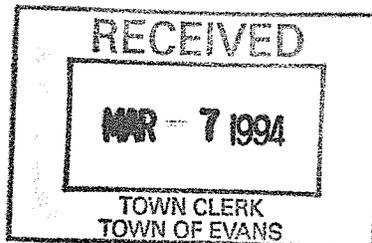




**H. Carl McCall  
Comptroller**

State of New York  
Office of the State Comptroller



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# Town of Evans

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## Report of Examination

**93M-661**

Examination Field Work Completed  
August 11, 1993

Division of Municipal Affairs  
Bureau of Examinations





STATE OF NEW YORK  
OFFICE OF THE STATE COMPTROLLER

H. CARL MCCALL  
STATE COMPTROLLER

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

Among my top priorities as the State Comptroller is the establishment of a strong, new partnership between my office and the local governments of New York State. One of the main objectives of this partnership is to assist local governments in improving their financial condition and strengthening their financial management systems.

The audit reports issued by my office are an important component in accomplishing this objective. These reports are expected to be a resource to you. They are designed to identify and provide recommendations for improving current and emerging fiscal problems.

Prudent fiscal management, sound fiscal policy and a commitment to working together will enable us to serve the taxpayers more effectively by making better use of our limited resources. Toward this end, I look forward to working with your municipality and all other local governments throughout the State.

Our audit report has been refocused to make it more useful and understandable. It now includes:

- ◆ Table of contents;
- ◆ Calendar of events to identify audit related dates;
- ◆ Executive summary to highlight key recommendations; and
- ◆ Headings that separate Findings and Recommendations.

If my office can be of assistance to you or if you have any questions concerning this audit report, please feel free to contact Assistant Deputy Comptroller Richard L. Luke at the Albany office or the local area office for your county listed at the back of this report.

Sincerely,

A handwritten signature in cursive script that reads "Carl McCall".

H. Carl McCall



# TOWN OF EVANS

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# TOWN OF EVANS

## AUDIT CALENDAR

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Period of Examination . . . . . January 1, 1992 — December 31, 1992

Annual Financial Report  
Filed with the Office of the  
State Comptroller . . . . . March 3, 1993

Date of Independently Audited  
Financial Statements . . . . . April 27, 1993

Examination Field Work Started . . . . . June 3, 1993

Examination Field Work Completed . . . . . August 11, 1993

Exit Conference . . . . . September 16, 1993

Release Date . . . . . March 4, 1994



# TOWN OF EVANS

## EXECUTIVE SUMMARY

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Our examination disclosed findings that **require** the Town Board's review and action. Prompt action by town officials will help protect the town's resources from possible loss or improper use and ensure its compliance with appropriate statutory requirements.

For the ready reference of the reader, the more significant recommendations are summarized in the following section. However, this is not meant to serve as a substitute for reviewing the "Findings and Recommendations" section of the report, which begins on page 8.

The Town Board should review this report and prepare a plan of action that addresses the recommendations in our report and forward the plan to our office within ninety days. Please note of the six findings in the report, one finding is similar to one contained in our prior Report of Examination issued February 4, 1991. For guidance in preparing your plan of action, we recommend that the Town Board refer to applicable sections contained in the publication issued by the Office of the State Comptroller entitled Financial Management Guide for Local Governments.

Our offices are available to assist you in providing guidance in preparing the plan. The local area office for your county, as well as the Administrative Office located in Albany, New York, are listed at the back of this report.



# TOWN OF EVANS

## SUMMARY OF SIGNIFICANT RECOMMENDATIONS

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### • Internal Control and Compliance •

An effective system of internal control is necessary so that the Town Board can have reasonable assurance that resources are safeguarded, that transactions are executed in accordance with management's authorization, are in accordance with statutory requirements and are properly recorded.

Failure to establish proper controls could expose the town's resources to loss or improper use. The following recommendations help ensure that the town's resources are not at risk, that transactions are properly authorized and are in compliance with statutory requirements.

#### **Capital Expenditures for the Town Hall/Police and Court Facilities Building** *(For Full Discussion See Commentary, Page 8)*

The Town Board should determine the total amount of building related costs charged to the General Fund — Town Outside Village for the Construction of the Town Hall/Police and Court Facilities Building and have the General Fund — Townwide reimburse the General Fund — Town Outside Village for those expenditures.

#### **Large Equipment Purchases** *(For Full Discussion See Commentary, Page 8)*

The Town Board should review its procedures for drawing up bid specifications and advertising for public bids for restrictiveness and make any modifications necessary to ensure that they do not restrict competition for town purchases.





