part time girls could only work 16 hours a week and the other worked 20 hours per week. [REDACTED] worked for me for 8 to 10 hours a week for the first two months of the tax season. You are right in the fact that at the Bank they have one cashier that enters the payments and the checks are deposited much faster. Bank collection is working out fine. The taxpayers were not happy but in time they will adjust to it especially now that the bank collects the school tax also.

Now, the missing \$2,403.00 payment, is and will be a question that we cannot answer. Was it taken, I don't know. Could it have been a computer problem, again we don't know. The girls remember the man paying the bill and the bill was stamped and put in with the paid bills that are sent to the County. The computer reads that the payment was rescinded. As I told both of you before, I have always been responsible for any shortages. Mistakes are made. I would rather think this was a mistake than to have to think that someone took this twenty four hundred dollars. If I had known about this bill prior to it being sent to the County Treasurer as unpaid, I would have paid the bill myself. Whatever the problem, the bill still had to be paid. I have always considered this to be my responsibility.

I don't want you to think that I am making a lot of excuses and I do agree with everything now that I have sat through the audit with both [REDACTED] and [REDACTED]. I wish that all of these items were brought to my attention before. I am in the process of initiating the corrective action plan

and I know that it has to be submitted within ninety days and I am starting to implement all of the procedure corrections that are contained in your audit report.

Thank you for the effort that I am sure You, [REDACTED] and [REDACTED] have made identifying the weaknesses within my office and my goal will be to correct these problems. I feel that I have been very open during this audit period, and if there is anything that you need additionally from me, please feel free to contact me. Although I have only been Town Clerk for the past sixteen years, I have been with the Town of Sullivan for thirty years. I have always taken my various positions very seriously and would never put my reputation at risk. I feel that my reputation was not built but earned by my continuous service to the residents of the Town of Sullivan.

Respectfully,

Charlotte A. Ferstler
Town Clerk, Town of Sullivan

TOWN OF SULLIVAN

County of Madison

Town Office Building
7507 Lakeport Road
Chittenango, New York 13037
Office: 315-687-9190
Fax: 315-687-1123

John M. Becker
Supervisor



December 5, 2013

Office of the State Comptroller
Division of Local Government
and School Accountability
Syracuse Regional Office
Attn: Rebecca Wilcox, Chief Examiner
State Office Building, Room 409
333 East Washington Street
Syracuse, New York 13202-1428

**Re: Town of Sullivan Audit Response to Internal Controls Over Selected
Financial Operations Report of Examination (2013M-267)**

Dear Ms. Wilcox:

The Town of Sullivan offers this response to the recent OSC Audit Draft Report issued for the period of January 1, 2011 - December 31, 2012 and recently provided to the Town Board and the Town Clerk of the Town of Sullivan. The purpose of this correspondence is to comply with the State Comptroller's requirement to provide an audit response to the draft document. In addition to this response, this correspondence will confirm that an in-person meeting with the auditors occurred on November 21, 2013 at the Town Offices. It was our understanding that Town Clerk Charlotte Ferstler may supply a separate response to the Audit on the Town Clerks' letterhead. This document embodies the Town Board's response to the Draft Report.

As you are aware, the Town Board through the Town Supervisor initiated the request for the audit to address concerns with regard to the operation of the Town Clerk's Office, in particular with relation to the fiscal responsibilities of the Town Clerk as Clerk and as Receiver of Taxes. Your Office responded by scheduling an audit of the Clerk's operations and also included an audit of all Town internal controls over selected financial operations.

Generally speaking, the Town Board is in agreement with many of the suggestions and findings contained within the Audit's results. As you are aware, all Towns are facing increasingly difficult financial burdens, some of which have been created through the imposition of the 2% Tax Cap, an unprecedented downturn in the State and National economies, as well as physical and practical challenges that will be met by local governments. In addition to these

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issues, the Town of Sullivan, like many other towns, faces the uncertainty of revenues through mortgage recording taxes, sales taxes and the like. Further, Towns, Villages, Cities and other governmental agencies have been subject to escalating and uncontrolled expenses relating to healthcare for its employees and other “unfunded” mandates imposed by the State of New York. As a result, it is our understanding that many New York State municipalities are under severe financial distress.

As you are aware, the Town of Sullivan over the last six (6) years has not imposed a tax increase on its taxpayers. The Town Board has managed to hold the line on any tax increases, while providing needed services to all of its residents. This challenge has grown increasingly difficult given the increase in the number of exempt properties on our tax rolls and unchecked expenses from other areas. In addition, the Town of Sullivan has managed to provide consistent fire district services and to improve and increase infrastructure in the form of water, lighting and sewer facilities throughout the Town.

