



# Town of Walton Incompatible Duties

## Report of Examination

Period Covered:

January 1, 2015 — July 26, 2016

2016M-309



Thomas P. DiNapoli

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# State of New York Office of the State Comptroller

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## **Division of Local Government and School Accountability**

December 2016

Dear Town Officials:

A top priority of the Office of the State Comptroller is to help local government officials manage government resources efficiently and effectively and, by so doing, provide accountability for tax dollars spent to support government operations. The Comptroller oversees the fiscal affairs of local governments statewide, as well as compliance with relevant statutes and observance of good business practices. This fiscal oversight is accomplished, in part, through our audits, which identify opportunities for improving operations and Town Board governance. Audits also can identify strategies to reduce costs and to strengthen controls intended to safeguard local government assets.

Following is a report of our audit of the Town of Walton, entitled *Incompatible Duties*. 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*

# Introduction

## Background

The Town of Walton (Town) is located in Delaware County (County), includes the Village of Walton within its boundaries and serves approximately 5,600 residents. The elected five-member Town Board (Board) is the legislative body responsible for managing Town operations. The Town Supervisor (Supervisor) also is a member of the Board and serves as the Town's chief executive officer and chief fiscal officer. The Supervisor is generally responsible for the administration and supervision of the Town's day-to-day fiscal operations, including maintaining the accounting records and providing monthly reports to the Board.

The Town provides various services, including road repair and maintenance, snow removal, recreation, code enforcement, justice court operations and general government support. The Town's 2016 budgeted appropriations totaled almost \$2 million, funded primarily with real property taxes and State aid.

The elected Town Clerk (Clerk) serves as Clerk to the Board and is responsible for, among other duties, maintaining most Town records and issuing and collecting fees for licenses, permits and certificates. The Clerk also is responsible for collecting and remitting Town, County and local fire district real property taxes to the Supervisor or County Treasurer. The current Supervisor took office in January 2016. On February 8, 2016, the Supervisor appointed the Clerk as his bookkeeper, making her responsible for maintaining the Supervisor's accounting records and assisting with the day-to-day accounting duties. However, Town officials told us the Clerk had been informally acting as the bookkeeper since September 2009.

## Objective

The objective of our audit was to review the Supervisor's appointment of a bookkeeper and internal controls over the receipts and disbursements processes. Our audit addressed the following related question:

- Did the Supervisor appoint a bookkeeper who had incompatible duties?

## Scope and Methodology

We examined the Supervisor's records and reports and evaluated the internal controls over his financial operations, including the receipts and disbursements processes, for the period January 1, 2015 through July 26, 2016.

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. Unless otherwise indicated in this report, samples for testing were selected based on professional judgment, as it was not the intent to project the results onto the entire population. Where applicable, information is presented concerning the value and/or size of the relevant population and the sample selected for examination.

**Comments of Town  
Officials and Corrective  
Action**

The results of our audit and recommendations have been discussed with Town officials, and their comments, which appear in Appendix A, have been considered in preparing this report. Except as specified in Appendix A, Town officials generally agreed with our recommendations and indicated they planned to take corrective action. Appendix B includes our comment on the issue raised in the Town's response letter.

The Board has the responsibility to initiate corrective action. A written corrective action plan (CAP) that addresses the findings and recommendations in this report should be prepared and forwarded to our office within 90 days, pursuant to Section 35 of General Municipal Law. For more information on preparing and filing your CAP, please refer to our brochure, *Responding to an OSC Audit Report*, which you received with the draft audit report. We encourage the Town Board to make this plan available for public review in the Clerk's office.

