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TOWN OF EVANS

Town of Evans

Internal Controls Over Selected Financial Activities

Report of Examination

Period Covered:

January 1, 2007 — March 28, 2012

2012M-70



Thomas P. DiNapoli

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State of New York Office of the State Comptroller

Division of Local Government and School Accountability

September 2012

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 Evans, entitled Internal Controls Over Selected Financial Activities. 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 Evans (Town) is located in Erie County with a population of approximately 16,000 residents. The Town Board (Board) comprises two elected Council members and an elected Supervisor. The Board is the legislative body responsible for the general management and control of the Town's financial affairs, including the authority to issue debt. The Supervisor is the Town's chief executive and chief financial officer. The Supervisor and the Board rely on the appointed Director of Finance to oversee the Town's daily financial operations and to report on those operations to the Board. The Director of Finance is also responsible for the proper maintenance of all accounting records and reports, as well as preparing the annual financial report, or annual update document (AUD), for filing with the Office of the State Comptroller.

The Town provides a variety of services to its residents including highway maintenance and improvements, snow removal, police protection, water services, and general government support. The Town derives the majority of the moneys to finance these services from real property taxes, sales tax, State aid, and water rents. The Town's 2012 budgeted expenditures totaled \$11 million for general fund and highway fund operations and \$1.9 million for water fund operations.

Scope and Objective

The objective of our audit was to examine the Town's internal controls over debt proceeds, the lease-purchase agreement, water fund operations, and records and reports for the period January 1, 2007 to March 28, 2012. We extended our review of financial information for the water fund back to January 1, 2006.

Our audit addressed the following related questions:

- Did Town officials properly account for and monitor the use of debt proceeds, and plan for the subsequent repayment of indebtedness?
- Did Town officials ensure that the Town's lease-purchase agreement was in compliance with legal requirements?
- Did Town officials sufficiently budget for and properly account for water fund operations?
- Did the Board ensure that the Director of Finance provides accurate and timely records and reports?

Audit Results

The Board and Supervisor did not provide adequate oversight of the Town's financial activities or monitor the use of debt proceeds to ensure they were appropriately used and properly accounted for. Further, Town officials allowed the water fund to sustain repeated operating losses and did not ensure that Town records and reports are accurate and timely.

As of December 31, 2010, approximately \$2.1 million in proceeds from \$12.3 million of indebtedness issued¹ to finance a water capital project was used instead for water operations. In 2011, due to advances of cash to the water fund from other operating funds, the Board found it necessary to issue debt totaling \$2.15 million to provide cash flow for Town operations. Additionally, the Town used \$150,000 in bond anticipation note (BAN) proceeds to reimburse operating funds for expenditures that were incurred and paid before the Board authorized the bonds, and another \$315,000 in debt proceeds was improperly accounted for in operating funds rather than the capital project fund. By relying on debt proceeds to address ongoing operating deficits, Town officials are not managing public funds in a prudent manner and are not always in compliance with statutory requirements.

The Town also entered into a lease-purchase agreement with a third party to reimburse the Town's highway and general funds for \$343,000 in operating expenditures, of which the Town had received \$288,411 by the end of the 2011 fiscal year. Further, \$225,112 was for expenditures incurred and paid before the Board authorized the \$343,000 total. The Town does not have statutory authority to enter into a lease-purchase agreement for reimbursement from a third-party financing agency for machinery and equipment previously acquired. Additionally, some vehicles (police cars) exceeded the "period of probable usefulness" prescribed by law to limit the term of an installment purchase contract. Because the lease-purchase agreement enabled the Town to claim reimbursement for ongoing purchases in varying amounts, this arrangement resembles a line of credit rather than an installment purchase. Town officials did not investigate alternative financing options that would have been in the Town's best interest and in accordance with statute.

Town officials also allowed the water fund to incur long-standing cash and operating deficits without taking appropriate action. To operate with a cash deficit, Town officials advanced funds to the water fund from other operating funds, which the water fund cannot repay. For the fiscal years 2009 through 2011, we estimate that the water fund had operating losses totaling \$423,134. The Board also failed to include water debt principal and interest payments totaling \$635,751 in the 2012 budget. In addition, the external auditors' opinion on the audited financial statements for the period ended December 31, 2010 indicates that the water fund's financial activity was not reported accurately because it did not take into account key items that had not been recorded in the water fund. As of March 28, 2012, the Board has still not addressed the water fund's significant financial concerns.