RESPONSE TO AUDIT RESULTS

While the Town Board is in general agreement with the findings of the Audit, we do believe that the Board has made its best efforts to implement adequate financial management policies in recent years. The Board acknowledges the Comptroller’s findings relating to unexpended surplus funds in the General (B) Fund. As stated at our meeting, the Town Board had not been provided with particular percentages for such surpluses and now is aware of the Comptroller’s recommended surplus percentages. It was also noted that certain of these surpluses had been earmarked for the creation of Capital Reserve Funds for particular future expenses. One goal of the Town will be to implement the creation of separate reserve funds for various future expenditures, in particular as relates to infrastructure. These actions will be taken within the requirements of the General Municipal Law. In so doing, the Board will also address a comprehensive multi-year Financial and Capital Plan to consider the Town’s long-term operational capital needs.

With respect to the weaknesses found in the Town Clerk’s Office, as you are aware, this was the purpose of the Town’s request for the Audit itself. The Board is now aware and shares the Comptroller’s concerns regarding the performance of the duties of the Receiver of Taxes. The Town Board has already taken action to remove a significant amount of the handling of money from the Office by designating a direct payment to the Town’s local banking institution. Further, the Town Board will address this issue through requiring the Town Clerk to perform a monthly accounting of all other monies received by the Town Clerk’s Office. If needed, an accounting firm will be hired to assist in this matter. As you are aware, the Clerk had been notified by the Town Board to perform these functions in a timely manner and to validate her accounting. Bank record reconciliations will be done on a monthly basis with copies provided to the Town Board. The Clerk will be required to prepare a monthly report for the Supervisor and Town Board no later than the 15th day of the month following the month in which the fees were

received by her Office and the report will summarize the fees collected and identify to whom they were paid.

With regard to the Report itself, it is requested that under the Section “Financial Management” on page 8, the last sentence of the second full paragraph be modified to state that “The Board should follow-up with its stated intent to formally develop financial and/or capital plans and to establish appropriate reserves to ensure unexpended surplus funds are used as intended.” We do believe that the final sentence as currently written does not accurately reflect the intent or experience of the use of the funds to date.

See
Note 1
Page 26

With respect to the section relating to the Town Clerk’s operations, while the Town Board is in general agreement with the findings relating to the weaknesses experienced in that position, the Board has made the auditors aware that on a number of occasions, the Clerk was advised to properly audit her books and provide this information to the Town Board. In addition, the Town Board has utilized private auditors to review the Town Clerk’s books and reports have been issued relative to same. The Town Board shares the concerns of the Audit with regard to monies that were deemed to be missing from the safe and, in fact, this prompted the official request for the Comptroller to conduct the subject Audit.

In response to the comments regarding the Receiver of Taxes, it is requested that the Report acknowledge that the Town Board has, in great part, removed certain responsibilities from the Receiver of Taxes by directing the taxes be paid at a local banking institution. It is requested that reference to this action by the Town Board be made in the Report.

See
Note 2
Page 26

The Town Board also acknowledges the requirement to prepare a Corrective Action Plan consistent with the Comptroller’s guidelines for same. It is our understanding that the Corrective Action Plan must be supplied within ninety (90) days of the date of the original Audit Report. The Corrective Action Plan will be provided under separate cover.

If you require anything further, please feel free to contact the undersigned.

Very truly yours,

 John M. Becker
Town of Sullivan Supervisor

JRL/dl

cc: Town of Sullivan Town Board
Ms. Beth Ellis, Comptroller
Mr. John R. Langey, Esq.

APPENDIX B

OSC COMMENTS ON THE TOWN'S RESPONSE

Note 1

We found no documented evidence that the Board has formally developed financial and/or capital plans. We recommend that the Board put its intentions into writing and formalize them for future long-term capital needs.

Note 2

The report acknowledges that the Board passed a resolution authorizing tax collection at the bank beginning with the 2013 tax collection period.

APPENDIX C

AUDIT METHODOLOGY AND STANDARDS

The objective of this audit was to assess the Town's financial management and to examine real property tax collections and Clerk fees for the period January 1, 2011 to December 31, 2012. We expanded the scope of our audit back to January 1, 2009 to review prior years' financial trends.

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

- We reviewed Board minutes and documentation and made inquiries of Town officials.
- We interviewed Town officials regarding budgeting practices.
- We reviewed the Town's financial records and reports, including budgets and annual reports, and completed an analysis of the unexpended surplus funds.
- We analyzed the changes in fund balance and variances in budget-to-actual revenues and expenditures. We also calculated operating deficits and/or surpluses and compared changes in fund balance to real property taxes for 2009 through 2011 to determine the Town's financial condition as of December 31, 2012.
- We interviewed the Clerk and her Deputies to gain an understanding of their practices for collecting, recording, depositing, disbursing, reconciling and reporting moneys.
- We interviewed the Supervisor to gain an understanding of Board oversight of the Clerk.
- We reviewed all images of canceled checks written from the Clerk's account and the tax collection account during our audit period.
- We performed a cash count of the Clerk's office on December 20, 2012 to establish the amount of cash and checks on hand since the last bank deposit for comparison to the cash receipts journal.
- We reviewed recent bank reconciliations and performed an accountability analysis and determined there was a cash balance in excess of liabilities in the Clerk's bank account.
- We reviewed a sample of deposits to determine if they were made timely and intact and if payments were remitted to entities in accordance with legal requirements.

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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