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

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STATE COMPTROLLER

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**Report: 93M-661**  
**Period: January 1, 1992 — December 31, 1992**  
**Filed: March 4, 1994**

**AUTHORITY AND SCOPE LETTER**

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

Pursuant to the State Constitution, Article V, §1 and further 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, 1992.

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 Audit 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 reports dated April 27, 1993 on the town's general purpose financial statements for the year ended December 31, 1992.

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:

- Financial Condition
- Budgeting
- Investment
- Procurement
- Payroll
- Retirement Reporting
- User Charges
- Interfund Activity
- Reserves
- Fixed Assets
- Capital Projects

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. In accordance with Section 35 of the General Municipal Law, the Town Board should review this report and prepare a plan of action that addresses the recommendations in this report. This plan should be available for public review in the town clerk's office and should be forwarded to the State Comptroller's Office within ninety days of the receipt of this report.

Very truly yours,

*Office of the State Comptroller*

OFFICE OF THE STATE COMPTROLLER  
DIVISION OF MUNICIPAL AFFAIRS

Albany, New York  
August 11, 1993

## FINDINGS AND RECOMMENDATIONS

### • Internal Control and Compliance •

#### Capital Expenditures for the Town Hall/Police and Court Facilities Building

##### *Finding*

Certain capital expenditures for the construction of the town's Town Hall/Police and Court Facilities Building were improperly charged to the General Fund — Town Outside Village. According to the town's financial records and reports, the town charged over \$200,000 to the General Fund — Town Outside Village for capital expenditures to construct and equip the building. Of these expenditures, in our opinion, \$117,000 were directly related to the building's construction. There is no authority to charge such expenditure to the General Fund — Town Outside Village.

As a general rule, all town expenditures are townwide charges unless a specific authority exists that makes them a charge to the town outside the village. A Town Board is authorized, generally, to acquire property needed for any town purpose, by Town Law, §64(2). Section 220(3) of that law provides, more specifically, for the construction of a town building and the acquisition of land for that purpose. Neither statute, however, authorizes the treatment of contemplated construction or land acquisition as a charge to the General Fund — Town Outside Village.

##### *Recommendation*

**The Town Board should determine the total amount of building related costs charged to the General Fund — Town Outside Village for the construction of the Town Hall/Police and Court Facilities Building and have the General Fund — Townwide reimburse that fund for the expenditures.**

#### Large Equipment Purchases

##### *Finding*

We noted two instances where, after advertising for bids and receiving a single bid, the Town Board awarded a purchase contract for an expensive piece of equipment to the sole bidder. In both instances, despite the high cost of the equipment, the town did not re-advertise for bids in an attempt to obtain a lower price. By failing to do so, the town may not have received the best price available.

In the first instance, a contract was awarded February 5, 1992, and eventually resulted in the purchase of two single axle trucks with a contract price of \$87,266 each. In the other instance, a contract was awarded on October 7, 1992, for the purchase of a loader backhoe costing \$43,330. While the Town Board was not legally required to reject the sole bid and to re-advertise for more bids before awarding each of these contracts, the town may have benefited had it done

so. Generally, increasing the number of vendors participating in the bidding process increases the town's chances of getting the best available price.

In a related matter, on August 19, 1992, the Town Board authorized the purchase of a second single axle dump truck. The bid specifications provided for additional purchases of trucks, identical to the one specified, within 120 days of the bid award. However, the authorization to purchase this second truck came 196 days after the initial bid award. Town officials informed us that they assumed that the original bid allowed additional purchases within a one year period. They also indicated that the second truck was purchased because the vendor informed them that the price would increase 6% if the town advertised for bids again.

Since the time period, in the bid specifications, for additional purchases had elapsed, the town should have advertised for bids for the purchase of the second truck.

### ***Recommendation***

**The Town Board should review its procedures for setting bid specifications and advertising for public bids and make any modifications necessary to ensure that they do not restrict competition for town purchases.**

## **Procurement Policies and Procedures**

### ***Finding***

There was no indication that the Town Board had adopted procurement policies and procedures which fully comply with statutory requirements.

Effective January 1, 1992, General Municipal Law, §104-b requires the governing board of every political subdivision to adopt policies and procedures governing all procurements not required by law to be made pursuant to competitive bidding requirements. The purpose of this legislation is to help assure the prudent and economic use of public moneys and to facilitate the acquisition of goods and services of desired quality at the lowest possible cost.

