



# Town of Lyonsdale

## Financial Condition, Board Oversight, and Controls Over Fuel Inventory

### Report of Examination

Period Covered:

January 1, 2011 — September 30, 2012

2013M-163



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**

September 2013

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 Lyonsdale, entitled Financial Condition, Board Oversight, and Controls Over Fuel Inventory. 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 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

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### EXECUTIVE SUMMARY

The Town of Lyonsdale (Town) is located in Lewis County, and has a population of approximately 1,200 residents. The Villages of Lyons Falls and Port Leyden are within the Town's boundaries. The Town is governed by an elected five-member Town Board (Board) composed of the Town Supervisor (Supervisor) and four Council Members. The Board is responsible for overseeing the operations, finances, and overall management of the Town. For the fiscal year ended December 31, 2012, the Town's reported expenditures totaled about \$208,000 for the town-wide and town-outside-village general funds and \$493,000 for the town-wide and town-outside village highway funds.

#### **Scope and Objectives**

The objectives of our audit were to review the Town's financial condition and examine selected operations for the period January 1, 2011, to September 30, 2012. We expanded our review of financial condition back to January 1, 2008, and forward to December 31, 2012, for additional financial trend analysis. Our audit addressed the following related questions:

- Did the Board adopt realistic budgets that are structurally balanced, routinely monitor financial operations, and take appropriate actions to maintain the Town's financial stability?
- Did the Board fulfill its oversight responsibilities by conducting an effective audit of claims and performing an annual audit of officers and employees who receive and disburse money?
- Did the Town maintain complete and adequate fuel inventory records to safeguard fuel?

#### **Audit Results**

The financial condition of the Town's highway town-wide fund has declined in recent years from a balance of \$88,293 at the beginning of 2008 to a deficit balance of \$12,600 at the end of 2012. This decline in fund balance was caused by the Board not adopting realistic budgets and effectively monitoring budgets throughout the year. As a result, the town-wide highway fund has experienced cash flow problems making it necessary to rely on interfund advances which have not been repaid and short-term borrowing instruments in order to fund Highway Department operations.

Additionally, the Board needs to improve its oversight of certain aspects of its financial operations. The Board has not established an effective claims auditing process to ensure all claims reviewed and approved by the Board contain adequate support to substantiate they are proper Town expenses. We reviewed 119 claims totaling \$161,514 and found that 18 claims totaling \$37,904 contained some type

of deficiency. One \$1,500 claim was for a piece of highway equipment purchased from the Highway Superintendent's (Superintendent) personal trucking business. We determined that the Superintendent had a prohibited interest in the purchase of this equipment. Further, the Board did not audit the books and records of the Supervisor, Town Clerk, tax collector, and Town Justice as required. The Board's failure to examine accounting records and reports hinders its ability to maintain accountability over the Town's financial operations and develop safeguards to protect Town assets from loss, waste, or abuse.

Finally, the Town does not ensure that its fuel supplies are properly accounted for and adequately safeguarded. The Superintendent does not maintain inventory records that collectively show the amount of beginning inventory, fuel purchased, fuel consumed, and the balance of fuel remaining. Our analysis of a sample of the Town's gasoline and diesel fuel purchases and recorded usage determined that the Town is unable to account for approximately 2,510 gallons of fuel valued at approximately \$8,440. Strengthening controls over fuel inventories would give Town officials increased assurance that Town-purchased fuel is safe from loss or misuse and is used appropriately.

### **Comments of Local Officials**

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. Town officials generally agreed with our recommendations and indicated they will include their plans to correct the findings in their corrective action plan.

# Introduction

## Background

The Town of Lyonsdale (Town) is located in Lewis County and has a population of approximately 1,200 residents. The Villages of Lyons Falls and Port Leyden are within the Town's boundaries. The Town is governed by the Town Board (Board), which is composed of four elected members and an elected Town Supervisor (Supervisor). The Board is responsible for overseeing the operations, finances, and overall management of the Town. The Town provides various services to its residents, including maintaining and improving Town roads, snow removal, and general government support. The Town's 2012 reported expenditures totaled approximately \$208,000 for the town-wide and town-outside-village general funds and \$493,000 for the town-wide and town-outside-village highway funds, which were funded primarily with real property taxes, State aid, and revenue from services to other governments.