Finally, the Board did not ensure that the Directors of Finance² maintained accurate or timely information. For example, proceeds from the \$1.2 million revenue anticipation note and \$950,000 tax anticipation note received in September 2011 and December 2011, respectively, were not recorded in the general ledger until March 2012. The 2011 trial balances also did not reflect the conversion

¹ Of \$12.6 million authorized by the Board

² Three people served in this position during the audit period. The current interim Director of Finance started in January 2012. The previous Director of Finance served from August 2010 to December 2011, after the prior Director of Finance left Town service.

of the \$12.6 million BAN to long-term financing. Further, the Town's 2009 annual update document contained numerous errors, and the AUDs for 2010 and 2011 were not completed as of June 27, 2012. Without reliable, complete, and up-to-date records, Town officials do not have the information they need to assess the Town's financial condition and take appropriate action.

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 generally agreed with our recommendations and indicated they have taken or plan to take corrective action. Appendix B includes our comments on issues raised in the Town's response letter.

Introduction

Background

The Town of Evans (Town) is located in Erie County and covers 42 square miles. The Town encompasses the Village of Angola with a combined population of approximately 16,000 residents. The Town Board (Board) comprises two elected Council members and an elected Supervisor. The Board is the legislative body responsible for the general management and control of the Town's financial affairs, including the authority to issue debt. The Supervisor is the Town's chief executive and chief financial officer. The Supervisor and the Board rely on the appointed Director of Finance to oversee the Town's daily financial operations and to report on those operations to the Board. The Director of Finance is also responsible for the proper maintenance of all accounting records and reports, as well as preparing the annual financial report, or annual update document (AUD), for filing with the Office of the State Comptroller. Three different people held the Director of Finance position during our audit period; the current interim Director of Finance started in January 2012, and the prior Director of Finance served from August 2010 through December 2011 after the previous individual left that office.

The Town provides a variety of services to its residents including highway maintenance and improvements, snow removal, police protection, water services, and general government support. The Town derives the majority of the moneys to finance these services from real property taxes, sales tax, State aid, and water rents. The Town's 2012 budgeted expenditures totaled \$11 million for general fund and highway fund operations and \$1.9 million for water fund operations.³

Tax anticipation notes (TANs) or revenue anticipation notes (RANs) can be used to help smooth cash flow fluctuations and avoid potential shortfalls. As a rule, TANs and RANs must be redeemed within one-year of issuance, but may be renewed for certain periods of time. The proceeds of TANs generally may be used only for the purposes for which the taxes in anticipation of which the notes are issued may be used, or to redeem TANs that are being renewed. The proceeds of RANs generally may be used only for the purpose of meeting expenditures payable from the type of revenue in anticipation of which the notes were issued, or for the redemption of RANs that are being renewed.

³ The Town's major operating funds are the general town-wide, general town-outside-village, highway town-wide, highway town-outside-village, and water funds.

Since January 1, 2007, the Board has authorized the issuance of debt totaling approximately \$15.2 million. Of the total, \$12.6 million of bonds and bond anticipation notes were authorized for a water improvement project and \$465,000 for equipment purchases and road reconstruction work. To address cash flow needs, the Board authorized a RAN in October 2011 and a TAN in December 2011, for a total of \$2.15 million. In addition, on January 4, 2011, the Board authorized the Supervisor to enter into a lease-purchase agreement, not to exceed \$343,000, for various vehicles and equipment.

Objective

The objective of our audit was to examine the Town's internal controls over debt proceeds, the lease-purchase agreement, water fund operations, and records and reports. Our audit addressed the following related questions:

- Did Town officials properly account for and monitor the use of debt proceeds, and plan for the subsequent repayment of indebtedness?
- Did Town officials ensure that the Town's lease-purchase agreement was in compliance with legal requirements?
- Did Town officials sufficiently budget for and properly account for water fund operations?
- Did the Board ensure that the Director of Finance provides accurate and timely records and reports?

Scope and Methodology

We reviewed debt proceeds, the lease-purchase agreement, and records and reports for the period January 1, 2007 to March 28, 2012. We extended our review of financial information for the water fund back to January 1, 2006.

We conducted our audit in accordance with generally accepted government auditing standards (GAGAS). More information on such standards and the methodology used in performing this audit are included in Appendix C of this report.

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 generally agreed with our recommendations and indicated they have taken or plan to take corrective action. Appendix B includes our comments on issues raised in the Town's response letter.