## Incompatible Duties

The Supervisor is generally responsible for the Town's day-to-day financial activities. When the Supervisor assigns duties to an appointed bookkeeper, the Supervisor is responsible for ensuring that no issues of incompatibility exist regarding his choice of bookkeeper and providing adequate oversight over the duties performed by his bookkeeper. In a town that does not have a Town Comptroller, the Clerk is responsible for authorizing and directing the Supervisor to pay claims that have been audited and approved by the Board.<sup>1</sup> Additionally, the Clerk turns over money she has collected to the Supervisor. The separation of duties between the Supervisor, or appointed bookkeeper, and Clerk is intended to provide checks and balances over the powers and duties of these positions and is important for internal control purposes. The Board is responsible to annually audit, or cause an annual audit of, the records and reports of any Town officer or employee who received or disbursed money on behalf of the Town.<sup>2</sup>

The Supervisor appointed the Clerk to act as his bookkeeper; however, the New York State Attorney General's office has expressed the view that the office of the Clerk is incompatible with the Supervisor's bookkeeper position.<sup>3</sup> In addition, combining the duties of the Clerk and the bookkeeper creates a significant weakness in the internal control system of the Town. In addition, there is no annual audit performed of the records of the Clerk or Supervisor, which compounds the control weakness created by combining these duties.

The Clerk, while acting as the Supervisor's bookkeeper, performs most aspects of the Supervisor's receipts and disbursements processes. She collects receipts, prepares deposit slips and records all Supervisor-related receipts, which includes money she collects as Clerk. She also compiles the claim vouchers and presents them, along with an unaudited abstract, to the Board each month for audit and approval. Once approved, as Clerk, she finalizes the abstract of approved

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<sup>1</sup> In general, once a claim has been audited and approved, in whole or in part, for payment by the Board, the Clerk is to file the claim in numerical order as a public record and prepare an abstract of the audited claims specifying the number of the claim, the name of the claimant, the amount allowed and the fund and appropriation account chargeable, and other information as may be deemed necessary and essential. The abstract is to contain a warrant or order directing the Supervisor to pay the claimant the amount allowed upon the claim.

<sup>2</sup> If a town has established the office of Town Comptroller, it is the Town Comptroller's responsibility to perform the annual audit. The Town may also engage the services of a certified public accountant or public accountant to complete the annual audit within 60 days of the close of the fiscal year.

<sup>3</sup> See 1986 Opinions of the Attorney General, No. 86-30.



claims and authorizes and directs the Supervisor to pay the claims. As bookkeeper, she enters all nonpayroll disbursement checks into the accounting records and prints them. Additionally, she is responsible for processing the payroll, including entering employees' hours worked and rates of pay and printing and distributing payroll checks. She also prepares the monthly bank reconciliations and generates all of the Supervisor's reports to the Board.

Although the Board performed an annual audit of the records of the Town Justices for 2014, we found no documentation to support that the Board audited the records of any other officer or employee for 2014. Moreover, there was no documentation to support the Board members' claims they had audited any of the 2015 records. The Board paid an independent certified public accountant (CPA) over \$5,000 to help prepare the 2015 annual financial report; however, the Clerk and Supervisor believed this CPA was also performing an audit of both the Supervisor's and Clerk's records. According to the CPA, he was hired to help prepare the annual financial reports and provide guidance on tax cap compliance, budgets and union negotiations, but not to perform the annual audit of the Town. For guidance on conducting annual audits, Town officials should refer to our publication entitled *Local Government Management Guide – Fiscal Oversight Responsibilities of the Governing Board*.<sup>4</sup>

According to the Supervisor, he interviewed four other candidates for the position of bookkeeper without advertising the position opening. He also told us that appointing the Clerk as bookkeeper had been done in the past, and he was unaware that the duties of these positions were incompatible or the opinion of the Attorney General regarding the positions being incompatible. However, the Supervisor has implemented certain mitigating controls. For example, the Supervisor or Deputy Supervisor manually signs all checks and verifies they were approved by the Board. Further, the Supervisor reviews and initials the bank statements and canceled check images to determine if there are any unusual payments or withdrawals. He also reviews the accuracy of the bank reconciliations, including verifying the outstanding checks.

We reviewed six months of the Clerk's receipts turned over to the Supervisor's office totaling almost \$1.7 million to determine if they were properly deposited. Additionally, we reviewed 62 nonpayroll check disbursements totaling over \$136,000; all five nonpayroll checks to the Clerk, Supervisor and former Supervisor totaling approximately \$7,000; and 20 withdrawals totaling almost \$149,000 to determine if these disbursements were for appropriate Town

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<sup>4</sup> [http://www.osc.state.ny.us/localgov/pubs/lgm/fiscal\\_oversight.pdf](http://www.osc.state.ny.us/localgov/pubs/lgm/fiscal_oversight.pdf)

purposes and, when applicable, Board approved. We also reviewed the 2015 and 2016 gross payroll payments to the Clerk, Supervisor and former Supervisor to determine if these disbursements were Board-approved. Finally, we reviewed 71 general journal entries and 301 transaction changes to the accounting system to determine if there were inappropriate changes made to the accounting records.

