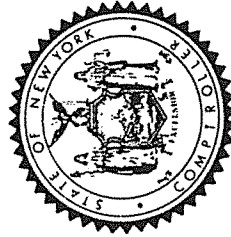


**REPORT OF EXAMINATION
OF THE
TOWN OF EVANS**



**OFFICE OF THE STATE COMPTROLLER
DIVISION OF MUNICIPAL AFFAIRS**

**EDWARD V. REGAN
Comptroller**



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

88M-143

EDWARD V. REGAN
 STATE COMPTROLLER

January 1, 1986 - December 31, 1986
 Report Filed - **JUN 27 1988**

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 provisions of Article 3 of the General Municipal Law, the Office of the State Comptroller has the responsibility to examine into the financial affairs of the Town of Evans.

The management of the Town of Evans is responsible for its financial affairs. This responsibility includes establishing and maintaining systems of internal controls to provide reasonable, but not absolute, assurance that resources are safeguarded; transactions are executed in accordance with management's authorization; appropriate financial reports are prepared; and applicable laws, rules and regulations are observed.

The town has engaged independent public accountants for the year ended December 31, 1986 who have issued their reports on the general purpose financial statements, the systems of internal controls, and compliance with certain applicable laws, rules and regulations. Our examination, to the extent practicable, has not duplicated the work performed by such other independent public accountants.

Our examination for the year ended December 31, 1986 included such tests of the accounting records and such other procedures as we considered necessary in the circumstances. The scope of our examination consisted of the following:

- An evaluation of pending litigation as it affects financial condition;
- A review of internal accounting controls relating to revenues generated in the operations of the water department and the parks and recreation department;

- A determination of compliance with applicable laws, rules and regulations relating to competitive bidding, cash management and investments, indebtedness, payroll processing and reporting and audit responsibilities of the town comptroller;

and

- An assessment of the fiscal practices and procedures of the town court to determine whether there are appropriate control systems to record and report transactions accurately and in a timely manner.

Our examination resulted in certain findings and recommendations which are reported in the following Findings and Recommendations section of this Report of Examination. The findings and recommendations included in the independent public accountant's reports are not repeated in this report.

Very truly yours,

Office of the State Comptroller

OFFICE OF THE STATE COMPTROLLER
DIVISION OF MUNICIPAL AFFAIRS

Albany, New York
December 4, 1987

FINDINGS AND RECOMMENDATIONS

Financial Condition

Employee Lawsuit

In January 1984, the town board downgraded in position or terminated the employment of eleven town employees.

Ten of the eleven affected employees filed lawsuits against the town and/or its officials. Two employees' lawsuits were rejected on appeal. Two employees accepted payments of \$10,000 and \$13,000, respectively, in full settlement of their claims and are no longer employed by the town. Four employees accepted settlements totaling \$49,614 and were reinstated to the positions they previously held. One employee obtained a judgement for back pay, interest and fringe benefits estimated at \$80,000. As of the date of this report, December 4, 1987, no payments have yet been made for this case. The remaining case was pending at the time of our examination.

The total cost (both legal services and settlement costs) to the town for these actions could exceed \$400,000. As of December 31, 1986, \$164,612 had been paid for legal defense fees and \$72,614 for settlement costs. No provisions have been made in the town's 1986 financial statements for additional settlements and legal fees which may exceed \$162,000.

Records and Reports

Record of Tort Claims Against the Town

The town's annual financial report includes a "Notice of Tort Claims" section which lists seventeen claims pending as of December 31, 1986. Our review of the town clerk's tort claims ledger revealed thirty-four cases lacking any notation indicating a "closed" status as of December 31, 1986. Since no reconciliation is prepared between tort claim records maintained by the town clerk, town attorney, and the town's insurance carrier, it was not possible to determine what cases were actually pending at December 31, 1986. We recommend that a periodic report, in writing, be submitted by the town attorney and the town's insurance carrier, so that the town clerk's record of pending tort claims can be reconciled with legal and insurance information.

