



THOMAS P. DiNAPOLI
COMPTROLLER

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

STEVEN J. HANCOX
DEPUTY COMPTROLLER
DIVISION OF LOCAL GOVERNMENT
AND SCHOOL ACCOUNTABILITY
Tel: (518) 474-4037 Fax: (518) 486-6479

April 5, 2013

Mr. Edward Romaine, Supervisor
Members of the Town Board
Mr. John Rouse, Highway Superintendent
Town of Brookhaven Town Hall
One Independence Hill
Farmingville, New York 11738

Report Number: S9-12-16

Dear Mr. Romaine, Members of the Town Board and Mr. Rouse:

A top priority of the Office of the State Comptroller is to help town officials manage their resources efficiently and effectively and, by so doing, provide accountability for tax dollars spent to support town operations. The Comptroller oversees the fiscal affairs of towns 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 town assets.

In accordance with these goals, we conducted an audit of 10 towns throughout New York State. The objective of our audit was to determine whether towns are monitoring asphalt road-surfacing projects to ensure vendors provide the asphalt products in accordance with the bid specifications, and demonstrate compliance with the requirement for submission of certified payrolls under prevailing wage law. We included the Town of Brookhaven (Town) in this audit. Within the scope of this audit, we examined the Town's process for monitoring road-surfacing projects for the period January 1, 2011, through December 31, 2011. Following is a report of our audit of the Town of Brookhaven. 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 report of examination letter contains our audit results specific to the Town. We discussed these results with Town officials and considered their comments, which appear in Appendix A, in preparing this report. Town officials agreed with our audit results. At the completion of our audit of the 10 towns, we prepared a global report that summarizes the significant issues we identified at all of the towns audited.

Summary of Findings

The Town has good controls and monitoring over asphalt road-surfacing projects and the payment of prevailing wages. These monitoring procedures include obtaining the job mix

formula and the daily batch reports, receiving periodic asphalt analysis reports from the contractor, having an on-site presence, and visiting the vendor. The periodic asphalt analysis reports concluded that 15 of the 61 asphalt samples tested failed to meet required specifications. These failures determined that the paved roads were not acceptable. The vendor addressed these issues to the Town's satisfaction at no additional cost.

Highway officials monitored projects by on-site presence, visits to the asphalt vendor, and by comparing the billed invoices to awarded bid prices and the tonnage purchased per delivery tickets. Town officials also review the contractor's certified payrolls, and the Highway Deputy Superintendent signs an approval for payment. Our tests comparing the tonnage per the asphalt delivery tickets to bid prices and invoices disclosed no discrepancies. We also verified that the employees paid by job classification were paid consistent with the applicable prevailing wage rates.

Background and Methodology

The Town covers 368 square miles with 2,100 miles of highway lanes and has approximately 472,000 residents. The Town's 2012 adopted budget totaled \$261 million.

The Town is governed by a seven-member Town Board. The Highway Superintendent (Superintendent) is in charge of maintaining the Town's roads. The Highway Department's budget was approximately \$71 million in fiscal year 2012.

Hot mix asphalt (HMA) is a combination of different sized aggregates and asphalt cement, which binds the mixture together. HMA is generally composed of 93 to 97 percent (by weight) of aggregate and 3 to 7 percent of asphalt cement. Higher quality materials, such as non-recycled asphalt (also called, "virgin asphalt") produce higher quality mixtures, but they tend to be more costly. Within the variances allowed by bid specifications, the vendor should produce an asphalt batch using an associated job mix formula that creates the desired HMA product. Vendors, often using automated plants, then produce daily batch reports that identify the "ingredients" actually used to prepare each specific batch of HMA that is loaded into the delivery trucks. In addition, when a vendor delivers HMA (onsite or by making it available for pickup at the plant), the product is accompanied by a delivery ticket that specifies the type of product and quantity delivered.

Core sampling is a method used to test the quality of HMA. Typically, an independent firm obtains samples of the HMA purchased for highway projects and tests it to assess whether the product matches contract specifications. Core samples allow the testers to determine things such as the size of the aggregate and type of asphalt used. However, the method does not allow testers to determine the percentage of recycled asphalt material in the HMA.

In 2011, the Town had 18 HMA road-surfacing projects.¹ The Town's projects consisted of situations where the vendor delivered and applied HMA to a road site. In 2011, the vendor

¹We did not include micro surfacing projects in our audit. Micro surfacing is a mixture of polymer-modified asphalt emulsion, aggregate mineral filler, and water, and has a watery consistency during mixing and application. The micro surfacing is continuously mixed and applied with specialized equipment.

applied, in accordance with the Superintendent's directions, 106,305 tons of asphalt relating to projects whose asphalt and total costs amounted to \$7.6 million and \$12.1 million, respectively.