The Board has the responsibility to initiate corrective action. A written corrective action plan (CAP) that addresses the findings and recommendations in this report should be prepared and forwarded

to our office within 90 days, pursuant to Section 35 of 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 Clerk's office.

Debt Proceeds

Local Finance Law requires the proceeds of bonds and bond anticipation notes (BANs) to be used solely for the object or purpose for which the debt was issued, or applied to the payment of principal and interest on that debt. In addition, bond and BAN proceeds may not be used to reimburse a town for expenditures made before the bonds were authorized to be issued.

The Board and the Supervisor are responsible for establishing internal controls to ensure that debt proceeds are spent in accordance with all legal requirements. The Supervisor and Director of Finance are responsible for establishing procedures to properly authorize and monitor the use of debt proceeds so that monies are properly accounted for and used only for their intended purposes. The Board also must make budgetary provision for the payment of debt service.

Over the past five years the Board and the Supervisor did not ensure that all of the proceeds of the Town's debt were expended appropriately and accounted for properly. We found that the Town had illegally used approximately \$2.1 million in proceeds from the debt issued to finance the water project to fund water operating expenditures. In 2011, due to cash advances to the water fund from other operating funds, the Board authorized issuance of a RAN and a TAN totaling \$2.15 million to provide cash flow for Town operations. In addition, the Board did not budget for interest expense totaling \$30,512 due in 2012 on the RAN and TAN. We also found that \$150,000 in proceeds from a BAN were used to reimburse operating funds for expenditures that were incurred and paid before the Board authorized the bonds. As of March 28, 2012, Town officials had not formulated a written multi-year financial plan to address the Town's cash flow deficiencies and reliance on debt to finance operations.

Inappropriate Use — Town officials failed to properly monitor the use of the proceeds of debt authorized from 2007 to 2011. In August 2007, the Board authorized \$12.6 million in bonds to fund a water capital project, of which \$12.3 million was issued as of December 31, 2010.

However, we found that the Town could not account for all of these funds. Capital project expenditures totaled only \$8.4 million and the Town had only \$1.8 million in cash on hand, leaving \$2.1 million⁴ unaccounted for. In fact, in 2009 and 2010 water project debt proceeds totaling \$4.03 million were deposited into a combined

⁴ \$12.3 million in debt issuances minus \$8.4 million in expenditures minus \$1.8 million cash on hand

savings account,⁵ rather than into a separate bank account as required by law,⁶ and the cash in this account was disbursed for operating as well as capital expenditures.

The use of debt proceeds to pay operating costs violates the Local Finance Law and violates the covenants made to the purchasers of the Town's debt.

Expenditure Prior to Debt Issuance — We also found that bond proceeds totaling \$150,000 were used to reimburse operating funds for expenditures that were made prior to the Board adopting the bond resolution authorizing the issuance of the debt.

The Board adopted a bond resolution on June 4, 2008 authorizing the issuance of serial bonds in the amount of \$465,000, which included \$315,000 for vehicles and \$150,000 for road reconstruction and repaving. However, the expenditures relating to the road project were paid in September 2007. Because the Town lacks authority to use the proceeds of bonds or BANs to reimburse itself for expenditures made prior to the adoption of the resolution authorizing the issuance of the bonds, the \$150,000 must be restricted to pay debt service on the related obligations.⁷ Further, the entire \$465,000 was inappropriately deposited in a Town checking account used for both operating and capital expenditures, instead of a separate account as required by law.

The Town officials' failure to address cash flow and operating deficits and their continued reliance on debt proceeds – including the inappropriate use of BAN proceeds – to finance Town operations has placed the Town at risk of financial stress that could jeopardize the delivery of services to residents.

Recommendations

1. The Board and the Director of Finance should ensure that bond proceeds are deposited, accounted for, and expended in accordance with statutory requirements.
2. The Board should amend the budget to provide for principal and interest payments due in 2012 that were not included in the budget.
3. The Board should take action to address the inappropriate use of the \$150,000 in debt proceeds recorded in the highway fund, in consultation with legal counsel to ensure that such action is in compliance with statutory requirements.

⁵ The Town uses a combined savings account and a combined checking account for all Town operating funds.

⁶ Local Finance Law, Section 165.00

⁷ As of December 31, 2011, \$156,000 in debt remained outstanding.