The Supervisor serves as the chief executive and chief fiscal officer and is responsible for the receipt, disbursement, and custody of Town moneys, maintaining accounting records, and providing financial reports. The former Supervisor resigned in early January 2012 and the Board appointed one of its own members to fulfill the remainder of the former Supervisor's term which expired at the end of 2012. The former Supervisor had appointed an individual as bookkeeper to maintain the Town's accounting records during his term of office. However, the Board terminated the bookkeeper and contracted with a CPA firm to maintain the Town's accounting records shortly before the former Supervisor resigned. Although the Board is primarily responsible for the effectiveness and proper functioning of the Town's internal controls, department heads, including the Highway Superintendent (Superintendent), also share the responsibility for ensuring that internal controls are adequate and working properly.

## Objectives

The objectives of our audit were to review the Town's financial condition and examine selected operations. Our audit addressed the following related questions:

- Did the Board adopt realistic budgets that are structurally balanced, routinely monitor financial operations, and take appropriate actions to maintain the Town's financial stability?
- Did the Board fulfill its oversight responsibilities by conducting an effective audit of claims and performing an annual audit of officers and employees who receive and disburse money?

- Did the Town maintain complete and adequate fuel inventory records to safeguard fuel?

## **Scope and Methodology**

We examined the Town's financial condition and the Board oversight of fiscal operations, specifically claims auditing, performing the annual audit, and ensuring that fuel inventories are safeguarded, for the period January 1, 2011, to September 30, 2012. When examining the Town's financial condition, we extended our audit period back to January 1, 2008, and forward through December 31, 2012, for additional trend analysis.

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 is included in Appendix B of this report.

## **Comments of Local 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. Town officials generally agreed with our recommendations and indicated they will include their plans to correct the findings in their corrective action plan.

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 the 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 Board to make this plan available for public review in the Town Clerk's office.



## Financial Condition

A local government's financial condition reflects its ability to provide and finance services on a continuous basis. A local government is considered to have sound financial health when it can consistently generate sufficient revenues to finance anticipated expenditures, and can maintain sufficient cash flow to pay bills and other obligations when due, without relying on short-term borrowings. Conversely, local governments in poor financial condition often experience recurring unplanned operating deficits.<sup>1</sup> Persistent unplanned operating deficits are usually indicative of poor budgeting and can result in cash flow problems and fund balance deficits. Maintaining a reasonable level of unrestricted fund balance in conjunction with long-term financial plans is a key element in fiscal management and reduces the effect that unplanned operating deficits have on the overall financial condition of the Town.

The Town has experienced a series of unplanned operating deficits in its highway town-wide fund that resulted in a decline in fund balance from \$88,293 at the beginning of 2008 to a deficit of \$12,600 at the end of 2012. These operating deficits have been caused by inaccurate budget estimates and the Board failing to effectively monitor financial operations throughout the year. The resulting decline in fund balance has, in turn, caused cash flow problems which the Town has addressed by using advances from another Town fund as well as issuing short-term debt in order to finance highway operations. In addition, the Town does not have long-term financial plans or a fund-balance policy. Unless the Board addresses these budgetary and cash flow problems and begins developing long-term plans, future Town operations could be adversely impacted.

### **Budgeting and Fund Balance**

Fund balance is the difference between revenues and expenditures accumulated over a given period. It is the Board's responsibility to ensure that the level of fund balance maintained is sufficient to manage emergencies and other unexpected occurrences and provide adequate cash flow, but not so excessive as to withhold funds that could be put to productive use. The Board should adopt a policy that addresses the level of fund balance that should be maintained. This policy can be used from year to year in preparing the budget to ensure that fund balance is consistently maintained at an adequate level.

<sup>1</sup> An unplanned operating deficit results from over-expended appropriations, not receiving budgeted revenues, or a combination of the two.



In order to maintain reasonable and stable fund balance levels, it is essential for Town officials to develop realistic budgets. When developing budget estimates, the Board and Town officials must have current and accurate information. They also should use historical data, such as prior years' actual results of operations, to guide them in developing the budget. The form and content of the budget should provide the Board with the information needed to determine if budget estimates are reasonable. For example, the proposed budget should contain comparative information showing actual revenues and expenditures for the last completed fiscal year, and appropriations and estimated revenues for the current fiscal year to date. The budget should also show a breakdown of the estimated fund balance at year end (e.g., the amount of fund balance restricted for reserves, the amount appropriated to finance the next year's budget, and the remaining unrestricted, unappropriated fund balance).

