OFFICE OF THE NEW YORK STATE COMPTROLLER

DIVISION OF LOCAL GOVERNMENT
& SCHOOL ACCOUNTABILITY

Wyoming County

Selected Financial Activities

Report of Examination

Period Covered:

January 1, 2013 – April 15, 2015

2015M-94

Thomas P. DiNapoli

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State of New York
Office of the State Comptroller

Division of Local Government
and School Accountability

November 2015

Dear County 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 County 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 Wyoming County, entitled 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 New York State General Municipal Law.

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

Respectfully submitted,

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

State of New York
Office of the State Comptroller

EXECUTIVE SUMMARY

Wyoming County (County) is located in western New York State and has a population of approximately 42,000. The County is governed by a Board of Supervisors (Board), which is composed of 16 members, one of whom also serves as the elected Chairman of the Board (Chairman), the County's chief executive officer. The Board, as the County's policy-making body, is responsible for researching and reviewing all options prior to making significant financial decisions. The Chairman also serves as the County Administrator and purchasing agent, responsible for overseeing the County's day-to-day operations, approving all purchases and ensuring the implementation of Board policies by all departments.

The County's budgeted appropriations for 2015 are $125 million, which include general fund appropriations of $61 million. During 2014, the County spent over $14 million on professional service contracts and insurance coverage.

The County has an elected County Clerk (Clerk), who is responsible for receiving, indexing and filing all Supreme Court documents and papers, as well as collecting all associated fines and fees. The Clerk also certifies documents, qualifies notary publics, processes applications for pistol permits and acts as an agent to the New York State Department of Motor Vehicles (DMV). As such, she is responsible for the DMV's day-to-day operations within the County. During our audit period, the Clerk collected approximately $11 million in various revenues.

The Probation Department (Department) operates under the supervision of the Board and the Chairman. The Department's mission is to ensure the safety of County residents by supervising all juvenile and adult clients on probation. The Department also provides auxiliary services that include collecting and disbursing fines and restitution. During our audit period, the Department's staff collected $177,836 in restitution and $354,095 in fees.

<u>Scope and Objective</u>

The objective of our audit was to examine selected County financial management activities for the period of January 1, 2013 through April 15, 2015. Our audit addressed the following related questions:

- Did the Board use an adequate process to acquire office space in the most cost beneficial manner that also meets the County's needs?
- Did the County use competitive methods when procuring professional services?
- Did the Department and Clerk properly collect, record and deposit cash receipts?

Audit Results

On June 25, 2014, the County entered into a 17.5 year lease agreement for 28,000 square feet of office space known as the Wyoming County Agriculture Business Center of Excellence (Business Center). The Business Center is intended to house various County departments[1] and functions, for a lease payment of $389,480[2] per year. The Board did not demonstrate that it performed an appropriate cost analysis or considered alternative sites or options prior to entering into a 17.5 year lease for office space with a private developer. As a result, we estimate that the County may pay $1.8 million more than necessary over the next 17.5 years for this building. In addition, at the end of the lease term, the County may purchase the building for $1. Because of this and other factors, this transaction appears to be an installment purchase contract rather than a true lease and does not appear to be allowable under General Municipal Law.

The County's procurement policy does not provide clear guidance for procuring and awarding professional service contracts or contracts for insurance coverage. We found that for seven of the eight sampled professional service contracts reviewed, totaling $2.8 million, the County did not provide any evidence that a competitive method, such as a request for proposals, was used when soliciting these services. Further, we found that the County has used the same insurance provider for over 20 years without soliciting quotes from any other providers to determine if savings could be realized. In 2013 and 2014, the County paid the insurance provider approximately $1.4 million.

Even after the discovery of an apparent theft of approximately $90,000[3] from the County's DMV, which went undetected for over a year due to lax controls and supervisory oversight, County officials have not adopted comprehensive written cash receipts policies and procedures. As such, the risk remains that theft of County assets could occur and go undetected.

We selected and reviewed cash receipts, totaling approximately $900,000, for two County departments over a four-month time period to determine if cash receipts were accurately recorded and deposited. While receipts were generally deposited correctly, we found a general lack of segregation of incompatible duties. In addition, the Department made multiple errors in recording the type of payment received.

Comments of County Officials

The results of our audit and recommendations have been discussed with County officials and their comments, which appear in Appendix A, have been considered in preparing this report. Except as specified in Appendix A, County officials generally agreed with our recommendations. Appendix B includes our comments on issues raised in the County's response letter.

