

Town of Owego

Shared Services Facility Capital Project

SEPTEMBER 2022



OFFICE OF THE NEW YORK STATE COMPTROLLER
Thomas P. DiNapoli, State Comptroller

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Report Highlights

Town of Owego

Audit Objective

Determine whether the Town of Owego (Town) Board (Board) properly planned, authorized and monitored the shared services facility capital project (Project).

Key Findings

The Board did not properly plan, authorize or monitor the Project. Because the Board did not have a thorough understanding of the Project's overall scope and cost prior to the Project's authorization, the Project is expected to cost at least \$15 million, which is \$8.1 million over the Board's authorized cost of \$6.9 million.

The Board was not transparent about the cost of the Project and did not adopt an itemized Project budget. The Town Supervisor (Supervisor) did not record all financial activities in the capital projects fund or prepare adequate monthly financial reports that compared actual revenues and expenditures to Board-approved contracts and financing sources. As a result, the Supervisor made interfund advances of approximately \$2.5 million to pay Project expenditures without Board approval.

As of the end of our fieldwork, the Town still had an estimated \$4 million in costs left to complete the Project without a planned funding source and still owed the part-town general fund \$1.2 million, which may result in an inequity to the part-town taxpayers.

Key Recommendations

- Closely oversee the remainder of the Project and determine how to finance shortfalls.
- Prepare, approve and monitor budgets for each capital project and amend as needed.
- Approve all interfund advances.

Town officials disagreed with certain findings in our report. Appendix B includes our comments on issues Town officials raised in their response.

Background

The Town is located in Tioga County and includes the Village of Owego within its borders.

The Town is governed by an elected five-member Board, including the Supervisor. The Board is responsible for the general oversight of operations and finances.

The Supervisor, as chief fiscal officer, is responsible for disbursing and receiving money, maintaining accounting records and providing financial reports to the Board.

From 2015 through 2021, the Board acquired two properties and approved three projects related to the new shared services facility. In October 2015, the Board officially began the multi-phase project by authorizing the Supervisor to sign an engineering and design contract.

Quick Facts

Estimated Project Cost	\$15.0 million
Debt Authorized	\$6.6 million
Project Funding Shortfall	\$4 million
Project Funding	
Debt Issued	\$6.0 million
State and Federal Aid	\$3.8 million
Available Serial Bond	\$638,000
Fund Balance Used	\$609,000
Total	\$11 million

Audit Period

January 1, 2016 – July 31, 2021

Shared Services Facility Capital Project

In September 2011, the Town experienced a catastrophic flood from Tropical Storm Lee that caused damage to the highway garage, parks department office and a sewage treatment plant containing the utilities department office. To help avoid this problem in the future, the Town decided to relocate these facilities and construct a new municipal building. Referred to as “phase I,” the new municipal building would house shared space for the Town’s sewer and water department, as well as offices for the Town’s parks and highway departments. The initial estimated cost for phase I was approximately \$4.8 million. Prior to breaking ground on phase I, the Board authorized a directional drilling project to connect the current Town Hall and new municipal building to an existing sewer and water district. In addition, the Board approved the acquisition of two parcels of land adjacent to the new municipal building. Referred to as “phase II,” the purpose of the purchase was to construct a salt shed and cold storage building adjacent to the new municipal building.

The land purchases, directional drilling and construction of the new office space, salt shed, and cold storage buildings was collectively known as the “shared services facility capital project” (Project). At the inception of the Project, the Town was awarded a total of \$3.3 million in disaster relief grant funds between the Federal Emergency Management Agency (FEMA) and New York State Governor’s Office of Storm Recovery (GOSR) to help cover the costs of relocating the office spaces that were damaged in the flood.

How Should a Board Properly Plan, Authorize and Monitor a Capital Project?

A governing board is responsible for the oversight and management of capital projects, including ensuring that projects are properly planned, funding is authorized and sufficient, and costs are within an approved budget, while minimizing cost overruns which could have a negative impact on finances. Proper planning requires that the board has a thorough understanding of a project’s overall scope and cost prior to the project’s authorization. Initial estimated costs must be realistic so the board can plan financing and keep the taxpayers informed.

