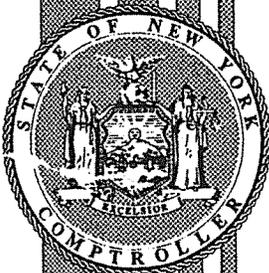


# Report of Examination:

## Town of Evans

Fiscal Year Ended  
December 31, 1989



Edward V. Regan  
Comptroller

Office of the State Comptroller  
Division of Municipal Affairs  
Bureau of Examinations





STATE OF NEW YORK  
OFFICE OF THE STATE COMPTROLLER  
ALBANY, NEW YORK  
12236

EDWARD V. REGAN  
STATE COMPTROLLER

Report: 90M-833  
Period: January 1, 1989 - December 31, 1989

Filed: FEB 4 1991

REPORT ON FINANCE RELATED MATTERS

TO THE SUPERVISOR AND MEMBERS  
OF THE TOWN BOARD  
OF THE TOWN OF EVANS  
ERIE COUNTY, NEW YORK:

Pursuant to the authority vested in the State Comptroller by Article 3 of the General Municipal Law, we have examined the financial affairs of the Town of Evans for the fiscal year ended December 31, 1989.

Our responsibilities are to review the financial condition and fiscal operations of the town in order to identify areas needing improvement and to inform local officials and the public of our findings and recommendations. Consistent with these responsibilities, the objectives of this examination were to identify conditions indicating possible fiscal stress and to test for noncompliance with certain finance related statutory and regulatory provisions as well as guidance of the Office of the State Comptroller. It was not our objective to, and we do not, express an opinion on the financial statements of the town or provide assurance as to either its internal control structure or the extent of its compliance with statutory and regulatory requirements as well as guidance of the State Comptroller.

The management of the town is responsible for its financial affairs and for safeguarding its resources. This responsibility includes establishing and maintaining an internal control structure to provide reasonable, but not absolute, assurance that resources are safeguarded against loss from unauthorized use or disposition; that transactions are executed in accordance with management's authorization and are properly recorded; that appropriate financial reports are prepared; that applicable laws, rules and regulations are observed; and that appropriate corrective action is taken in response to audit findings. Nevertheless errors, irregularities, or instances of noncompliance may occur and not be detected because of inherent limitations in any internal control structure. The town engaged independent public accountants who have issued their report dated March 22, 1990 on the town's general purpose financial statements for the year ended December 31, 1989.



In determining the scope of our examination, we considered the town's financial condition, its internal controls, applicable statutory provisions, guidance of the Office of the State Comptroller and other relevant information. We obtained an overview of the fiscal operations of the town through inquiry, analytical procedures, observations and the inspection of records and reports. As a result of this planning process, we limited our examination to the following areas:

Assessing Financial Condition, Cash Management, Retirement, Purchasing, Revenues, User Charges, Capital Projects and the Recreation Department.

We conducted our examination in accordance with Generally Accepted Government Auditing Standards (Government Auditing Standards, issued by the Comptroller General of the United States). For the areas selected, we gained an understanding of the town's internal control structure. Based upon this understanding, we assessed risks, and designed and performed such tests which we considered necessary to satisfy our audit objectives. We believe that our examination provides a reasonable basis for our report.

The results of our examination procedures disclosed certain findings and recommendations which are presented in this Report of Examination.

These findings and recommendations have been discussed with local officials and their comments have been considered in preparing this report. The town board has the responsibility to initiate corrective action. Pursuant to Section 35 of the General Municipal Law, the town board, may in its discretion, provide to the State Comptroller a written response to the findings and recommendations contained in this report. We strongly urge the town board to prepare a corrective action plan which would be available for public review in the town clerk's office and the Office of the State Comptroller.

Very truly yours,

*Office of the State Comptroller*

OFFICE OF THE STATE COMPTROLLER  
DIVISION OF MUNICIPAL AFFAIRS

Albany, New York  
November 28, 1990



## FINDINGS AND RECOMMENDATIONS

### Restrictive Bid Specifications

In April 1989 the town advertised for competitive bids for the purchase of a new or used self propelled vibratory asphalt compactor. Subsequently, the town purchased a used compactor for \$55,549. Our review of the town's bid specifications made available to interested vendors for the submission of bids noted that the town specifications appeared to be similar to the manufacturer's specifications of the equipment ultimately purchased. In addition, the town specifications required a particular manufacturer's engine be supplied with the compactor and did not provide an equivalency clause or any other type of provision that would allow for a similar or equivalent piece of equipment.

As a general proposition, specifications must be drafted to allow vendors supplying reasonably equivalent items to compete on an equal basis. Specifications may not be unduly restrictive and may not be fixed or manipulated to shut out or stifle competition, or permit an unfair advantage or favoritism. Bid specifications which tend to favor a particular bidder or manufacturer, not for any reason in the public interest, but rather to ensure the award of the contract to a particular manufacturer are improper.