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1 According to County Local Law 4 of 2013, these departments include Planning, Fire and Building Codes, Water Resource Agency, Business Center, Business and Development Center, Business Education Council, the Wyoming County Industrial Development Agency and the Wyoming County Chamber of Commerce. In addition to the County, 4,000 square feet will be leased to the United States Department of Agriculture (USDA). While the lease agreement stipulates that the County will pay all utility costs associated with the USDA, the landlord will receive all lease payments from both the County and the USDA.

2 This equates to $13.91 per square foot and does not include utilities and maintenance costs. Currently the County is paying only $9.29 per square foot for office space for the departments noted, excluding the Fire and Building Codes Department which is currently located at the Wyoming County Government Center. This amount may also increase depending on the adjustable rate mortgage that was acquired by the lease holder.

3 On December 2, 2014, a former Deputy County Clerk was indicted on multiple charges by the Wyoming County District Attorney's Office for the apparent theft of approximately $90,000 from the DMV.

Introduction

Background

Wyoming County (County) is located in western New York State and has a population of approximately 42,000. The County is governed by a Board of Supervisors (Board), which is composed of 16 members, one of whom also serves as the elected Chairman of the Board (Chairman), the County's chief executive officer. The Board, as the County's policy-making body, is responsible for researching and reviewing all options prior to making significant financial decisions. The Chairman also serves as the County Administrator and purchasing agent, responsible for overseeing the County's day-to-day operations, approving all purchases and ensuring the implementation of Board policies by all departments.

The County's budgeted appropriations for 2015 are $125 million, which include general fund appropriations of $61 million.

The County has an elected County Clerk (Clerk), who is responsible for receiving, indexing and filing all Supreme Court documents and papers, as well as collecting all associated fines and fees. The Clerk also certifies documents, qualifies notary publics, processes applications for pistol permits and acts as an agent to the New York State Department of Motor Vehicles (DMV). As such, she is responsible for the day-to-day DMV operations within the County. During our audit period, the Clerk collected approximately $11 million in various revenues.

The Probation Department (Department) operates under the supervision of the Board and the Chairman. The Department's mission is to ensure the safety of County residents by supervising all juvenile and adult clients on probation. The Department also provides auxiliary services that include collecting and disbursing fines and restitution. During our audit period, the Department's staff collected $177,836 and $354,095 in restitution and fees, respectively.

Objective

The objective of our audit was to examine selected County financial management activities. Our audit addressed the following related questions:

- Did the Board use an adequate process to acquire office space in the most cost beneficial manner that also meets the County's needs?

- Did the County use competitive methods when procuring professional services?

- Did the Department and Clerk properly collect, record and deposit cash receipts?

Scope and Methodology

We interviewed County officials and examined records and reports for the period January 1, 2013 through April 15, 2015 for activities related to the lease agreement for the Wyoming County Agriculture Business Center of Excellence. We reviewed a sample of selected contracts and invoices paid to professional service providers for the period January 1, 2013 through December 31, 2014. We also reviewed all collections for the Department and Clerk's Office for the period September 2014 through December 2014.

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 County Officials

The results of our audit and recommendations have been discussed with County officials and their comments, which appear in Appendix A, have been considered in preparing this report. Except as specified in Appendix A, County officials generally agreed with our recommendations. Appendix B includes our comments on issues raised in the County's response letter.

Lease Agreement

The Board is entrusted with the responsibility of safeguarding County resources. The Board fulfills this responsibility, in part, by fully evaluating various options before committing these resources. When selecting a suitable site on which to construct a County building, or locating an existing building for acquisition or lease, the Board should establish a process to properly identify the County's needs (including location, building size, suitability for intended use and future expansion) and determine whether the related costs are appropriate to help ensure the County's long-term financial viability. The Board should analyze cost aspects for all options to assist in evaluating the proposals. This would provide assurance that the option chosen is the most economical and meets the County's needs. In addition, local governments can enter into installment purchase contracts (IPC) for equipment, machinery and apparatus, but not for real property acquisitions or improvements.

On June 25, 2014, the County entered into a 17.5 year lease agreement for 28,000 square feet of office space known as the Wyoming County Agriculture Business Center of Excellence (Business Center). The Business Center is intended to house various County departments[4] and functions, for a lease payment of $389,480[5] per year. Additionally, although not guaranteed, the lease allows for the potential decrease of the annual lease payment contingent upon the developer applying for and receiving various grants, as well as the County applying for and receiving potential grants.

