



Town of Broome

Purchasing and Justice Court

Report of Examination

Period Covered:

January 1, 2013 — March 3, 2014

2014M-255



Thomas P. DiNapoli

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State of New York Office of the State Comptroller

Division of Local Government and School Accountability

December 2014

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 Broome, entitled Purchasing and Justice Court. This audit was conducted pursuant to Article V, Section 1 of the State Constitution and the State Comptroller's authority as set forth in Article 3 of the New York State General Municipal Law.

This audit's results and recommendations are resources for local government officials to use in effectively managing operations and in meeting the expectations of their constituents. If you have questions about this report, please feel free to contact the local regional office for your county, as listed at the end of this report.

Respectfully submitted,

*Office of the State Comptroller
Division of Local Government
and School Accountability*



State of New York Office of the State Comptroller

EXECUTIVE SUMMARY

The Town of Broome (Town) is located in Schoharie County and has approximately 960 residents. The Town provides various services to its residents, including road maintenance, snow removal, and general government support. The Town's 2014 budgeted appropriations total \$318,818 for the general fund and \$585,146 for the highway fund, which are funded primarily by real property taxes and State aid.

The Town is governed by an elected five-member Town Board (Board) which includes a Town Supervisor (Supervisor). The Board is responsible for the general oversight and control of the Town's operations and finances. The Supervisor, who serves as the Town's chief executive and chief fiscal officer, is responsible for implementing the Board's policies. The Town does not have a centralized purchasing function; instead, each department is responsible for making purchases and following the policies, including the completion and submission of expenditure authorization forms, obtaining competition and maintaining documentation of purchases. The Highway Superintendent is an elected official responsible for overseeing highway operations, including purchases. Due to elections, there was a turnover of key officials on January 1, 2014, including the Town Supervisor, two Board members and the Highway Superintendent. The Town's Justice Court (Court) has one elected Justice who oversees the operation of the Court. The Justice collected approximately \$13,750 in fines, fees and surcharges during 2013.

Scope and Objectives

The objectives of our audit were to review the Town's purchasing practices and the Court's financial activity for the period January 1, 2013 through March 3, 2014. We extended our scope of the Court back to February 1, 2011 to include deletions from the Court software. Our audit addressed the following related questions:

- Are Town officials ensuring that purchases were made in compliance with the Town's procurement and expenditure policies, at the lowest cost to the Town's taxpayers and used for proper Town purposes?
- Did the Board ensure that the Justice recorded, deposited and disbursed all Court money accurately and timely?

Audit Results

The Board did not ensure purchases were made at the lowest cost, in compliance with the Town's procurement policy and used for proper Town purposes. The Board did not ensure expenditure authorization forms were used in accordance with its own highway expenditure policy. As a result, all 31 invoices we reviewed totaling \$233,600 lacked authorization forms. Moreover, election results caused an internal political conflict between prior and current Town officials. The outgoing Highway Superintendent purchased loader tires totaling almost \$8,000 on two separate invoices dated December 24, 2013. Similarly, the outgoing Highway Superintendent purchased snow plow equipment totaling \$5,600 on two nearly identical invoices dated December 31, 2013. These purchases would have required authorization forms if they were not split into two invoices each. Further, supporting documentation for reimbursement was not maintained for part of an outstanding Federal Emergency Management Agency project estimated to cost up to \$235,900. Although the majority of the purchases we reviewed were purchased off State or county contract, the Board was not ensuring that competition was sought. The Board also did not ensure that inventory records were maintained prior to the election of the current Highway Superintendent who took office in January 1, 2014.

The Board did not provide oversight to ensure the Justice recorded, deposited and disbursed all Court money accurately and timely. Consequently, the Justice did not perform monthly accountabilities of Court funds and made recording errors in the Court software resulting in \$1,550 of unidentified bails, fines and fees. Although the Justice prepared bank reconciliations semi-annually, this was not timely and the Justice did not maintain a running checkbook balance. In addition, two deposits totaling \$336 were not recorded in the checkbook and some payments were not paid over to the Supervisor in a timely manner. As a result, there is an increased risk that Court funds could be lost or misappropriated without detection.

Comments of Local 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. Town officials agreed with our recommendations and indicated they have taken corrective action.