Once the budget has been adopted, Town officials must be vigilant in monitoring year-to-date revenues and expenditures against corresponding budget estimates to ensure that appropriations are not overspent and budgeted revenues are sufficient to maintain services at acceptable levels. Such monitoring can be performed through the use of budget status reports. In meeting its oversight responsibilities, the Board should review budget status reports, ask questions about revenues and expenditures not meeting budget expectations, and ensure corrective action or budget amendments are implemented before financial condition is negatively affected. Town Law requires that the Supervisor should not permit any fund or appropriation account to be overdrawn at any time.

The Board has not adopted a fund-balance policy to address the level of fund balance that should be maintained. While we found that fund balance in most of the Town's main operating funds was reasonable, the Town's highway town-wide fund balance has declined steadily over the last five years due primarily to unplanned annual operating deficits occurring between 2008 and 2012.<sup>2</sup> While revenue shortfalls occurred in two of the five years, these unplanned operating deficits occurred primarily as a result of the consistent over expenditure of budgeted appropriations. The following table shows a comparison of budgeted appropriations and reported actual expenditures in the highway town-wide fund for the last five years.

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<sup>2</sup> The Board planned a \$60,000 operating deficit in 2008, when it appropriated \$60,000 in fund balance to finance the budget. The Board did not appropriate any fund balance in the 2009 to 2012 budgets.

<b>Table 1: Highway Town-Wide Fund Budget versus Actual Expenditures</b>						
	<b>2008</b>	<b>2009</b>	<b>2010</b>	<b>2011</b>	<b>2012</b>	<b>Total</b>
Budgeted Appropriations	\$221,406	\$213,235	\$221,929	\$232,800	\$249,349	\$1,138,719
Actual Expenditures	\$277,222	\$260,737	\$264,703	\$244,974	\$276,420	\$1,324,056
Variance	(\$55,816)	(\$47,502)	(\$42,774)	(\$12,174)	(\$27,071)	(\$185,337)
Variance (Percentage)	(25%)	(22%)	(19%)	(5%)	(11%)	(16%)

Town officials used an incomplete format for preparing Town budgets, and Board members were not furnished with complete and accurate information necessary for adopting and monitoring the budget. The budget format did not contain information about the prior year's actual results and the budgets did not show the amount of fund balance the Town estimated it would have at year end. As a result, the Board and the public did not have this information when evaluating the reasonableness of budget estimates.

Due to the lack of accurate information, the Board adopted budgets that were not based on realistic estimates. For example, the Town's 2010 and 2011 budgets did not contain an appropriation for principal and interest payments on an installment purchase contract that averaged approximately \$42,000 each year even though Town officials had debt schedules readily available to them. In addition, we found no evidence that the Board had taken any action to amend the budgets prior to, or after, these over expenditures occurred. Board members told us that, prior to 2012, the budget-to-actual reports provided to them each month by the former bookkeeper were often found to be inaccurate and did not contain current information.

As a result of cumulative annual operating deficits, the highway town-wide fund balance decreased by \$100,893 (114 percent) from \$88,293 at the beginning of 2008 to a deficit of \$12,600 at the end of 2012.

## **Cash Balances**

An essential component of financial condition is ensuring that sufficient cash resources are available to pay vendors in a timely manner and to meet payroll obligations. To ensure that cash is available as needed, Town officials should develop cash flow projections to help identify potential cash deficiencies, and monitor the status of major revenue sources in the budget. When a fund does not have sufficient cash to meet its current obligations, Town officials must explore options such as obtaining loans (advances) from other funds or using other authorized short-term borrowing.

General Municipal Law (GML) authorizes a town to temporarily advance moneys that are not immediately needed in one town fund to any other town fund (with certain restrictions). The Board is required to approve all interfund advances, and must ensure that all temporary

interfund borrowings are repaid as soon as funds are available, but no later than the close of the fiscal year in which the advance was made. When an advance is made between funds that are supported by different tax bases, repayment must include an amount reasonably equivalent to the amount of interest that would have been earned on the investment of the moneys that were advanced.

To address cash flow problems brought on by unplanned operating and fund balance deficits in the highway town-wide fund, Town officials advanced cash from the highway town-outside-village fund to pay the obligations of the highway town-wide fund. Advances were made in both 2011 and 2012 with no repayment made in either year as required by GML, and we could find no evidence of Board approval prior to making these advances. The Town reported cash advances made to the highway town-wide fund by the highway town-outside-village fund of \$41,573 at the end of 2011 and \$48,992 at the end of 2012.