The Board did not demonstrate that it performed an appropriate cost analysis of the selected site or considered alternative sites or options. At the end of the 17.5 years, the County has the option to purchase the building for $1, totaling a potential cost of approximately $6.8

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[4] According to County Local Law 4 of 2013, these departments include Planning, Fire and Building Codes, Water Resource Agency, Business Center, Business and Development Center, Business Education Council, the Wyoming County Industrial Development Agency and the Wyoming County Chamber of Commerce. In addition to the County, 4,000 square feet will be leased to the United States Department of Agriculture (USDA). While the lease agreement stipulates that the County will pay all utility costs associated with the USDA, the landlord will receive all lease payments from both the County and the USDA.

[5] This equates to $13.91 per square foot and does not include utilities and maintenance costs. Currently the County is paying only $9.29 per square foot for office space for the departments noted above, excluding the Fire and Building Codes Department which is currently located at the Wyoming County Government Center. This amount may also increase depending on the adjustable rate mortgage that was acquired by the lease holder.

million. As a result, we estimate that the County may pay $1.8 million more than necessary over the next 17.5 years for this building. Additionally, this transaction appears to be more of an IPC than a true lease and, therefore, does not appear to be allowable under General Municipal Law (GML).

While County officials strongly indicated a need for this office space, they could not provide any evidence that a needs assessment was conducted for the current available space or a formal review was done for other options or sites. Furthermore, County officials could not demonstrate that, for the site selected, they conducted a formalized lease-versus-buy analysis to determine whether the lease costs were reasonable or whether purchasing and renovating the building themselves would have been a more cost-effective option.

Using the estimated project costs provided by the project engineer, the terms of the signed lease agreement and the purchase price of the building, we prepared a lease-versus-buy analysis to determine if the County could have potentially saved money had it explored this option. As evidenced by Scenario 1 in Figure 1, had the County purchased the building from the owner, bonded[6] the cost of the renovations and applied for and received all the estimated grant funding itself, it could have potentially saved approximately $1.8 million over the course of the 17.5 year lease.

Figure 1: Lease-Versus-Buy Analysis

	Scenario 1	Scenario 2
Total Estimated Project Costs[a]	**$5,075,000**	**$5,075,000**
Less: Estimated Grant Funding	($1,222,750)	NA
Less: Building Purchase Price	($500,000)	($500,000)
Total Estimated Net Costs/Amount to be Bonded	**$3,352,250**	**$4,575,000**
Length of Payments (Years)	17.5	17.5
Estimated Total Debt Principal Payments	$3,390,000	$4,590,000
Estimated Total Debt Interest Payments	$1,119,576	$1,516,711
Estimated Total Payments Over 17.5 Years[b]	**$5,009,576**	**$6,606,711**
Total of Potential Payments Per Lease Agreement	$6,815,901	$6,815,901
Potential Savings	**$1,806,325**	**$209,190**

[a] Includes the $500,000 purchase price of the building and property being developed
[b] Includes the initial cost to purchase the building of $500,000 and estimated debt issuance costs associated with the sale of the bond

Moreover, as evidenced by Scenario 2 in Figure 1, had the County not received any grant funding for the project, purchased the building from funds available and bonded the costs of the renovations, we estimate a total potential savings of approximately $200,000 over

[6] See Appendix C, Audit Methodology and Standards, for details regarding the methods and assumptions used to estimate the potential cost of bonding for this project.

17.5 years. Furthermore, these savings could potentially have been more had the County pursued this option and publically bid the cost of the renovations, thus increasing the likelihood that, through the competitive process, renovation costs could have been lower.

The estimated amount of grant funding used in evaluating the potential lease payment was provided to us by County officials. While County officials have applied for various sources of grant funding for this project, they did not fully investigate how the current lease agreement with the involvement of the third-party developer would affect the outcome of those grant applications. As a result of the developer's involvement, the County may not be eligible to receive grant funding as was indicated to County residents.

When we asked County officials if they had formally considered purchasing and renovating the building themselves, they stated they had not. County officials indicated that neither the Board, nor County residents, had a desire for another large capital project at the time, referring to a recently completed capital project at the County hospital. They indicated that leasing the renovated space was a more favorable option.

Because the Board did not formally consider various options before entering into the lease-purchase agreement, it may have committed future Boards and residents to pay more than necessary for the office space.