Introduction

Background

The Town of Broome (Town) is located in Schoharie County and has approximately 960 residents. The Town provides various services to its residents, including road maintenance, snow removal and general government support. The Town's 2014 budgeted appropriations total \$318,818 for the general fund and \$585,146 for the highway fund, funded primarily by real property taxes and State aid. Additionally, the Town was affected by a flood in 2013 and was approved by the Federal Emergency Management Agency (FEMA) and the State Emergency Management Office (SEMO) to submit for reimbursements of storm-related expenditures up to a maximum of \$235,900 for an outstanding project. For reimbursement, the Town officials are required to submit support, including invoices and Town man and machine hours related to the repairs, prior to 2015.

The Town is governed by an elected five-member Town Board (Board) which includes a Town Supervisor (Supervisor). The Board is responsible for the general oversight and control of the Town's operations and finances. The Supervisor, who serves as the Town's chief executive and chief fiscal officer, is responsible for implementing the Board's policies. The Town does not have a centralized purchasing function; instead, each department is responsible for making purchases and following the policies, including the completion and submission of expenditure authorization forms, obtaining competition and maintaining documentation of purchases. The Highway Superintendent is an elected official responsible for overseeing highway operations, including purchases. Due to elections, there was a turnover of key officials on January 1, 2014, including the Town Supervisor, two Board members and the Highway Superintendent.

The Town's Justice Court (Court) has one elected Justice who oversees the operation of the Court. The Justice has jurisdiction over and is responsible for hearing certain civil and criminal cases and adjudicating motor vehicle and traffic violations. The Justice imposes and collects fines, fees and bail money, and is responsible for reporting monthly to the Office of the State Comptroller's Justice Court Fund regarding the Court's monthly financial activities. The Justice collected approximately \$13,750 in fines, fees and surcharges during 2013.

Objectives

The objectives of our audit were to review the Town's purchasing practices and the Court's financial activity. Our audit addressed the following related questions:

- Are Town officials ensuring that purchases were made in compliance with the Town’s procurement and expenditure policies, at the lowest cost to the Town’s taxpayers and used for proper Town purposes?
- Did the Board ensure that the Justice recorded, deposited and disbursed all Court money accurately and timely?

Scope and Methodology

We examined the Town’s procurement of goods and services and Court financial activity for the period January 1, 2013 through March 3, 2014. We extended our scope of the Court back to February 1, 2011 to include deletions from the Court software.

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 B of this report.

Comments of Local Officials and Corrective Action

The results of our audit and recommendations have been discussed with Town officials and their comments, which appear in Appendix A, have been considered in preparing this report. Town officials agreed with our recommendations and indicated they have taken corrective action.

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 New York State 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 Clerk’s office.

Purchasing

The Board is responsible for designing controls that help safeguard Town assets, ensure the prudent and economical use of Town moneys when procuring goods and services and for protecting against favoritism, extravagance and fraud. These controls include the Board's highway fund expenditure policy that requires expenditure authorization forms for all highway purchases over \$5,000¹ to be completed and approved by the Board prior to the purchase to ensure that there are funds available in the budget, necessary quotes were obtained and that the Board approved of the purchase. In addition, the Board must adopt a policy that describes the procurement methods to be used and requires adequate documentation to support and verify procurement decisions. Town officials should pursue reimbursement of disaster-related expenditures and seek competition and use available New York State and county contract prices² when available to obtain the lowest cost for Town taxpayers. Moreover, an inventory of Town assets should be maintained, and periodic comparisons to physical assets should be performed to provide assurance that purchased assets are used for proper Town purposes.

Town officials did not ensure that purchases were made at the lowest cost, in compliance with the Town's procurement or highway fund expenditure policies and used for proper Town purposes. We reviewed 31 invoices totaling \$233,600 and found that although Board members were approving claims prior to payment, there was no evidence that they were approving the authorization forms prior to the actual purchase, as authorization forms were not on file for any of the invoices tested. Moreover, current Town officials informed us that there was internal political turmoil after the prior officials, including the Highway Superintendent, were not re-elected. The outgoing Highway Superintendent purchased loader tires totaling almost \$8,000 on two separate invoices dated December 24, 2013. Similarly, the outgoing Highway Superintendent purchased snow plow equipment totaling \$5,600 on two nearly identical invoices dated December 31, 2013. These purchases would have required authorization forms if they were not split into two invoices each. Although the current Board initially would not approve these invoices for payment and attempted to return the tires to the vendor, the tires had already been partially used and, therefore, were not returnable. The current Board eventually paid the invoices.