In January 1992, the Town Board adopted a resolution establishing certain purchasing procedures. The resolution stated that highway purchases over \$1,000, and other departments' purchases over \$250, require the town supervisor's approval prior to purchase. It also stated that for any purchase over \$1,000, three written quotes had to be obtained. This resolution was the only record presented to us that indicated the town may have attempted to comply with General Municipal Law, §104-b. However, the resolution adopted by the board does not address several procedural requirements set forth in that statute. Among the required procedures it either does not address or does not fully address are:

- ◆ Procedures for determining whether a procurement is subject to competitive bidding and, if it is not, documenting the basis for such determination;
- ◆ Procedures requiring adequate documentation of actions taken;
- ◆ Procedures requiring that if a contract is awarded to other than the lowest dollar offerer, there is justification and documentation of the reasons such award furthers the purposes of Section 104-b;

- ◆ Procedures setting forth any circumstances when, or types of procurement for which, in the sole discretion of the Town Board, the solicitation of proposals or quotations will not be in the best interest of the town.

Town officials indicated that they are collecting and analyzing purchasing information to formulate a policy in accordance with the statute.

### ***Recommendation***

**The Town Board should develop and implement complete procurement policies and procedures to help ensure the prudent and economical use of public moneys and facilitate the acquisition of goods and services of the desired quality at the lowest cost.** For guidance in this area, town officials should refer to a publication issued by the Office of the State Comptroller entitled "Developing Procurement Policies and Procedures."

## **Controls Over Gasoline**

### ***Finding***

We noted weaknesses in the town's internal controls relating to the use of unleaded gasoline stored at the town highway barn and at the town park.

The town maintains a storage tank at the town highway barn for unleaded gasoline for use in town vehicles. During the period January 1, 1992 through December 31, 1992, the town expended in excess of \$39,000 for unleaded gasoline at this site. Our review of procedures for controlling the purchase and use of fuel disclosed that perpetual inventory records were not reconciled to actual readings taken from physical inventories.

Another unleaded gasoline storage tank is maintained at the town park. During 1992, the town recreation department spent over \$1,700 for unleaded gasoline stored at this site. Our review of procedures for controlling the purchase and use of this fuel disclosed that perpetual inventory records were not maintained and physical inventories were not taken.

With respect to the lack of physical inventories of the unleaded gasoline, a similar finding was included in our prior Report of Examination.

### ***Recommendation***

**To improve controls over fuel use, the recreation director should maintain perpetual inventory records for the storage tank at the town park. Furthermore, the respective department heads should make certain that storage tank inventory records at the town park and the highway barn are periodically reconciled with actual readings taken by means of physical inventories at each location.**

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

## **Payment of Holiday Leave to Police Officers**

### ***Finding***

We noted instances where police officers were paid in advance for certain holidays occurring in 1992.

The labor agreement governing the compensation of the town's police officers in 1992, stipulated that police officers were entitled to twelve holidays. It also stipulated that police officers had the option of an additional day's pay or another day off with pay to replace the holiday whether they worked the holiday or not. It did not stipulate when a police officer was entitled to use or be paid the value of those holidays (i.e., it did not stipulate advance payment, as opposed to payment on or after the holiday).

During our review of the town's payrolls, we noted instances where police officers requesting cash in lieu of holiday leave were paid before the date of the holiday. For example, one officer received payment in January 1992 for ten of the holidays he was entitled to in that year, even though only one of those holidays fell in January.

Allowing any employee to use or be paid for a holiday in advance of the date of the holiday could result in a gift prohibited by Article VIII, §1 of the State Constitution. If an employee leaves employment prior to the date that the holiday is earned, then advance payments would be prohibited gifts.

### ***Recommendation***

**The Town Board should not permit the payment of any compensation prior to the date that it has been earned by the employee(s).**

## **Reporting Days Worked**

### ***Finding***

Days worked as reported to the retirement system for certain officials could not be substantiated.

A review of the town's December 1992 monthly report to the New York State and Local Employees' Retirement System disclosed that certain elected and appointed officials were reported as working full time, while others were reported as working 50% of the days worked by full time employees. However, no supporting documentation was available from the town to justify the number of days worked as reported.

The following schedule shows how certain officials were reported to the retirement system:

<b>Position</b>	<b>Percentage of Full-Time Days Reported</b>
Two Town Board Members	50%
Two Town Justices	50%
Deputy Supervisor	50%
Town Attorney	100%
Supervisor's Secretary	100%

The number of days worked reported on monthly reports to the New York State and Local Employees' Retirement System should be based on the actual number of hours worked on payrolls paid during the monthly reporting period and the number of hours set by the employer as a full standard work day.

**Recommendation**

**Due to the difficulty in identifying the actual hours worked by elected and appointed officials for retirement reporting purposes, the Town Board should require that these individuals periodically submit a report of all work activity for a one month period. The Town Board should review these reports and establish, by resolution, the number of days worked that will be reported for the positions mentioned above.**



**APPENDIX**

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