At the inception of each project, the board should adopt a resolution identifying the project, authorizing the maximum estimated cost and establishing how the project will be financed. Although debt is generally the major source of funding for capital projects, other financing sources can include grants, State and federal aid, gifts and donations, budgetary appropriations (e.g., interfund transfers, fund balance), insurance recoveries and capital reserve funds. Additionally, towns are authorized to temporarily advance money held in one fund to another fund. However, among other things, the board must authorize each advance, by resolution, prior to money being temporarily loaned.

The board is also responsible for adopting an itemized project budget, typically prepared by the town supervisor (supervisor), that includes the anticipated funding sources and estimated expenditures. The supervisor is responsible for recording the project budget and subsequent financial activities in the capital projects fund. Each project requires its own set of accounting records to document the project's complete financial history. To adequately monitor the project, the board should receive and review monthly budget-to-actual financial reports to ensure funds are available for project expenditures, contracts are being followed and costs are within budget.

The Board Did Not Properly Plan the Project and Was Not Transparent About Its Scope and Cost

The Board did not have a thorough understanding of the Project's overall scope and cost prior to the Project's authorization. In September and December 2016, the Board passed two resolutions authorizing the use of the Town's fund balance, for a total amount of \$215,000, to purchase the two parcels of land adjacent to what would be the new municipal building. The Board also passed two bond resolutions, each subject to permissive referendum,¹ in December 2017 and July 2018. The December 2017 bond resolution authorized the Town to issue \$6 million in serial bonds to finance the construction of the new municipal building. The July 2018 bond resolution authorized the Town to issue approximately \$638,000 in serial bonds to finance the cost of connecting the new municipal building to the existing water and sewer district. No additional funding sources were specified in the Board resolutions with respect to how the Town anticipated paying for phase I of the Project, including the anticipated FEMA and GOSR grant funds of approximately \$3.3 million that were intended to help offset the cost of the Project.

The Board did not have a thorough understanding of the Project's overall scope and cost prior to the Project's authorization.

The Board solicited bids as follows:

- June 2018 to connect the new municipal building to the existing water and sewer district;
- October 2018 for the construction of the new municipal building; and
- June 2021 for the construction of the new salt barn and cold storage facility.

For phase I of the Project, the Board awarded one contract totaling \$644,215 in October 2018 and five contracts totaling approximately \$9.4 million in December 2018. With the inclusion of previously awarded design and engineering contracts, the Board had authorized approximately \$11 million in contractual costs for this phase by January 2019.

¹ A permissive referendum is a ballot proposition submitted to qualified electors of the town at a special election, to approve or disapprove a bond resolution that has been adopted by the town board. A permissive referendum is held if the requisite number of qualified electors petitions the town board to hold the special election for the ballot proposition.

For phase II of the Project, the Board awarded a design and engineering contract for \$364,900 in May 2021 and construction contracts totaling \$2.5 million in June 2021, resulting in a total cost of approximately \$2.9 million for this phase. While the Town received an additional \$500,000 State grant to help offset the cost of the salt barn and cold storage facility, the Board did not pass a resolution stating the maximum cost associated with phase II, or how the Town intended to pay for the remaining costs of the Project.

As a result, between phase I and phase II of the Project, the Board approved contracts totaling \$14.1 million. However, the Board passed resolutions telling the public the maximum cost estimate for the overall Project would total \$6.9 million. Instead, we estimated the total cost of the Project will be approximately \$15 million as of the end of our fieldwork. Our estimated differences are due, in part, to additional non-contractual costs and changes in the Project scope (Figure 1).

Figure 1: Project Cost Comparisons

Project Component	Authorized Cost	Board Approved Contracts	Minimum Cost	Cost Overrun
New Building	\$6,000,000	\$10,377,960	\$10,887,754	\$4,887,754
Salt Barn and Cold Storage	-	2,888,100	3,304,333	3,304,333
Water and Sewer Connection	638,000	644,215	618,596	(19,404)
Land Purchases	215,000	217,838	217,838	2,838
Totals	\$6,853,000	\$14,128,113	\$15,028,521	\$8,175,521

The Board Was Unable to Monitor Project Costs and Lacks the Funds to Complete the Project

The Board did not adopt an itemized Project budget and the Supervisor did not record all of the financial activities, such as the property purchases, in the capital projects fund. Additionally, the Supervisor did not prepare adequate monthly financial reports that compared actual revenues and expenditures to Board-approved contracts and financing sources. Instead, the Supervisor provided the Board with an abstract (listing of claims) each month to review and approve Project expenditures. Without budget-to-actual reports, the Board was unable to adequately monitor the Project's costs to ensure there was sufficient funding. Because there was inadequate monitoring of the Project's bank account, the account was overdrawn seven times during the audit period.