Counties may acquire real property by lease, under which a county has the temporary use and possession of real property owned by the lessor. Under GML Section 109-b, counties may enter into IPCs as a way to finance the acquisition of equipment, machinery and apparatus, but not for real property acquisitions or improvements. It is the substance or "total character" of an agreement, and not the title given to by the parties, that determines whether an agreement is truly a lease or is an IPC. Key factors indicative of an IPC, rather than a true lease, are rental payments that are in excess of fair market value or are otherwise structured to suggest a financing arrangement, and the transfer of the real property at the end of the term of agreement for a nominal amount.

This transaction raises the question of whether the agreement, although called a "lease," is really an unauthorized IPC. Most notably, the lease provides a nominal consideration buy out of $1 at the end of the 17.5 year term. In addition, there is indication that the rental payment may fluctuate with the lessor's adjustable rate mortgage payments, consistent with a financing arrangement. Further, the rental payment of $13.91 per square foot exceeds the current rental payment $9.29 per square foot paid for some of the departments affected by this lease. Therefore, even though the lessor retains most of the economic elements of ownership during the lease term, we believe that, on balance, the "total character" of this transaction is more like an unauthorized IPC, than a "true lease."

Recommendations

The Board should:

1. Properly fulfill its fiduciary responsibility by conducting and documenting thorough analyses of alternatives before making major financial commitments.

2. Ensure that future real property agreements purporting to be "leases" clearly have the "total character" of true leases and not those of unauthorized IPCs.

Professional Service Contracts and Insurance

GML requires the Board to adopt written policies and procedures for the procurement of goods and services, such as professional services and insurance, which are not subject to competitive bidding requirements. GML states that goods and services that are not required by law to be bid must be procured in a manner to assure the prudent and economical use of public money in the best interest of the taxpayers and that procurements are not to be influenced by favoritism, extravagance, fraud or corruption. It further provides that the Board require in its policies and procedures that, with certain exceptions,[7] the County secure alternative proposals through a request for proposals (RFP) or quotation process. Such process would help ensure that the County obtains needed qualified services upon the most favorable terms and conditions and in the best interest of the taxpayers. Furthermore, written contracts or detailed Board resolutions are essential for establishing the professional services to be provided, the time frames for those services, the basis for compensation and a verification process that ensures the intended services were provided satisfactorily.

The County's adopted procurement policy does not provide clear guidance on how either professional service contracts or contracts for insurance coverage will be sought and awarded. Currently, the County spends over $14 million a year on professional service contracts and insurance coverage. Because the Board did not specify in its procurement policy how these services will be sought and awarded, the County may be obtaining these services with less than favorable terms and conditions. In addition, there is no assurance these services were acquired without favoritism, extravagance, fraud or corruption.

The County's procurement policy states that, "Except when directed by the Wyoming County Board of Supervisors, no solicitation of written proposals or quotations shall be required under the following circumstances: a. Acquisition of professional services." The procurement policy later contradicts itself by saying, "professional services are not subject to competitive sealed bidding requirements, but are subject to the guidelines of GML 104-b for competitive pricing to be obtained for these services." The policy is also silent on the selection criteria and method when obtaining insurance coverage.

[7] GML permits local governments to set forth in their policies the circumstances when, or the types of procurements for which, the local government has determined RFPs will not be in the best interests of the local government. The County has not included such a provision in its procurement policy.

Given the unclear nature of the County's procurement policy for the acquisition of professional services and insurance coverage, we judgmentally selected for review eight professional service vendors[8] and the one vendor providing insurance coverage to the County, with total payments during 2013 and 2014 of over $4 million. Our primary focus was to determine if competitive methods were used to secure these services and insurance coverage, if signed contracts or detailed resolutions were enacted that included the time frame for which services would be delivered, the basis for compensation and a verification process that contracted services were provided. We found the following:

- Seven[9] of the eight professional service contracts totaling $2.8 million did not have evidence that a competitive method, such as an RFP, was used when soliciting these services.

- The County has used the same insurance provider for over 20 years without soliciting quotes from other providers to see if a savings could be realized. In 2013 and 2014, the County paid this provider approximately $1.4 million.