The legislature has enacted the provisions of the General Municipal Law, Article 5-A relating to public contracts, specifically sections contained therein relating to competitive bidding to provide procurement procedure requirements to assure the prudent and economical use of public funds, to facilitate the acquisition of commodities of maximum quality at the lowest cost, and to guard against favoritism, improvidence, extravagance, fraud and corruption. The intent of competitive bidding when carried out to the letter and spirit of the law, is to give every qualified person the opportunity to bid on the same material items, specifications and conditions. It is through the use of public advertisements and bid specifications that all bidders are provided a common standard by which to be measured and provided assurance that they will be competing on an equal and common basis.

### Rental and Purchase of Equipment

The town, on behalf of the highway department paid \$1,500 to rent a roller for two months during 1989. Subsequently, without the possible benefits of competitive bidding, the town paid \$4,750 to purchase the same roller. The records made available for our examination did not indicate if the rental amount paid by the town was applied to the purchase price or what motivated the highway superintendent to first rent and later purchase this equipment. Consequently, we are unable to determine if the town's failure to solicit competitive bids for this purchase constituted a violation of the General Municipal Law which requires public advertisement for bids for purchases which exceed \$5,000.

The town board should closely monitor transactions of this nature and evaluate the competitive bidding responsibilities associated with them.

## Competitive Bidding

No record was presented to indicate that bids had been requested by public advertisement for the following purchases during the fiscal year ended December 31, 1989:

### Purchases

Road Construction Stone	Aggregating to	\$23,434
Asphalt (1 AC CT)	Aggregating to	\$24,956

With certain exceptions, which appear not to be applicable in the above instances, all purchase contracts in excess of \$5,000 should be awarded to the lowest responsible bidder after public advertisement for bids (General Municipal Law, §103).

Competitive bidding provisions should be followed to help assure the prudent and economic use of public moneys and to facilitate the acquisition of goods and services of required quality at the lowest cost.

## Gasoline and Diesel Fuel

The town maintains gasoline and diesel fuel storage tanks for use by town vehicles. During the period January 1, 1989 through December 31, 1989 the town highway department expended in excess of \$8,000 for gasoline and diesel fuel. Our review of highway department procedures for controlling the purchase and usage of fuel disclosed that perpetual inventory records were not maintained and that there were no log records for vehicle fuel usage.

In order to improve controls over fuel usage, we recommend that the town maintain perpetual inventory records for each storage tank and periodic reconciliation of these records be made with actual readings taken by means of physical inventories. In addition, fuel usage records should be maintained for each vehicle authorized to use town storage tanks. Periodic reviews of fuel consumption and miles driven should be made to determine if amounts are within acceptable limits.

The implementation of the above recommendations will help detect the loss of fuel resulting from leakage, help assure that deliveries are accounted for, and help monitor the use of the town's fuel stock.

### Capital Reserve Fund Expenditures

The town board authorized the use of the following town reserve funds for the purposes and in the amounts indicated below.

<u>Reserve Fund</u>	<u>Purpose</u>	<u>Amount</u>
General Equipment	Data Processing Equipment	\$12,195
Part Town Equipment	Date Processing Equipment	\$14,180
Highway Equipment	Highway Roller	\$55,549

Expenditures from reserve funds of this nature are subject to permissive referendum if the period of probable usefulness is deemed to be greater than five years. Pursuant to Local Finance Law the useful lives of data processing equipment and highway equipment are ten years and fifteen years, respectively.

Nothing was found to indicate that the resolution which authorized these purchases was made subject to a permissive referendum. The failure to expend reserve fund moneys in accordance with the General Municipal Law's permissive referendum requirements, where applicable, results in diminishing of statutory public control of those moneys.

### Cable Franchise Fees

Pursuant to contract with a cable television company, the town is entitled to receive three percent of the cable company's gross revenues that are generated from cable service operations within the town. In order to protect the town's interests, the contract further provides that the cable company is required to submit an annual financial statement, prepared by a certified public accountant, which shows the total gross revenue received by the cable company.

Town officials indicated that the required annual statements have not been filed by the cable company.

The absence of annual statements significantly diminishes the town's ability to monitor the revenues it receives from this source. We recommend that the town board require the cable company to comply with the provisions of this agreement.

## Retirement

The town provides retirement benefits to its employees through participation in the New York State and Local Employees' Retirement System and the New York State and Local Police and Fire Retirement System (systems). The town's contributions toward the cost of the systems is a percentage of employees' wages reported, and employees' retirement benefits are based on a combination of service history and reported wages. Our examination, which included a review of the town's procedures for compliance with the systems' reporting regulations, disclosed the following.

Pursuant to contract, town police officers may be annually compensated for sick leave accumulations which exceed one hundred fifty days. Our examination disclosed two payments, representing compensation for excess sick leave accumulations, which were included in the amounts reported to the New York State and Local Police and Fire Retirement System. Payments of this nature do not fall within the systems' definition of reportable wages and therefore should be excluded from reported wages.