Water Department

Accounting Procedures We reviewed the procedures utilized by the town to account for revenues generated by the water department. We found the following:

- (1) The accounts receivable balance in the water fund general ledger as of December 31, 1986 did not agree with the computerized record of individual customer accounts and had to be reduced by \$9,429 to a balance of \$137,357. Neither the general ledger accounts nor the customer account records were maintained in a manner to effectively identify the reasons for difference.

The town's computer system is capable of generating "Customer Balance Reports" which show the status of individual customer accounts at specific points in time. However, we were advised that these reports were not produced at the end of each month because of time restraints on computer use. Consequently, town personnel did not make monthly comparisons between the customer balance reports and the general ledger to determine the accuracy of the monthly records until the year-end customer balance reports were produced.

- (2) We were advised by town personnel that the monthly billing reports were discarded shortly after they were prepared. These reports constituted the only record which identified the meter readings and water consumption used to determine individual customer bills.
- (3) The customer account records do not provide pertinent water account information such as prior unpaid balances, current billings, collections, adjustments and current unpaid balances to correspond with entries in the general ledger.
- (4) The current system of internal accounting controls does not provide for specific forms or records to be used to authorize customer billing adjustments or to make adjusting entries to the general ledger. Because of the lack of such documents, certain billing adjustments were not adequately identified in the records. In addition there was no indication that billing adjustments were authorized by the town board.
- (5) The amounts of billings for customer charges other than water rents were not correctly transmitted to the comptroller for entry in the general ledger. On various occasions, the balance of such charges unpaid at month-end was transmitted rather than the amount billed during the month.

In order to accurately account for water revenues, suitable customer account records should be maintained by the water department and accurate information should be submitted to the comptroller for entry in the town's accounting records. To accomplish this goal, we recommend the following:

- (1) The town consider restructuring customer account records to identify transactions in the same format that is required to be recorded in the general ledger.
- (2) All billing records should be maintained in the same manner as other customer account records and be retained on file. Accurate billing information for rents and other customer charges should be submitted promptly to the comptroller in a prescribed format accompanied by supporting information.
- (3) Standard forms and/or records should be developed and utilized to authorize and account for adjustments to customer accounts. Adjustments which change customer balances for other than clerical errors should be approved in advance by the town board.
- (4) Customer balance reports should be produced at the end of each month and the amounts should be compared to the general ledger. Any discrepancies found should be promptly investigated and resolved.

Meter Readings In 1987, the town's police department conducted an investigation involving improper meter readings and related billings to certain water customers. Based on this investigation numerous deficiencies and/or weaknesses in internal control were brought to the town boards attention. Although the town has taken certain corrective actions, our review disclosed the following situations which we believe warrant improvements:

- (1) In certain instances, two or more years elapsed before actual readings were taken. Generally, no suitable reasons were given for these delays. During that time, low estimates or minimum levels were used to determine the billings.
- (2) Meter readings were frequently entered in pencil which could easily be altered at a later date.
- (3) We were informed that certain meters were not functioning properly. However, no effective program has been established for testing meters at regular intervals or for replacing defective meters.

We recommend that the board adopt specific guidelines on meter reading duties and develop a long-term plan for testing and replacing defective meters.

Internal Control Based on the previously mentioned weaknesses and deficiencies in the general operations of the water department, we recommend the town board constantly monitor and evaluate the controls over this revenue source.

Parks and Recreation Department

The parks and recreation department operates various programs and is responsible for receiving and depositing approximately \$90,000 in user charge fees. The majority of this revenue is generated through the marina and dock areas. We extended our review of operations through the summer months of June to August 1987.

During our review, we found that there were minor differences between the amount of cash recorded as being received at certain times in August 1987, and the corresponding amount deposited to the related bank account. We also found internal control weaknesses including but not limited to, the access to cash was not adequately restricted, cash transmittals were not always made in a timely manner, amounts that were received were not always reconciled to revenue information available and individual employee accountability for cash, in some instances, was not clearly established.