Lease-Purchase Agreement

General Municipal Law (GML) authorizes towns to enter into “installment purchase contracts,” which include “any lease purchase agreement . . . which has as its purpose the financing of machinery, equipment or apparatus.” Because GML limits the term of an installment purchase contract to the applicable “period of probable usefulness” (PPU) prescribed by Local Finance Law, a lease-purchase agreement may only be used to finance machinery, equipment, and apparatus for which such a PPU has been established. In addition, the Town must solicit and evaluate the financing alternatives and the Board must determine and explain why use of a lease-purchase agreement is in the Town’s best interest.

We found that \$225,112 in proceeds pursuant to a lease-purchase agreement was used to reimburse operating funds for expenditures that were incurred and paid prior to this financing arrangement being authorized by the Board. Further, the lease’s term exceeded the PPU of certain purchases, and the Board did not solicit or evaluate alternative financing options.

On January 4, 2011 the Board authorized the Supervisor to enter into a lease-purchase agreement, not to exceed \$343,000, for various vehicles and equipment. The financing entity provided the Town with cash totaling \$225,112 for a highway truck and three police vehicles that were purchased by the Town and paid for in July 2010 and November 2010, respectively. These four vehicles were purchased from appropriations in the highway and general funds. The Director of Finance at the time indicated he thought it was acceptable to arrange this financing after the purchase, as long as it was completed in the same fiscal year.⁸ Although the Town had originally obtained title to the vehicles when purchased, the financing entity required a security interest (lien) on the purchased equipment in the event the Board fails to include appropriations in the budget to fund the periodic payments.⁹

Moreover, while the Board authorized \$343,000 in financing, the documentation we reviewed indicated that the amount available was \$350,000. After the initial payment to the Town for \$225,112, the remaining amount of \$124,888 was held in escrow by the financing entity until the Town provided documentation for other vehicle

⁸ Emails between the financing entity and the prior Director of Finance indicate that this financing approach was being considered prior to his separation from Town service in July 2010.

⁹ We verified that appropriations were available in the 2012 budget.

or equipment purchases for which the Town received additional sums from the escrow account. Later in 2011, the Town submitted documentation for a cargo van, pickup truck and public safety equipment and received cash totaling \$63,299. Additional invoices totaling \$21,927 for computer system upgrades (hardware and software for the Building Inspection Department) and public safety equipment were submitted by the Town in December 2011 and payments were expected to be received from the escrow account in early 2012. The financing entity was also to provide \$9,870 in escrow funds to the Town for interest payments. Assuming these payments are received from the financing entity, approximately \$30,000 remains in the escrow account.

There is no authority for the Town to enter into a lease-purchase agreement for the purpose of obtaining reimbursement from a third-party financing agency for machinery, equipment, or apparatus previously acquired by the Town. Further, there is no authority to enter into a lease-purchase agreement to finance operating expenses; accordingly – because lease-purchase agreements are limited to financing machinery, equipment or apparatus – there is no authority for such an agreement to provide for payment of “excess” proceeds to the Town. Therefore, the Town lacked authority to use cash obtained under the lease-purchase agreement to pay the interest under the agreement.

In addition, Local Finance Law establishes a three-year PPU for police cars acquired to replace similar vehicles in service for a year or more. There is no other PPU applicable to police cars. Therefore, the Town lacked authority to enter into a five-year lease-purchase agreement for the police cars because the PPU is only three years. We also found no indication that the Town solicited or evaluated financing alternatives that would be in the Town’s best interest.

While GML authorizes local governments to enter into installment purchase agreements, the manner in which the above transactions took place suggests that this was not an installment purchase, at least not of the type provided for in statute. In fact, this approach appears to be similar to a line of credit, which is not authorized by any statute that addresses financing for local governments in this State.

Recommendations

4. The Board should consult legal counsel regarding the remaining lease-purchase proceeds, and those not used in accordance with law, to ensure that action taken to address their use is in compliance with statutory requirements.
5. The Board should solicit and evaluate financing options, when needed in the future, to identify an option that is in the best interest of the Town.

Water Fund Operations

The Board and the Supervisor, together with the appointed Director of Finance, are responsible for overseeing the Town's daily financial operations. This responsibility includes realistic budgeting to ensure that the Town's operating funds have sufficient revenues to support the services required by Town taxpayers.