One short-term borrowing instrument available to towns having cash flow problems is a Revenue Anticipation Note (RAN), which is a temporary source of cash borrowed in anticipation of the pending collection or receipt of specific revenues estimated in the annual budget (other than real property taxes). While a RAN may be an effective tool in alleviating temporary cash-flow difficulties, the additional interest and administrative costs must be considered prior to making a decision to issue such notes. For that reason, RANs and other short-term borrowing instruments should only be used when all other cash flow solutions have been explored.

In December 2012 the Town issued a \$90,000 RAN in anticipation of Consolidated Highway Improvement Program (CHIPS) money the Town had budgeted to receive in 2012.<sup>3</sup> Our analysis of the Town's cash position in its highway funds at December 31, 2012, found that, without the receipt of RAN proceeds, it is unlikely the Town could have financed its highway operations for the remainder of the 2012 fiscal year. In our discussion with Town officials, we were informed that the Board approved the issuance of the RAN because they had not received \$102,500 in budgeted CHIPS revenue for 2012 and \$22,048 of budgeted revenue for plowing County roads. We spoke with officials from the State's Department of Transportation (DOT) and Lewis County to obtain a reason why the CHIPS moneys and snow plow moneys had not been received prior to year end. Both the State and County officials told us that payments were delayed because the Highway Superintendent (Superintendent) had not submitted the correct paperwork in a timely manner. Subsequent to the end

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<sup>3</sup> CHIPS revenues are budgeted and accounted for in the highway town-outside-village fund.

of the 2012 fiscal year, the Supervisor completed and submitted the necessary forms with DOT, and the Town received these revenues (along with the snow plowing revenue from the County) in January 2013.<sup>4</sup> If the Board had effectively monitored the budget throughout the 2012 year, these matters could have been dealt with sooner, and the additional interest and administrative costs (estimated to be more than \$1,600) associated with issuing the \$90,000 RAN could have been avoided.

## **Long-Term Planning**

An important Board oversight responsibility is to plan for the future by setting adequate long-term priorities and goals. To address this responsibility, it is important to develop comprehensive, multiyear financial and capital plans to estimate the future costs of ongoing services and capital needs. Effective multiyear plans project operating and capital needs and financing sources over a three-to five-year period. Planning on a multiyear basis allows Town officials to identify developing revenue and expenditure trends and assess the impact and merits of alternative approaches to financial issues, such as the use of fund balance to finance operations. It is essential that any long-term financial plans are monitored and updated on an ongoing basis to ensure that decisions are guided by the most accurate information available.

Town officials told us that they informally discuss long-term planning but have not developed a formal written long-term capital or operational plan to address the highway town-wide fund's fiscal stress including how they plan on repaying the moneys this fund owes the highway town-outside-village fund. In addition, in our review of the Town's adopted 2013 budget, we were not able to identify any provisions for the repayment of these advances or for the replenishing of deficit fund balances that existed at December 31, 2012.

Unless the Board takes the necessary steps to address cash flow problems, repay interfund loans, and replenish fund balance in the highway town-wide fund to a reasonable level, the Town's ability to provide highway services to its residents could be in jeopardy.

## **Recommendations**

1. The Supervisor and Board should develop and adopt budgets that include realistic estimates for revenues and expenditures. In addition, the Board should monitor actual results of Town operations against budget estimates throughout the fiscal year and ensure that appropriations are available before funds are expended.

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<sup>4</sup> Highway-related capital projects are funded in the first instance by the Town. The Superintendent then requests reimbursement from the State for its local cash expenditures made for highway-related capital projects. CHIPS aid is paid by the State quarterly in March, June, September and December. The Superintendent did not submit a payment request for 2012 until after the due date for the December 2012 quarterly payment.

2. The Board should develop a fund balance policy that establishes a reasonable amount of fund balance that should be maintained in order to meet the Town's needs.
3. The Board should improve the form and content of the budget by requiring comparative information on actual revenues and expenditures for the last completed fiscal year and a schedule showing a breakdown of estimated fund balances expected to be available at the close of the current fiscal year.
4. The Board should authorize interfund advances before they are made.
5. The Board should take necessary action to eliminate the deficit in the highway town-wide fund and repay moneys advanced to that fund.
6. The Superintendent should submit the required paperwork in a timely manner for CHIPS aid and snow plowing revenue from the County.
7. The Board should develop long-term financial and capital plans that project operating and capital needs and financing sources for a three- to five-year period. These plans should be monitored and updated on an ongoing basis.