In addition, we found seven of the professional services had either a resolution, contract or written agreement that details the professional services to be provided, the time frames for those services, the basis for compensation and a verification process to ensure the intended services were provided. However, the County did not have a written contract or agreement with the Wyoming County Chamber of Commerce (Chamber). During 2013 and 2014, the County remitted $270,000[10] to the Chamber for tourism support and for the Chamber's portion of the "bed tax."[11] Without a written contract or agreement detailing the services to be provided, the County has no assurance that the Chamber is using County funds for the intended purpose.

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8 Services reviewed included behavioral health services, hospital management, economic development, tourism promotion, workers' compensation administration, engineering services, public funding consultation services, and water resource agency consultation and hospital chief financial officer services.

9 According to County officials, the County used an RFP for one of the seven professional services (workers' compensation administration). However, the RFP documents were erroneously discarded by the County and, therefore, were not available for review.

10 Tourism support ($117,876) and bed tax ($151,826)

11 County Local Law 1 of 2005 established a hotel and motel room occupancy tax, commonly referred to as a "bed tax." Five percent of the proceeds from this tax remains with the County to offset the costs associated with administering this tax and 95 percent of the proceeds are paid to the Chamber "to enhance the general economy of Wyoming County, its cities, towns and villages."

Given this weakness, we asked the Chamber to provide us with its disbursement activity records for 2014 pertaining to funds received from the County, as well as its audited financial statements for 2013[12] so we could determine if expenditures were made for the intended purpose.

We reviewed a judgmentally selected sample of 20 disbursements totaling approximately $87,000 to determine if they were properly supported with an original invoice or receipt and if the purchases appeared to be for appropriate Chamber purposes. While the disbursements reviewed appeared to be for appropriate Chamber purposes, we found three payments totaling $3,036 that did not have original receipts attached. The vendors and payment amounts for these disbursements were listed on the credit card statement. No additional supporting documentation was available.

Because the County did not solicit competition for professional services and insurance coverage, it may have paid more than necessary for the services and coverage and there is no assurance these services were acquired without favoritism. The lack of a written contract or detailed Board resolution to describe the services to be provided impairs the ability of County officials to monitor services being provided and increases the risk that the County will pay for services that it has not received or for services that do not comply with agreed-upon conditions.

Recommendations

The Board should:

3. Revise its procurement policy to ensure it provides clear guidance for procuring professional services that includes a competitive process.

4. Enter into written contracts and/or adopt detailed Board resolutions for all individuals and firms that provide professional services to the County. These contracts and resolutions should clearly stipulate the services to be provided, the time frame in which the services are to be provided and the basis for compensation.

5. Establish a verification process to ensure that the professional services rendered meet the contract or agreement terms.

[12] The audited financial statements for 2014 had not been completed at the time of our review.

Departmental Cash Receipts

The Board and Department officials are responsible for establishing a control environment that adequately safeguards cash collections. This is accomplished in part through the adoption of written policies and procedures that provide assurance that departmental collections are adequately supported, safeguarded, accounted for and deposited. A well-designed system of controls over departmental collections also provides for the segregation of incompatible duties as well as timely supervision of those charged with handling money and a reliable accountability of cash collections. Department officials must provide sufficient oversight and ensure there is a proper segregation of incompatible duties. Incompatible duties includes access and control of funds with little or no oversight and the ability to conceal a misappropriation. If limited resources make it difficult to segregate incompatible duties, County officials must implement compensating controls, such as increased supervisory oversight, to reduce the risk of undetected errors or irregularities.

The Board has not adopted comprehensive written policies and procedures to safeguard cash collected at departments even after the apparent theft of approximately $90,000 of funds from the County Department of Motor Vehicles (County DMV)[13] that went undetected for over a year due to lax controls and supervisory oversight. As such, the risk that theft of County assets could occur and go undetected remains.

We reviewed cash receipts, totaling approximately $865,000, for two County departments over a four-month period to determine if cash receipts were accurately recorded and deposited intact and in a timely manner. While receipts were generally deposited properly, we found a general lack of segregation of incompatible duties in both departments. In addition, the Department made multiple errors in recording the type of payment received.

Probation Department

County and department officials are responsible for designing adequate procedures to safeguard County resources. An effective system of internal controls over financial operations ensures that duties are properly segregated and all money is properly safeguarded, recorded and deposited. When issuing receipts for payments, it is important to indicate the type of payment made because it allows supervisors to verify that deposits were made intact,[14] which is a safeguard against substitution.[15]

[13] On December 2, 2014, a former Deputy County Clerk was indicted on multiple charges by the Wyoming County District Attorney's Office for the apparent theft of approximately $90,000 from the County DMV.