The Board and Town officials did not sufficiently budget and properly account for water fund operations, and allowed that fund to incur long-standing operating deficits without taking appropriate action. In 2011, the Town was required to transfer an estimated \$4.1 million that was not spent for the water capital project¹⁰ (of a total \$12.3 million in debt issued) back to the funding source, creating an additional cash shortfall. Town officials indicated they were unaware of the financial difficulties in the water fund until they were notified of the long-term financing requirement, which entailed the conversion of short-term notes to bonds. However, the December 31, 2006 water fund financial statements showed a cash deficit of \$1.47 million. To operate with a cash deficit, Town officials paid water claims from a combined checking account for Town operating funds, even though the water fund had no cash available. Inter-fund advances from other funds were reflected in the water fund as negative cash, rather than as inter-fund liabilities with collateral inter-fund receivables in the advancing funds to reflect the cash actually available. Due to the water fund's deficit position, it cannot repay the unrecorded advances to the Town's other operating funds.

Further, the Board did not raise rates until an effective date of March 1, 2010, without any documented financial analysis or addressing the cash and operating deficits, and apparently only because the Town's water supplier raised rates by the same amount. Additionally, the water fund is reported as an enterprise fund, which combines capital and operating funds, further blurring the separation of water operations and water capital project activity. This fund's financial activity also was not reported accurately (as the auditors' opinion on the audited financial statements for the period ended December 31, 2010 indicates) because it did not take into account key items that had not been recorded in the water enterprise fund.¹¹

¹⁰ For the construction and installation of water lines, hydrant replacements, roadway access improvements, and the construction of an elevated storage tank

¹¹ Including assets related to work in progress for the water capital project and infrastructure, and related depreciation expense

Due to the condition of the Town's records (see next section, Records and Reports), we reviewed trial balances to evaluate the water fund's most current financial condition. The available records indicate that the water fund continues to operate at a deficit. For the fiscal years 2009 through 2011, we estimate that the water fund had operating losses totaling \$423,134.

The Board also failed to include water debt principal and interest payments totaling \$635,751 in the 2012 budget,¹² which will increase the existing fund balance deficit and cash shortfall in the water fund. (Town accounting staff said the prior Director of Finance had indicated that the unbudgeted debt payment would be made up by the increase in water rates.) The interim Director of Finance said he was unaware that the debt service appropriations in the 2012 budget were insufficient and that the Board was also not aware of this fact. However, two of the three current Board members had adopted this budget. As of March 28, 2012, the Board has still not addressed the water fund's significant financial concerns, unrecorded inter-fund advances, and the water fund's inability to repay these advances to the Town's other operating funds.

The failure of Town officials to ensure that the water fund budget included sufficient operating revenues and significant payables led to inter-fund advances from other Town operating funds which the water fund cannot repay.

Recommendations

6. The Board should develop a written plan to address the operating losses and unrecorded inter-fund advances in the water fund and their impact on the Town's other funds.
7. The Board should ensure that the Director of Finance properly accounts for water fund operations.

¹² Payments due on the water bond with \$467,730 due in May and \$168,021 due in November 2012

Records and Reports

Accurate recording and reporting of financial activity are critical to the effective management of the Town's operations. Accounting records also serve as a basis for the Town's financial statements, which are important documents that allow management and the general public to assess the Town's financial operations and financial condition. The Director of Finance is responsible for maintaining appropriate accounting records, and providing financial reports to the Board. The Town contracts with a certified public accounting firm to perform an annual audit, and the Director of Finance is responsible for preparing and filing the annual update document with the Office of the State Comptroller. Town Law requires the Town to file its AUD within 90 days after the close of the fiscal year.

The prior Directors of Finance did not maintain accurate or timely information that the Board could have used to make informed management decisions. Financial records contained numerous errors and the Town relied on its external auditor to correct these errors. Audited financial statements for 2010 were not completed until November 28, 2011, and indicated that the statements did not present fairly the financial position of the water fund, since construction work in progress or general infrastructure assets and related depreciation¹³ were not presented. Additionally, the AUDs for 2010 and 2011 and the audited financial statements for 2011 had not been completed as of June 27, 2012.

Based on the Town's audited financial statements, AUDs, and budgets, we analyzed trends and compared reported amounts to supporting documentation including bank statements, general ledgers, and other accounting records. We found the following deficiencies:

- Proceeds from the \$1.2 million RAN and \$950,000 TAN received in September 2011 and December 2011, respectively, were not recorded in the general ledger until March 2012.
- Two water project draw-downs from a funding source, totaling \$246,960 and received in October and December 2011, were not recorded in the general ledger as of March 16, 2012.

¹³ The report also mentions the lack of determination and recognition of the impact of post-retirement benefits other than pensions.