¹ As of January 8, 2014, this amount was lowered to \$2,500.

² New York State General Municipal Law provides local municipalities the ability to purchase goods and services through contracts let by New York State and its counties, with certain limitations.

In addition, the Town was affected by a flood in 2013 and was approved by FEMA to submit for reimbursements of storm-related expenditures up to a maximum of \$235,900 for an outstanding project. To obtain reimbursement, Town officials are required to submit support, including invoices and Town man and machine hours related to the repairs, prior to 2015. However, Town officials did not have records to support reimbursement³ for part of the FEMA project. Although the Highway Superintendent told us that a FEMA representative told him that cost estimates would suffice for reimbursement, reliance on a verbal assertion without adequate documentation creates a risk that FEMA may not reimburse those expenditures.⁴

Additionally, we tested 31 purchases totaling \$233,600 out of the 142 purchases totaling \$387,400 that required either bidding or quotes⁵ and found the majority were purchased using State or county contract. However, the risk still remains that Town officials can make unnecessary purchases and these purchases may not be at the lowest cost to the taxpayer because the Board is not verifying that the purchasers are complying with the procurement policy by obtaining bids or quotes or using available State and county contracts. The Board had been relying on the Department heads to comply with the highway expenditure and procurement policies despite having no procedures to enforce compliance with those policies. Additionally, the Board did not require Department heads to keep complete records that would be used to determine the purpose of the purchase. Finally, there was no evidence of inventory records being maintained prior to the current Highway Superintendent who took office on January 1, 2014.

Recommendations

The Board should:

1. Require the use of the expenditure authorization forms.
2. Require Department heads to maintain adequate supporting documentation for purchases.

³ The bookkeeper was able to provide support for the culvert purchased; however, there are no records to support the related man and machine hours.

⁴ As of the end of fieldwork, the project was not yet completed and, therefore, not yet eligible for reimbursement. At the exit conference, the Supervisor informed us that the current Highway Superintendent had been able to re-create records to submit for the partially completed project and the Town had received \$45,400 in reimbursement from FEMA. The current Highway Superintendent has submitted for the remaining reimbursement.

⁵ The Board's procurement policy requires purchases between greater than \$20,000 or for public works greater than \$35,000 be competitively bid. Purchases not subject to bidding but greater than \$5,000 require a least two quotes. Purchases through State or county contracts are not subject to the bid or quote requirements.

3. Verify that Town officials are properly obtaining bids or quotes or using available State and county contracts.

Town officials should:

4. Continue to pursue FEMA reimbursement for eligible expenditures.

The Highway Superintendent should:

5. Prepare and maintain an inventory of Town assets and do physical verification routinely.

Justice Court

The Justice must maintain complete and accurate accounting records and safeguard all moneys collected by the Court. The Justice is also responsible for depositing all moneys collected in a timely manner, reconciling Court collections to corresponding liabilities, disbursing fees collected to the Supervisor and reporting Court transactions to the Justice Court Fund (JCF) and the Department of Motor Vehicles (DMV). Routinely performing an accountability analysis for all moneys held by the Court and reconciling bank accounts enables the Justice to verify the accuracy of the Court financial records. The Justice is also responsible and accountable for all money received by the Courts. Additionally, New York State Town Law requires that the Board perform an annual audit of the Justice's records to ensure that the Court is properly recording and reporting transactions and accounting for moneys received.

The Board did not provide oversight to ensure the Justice recorded, deposited and disbursed all Court moneys accurately and timely. As a result, we found recording errors in the Court software, such as incorrect ticket numbers and missing cases. Also, the Justice did not perform monthly accountabilities (reconciling Court collections to corresponding liabilities), and we found unidentified funds of \$450 in the bail account and \$1,100 in the fines and fees account. Although the Justice was performing bank reconciliations, she only performed them semi-annually, which is not timely. Additionally, she was not maintaining a running checkbook balance and we found two deposits totaling \$336 that were not recorded in the checkbook at all. However, all four receipts totaling \$450 we tested were deposited timely. We also traced \$15,000 of fine deposits that were paid over to the Supervisor to then be transferred to JCF.