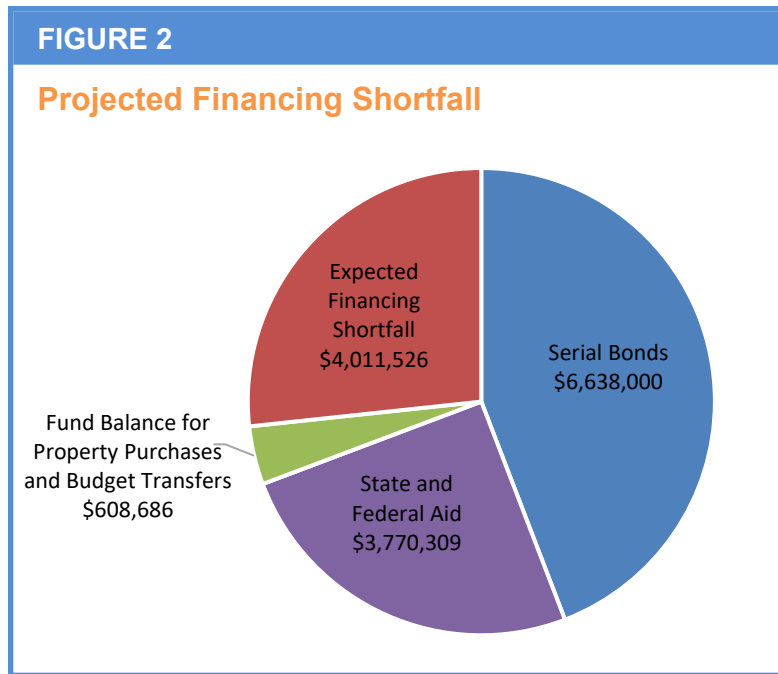
Moreover, despite Board authorization to issue approximately \$638,000 in serial bonds to finance the cost of connecting the new municipal building to the existing water and sewer district, the Board did not issue the serial bonds to pay for this

...[T]he Project's bank account...was overdrawn seven times during the audit period.

portion of the Project. This occurred because the Supervisor incorrectly told the Board that there was sufficient cash available in other Town funds to borrow for the Project. Specifically, the Supervisor unilaterally made interfund advances of approximately \$2.5 million from the Town’s multi-fund checking account to pay Project expenditures between 2018 and 2021 without seeking required Board approval to make such advances.² While the Town has subsequently repaid \$1.3 million of the interfund advances to these respective funds as State and federal aid was received, the Town’s financial reports indicate that the Town still has outstanding interfund advances, in the amount of \$1.2 million, owed to the part-town general fund as of the end of the audit period.

The Supervisor told us the Town intends on repaying the \$1.2 million to the part-town general fund when the Town receives the remaining State and federal aid. However, the Town currently only anticipates receiving an additional \$681,000 in State and federal aid for that portion of the Project.³ The town-wide general fund’s tax base encompasses the entire Town, including the Village, while the part-town general fund’s tax base encompasses only the portion of the Town that lies outside of the Village. The costs of the Project should be charged to all taxpayers town-wide not just the taxpayers outside of the Village.

Town officials have no formal plans for how to fund the remaining portions of the Project.



Although the Board approved transfers of approximately \$394,000 from other Town funds to the Project in the 2019 and 2020 Town budgets, there is still at least an estimated \$4 million in projected expenditures remaining to complete the Project as of the end of our audit period (Figure 2).

² See New York State General Municipal Law Section 9-a.

³ The anticipated aid does not include the \$500,000 State grant available for the salt barn and cold storage facility.

The town-wide general fund, which is ultimately responsible for the cost of the Project, had \$630,000 of unrestricted fund balance available at the end of 2020.

Unless the Board identifies financing sources to complete the Project, the Town will deplete the entire fund balance in the town-wide general fund, be unable to reimburse the part-town general fund and not have funds available to pay outstanding invoices.

The Board's lack of planning and monitoring the Project decreased the transparency taxpayers are entitled to and will likely end up causing an inequity to part-town taxpayers who will be paying for a portion of the Project if the Town does not resolve the outstanding interfund activity.

What Do We Recommend?

For the current Project, the Board should:

1. Closely oversee the remainder of the Project to ensure additional expenditures incurred remain within the executed contracts and determine how to finance shortfalls.