- The portion of the \$465,000 BAN payable, issued in 2008, related to the highway truck and police vehicles of \$315,000 was accounted for in the operating funds rather than the capital projects fund.¹⁴ Capital project fund trial balances dated March 22, 2012 did not reflect the correct outstanding balance of \$156,000.
- As of January 18, 2012, proceeds totaling \$21,927 from the lease-purchase agreement had not been recorded in the general ledger. In addition, proceeds received in 2011, totaling \$63,299, were incorrectly classified as miscellaneous revenue.
- The 2011 trial balance (dated March 16, 2012), noted as “closed” for the year end, did not include the \$12.6 million in bonds for the water project which was completed in June 2011.
- Comparisons of recorded information (i.e., trial balances of debits and credits) with reported information (financial statements and the AUD) identified differences among the three.¹⁵ The 2009 AUD had numerous errors that were not corrected until the AUD was re-filed on October 27, 2011.¹⁶ We found no discrepancies between the 2010 audited financial statements and trial balances. However, the AUDs for 2010 and 2011 and the audited financial statements for 2011 were not completed as of June 27, 2012.
- Many audit adjusting entries were required to correct recording errors throughout the audit period. In fact, since 2007 the external auditors have noted that the Town places undue reliance on them to comply with generally accepted accounting principles. The Town’s response has been that it will “educate management and personnel.” In January 2012 the Board authorized a contract with an accounting firm whose representative will act as an interim Director of Finance.¹⁷

Without reliable, complete, and up-to-date records, Town officials do not have the information they need to assess the Town’s financial condition and take appropriate action, and the financial reports based on those records are potentially inaccurate.

¹⁴ This was corrected as an audit adjustment in 2010, to be reflected in the capital projects fund.

¹⁵ We limited this review to the water fund for the period 2006 through 2010.

¹⁶ As a result, the Town’s 2010 audited financial statements were not completed until November 28, 2011.

¹⁷ See Note 1 in Appendix B.

Recommendations

8. The Board should ensure that the Director of Finance provides accurate financial information in a timely manner.
9. The Board should ensure that employees are sufficiently trained in recording Town financial activity.

APPENDIX A

RESPONSE FROM LOCAL OFFICIALS

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



TOWN OF EVANS

8787 Erie Road • Angola, NY 14006-9600
www.townofevans.org

KEITH E. DASH, *SUPERVISOR*
Telephone (716) 549-5787

JONICA B. DiMARTINO, TOWN CLERK
Telephone (716) 549-8787

COUNCILMEN
DENNIS M. FELDMANN
PAUL T. COOPER

TOWN ATTORNEY
J. GRANT ZAJAS

August 29, 2012

Office of the State Comptroller
Division of Local Government and School Accountability
Robert Meller – Chief Examiner
Buffalo Regional Office
295 Main Street, Suite 1032
Buffalo, New York 14203-2510

Dear Mr. Meller:

On behalf of the Town of Evans, New York, please accept this letter as our response to your preliminary draft findings of your office's recent audit as follows:

Internal Controls Over Selected Financial Activities
Report number - 2012M-70
Period Covered - January 1, 2007 through March 28, 2012.

Enclosed please find our response and corrective action plan combined together. If you require any further information or clarification please contact me at your earliest convenience.

Sincerely,

Keith Dash
Town Supervisor

FINDING

CORRECTIVE ACTION

See Note 1 Page 22

See Note 2 Page 22

See Note 3 Page 22

See Note 4 Page 22

See Note 5 Page 22

We are in agreement with this recommendation. Unfortunately, relying on the knowledge and guidance of the prior Supervisor and Director of Finance, debt proceeds were not expended and accounted for properly. Debt proceeds were deposited into a combined savings account rather than into a separate bank account as required by law and proceeds were used on both operating and capital expenditures.

1) The Board and the Director of Finance should ensure that bond proceeds are deposited, accounted for, and expended in accordance with statutory requirements.

The Director of Finance position was contracted to a local Certified Public Accounting Firm in January of 2012 to address this issue. Effective immediately, the new Director of Finance is ensuring that all bond proceeds are deposited, accounted for, and expended in accordance with statutory requirements.

We are in agreement with this recommendation. Due to the negligence of the prior Director of Finance and Town Supervisor these items were not included in the 2012 budget.

2) The Board should amend the budget to provide for principal and interest payments due in 2012 that were not included in the budget.