In order to improve cash accountability, the town should review the accounting procedures followed by the department and develop a plan of internal accounting controls to provide for appropriate segregation of duties and fixing of employee responsibilities. Accordingly, we recommend the following:

- (1) A more secure cash drawer and desk should be provided for handling and storing of cash received at the Recreation Department office.
- (2) A cash asset account should be maintained at the Recreation Department office and reconciled monthly to the revenue accounts.
- (3) The marina cash register should be maintained in a condition of repair so as to facilitate accurate and consistent cash register tape readings.

- (4) Accountability for initial receipt of marina, park and pool revenue should be clearly established by requiring employee signatures on appropriate forms at times when cash is counted or transmitted.
- (5) Automobile parking and boat launching activities at the marina should be controlled by the issuance of press-numbered tickets. All such tickets used for recording revenue should be issued in continuous sequence to simplify accountability.
- (6) If feasible, the duties of issuing tickets, passes and charge slips for revenue-producing activities at the marina should be separated from those involved in handling customers' money received in payment for these services.
- (7) At the end of each day, cash amounts received from marina, park and pool operations should be reconciled with cash register readings, tickets issued, duplicate receipt forms and other documentation used to acknowledge collections. These cash receipts should then be transmitted promptly to the office and counted, recorded, and deposited by office personnel on a daily basis.
- (8) Access to the money box in the soft drink machine at the pool should be restricted. Sale proceeds should be counted by one attendant in the presence of another and the amount should be listed independently in the transmittal sheet. The proceeds should be reconciled with the number of soft drink cans placed in the machines and available for sale.
- (9) At the end of each season, cash receipts from marina, park and pool operations should be reconciled to revenue computations arrived at on the basis of the various internal accounting controls. This reconciliation form should be signed by the Recreation Department head and presented to the town board as a report of departmental accountability.

Other Comments and Recommendations

Town Comptroller

At its organizational meeting on January 1, 1986, the town board established the position of town comptroller and made an appointment to that position. The town board, by various resolutions, also appointed the same individual as personnel director and expanded the town comptroller's duties to include authorization for the following responsibilities:

- (1) Approving vendors from whom town department heads may purchase supplies;
- (2) Approving all purchases of any item or group of items costing \$100 or more;

(3) Hiring new employees; and

(4) Approving major repair jobs.

Whenever the office of town comptroller has been established, certain audit duties and powers normally conferred upon the town board devolve upon and must thereafter be exercised by the town comptroller. These powers and duties include the authority to audit and approve or reject all claims against the town or its improvement districts, and the authority to audit the records of other town officers who receive and disburse cash during the year (Town Law, §34).

During our examination, we determined that the town comptroller did audit claims, but the town board exercised the approval powers and duties before claims were ordered paid. We also determined that the town comptroller did not audit the records of other town officers and employees who received and/or disbursed cash during the year, but did perform the following duties in addition to the expanded duties noted above:

(1) Maintained various accounting records, performed bank account reconciliations and prepared financial reports;

(2) Assisted in payroll processing and reporting;

(3) Assisted in accounting for property and equipment records; and

(4) Assisted in preparing minutes of town department head meetings.

The town board of a suburban town may, by local law, create, modify or discontinue departments of the town government in addition to those otherwise authorized by law and may assign additional functions or duties to offices, departments and certain agencies except for elective offices (Town Law, §53). We found no local laws adopted by the town board to expand the town comptroller's duties beyond those authorized by law.

If it is the town's intent to appoint a town comptroller and expand or modify the duties required to be performed by the appointed individual, the town board should adopt the necessary local laws to adequately identify all the intended duties. However, we believe any action taken to limit or delete the audit responsibilities of the appointed town comptroller would be contradictory and would only nullify the primary powers and duties of that position. In addition, we recommend that the town board contact the New York State Attorney General concerning the expanding of the town comptroller's duties to include approving vendors and approving purchases, to determine if these additional duties are compatible with the statutory duties of a town comptroller. As an additional concern, the person presently appointed as town comptroller is also a trustee for the Village of Angola. Since the town expends a significant amount each year to purchase water from the village, a person who has the duties of approving the sale for the village and auditing the claims to be paid by the town may be in an incompatible position. We again recommend that the town request information from the New York State Attorney General to determine if the current town comptroller can serve compatibly in both positions.