## Board Oversight

The Board is generally responsible for oversight of the Town's operations and ensuring that procedures are in place to safeguard the Town's financial resources. An important part of the Board's oversight responsibility is to conduct a deliberate and thorough audit of claims<sup>5</sup> to ensure that the claims are for appropriate Town purposes. In addition, the Board is required on an annual basis to audit, or cause to be audited, the records and reports of all Town officers and employees who receive and disburse cash to help ensure that all Town moneys have been adequately accounted for.

The Board needs to improve its oversight of certain aspects of its financial operations. For example, the Board has not established an effective claims auditing process to ensure all claims reviewed and approved by the Board contain adequate support to substantiate they are valid claims against the Town. We reviewed 119 claims totaling \$161,514 and found that 18 claims totaling \$37,904 contained some type of deficiency. One \$1,500 claim was for a piece of highway equipment purchased from the Superintendent's personal trucking business. The Superintendent had a prohibited interest in the Town's purchase of this equipment. Further, the Board did not audit the books and records of the Supervisor, Town Clerk, tax collector, and Town Justice as required. The Board's failure to examine accounting records and reports hinders its ability to maintain accountability over the Town's financial operations and develop safeguards to protect Town assets from loss, waste, or abuse.

### Claims Audit

The Board is responsible for auditing claims and establishing internal controls which help ensure that each claim contains sufficient supporting documentation to determine compliance with policies and statutory requirements, and that the amount claimed represents a legal obligation and proper charge against the Town. With few exceptions,<sup>6</sup> Town Law requires the Board to audit and approve all claims before the Supervisor can disburse payment. The audit of claims should not be a casual review. Instead, it should be a deliberate and thorough process to determine whether proposed payments are proper, including whether pertinent State laws have been followed. All claims must be in writing, properly itemized and supported, include evidence of the

<sup>5</sup> Claims include bills or invoices submitted by vendors requesting payment for goods or services furnished to the Town.

<sup>6</sup> For example, the Board can authorize, by resolution, the payment of certain claims in advance of audit, including those for public utility services, postage and freight, and express charges. However, these claims must be presented to the Board for audit after payment.



approval of the Town official whose action gave rise to the claim, and include evidence that the goods or services have been received.

The Board has not established an effective claims auditing process. Although claims reviewed showed evidence of Board audit by each Board member writing their initials on each voucher, our audit disclosed that not all claims reviewed and approved by the Board contained adequate supporting documentation. In addition, several claims were not found on file to support payments made to vendors, and the Superintendent had a prohibited interest in the purchase of a piece of equipment costing \$1,500.

We reviewed 119<sup>7</sup> claims totaling \$161,514 and found deficiencies in 18, or 15 percent, of the claims totaling \$39,280.

- Six payments totaling \$18,933 were not supported by a claim on file. For example, two of these payments totaling \$9,818 were made payable to the Town's health insurance provider, one payment for \$6,500 was to a construction company,<sup>8</sup> and another payment of \$840 was to an excavation company. Since Town officials could not locate claims for these payments, there is no documentation available to show whether they were for appropriate Town expenditures.
- Eleven claims totaling \$18,847 lacked adequate supporting documentation, including evidence necessary for Board members to determine if the goods or services had been received.
- One claim in the amount of \$1,500 was for a used paver box for which the Superintendent had a prohibited conflict of interest, as discussed in the next section of this report.

Two Board members interviewed stated they were unfamiliar with what constitutes an effective claims audit process and are unsure of their roles and responsibilities related to auditing claims.<sup>9</sup> As a result of the Board's not properly auditing all claims prior to payment, there is an increased risk that the Town could pay for goods or services that

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<sup>7</sup> Seventy-four claims were selected using a random number generator, 14 claims were selected during our risk assessment, and 31 claims were selected by reviewing bank statements for unusual/suspicious checks or withdrawals.

<sup>8</sup> The Board minutes indicate that the Board awarded a \$6,500 contract to this construction company for work done at the Town Clerk's office; however, there was no claim on file supporting the payment.

<sup>9</sup> Board members should refer to our publication entitled *Local Government Management Guide – Improving the Effectiveness of Your Claims Auditing Process* for additional guidance on auditing claims.



have not been received, are not proper Town expenses, or that do not comply with statutory requirements.