[14] Depositing intact refers to depositing funds in the same form as they are received.

[15] Substitution is replacing a recorded cash payment with an unrecorded payment made by other means and, thereby, embezzling the cash.

County officials have not ensured that the Department's account clerks' financial duties were adequately segregated or that adequate compensating controls were established. Currently, two clerks in the Department are responsible for collecting fees and issuing manual receipts. In addition, one of the clerks is ultimately responsible for taking custody of all fees collected, entering fees collected into the computer system, preparing deposits and reconciling the bank account. Further, the manual receipts issued do not indicate the type[16] of payment collected. These weaknesses provide for an increased risk that errors or potential fraud could occur and go undetected.

We reviewed four consecutive months[17] of recorded collections, which included 21 deposits totaling $81,263, to determine if fees collected were accurately recorded and deposited. While it appears that all fees collected were deposited intact and in a timely manner, we found 27 recording errors totaling $3,065 within 15 deposits totaling $58,316. These errors mostly included recording an incorrect form of payment type, giving the impression that deposits were not made intact. For example, a payment made by credit card or money order might be recorded as made in cash.

County Clerk

Effective cash receipt policies and procedures ensure that financial duties are properly segregated and that County officials and employees responsible for collecting cash can be held individually accountable for their collections. This includes the use of separately established secure[18] user accounts within the financial management system that records user activity and separate cash drawers for each person responsible for collecting fees.

We found that the County DMV, under the Clerk's control and direction, now[19] has controls established, and our testing[20] found no apparent exceptions. However, the main Clerk's Office at the Wyoming County Government Center has not established controls. Currently, there are six individuals within the Clerk's Office whose duties are not adequately segregated and are not individually accountable for the money they collect. All six individuals collect and record fees, use a single shared cash drawer for transactions and have the ability to use a shared user account within the financial

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16 Type of payment includes cash, money order or credit card

17 September 2014 through December 2014

18 Each user should have a unique user ID and password known only to them.

19 A previous Deputy Clerk for the County DMV was allowed to collect, record, deposit and process payments due the State of New York and reconcile the County DMV bank account. Currently, the functions of reconciling and disbursing are being performed by a Deputy Clerk not assigned to the County DMV.

20 We reviewed 83 deposits from September 2014 through December 2014 totaling approximately $584,000 to see if collections were properly collected, recorded and deposited.

management software to record collections. In addition, cash receipts are not always issued[21] for transactions and one of the users, a Deputy Clerk, is also responsible for preparing the daily deposit.

We compared four consecutive months[22] of recorded collections within the Clerk's Office, consisting of 83 deposits totaling $783,889, to determine if fees collected were accurately recorded and deposited. While it appears that all fees collected were recorded accurately, we found that not all deposits were made intact. We reviewed deposit compositions and found no material discrepancies. We discussed the minor discrepancies we found with County officials.

Our testing disclosed relatively minor errors for our audit period for the two departments reviewed. However, the absence of written cash collection policies and procedures that adequately provide for individual accountability, segregation of incompatible duties and supervisory compensating controls increases the risk that funds could be misappropriated without detection.

Recommendations

The Board and Clerk should:

6. Adopt comprehensive written cash receipts policies and procedures. These policies and procedures at a minimum should ensure:

    - Adequate segregation of duties.
    - Periodic verification of departmental collection activity.
    - User accountability by providing individual cash drawer assignments.
    - Unique financial software access rights and privileges for each user.

Department heads should:

7. Ensure that receipts, identifying the payment type, are issued for all money collected.

8. Ensure that payments are properly recorded.

9. Periodically verify that deposits are made intact.

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[21] Receipts are only given to customers upon request.

[22] September 2014 through December 2014

APPENDIX A

RESPONSE FROM COUNTY OFFICIALS

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

OFFICE OF THE BOARD
OF SUPERVISORS

Government Center
143 N. Main Street
Warsaw, NY 14569

A. Douglas Berwanger
Chairman of the Board

Phone 585-786-8800
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September 30, 2015

Mr. Jeffrey D. Mazula
Chief Examiner
Office of the State Comptroller
Division of Local Government and School Accountability
295 Main Street, Suite 1032
Buffalo, NY 14203-2510

Dear Mr. Mazula:

This letter will serve as Wyoming County's (hereinafter "County") formal response to your Draft Audit Report (hereinafter "Draft Report") for the period from January 1, 2013 through April 15, 2015, No. 2015M-94.