The Town Board is amending the budget at the September 5, 2012 Board meeting to include that principal and interest payments due in 2012 that were not included in the budget.

We are in agreement with this recommendation. Due to the Town Board members relying on the expertise of the prior Director of Finance, debt was issued for a project that had already been paid for. The Town does not have the authority to use proceeds to reimburse itself for expenditures prior to authorizing the issuance and should have been restricted to pay back the debt service.

3) The Board should take action to address the inappropriate use of the \$150,000 in debt proceeds recorded in the highway fund, in consultation with legal council to ensure that such action is in compliance with statutory requirements.

The Town Board is currently consulting with legal council on how to address this matter. This matter will be corrected by September 15, 2012. The debt in question related to this matter has been paid off as the date of this letter.

We are in agreement with this recommendation. We believe that the prior Director of Finance mishandled the Town's lease-purchase agreement. The prior Director should have consulted legal council to determine if this financing was in compliance with statutory requirements.

The Town Board is currently consulting with legal council regarding the remaining lease-purchase proceeds and how they should be handled. These excess funds have been accounted for in a separate bank account and will be returned depending on the outcome. This matter will be corrected by September 15, 2012.

We are in agreement with this recommendation. We believe that the prior Director of Finance misguided the Town Board and definitely mishandled the lease-purchase agreement. Nothing was brought to the Town's attention regarding any excess funds related to this financing arrangement and/or that other financing alternatives were not solicited or evaluated.

5) The Board should solicit and evaluate financing options, when needed in the future, to identify an option that is in the best interest of the Town.

Effective immediately, the Town will do it's due diligence in any future issuances of debt. The Town's new Director of Finance and the Town Supervisor will work with the Town's Financial Advisors to analyze the Town's funding requirements and consider any alternatives available to the Town.

6) The Board should develop a written plan to address the operating losses and unrecorded inter-fund advances in the water fund and their impact on the Town's other funds.

The Town is currently in the process of developing a formal written plan to address the operating losses and the unrecorded interfund advances. The Town has already completed numerous actions to address this situation. The Town is currently in negotiations with the Erie County Water Authority to take over the Town's Water System. A surcharge will be charged to all residents once the takeover is completed to pay for the debt service of the Water Project. The Town has also increased water rates recently an additional \$0.50 / thousand and is considering additional rate and / or ad valorem tax increases in the future to address the significant deficit of the Water Fund. A formal written plan of action will be in place by September 30, 2012.

**TOWN OF EVANS
AUDIT RESPONSE AND CORRECTIVE ACTION PLAN**

FINDING	RESPONSE	CORRECTIVE ACTION
7) The Board should ensure that the Director of Finance properly accounts for water fund operations.	We are in agreement with this recommendation. The previous Director of Finance relied to much on the Town's external auditors to adjust the Town's financial information at year end.	As stated above, the Town has contracted with a local Certified Public Accounting Firm to fill the Director of Finance position in January of 2012 to address this issue. Effective immediately, all water fund activity is being properly and timely recorded.
8) The Board should ensure that the Director of Finance provides accurate financial information in a timely manner.	We are in agreement with this recommendation. The prior Director of Finance relied to much on the Town's external auditors to adjust the Town's financial information at year end thus resulting in information not being accurate in a timely manner.	As stated above effective immediately, the new Director of Finance is ensuring that all water fund activity is being properly and timely recorded in the Water Fund. Procedures have been put in place by the new Director of Finance to ensure activity is accurate and timely.
9) The Board should ensure that employees are sufficiently trained in recording Town financial activity.	We are in agreement with this recommendation. The prior Town Supervisor did not allow Board members and other members of staff to attend training in the past due to budget constraints. We agree that this is a considerable concern especially with the recent downsizing of the Town Board from five (5) to three (3).	The Director of Finance position was contracted to a local Certified Public Accounting Firm in January of 2012 to address this issue. Also, effective immediately, the Town Board is mandating training be provided to all necessary personnel to ensure that staff is properly trained in recording the Town's financial activity. Members of the Town Board will also be mandated to attend training provided by the State Comptrollers Office. The Town Supervisor has already started working on the preliminary 2013 Budget and has included sufficient amounts to cover these future necessary costs.