## **Conflict of Interest**

GML limits the ability of municipal officers or employees to enter into contracts in which both their personal financial interests and their public powers and duties conflict. Unless a statutory exception applies, GML prohibits municipal officers and employees from having an interest in contracts with the municipality for which they serve when they also have the power or duty – either individually or as a board member – to negotiate, prepare, authorize, or approve the contract; to authorize or approve payment under the contract; to audit bills or claims under the contract; or to appoint an officer or employee with any of those powers or duties. For this purpose, a contract includes any claim, account, demand against or agreement with a municipality. Municipal officers and employees have an interest in a contract when they receive a direct or indirect monetary or material benefit as a result of a contract. Municipal officers and employees are also deemed to have an interest in the contracts of: their spouse, minor children and dependents (except employment contracts with the municipality); a firm partnership or association of which they are a member or employee, and a corporation of which they are an officer, director or employee, or directly or indirectly own or control any stock. As a rule, interests in actual or proposed contracts on the part of a municipal officer or employee, or his or her spouse, must be publicly disclosed in writing to the governing board and included in the official Board minutes.

The Superintendent entered into a contract with the Town when the Town purchased a used paver box from the Superintendent's personal trucking business for \$1,500. Although the payee on the claim was actually the Superintendent's girlfriend at the time, it appears the Superintendent signed the claimant certification on the voucher, indicating that, as the claimant, he attested to the fact that the equipment was given to the Town and the amount due was accurate. The Superintendent told us that the equipment purchased by the Town belonged to a trucking company which was solely owned by him and that the \$1,500 check was deposited into a joint checking account used by him and his girlfriend to pay joint household expenses. According to the Superintendent, while he did not publically disclose his interest in this contract in writing, the Board members were aware that the equipment being purchased belonged to his business. We spoke to one Board member who was on the Board at the time this purchase was made and he acknowledged that he was aware that the equipment belonged to the Superintendent's business. Another Board member said he had no knowledge of the circumstances surrounding this claim.

The purchase of the paver box by the Town involves an agreement and, hence, a contract with the Town. The Superintendent had an interest in the contract because he received a direct monetary benefit as a result of the contract. We believe the Superintendent also had the power to authorize the contract because it appears he purchased the paver box and the voucher to pay for the item was subsequently audited and approved by the Board.<sup>10</sup> Therefore, since we found no indication that any statutory exception applied in this circumstance, the Superintendent had a prohibited interest in the Town's purchase of the paver box.

When Town officials or employees, in their private capacities, conduct business with the Town in which they serve, the public may question the appropriateness of the transactions. Such transactions may create an actual conflict of interest or the appearance of impropriety and/or may result in the improper enrichment of the officials or employees at taxpayer expense.

## **Annual Audit**

Town Law requires all Town officers and employees who receive or disburse moneys during the previous fiscal year to present their books and records to the Board for audit by January 20th of the following year.<sup>11</sup> This annual audit provides the Board and taxpayers with a measure of assurance that the Town's financial records and reports contain reliable information on which to base management decisions and gives the Board the opportunity to monitor the Town's fiscal procedures. All officers and employees, except for town justices, at the time of submitting their books and records must file detailed statements showing all receipts and disbursements for the previous fiscal year. Such statements must be recorded in the minutes of the Board's proceedings.

In addition, town justices must also produce their dockets for the Board to examine. The Board must enter into its minutes that the dockets have been examined and that the fines and fees shown to have been collected have been properly turned over to the appropriate officials as required by law.

The Board did not audit the 2010 or 2011 books and records of the Supervisor, Town Clerk, tax collector, or the Town Justice. While the January 2011 minutes and February 2012 minutes show, respectively,

<sup>10</sup> It appears that the Superintendent purchased the paver without either prior approval or delegated authority from the Town Board (see, Highway Law Section 142[1][a]). Nonetheless, by auditing and approving a voucher for payment of the purchase price, we believe the Board ratified the Superintendent's authority to authorize the purchase.

<sup>11</sup> The Town may also engage the services of a certified public accountant or public accountant to perform the annual audit within 60 days of the close of the fiscal year.

that the Board accepted the 2010 and 2011 annual reports of the Town Clerk and Town Justice, the Board did not receive or review supporting records for either official nor did they receive or review any records of the Supervisor and tax collector for 2010 or 2011. Board members we interviewed stated they did not know why they were receiving annual reports from the Clerk and Justice, and they were not aware that they were required to audit, or contract for an audit of all Town officials who receive or disburse Town moneys. Without an annual audit, Town officials are at risk of failing to detect and correct errors, irregularities, or fraudulent activity in a timely manner.