Competitive Bidding Procedures

Our examination of town competitive bidding procedures indicated that the town generally complied with the bidding statutes. However, there was no indication that bids were requested by public advertisement in 1986 for the following:

- ° The aggregate purchase of regular gasoline for resale to marine customers at a cost of \$6,141.
- ° The aggregate purchase of water meters by the Water Department at a cost of \$12,678.

With certain exceptions which appear not to be applicable in the above instances, all purchase contracts involving an expenditure of more than \$5,000 shall be awarded to the lowest responsible bidder furnishing the required security after public advertisement for sealed bids (General Municipal Law, §103).

In respect to procedures employed, we found that the bidding documents for the Meter Pit Installation Project were available from and bid deposits were payable to the project engineers rather than the Town of Evans. Also, we were informed by the town clerk that the bids for the Water Building Alterations Project and the Meter Pit Installation Project were opened by the engineers rather than a board, agency, officer or employee of the town.

To insure compliance with law and accountability for town funds, bidding documents should be available from town officials, and all payments from prospective bidders to acquire specifications and bidding documents, or to make bid deposits or other applicable payments should be payable to town officials. The opening of bids should also be conducted under the control of town officials (General Municipal Law, §103(2)).

Fire Protection and Ambulance Service Contracts

Payments were made in 1985 and 1986 to the Village of Angola and three volunteer fire companies for fire protection and ambulance services to the Angola Fire Protection District. No written contracts were made available to us to support these payments.

Written contracts were made to support payments in 1987. However, these contracts were not signed until April 1987. The fire protection and ambulance services were effective January 1, 1987.

Fire protection and ambulance services should be supported by written contracts entered into on a timely basis. Each contract should identify the rights and responsibilities of each party and should specify a definite sum to be paid each year for all the services to be rendered thereunder. Since the amounts to be paid for these contracts are to be assessed and levied upon the taxable property of the fire protection district, the contracts should be negotiated in the prior year so that the information can be used in the budget preparation process (Town Law, §184).

No Written Investment Policy

The Town of Evans has not established or adopted a written investment policy. Every local governmental unit should have a written investment policy approved by the governing board. Such written investment policy should include at a minimum; the official designated by the governing board to make investment transactions, the permissible types of investments and the guidelines to be adhered to for each type of investment, an approved list of depositories and trading partners with investment limits, and the type of records and controls that are required to safeguard the investments.

The objectives of a written investment policy are to provide reasonable assurance:

- ° That assets are safeguarded.
- ° That investments will mature when cash is required to finance operations.
- ° That there will be a competitive rate of return on investments.

The investment policy should be in accordance with statutes and be periodically reviewed and revised as necessary to reflect changes in available investment opportunities and market conditions. For guidance in this area we recommend that the town board refer to the publication issued by the Office of the State Comptroller entitled "Financial Management Guide for Local Governments".

Town Justice Anthony J. Barone

Our examination of the accounts of Town Justice Anthony J. Barone was extended until August 31, 1987. As of that date it was noted that \$1,738.85 was held in bail representing transactions dating between June 13, 1978 and July 15, 1983. Of that amount, specific cases can be identified with \$1,389.00 of the \$1,738.85, leaving an unidentified balance of \$349.85 in the judge's bail account.

Attempts by court personnel to return the identified bail funds to bailees have been unsuccessful.

In the event funds can not be identified, the funds should be remitted to the Office of the State Comptroller - Justice Court Fund. If bail is exonerated but cannot be returned because the location of the bailee is unknown, then these funds should be held for a period of six years. After the six year limitation has elapsed, the bailee can no longer bring an action to recover the amount and at that time, the bail belongs to the town. Finally, if the bail is identified as forfeited, this bail should be sent to the Justice Court Fund.

Audit of the Justice's Records

The town justices did not present their records and dockets to the town comptroller for examination, as required by the Uniform Justice Court Act, §2019-a and Town Law, §34(1).

An annual audit provides the town comptroller with an opportunity to monitor the fiscal affairs of the Justice Court. The justices should submit their records and the comptroller should examine them, or the town board may cause them to be examined by an independent certified public accountant, or a public accountant.