Although we did not find any discrepancies within any of our testing, the duties of the bookkeeper and Clerk are incompatible and should not be performed by one individual. In addition to being a weak control structure, the Attorney General has issued an opinion<sup>5</sup> that the offices are incompatible. Having one person perform these duties with no annual audit performed of the records of the Clerk or Supervisor creates a significantly poor internal control system. Even though the Supervisor has implemented certain mitigating controls, there is an increased risk that errors and irregularities could occur and not be detected.

## **Recommendations**

1. The Supervisor should maintain the financial records or appoint a bookkeeper that does not have incompatible duties, such as those of the Town Clerk.
2. The Board, in accordance with the Town Law, should conduct an annual audit of the records and reports of any Town officer or employee who received or disbursed moneys on behalf of the Town or engage an independent public accountant to do so.

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<sup>5</sup> See 1986 Opinions of the Attorney General, No. 86-30.



**APPENDIX A**

**RESPONSE FROM TOWN OFFICIALS**

The town officials' response to this audit can be found on the following page.



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December 6, 2016

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1. This response is also serving as the Corrective Action Plan
2. The Town of Walton Supervisor and Town Board have issued a request for proposal seeking an independent public accountant to conduct the Town's annual audit.
3. The Town of Walton Supervisor and the Town Board are confident that the numerous internal controls we have in place, many of which are identified in the report, are more than adequate to prevent/detect any malfeasance on the part of the bookkeeper.

See  
Note 1  
Page 9

Respectfully,

Charles F. Gregory

## **APPENDIX B**

### **OSC COMMENT ON THE TOWN'S RESPONSE**

#### Note 1

While we acknowledge the Supervisor has implemented certain mitigating controls, the New York State Attorney General's Office has expressed the view that the office of the Clerk is incompatible with the Supervisor's bookkeeper position. In addition, combining the duties of the Clerk and the bookkeeper creates a significant weakness in the internal control system and increases the risk that errors and irregularities could occur and not be detected.

## APPENDIX C

### AUDIT METHODOLOGY AND STANDARDS

To achieve our audit objective and obtain valid evidence, we performed the following procedures:

- We interviewed the Clerk, Supervisor and other Town officials and reviewed Board minutes to gain an understanding of the financial operations, including the receipts and disbursements processes within the Supervisor's office and the appointment of the bookkeeper.
- We interviewed Town officials and reviewed Board minutes to determine if the Board performed, or provided for, an annual audit of the records of the Supervisor, Clerk and Justices. We also interviewed the paid CPA to determine the services he performed for the Town.
- We randomly selected six months of the Clerk's receipts paid to the Supervisor totaling almost \$1.7 million to determine if all required money collected by the Clerk was properly deposited into the Supervisor's accounts.
- We randomly selected 62 nonpayroll canceled check images totaling over \$136,000 to determine if they were properly approved, supported and for proper Town purposes.
- We reviewed all canceled check images from January 1, 2015 to July 26, 2016 and selected all five nonpayroll canceled check images made out to the Town Clerk, Supervisor and former Supervisor totaling approximately \$7,000 to determine if they were for proper Town purposes.
- We randomly selected 20 withdrawals from the bank statements totaling almost \$149,000 to determine if they were for proper Town purposes.
- We compared the 2015 and 2016 gross payroll payments to the Clerk, Supervisor and former Supervisor to the Town's adopted budget to determine if they matched the Board-approved rates.
- We reviewed all 71 general journal entries from January 1, 2015 through July 26, 2016 to determine if there were any credits to the cash accounts.
- We reviewed all 301 transaction changes from the audit trail report from January 1, 2015 through July 26, 2016 to determine if there were any changes to payee names or amounts after the original posting to the accounting records.

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.

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