For overseeing and managing future capital projects, the Board should:

2. Adopt a resolution at the inception of each project, which identifies the project, authorizes a realistic maximum cost and establishes how the project will be financed.
3. Prepare and approve an itemized budget for the project and amend as needed.
4. Require the Supervisor to provide and then review monthly budget-to-actual reports.
5. Authorize all interfund advances and ensure advances are repaid in accordance with General Municipal Law.

The Supervisor should:

6. Provide the Board with monthly financial reports comparing actual revenues and expenditures to the amounts budgeted for each project.
7. Discontinue authorizing interfund advances without Board approval.

Appendix A: Response From Town Officials

Note: The report number changed to 2022M-42 during the final review process.



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Donald Castellucci, Jr.

September 2, 2022

Ann C. Singer, Chief Examiner
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RE: Town of Owego response to audit #2021M-42

Dear Chief Examiner Singer,

We reviewed the Shared Services Facility Capital Project audit report draft prepared by your office. While we agree that you raise some good points, we disagree with your opinion that the Board did not properly authorize or monitor the Project. In your report you are combining both Phase 1 and Phase 2 of the Shared Services Project. Phase 1 was approved by the board in the amount of \$9,402,070 on January 15, 2019 and Phase 2 was approved by the board on June 1, 2021 in the amount of \$2,522,500 in base bids with allowances of \$474,100 for a combined total of \$2,996,600. In response to transparency we would like to note that all public meetings are recorded. A summary of the meetings which make reference to the Shared Services Project is included in this response and can be cross referenced to minutes posted on the Town's website.

OSC Recommendation 1

Audit response: The Town does review and approve all expenditures for the project. At this time Phase 2 is expected to come in \$200,000 under budget.

Corrective Action: The Town records all expenditures in the capital project fund and will have the 2021 and 2022 accounting records audited. The Town has had an independent audit performed every year since the project started.

OSC Recommendation 2-7

Audit response: The Town adopted resolutions for all contracts that were issued for Phase 1 and Phase 2 of the Shared Services Projects. The Supervisor and Deputy Supervisor met with the project engineers bi-weekly to review project budget and budget to actual reports. All Town Board members were invited to attend these meetings if they so choose to. The Supervisor would report any issues requiring board input or action at regularly scheduled board meetings.

Corrective Action: The Town will consider hiring an outside firm to manage future capital projects or appoint a board liaison to report monthly to the board.

See
Note 1
Page 9

See
Note 2
Page 9

See
Note 3
Page 9

See
Note 4
Page 9

**It's surprising what you can accomplish when no
one is concerned about who gets the credit**

-Ronald Reagan



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Donald Castellucci, Jr.

Additionally I would like to comment that I don't particularly care for the tone of the language within the audit. It creates a narrative that the town was not consistently aware of what the costs were for the project. It also states the project was not being monitored and reviewed, and that there are overruns and costs not communicated with the Board. That is incorrect. I have attached the meeting minutes from meetings held usually every two weeks between the engineer, myself, the Deputy Supervisor and the contractors working on the project. As stated earlier I have attached excerpts from town board meetings through 2020. The Town Board could have asked questions or expressed concerns at any time and they have.

See
Note 5
Page 9

I have attached a blank pay application as well. You can note that the document calls for total contract price, any change orders, balance left on the contract and the current withdrawal being asked for. I review each one of these with the engineer prior to presenting to the board for payment. When this bill is placed and paid on an abstract, the Board can review it at any time.

See
Note 6
Page 9

I have also attached spreadsheets and documents that show constant monitoring of change orders and payments to contractors that were approved when the Board passed the initial resolutions awarding the contracts.

See
Note 7
Page 9

While the above comments refer to Phase 1 construction of the contract, Phase 2 construction has been reviewed and monitored exactly the same. It is currently running under budget by \$250,278.06 from the original bids. The audit states that the project is not properly funded; The Board awarded the bids for this project on June 1, 2021. To date, the project is being paid through fund balance. The reason is after the project was approved, two Board members have prevented the town from acquiring a bond to pay for it. This is a recommendation that has come from our accountant and myself as CFO. At the time of the recommendation, the Town could have acquired a 5 year BAN at 1%. At the present time the rates are higher than they have been in 10 years. I am currently working on other options to fund the project and replenish the fund balance.