## **Recommendations**

8. The Board should conduct a thorough and deliberate audit of all claims against the Town to ensure that they contain sufficient supporting documentation and represent actual, necessary, and proper Town expenses.
9. The Board should ensure that claims are retained on file to support the propriety of each payment.
10. The Board should ensure that the Town does not enter into any contract in which a Town officer or employee has a prohibited interest and all interests or prospective interests are properly disclosed in accordance with GML.
11. The Board should conduct an annual audit of the financial records and reports of all Town officers and employees who received or disbursed money during the preceding fiscal year or contract with an independent auditor to conduct the audit.<sup>12</sup>

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<sup>12</sup> Board members should refer to our publication entitled *Local Government Management Guide – Fiscal Oversight Responsibilities of the Governing Board* for additional guidance on conducting annual audits.

## Fuel Inventory Records

The Superintendent is responsible for ensuring that fuel supplies are adequately safeguarded and accounted for, and protected against the risk of loss, waste, and misuse. To accomplish this, inventory records should be maintained to account for the amount of fuel purchased and used, and the balance remaining. Fuel balances in the records should be periodically reconciled to physical inventories, and material discrepancies investigated and resolved. It is also important for Town officials to review fuel usage reports to ensure that fuel is used only for Town purposes, and that all fuel is accounted for.

The Town maintained two above-ground fuel storage tanks at its highway facility, a 1,000-gallon tank for diesel fuel and a 1,000-gallon tank for gasoline.<sup>13</sup> From January 2011 through September 2012, the Town purchased approximately 19,900 gallons of diesel fuel and 3,400 gallons of gasoline at a total cost of approximately \$79,000. The majority of the Town's highway equipment uses diesel fuel, while the Superintendent's truck and a similar truck used by his employees use gasoline.<sup>14</sup>

The Superintendent did not ensure that fuel supplies were adequately safeguarded and accounted for. While the Superintendent and his employees manually record fuel dispensed for Town purposes in fuel usage logs, these records are not adequate to detect the loss of fuel because the Superintendent does not maintain inventory records that show the amount of beginning inventory, fuel purchased, fuel consumed (per the usage logs), and the resulting balance of fuel remaining in inventory. In addition, the Superintendent does not take periodic physical inventories of the fuel in the tanks. While he stated that he reads the fuel gauges located on each of the fuel tanks to monitor the amount of fuel remaining in each tank, these gauges only show the amount of fuel in the tanks in quarter tank increments and do not provide an accurate accounting of the fuel physically in the tanks at any given point in time. Therefore, these readings would not provide a reliable means to reconcile the fuel inventories even if inventory records were maintained. Since the Superintendent does not maintain adequate inventory records and reconcile the records with fuel inventories, there is a risk that gasoline or diesel fuel could leak or be misused and not be detected.

<sup>13</sup> The Superintendent informed us that, in late August 2012, the Town replaced this tank with a 500-gallon tank.

<sup>14</sup> The Superintendent informed us that gasoline is also used for some smaller items such as a chain saw and a roller used by the Highway employees.

To address this risk, we performed an analysis of the Town's diesel fuel purchases for a four-month period<sup>15</sup> in 2011 to determine if the amount of fuel purchased was reasonable as compared to the amount of fuel consumed as recorded on the fuel usage logs. Based on the records examined, the amount of diesel fuel purchased during this period exceeded the amount of recorded diesel fuel consumed to the point where the ending inventory would have exceeded the tank capacity by about 1,150 gallons. Based on these results, we expanded our analysis to include a second four-month period<sup>16</sup> in 2012 and found similar results. The amount of diesel fuel purchased during this second four month period exceeded the recorded amount of diesel fuel consumed to the point where the ending inventory would have exceeded the tank capacity by about 500 gallons.

We also performed a separate analysis of the Town's gasoline purchases for an 11-month period<sup>17</sup> to determine if the amount of gasoline purchased was reasonable as compared to the amount of gasoline consumed as recorded on the fuel usage logs. Based on a review of gasoline purchase invoices during this period and gasoline usage logs, we determined that the gasoline tank should have had about 860 gallons in it when the tank was actually empty.

In total, we determined that the Town is unable to account for approximately 2,510 gallons of fuel valued at approximately \$8,440.<sup>18</sup> This large discrepancy clearly illustrates the need for the Superintendent to maintain fuel inventory records, periodically reconcile these to usage records, and investigate significant differences. This unaccounted-for fuel could be due to the vendor billing the Town for more fuel than was actually delivered, errors and omissions in recording fuel use, or theft. The Superintendent believes these discrepancies may have been the result of either an employee not recording all Town fuel usage or someone using fuel for other than Town purposes. Strengthening internal controls would give Town officials increased assurance that Town-purchased fuel is safe from loss or misuse and is used appropriately.