See
Note 1
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APPENDIX B

OSC COMMENTS ON THE TOWN'S RESPONSE

Note 1

During the audit and in the response, Town officials have inaccurately characterized the relationship between the accounting firm and the Town. The Supervisor is authorized to appoint a Finance Director to assist him with the administration of fiscal operations. The Town also may retain an accounting firm to advise and assist the Supervisor in the performance of his duties. However, the Supervisor may not appoint an accounting firm to serve as Finance Director. Consistent with these principles, the Town's contract with the accounting firm provides for the firm to perform certain services to assist Town officials in the performance of their duties and does not provide for the firm to serve as Finance Director.

Note 2

Water debt proceeds were deposited in 2009 and April 2010 all of which occurred before the appointment of the prior Director of Finance in August 2010.

Note 3

Debt was issued previous to the appointment of the prior Director of Finance in August 2010. Further, the expenditures which were made previous to the debt being issued were approved before the former Supervisor's term of office began in January 2008.

Note 4

The lease-purchase agreement was initiated by the individual who held the Director of Finance position previous to the appointment of the prior Director of Finance which occurred in August 2010.

Note 5

Conditions related to the deficits in the water fund extended at least back to 2006, well before the former Supervisor's term of office and the appointment of the prior Director of Finance.

APPENDIX C

AUDIT METHODOLOGY AND STANDARDS

Our overall goal was to assess the adequacy of the internal controls put in place by officials to safeguard Town assets. To accomplish this, we performed an initial assessment of the internal controls so that we could design our audit to focus on those areas most at risk. Our initial assessment included evaluations of the following areas: Supervisor's records and reports, cash receipts and disbursements, purchasing, payroll and personal services, Town Clerk, Justice Court, and information technology. During the initial assessment, we interviewed Town officials, performed limited tests of transactions, and reviewed pertinent documents such as Town policies, Board 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 debt proceeds, the Town's lease-purchase agreement, and records and reports for further audit testing.

To accomplish the objective of the audit and obtain valid audit evidence, we interviewed appropriate Town officials and employees, tested selected records, and examined pertinent documents for the period January 1, 2007 to March 28, 2012. We expanded our review of financial statement information for the water fund back to January 1, 2006. Our audit focused on the accounting and use of all debt proceeds issued during our audit period as well as Board oversight of this process. Our audit included various procedures to gather relevant evidence concerning our stated objective, as follows:

- We interviewed Town officials and employees regarding the authorization and use of debt, the recording of proceeds in the accounting records and their plans for repayment.
- We spoke with the Town's external auditors and requested information from them regarding various audit entries and information related to the Town's water project.
- We requested information from the Environmental Facilities Corporation regarding the Town's water project.
- We requested information regarding the \$350,000 lease proceeds (reimbursements) from the leasing entity.
- We examined abstracts, vouchers and minutes of Board meetings to determine if expenditures made were appropriate given the scope of the project.
- We reviewed Board minutes to confirm that debt issuance and water rate increases were authorized.
- We prepared schedules of water project expenditures and compared the information to reported expenditures in the financial statements.

- We analyzed water operating fund revenue and expenditure trends for the period January 1, 2009 to December 31, 2011 and calculated the operating surplus/deficit for those years. We used audited financial information for 2009 and 2010. For 2011, we used year-end revenue and expenditure reports prepared by the Town and verified recorded revenues against billing information supplied by the water billing clerk. We compared expenditures over the three-year period and investigated any large discrepancies between budgeted and actual expenditures. We excluded any known revenues or expenditures related to the water project from our analysis.
- We obtained and reviewed the Town's audited financial statements for the fiscal years ending 2007 through 2010 to compare reported debt against supporting records (trial balances).
- We compared trial balance information against audited financial statement and AUD information for the period January 1, 2006 through December 31, 2011. We limited our review in this area to the water fund.
- We reviewed various records and reports including trial balances, abstracts, general ledger, and revenue and expenditure reports to determine if information related to debt proceeds was recorded accurately in the accounting records. We requested these reports at various times throughout our fieldwork to also determine if information was being recorded in a timely manner.
- We traced recorded debt proceeds to debt instruments and traced deposits of proceeds to bank statements.
- We reviewed Town budgets to determine if the repayment of debt was properly budgeted.
- We analyzed TAN proceeds to determine if their use was limited to 2012-related expenditures. To determine if the information provided by the Town was reasonable we compared documented year-end recorded accounts payable and receivable against abstracts and January 2012 receipts. We also documented available cash balances from bank statements and verified that transferred amounts agreed with amounts needed for year-end abstracts and payrolls.

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 objectives. We believe that the evidence obtained provides a reasonable basis for our findings and conclusions based on our audit objectives.

APPENDIX D

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