See
Note 8
Page 10

While we do not agree with your findings we were happy to comply and cooperate with your audit. We are a fiscally conservative board that always puts the interest of our Town's tax payers first. The bottom line is that the Town will finish completing a shared services facility that will withstand future natural catastrophes. This will ensure we can maintain the Town's highways, provide clean water and sewer services and maintain our parks system more efficiently.

Very truly yours,

Donald Castellucci, Jr.


Supervisor, Town of Owego

It's surprising what you can accomplish when no one is concerned about who gets the credit

-Ronald Reagan

Appendix B: OSC Comments on the Town's

Note 1

These approved amounts do not include the engineering design and construction management contracts totaling approximately \$1.1 million that were approved on October 6, 2015 for phase 1 and \$364,900 on May 4, 2021 for phase 2. Additionally, the Board resolution on June 1, 2021 for phase 2 awarding the contracts did not mention any approved allowance dollar amount.

Note 2

We reviewed the Board-approved meeting minutes for the scope of the Project to determine the Board approved actions. No public meeting recordings were provided to us and they are not available to the public on the Town's website.

Note 3

The Board did not ensure financing sources were sufficient for the Project and it still needs to determine how to finance the rest of the Project. We cannot comment on whether the Project will be under budget because the Project was ongoing at the time of our exit discussion.

Note 4

The budget reports were inadequate; they did not include the anticipated financing sources or all planned expenditures. Furthermore, the bookkeeper's expenditure reports also did not include all Project expenditures and were not provided to the Board.

Note 5

Board members did not routinely attend the Project engineers' meetings or they did not receive minutes from these meetings. In addition, the meetings were not advertised that they were open to the public to attend. Furthermore, there were no discussions of how the Project would be financed. Officials provided a 502-page summary of the Project engineers' meetings; we encourage the Board and Town officials to make this available on the Town's website.

Note 6

The Board was not provided with the completed pay applications. However, we concur that the Board could have reviewed the pay applications prior to approval.

Note 7

The Board's monitoring of the Project was not adequate. Unless requested, the Board was not provided with the individual claims and pay applications. Additionally, 13 of the 15 change orders were not approved by the Board, as required, and the Board approved one change order after the work was completed

Note 8

Effective project management must include ensuring anticipated financing sources are sufficient prior to awarding contracts. Additionally, the Supervisor does not have the authority to unilaterally approve the use of fund balance.

Appendix C: Audit Methodology and Standards

We conducted this audit 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. To achieve the audit objective and obtain valid audit evidence, our audit procedures included the following:

- We interviewed Town officials and reviewed Board meeting minutes to determine whether the Board adopted a resolution at the inception of each project that identified the project, authorized the maximum estimated cost, established how the project would be financed and prepared an itemized budget for the project.
- We assessed the adequacy of the monthly financial reports the Supervisor provided the Board during the audit period.
- We reviewed all 212 project claims totaling \$11.4 million paid during the audit period to determine whether they were charged to the Project and to determine the total amount of Project expenditures.
- We reviewed the Town's accounting records during the audit period to determine whether separate accounting records including assets, liabilities, fund equity, revenues and expenditures were maintained for the projects.
- We reviewed all financing sources, including serial bonds and transfers from other operating funds received related to the projects, during the audit period to determine whether the funds were deposited into the separate bank account established for the projects.
- We recreated accounting records for the projects during the audit period to determine the actual expenditures and compare them to the Board-approved budgets or resolutions.
- We reviewed all interfund advances totaling \$2.5 million made to the projects during the audit period to determine whether they were approved by the Board and repaid in accordance with New York State General Municipal Law Section 9-a.
- We compared the total financing sources received (or anticipated to be received) for the projects to the corresponding expenditures incurred (or anticipated to be incurred) for the projects to determine whether the financing sources are sufficient to fund the expenditures.

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 objective. We believe that the evidence obtained provides a reasonable basis for our findings and conclusions based on our audit objective.

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 provided 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 Board to make the CAP available for public review in the Town Clerk's office.

Appendix D: Resources and Services

Regional Office Directory

www.osc.state.ny.us/files/local-government/pdf/regional-directory.pdf

Cost-Saving Ideas – Resources, advice and assistance on cost-saving ideas

www.osc.state.ny.us/local-government/publications

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Protecting Sensitive Data and Other Local Government Assets – A non-technical cybersecurity guide for local government leaders

www.osc.state.ny.us/files/local-government/publications/pdf/cyber-security-guide.pdf

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