The Draft Report has been reviewed by the appropriate County officials and representatives of Wyoming County participated in the exit conference portion of the audit process with staff of the Comptroller's Office. The County Board of Supervisors wishes to thank the representatives of the Comptroller for their courtesy and cooperation during the audit process. Despite some dismay at the overly tendentious language used in the Draft Report and our disagreement with several of the audit's conclusions, it will be helpful in guiding future County operations.

DEPARTMENTAL CASH RECEIPTS

The County does not disagree with the Comptroller's findings regarding cash receipts and will undertake all necessary steps to adopt the audit's recommendations as soon as possible. In fact, the County Treasurer and the County Clerk have taken immediate action and are committed to resolving any problems that have existed in the past.

LEASE AGREEMENT

The County does disagree with the examiner's conclusion that the Lease entered into by the County with the developer of the Agricultural Center for Excellence is not within the County's power. This transaction was structured with the advice of counsel and approved by a Local Law passed by the Board of Supervisors. As the Draft Report mentions, the County is reluctant at this time to issue further bonds in light of its recent borrowings for renovation of the Wyoming County Community Hospital and the Department of Social Services office project.

See Note 1 Page 20

The County strongly disagrees with the idea that the County could have saved money by building the project itself and issuing bonds to cover the cost of construction. The examiner's "analysis" which is offered in support of this contention is based upon the flawed assumption that the cost of construction would be identical if the building was constructed by the County. It is generally understood that this is not the case because of the added construction costs involved in municipal construction. This reality is borne out by the County's experience in its renovation of the Department of Social Services building. Given that the basis of the analysis is incorrect, it is difficult to lend any credence to its conclusions.

See Note 2 Page 20

For some reason, the examiner in two (2) instances in the Draft Report points out that some of the occupants of the new building are presently paying $9.29 per square foot and implies that this is the benchmark for business rental real estate in Warsaw, New York. During the exit interview, the examiner conceded that he had not researched market prices based upon comparable buildings in the community or employed any other techniques customarily used by real estate professionals. He simply assumed that the rate paid by the County for an aging structure (which has not changed in almost twenty (20) years) would be available and appropriate for another seventeen (17) years. Incidentally, the building, which does not compare with the new facility, was donated to Wyoming County Community Action, Inc., a not-for-profit corporation which furnishes public services to County residents.

See Note 3 Page 20

PROFESSIONAL SERVICES

As the auditor acknowledges, the County is not required to bid out contracts for professional services but only to ensure compliance with the General Municipal Law. Professional services involve a myriad of specialized activities and for the most part are not amenable to the typical bid process. In the final analysis the County must make reasoned choices based on the service involved and its evaluation of potential service providers.

The auditor focuses on the fact that the County has used the same insurance broker/advisor for approximately twenty (20) years. At the exit conference, the auditor

See Note 4 Page 20

conceded that there was no attempt to analyze the services provided by the insurance broker/advisor and no attempt to contact that provider for such information.

In response to the preliminary Draft of the Comptroller's audit, the entire Wyoming County Board of Supervisors met with representatives of the insurance broker/advisor. The following information is taken from minutes of that meeting.

Wyoming County is insured primarily by the New York Municipal Insurance Reciprocal (hereinafter "NYMIR"). This is by far the largest municipal insurer in New York State insuring approximately 880 municipal bodies as well as 38 out of 57 Counties. As a reciprocal insurer, it is owned by the policyholders, including Wyoming County, which receives a portion of the company's profits based on its claims' experience. Fees to brokers are standard and non-negotiable.

Tompkins Insurance and its predecessor have been the insurance broker/advisor for the County and the administrator of claims made on behalf of the County as well as against the County. This involves a substantial amount of work and the results are often dependent upon the experience and skill of the broker/advisor. Over the years, the County has been well represented and most recently successful in handling claims involving the Wyoming County Community Hospital and its County Nursing Home. In addition, the broker/advisor has solicited quotes for more specialized insurance for areas not covered by NYMIR and presented these to the Chairman of the County Board of Supervisors to make a final decision on the choice of carrier.

In summary, it is in the County's best interest to continue its present relationship considering the experience and continuity of the broker/advisor.

Thank you for this opportunity to respond to the Draft Report and to state the County's position in that regard.