<sup>15</sup> January 2, 2011, to May 2, 2011, for diesel testing

<sup>16</sup> January 3, 2012, to April 30, 2012, for diesel testing

<sup>17</sup> September 21, 2011, to August 14, 2012, for gasoline testing

<sup>18</sup> Using the total cost of diesel and gasoline purchased during each of our review periods, we divided this amount by the total number of gallons purchased in this same period to calculate an average price per gallon for each type of fuel. We then multiplied this average price per gallon by the number of unaccounted gallons of diesel fuel and gasoline in each review period to arrive at an approximate value.

**Recommendation**

12. The Superintendent should maintain inventory records that identify the beginning inventory, the quantities of fuel purchased/delivered, dispensed, and on hand. These records should be periodically reconciled to physical inventories of fuel on hand. Any differences should be promptly investigated and resolved.

## **APPENDIX A**

### **RESPONSE FROM LOCAL OFFICIALS**

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





*Received*

**AUG 23 2013**

*Office of the State Comptroller  
Local Govt & School Accountability*

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**TOWN OF LYONSDALE**

Philip Boardman, Supervisor

Office: 315-348-8666  
Fax: 315-348-8666

PO Box 722  
Lyons Falls, NY 13368

New York State  
Office of the State Comptroller  
Division of Local Government  
and School Accountability  
110 State Street  
Albany, NY 12236-0001

August 20, 2013

Dear Sirs,

This letter is to advise you that the Town Board of Lyonsdale and Town Highway Superintendent have reviewed your audit report and recommendations.

We feel it is fair and the Town Board of Lyonsdale will take all of your recommendations with the best interest of the town and agree to your findings.

Our CAP (Corrective Action Plan) will follow this letter with our plans to correct the findings of your audit.

Sincerely,

Philip Boardman  
Supervisor  
Town of Lyonsdale

## **APPENDIX B**

### **AUDIT METHODOLOGY AND STANDARDS**

The objectives of this audit were to evaluate the Town's financial condition, examine the Board's oversight with respect to the claims audit and annual audit functions, and evaluate internal controls over fuel inventories for the period January 1, 2011, to September 30, 2012. We expanded our scope period for financial condition back to January 1, 2008, through December 31, 2012. To accomplish the objectives, we performed the following audit procedures:

- We reviewed Board minutes during our audit period and interviewed the Supervisor and Board members to obtain an understanding of the budget development and monitoring process.
- We performed an analysis of the Town's fund balance for the last five years using the Town's Annual Update Document submitted to the Office of the State Comptroller and the Board-adopted budgets.
- We reviewed budget-to-actual monthly reports provided to the Board by the former bookkeeper and current Town accountant, and we evaluated the reasonableness of the Town's revenue and expenditure budget estimates.
- We interviewed Town officials to determine if they had a long-term planning process in place for operational and capital needs.
- We interviewed Board members to obtain an understanding of their claims auditing process.
- We interviewed the Superintendent about the Town's purchase of a used paver box to determine if he had a prohibited interest in the contract.
- We tested 119 claims totaling \$161,514 to determine if they were authorized by the Board, adequately supported, and proper charges against the Town. Seventy-four claims were selected using a random number generator, 14 claims were judgmentally selected during our risk assessment, and 31 claims were selected by reviewing bank statements for unusual/suspicious checks or withdrawals.
- We reviewed Board minutes and interviewed Board members to determine if the Board audited, or caused to be audited, the records and reports of all officers and employees who received and disbursed moneys.
- We interviewed the Superintendent to obtain an understanding of the fuel usage and inventory records maintained and physical controls over fuel inventory.
- We reviewed vouchers submitted by the Town's fuel vendors to identify the number of gallons of gasoline and diesel fuel purchased. For a sample period (January 2, 2011, to May 2, 2011, and January 3, 2012, to April 30, 2012, for diesel fuel; and September 21, 2011, to August 14,

2012, for gasoline), we compared gallons purchased to the amounts consumed as recorded in the Highway Department's fuel usage logs.

We conducted this performance audit in accordance with generally accepted government auditing standards (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 objectives. We believe that the evidence obtained provides a reasonable basis for our findings and conclusions based on our audit objectives.

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**DIVISION OF LOCAL GOVERNMENT**  
**AND SCHOOL ACCOUNTABILITY**

Andrew A. SanFilippo, Executive Deputy Comptroller  
Nathalie N. Carey, Assistant Comptroller

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