These discrepancies may have occurred because the Justice performed all aspects of her duties without oversight of the Board. The Justice does not have procedures to routinely detect and correct errors in the Court records, such as reconciling the DMV pending ticket log to the Court records for caseload activity. In addition, the Justice informed us that she deletes and re-enters records when she does not know how to correct errors in the Court software. The Justice misunderstood reporting requirements and did not consistently report dismissed tickets to the JCF or traffic violations involving all-terrain vehicles to the DMV. In addition, records were not adequately maintained to perform monthly bank reconciliations and monthly accountability analyses for all moneys held by the Court, including

outstanding bail amounts. Finally, the Board did not conduct an annual audit of the Justice's records.

As a result, there is an increased risk that Court funds could be lost or misappropriated without detection or correction and tickets could be improperly dismissed. In addition, due to the poor records of the Town Court, legitimate Court funds may not be properly collected resulting in lost revenue or untimely disbursements.

Recommendations

The Justice should:

6. Perform monthly accountabilities.
7. Keep an up-to-date checkbook running balance and reconcile it to the bank statements on a monthly basis.
8. Periodically review and reconcile DMV's pending ticket log to caseload activity to ensure that tickets are properly reported as paid or enforced in a timely manner.
9. Consider attending software training for court software and reporting dismissed tickets to the JCF and all-terrain vehicle tickets to the DMV.
10. Prepare an accountability analysis for all moneys held by the Court, including bails, on a monthly basis. Any differences should be promptly investigated and, if necessary, corrective action taken.

The Board should:

11. Conduct an effective annual audit of the Justice's records to ensure the Justice is properly recording depositing and disbursing all Court money accurately and timely.

APPENDIX A

RESPONSE FROM LOCAL OFFICIALS

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

TOWN OF BROOME

WILLIAM M SMITH III
SUPERVISOR

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12-5-2014

To, State of New York Office of the State Comptroller
Response to draft audit

Purchasing

We agree with the findings within the audit and corrective measures have been taken and procurement policies have been followed since jan 1 2014 when all newly elected officials took office and I asked for the audit to be done as we were aware of the improper operations of proir elected officals.

Justice Court

We were unaware of the prior issues with the justice court. We do agree with findings and corrective measure have and will be taken.

William M SmithIII
Town Supervisor

APPENDIX B

AUDIT METHODOLOGY AND STANDARDS

During this audit, we examined procedures and documents relating to the Town's purchases and the Court operations for the period January 1, 2013 through March 3, 2014. We extended our scope of the Court back to February 1, 2011 to include deletions from the Court software. To accomplish our objectives and obtain relevant audit evidence, our procedures included the following:

- We interviewed Town officials and employees and reviewed Board minutes and policies to gain an understanding of purchasing and Court operations.
- We reviewed 31 invoices totaling \$233,600, along with the corresponding bidding and quote documentation, State and county contracts, vouchers and abstracts to ensure purchases were approved, legitimate, made at lowest cost, necessary for Town operations, paid timely and in accordance with the Town's purchasing policy.
- We interviewed the Highway Superintendent concerning progress with FEMA projects. We obtained a report of outstanding projects from FEMA and compared it to the verbal assertions of the Highway Superintendent.
- We obtained a current list of highway assets and attempted to obtain a prior inventory list.
- We reconciled the Justice's bank accounts and prepared a monthly accountability for March 2014 to determine if funds were properly accounted for.
- We reviewed 18 check images and traced the 13 that were written out to the Supervisor to the JCF monthly reports. We traced the remaining five that were not written to the Supervisor to their corresponding case files to determine if disbursements were appropriate.
- We reviewed a random sample of 10 closed case files and traced the moneys received or actions taken to the Court's accounting system to determine if they were properly recorded.
- We selected a random sample of four deposits totaling \$450 and traced in total to the case files, JCF reports and bank statements to ensure they were properly recorded, reported and deposited.
- We compared a backup of the electronic Court records to DMV and JCF reports and selected a sample of discrepancies brought out in this comparison and traced to the case files and other supporting documentation to determine if the explanations were appropriate.

We conducted this performance audit in accordance with GAGAS. Those standards require that we plan and perform the audit to obtain sufficient, appropriate evidence to provide a reasonable basis for our findings and conclusions based on our audit objectives. We believe that the evidence obtained provides a reasonable basis for our findings and conclusions based on our audit objectives.

APPENDIX C

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