Very truly yours,

A. Douglas Berwanger, Chairman
Wyoming County Board of Supervisors

APPENDIX B

OSC COMMENTS ON THE COUNTY'S RESPONSE

Note 1

The County does not indicate what specific factors in the structure of the transaction support the notion that the "total character" of the transaction, on balance, is more like a true lease, than an unauthorized IPC. To the extent the County is maintaining that the adoption of a local law could authorize an IPC for real property acquisitions or improvements, we note that GML Section 109-b(7) expressly states that a political subdivision has no power to enter into an IPC except as authorized by that section of law. As noted in the report, GML Section 109-b authorizes IPCs only for the acquisition of equipment, machinery and apparatus, and not for real property acquisitions or improvements. Moreover, the stated purpose of County Local Law No. 4 of 2013 was to supersede the five-year limitation on lease terms in County Law Section 215(3). It did not purport to authorize an IPC.

Note 2

Our cost savings analysis used estimates based on information provided by the County. The analysis was provided to demonstrate that the County could have potentially saved taxpayer money had officials considered other financing options or performed a similar analysis. County officials provided no documentation to support their assertion that cost of construction would have been more had the County opted to make the renovations.

Note 3

Our report does not comment on or make assumptions concerning business rental real estate rates for commercial property within Wyoming County as such an analysis is outside the scope of our audit. Our report states the actual price per square foot currently paid by the County to rent office space for the departments that will be relocated to the Business Center.

Note 4

The objective of our audit was to determine whether or not the County used competitive methods to procure professional services, not to analyze or review the quality of the services provided by vendors.

APPENDIX C

AUDIT METHODOLOGY AND STANDARDS

Our overall goal was to determine if the County used a proper decision making process when deciding to lease and potentially buy office space for County departments and functions, if the County had used a competitive method when procuring professional service vendors and if cash receipts were properly recorded and deposited at selected departments. To accomplish the objective of this audit and obtain valid audit evidence, we performed the following procedures:

For the lease agreement:

- We interviewed County officials to determine if, prior to the signing of the lease agreement, a formal analysis was conducted that included the possibility of other options or if a lease-versus-buy analysis was conducted.

- We reviewed the terms of the signed lease agreement. We calculated the agreed-upon costs to the County over the life of the lease and the option to purchase the facility at the end of the agreement.

- We solicited information regarding outside employment and business interests from all current Board members to determine if any had an outside interest in the agreed-upon lease.

- From information provided by County officials and cost estimates provided by the selected engineering firm, we performed a cost-versus-buy analysis to determine if the County could have potentially saved money if it had purchased and renovated the property.

- We used underwriter's compensation and costs of issuance assumptions based on the most recent negotiated County bond sale (July 2015 Refunding) as well as other comparable issues in our database to determine the potential cost of bonding for this project. To arrive at the bond yields, we used the industry benchmark (Standard and Poor's Money Market Directories) applicable on June 25, 2014, (the date the County signed the lease agreement) and factored in credit spreads based on the July 2015 Refunding. The coupon rates were also determined using the July 2015 Refunding bond issue. In addition, we factored in a cost estimate for bond insurance because the County had bond insurance for its most recent bond issue. The hypothetical bond issues are also amortized with level debt service.

For professional services:

- We reviewed the County's policies and interviewed officials to determine the processes in place for contracting with professional service providers.

- We obtained a list of professional service providers and payments made to these providers during 2013 and 2014. We verified that all significant vendors were included by reviewing the general ledger for contractual payments.

- From the list of vendor payments, we judgmentally selected eight of the highest paid professional service vendors based on services provided as well as the vendor providing liability insurance. We determined if there was evidence of competitive procurement, and if Board-adopted resolutions, contracts or agreements included details about required performance and payment.

- For one vendor, the Chamber, we judgmentally selected payments to staff and credit card vendors and reviewed payments for appropriateness and completeness of supporting documentation.

For Department and Clerk cash receipts:

- We interviewed County officials to determine if written cash receipts policies and procedures had been adopted by the Board and implemented by the department heads.

- We interviewed department heads to determine the current cash receipts collection process.

- For the period September 1, 2014 through December 31, 2014, we reviewed receipts to determine if they were issued in numerical order and without unexplained gaps in sequence.

- For the period September 1, 2014 through December 31, 2014, we compared manual receipts issued against information recorded in the financial system and against deposit compositions to determine if collections received were recorded and deposited intact and in a timely manner.

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

APPENDIX D

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