Section 220 of the New York State Labor Law requires that contractors under a "public work" contract pay certain of their employees the "prevailing" rate of wages and supplements set for the locality in which the work is performed.

To complete our objective, we interviewed Town officials and reviewed policies and procedures, vendor invoice/claim packets, and the awarded contracts to determine the Town's process for monitoring the asphalt product received, and the payment of prevailing wages by the contract vendor.

We conducted this performance 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 B of this report.

Audit Results

The Town has good controls and monitoring over asphalt road-surfacing projects. These monitoring procedures include obtaining the job mix formula and the daily batch reports, receiving periodic asphalt analysis reports from the contractor, having an on-site presence and visiting the vendor.

The Town's controls over monitoring prevailing wage laws were adequate.

Project Monitoring and Material Verification – A good system of internal controls over road-surfacing projects includes procedures to provide reasonable assurance that the HMA purchased meets bid specifications. The Town must verify that the project costs are accurate and supported, and that the quality and quantity of applied surface material is consistent with bid specifications. Effective procedures should include obtaining the job mix formula, daily batch reports and periodically viewing and testing the actual HMA purchased.

The Superintendent has the primary duty of monitoring road-surfacing projects. The Superintendent's staff conducts daily visual inspections of the job site, HMA, delivery tickets from vendors, and project costs. The Town compares the delivery tickets with the bid specifications, orders and billed invoices to verify accuracy.

The Town obtains the job mix formula and the daily batch reports in addition to multiple asphalt sample extraction/gradation tests performed by the contractors. The bid specifications include core sample testing, per the Town's request, with no limitations. For the scope, the Town received analysis for 61 asphalt samples.² Due to onsite paving concerns, the Town required one specific asphalt contractor to conduct core sample testing. Town officials stated they requested the testing because some areas of the roads that this specific contractor paved were noticeably not acceptable. The roads appeared to deteriorate only a few days after the paving was completed. The asphalt testing concluded that 15 of 44 samples, or 34 percent, failed to meet bid specifications for cement content and gradation. The unacceptable paved roads were fixed by

² Testing was obtained from three separate contractors.

the contractor to the Town's satisfaction at no additional cost. The other two contractors used by the town had 17 samples taken in which all passed.

To test the Town's current monitoring controls, we judgmentally selected three asphalt road-surfacing projects completed during our scope period, which used 17,674 tons of asphalt costing approximately \$1.3 million. Positively, we found that the tonnage and named product from the delivery tickets matched the bid prices and invoiced amounts charged to the Town.

Prevailing Wages – Section 220 of the New York State Labor Law requires that contractors under a “public work” contract pay certain of their employees the “prevailing” rate of wages and supplements set for the locality in which the work is performed. Contractors are required to submit to the locality, every 30 days, a certified payroll. The Town is also required to set forth in the contract that the filing of certified payrolls is a condition to the payment of moneys due and owing for work done. It is the Town's responsibility to collect and perform a facial review of the contractor's certified payroll³ for each project.

Town officials charged with monitoring projects told us they review the contractor's certified payroll by comparing the rate paid with the State's prevailing wage rate for each category of worker. In addition, the assigned Town project manager visits the project site daily and has an understanding of the number of contracted workers on the site performing various functions. Of our three sampled projects, the prevailing wage laws applied to all three. The Town had obtained the project's certified payrolls, and the Highway Deputy Superintendent had signed an approval for payment indicating her review. We reviewed a certified payroll from the applicable projects and found that the 52 employees paid by job classification were paid consistent with the applicable prevailing wage rates.

Our Office is available to assist you upon request. If you have any further questions, please contact Ann Singer, Chief of Statewide and Regional Projects, at (607) 721-8306.

Sincerely,

Steven J. Hancox, Deputy Comptroller
Office of the State Comptroller
Division of Local Government
and School Accountability

³ Approved by management prior to payment

APPENDIX A

RESPONSES OF TOWN OFFICIALS

The responses of Town officials to this audit can be found on the following pages.



Town of
Brookhaven
Long Island

Edward P. Romaine, Supervisor

December 13, 2013

Steven J. Hancox, Deputy Commissioner
Office of the State Comptroller
Division of Local Government & School Accountability
PSU-CAP Submission
110 State Street, 12th Floor
Albany, New York 12236

Dear Mr. Hancox:

Upon review of the audit report I agree with the findings and will continue to work with our Highway Superintendent to provide services to our residents, fiscal oversight and quality of service.

If you need any further assistance please don't hesitate to contact my office. Thank you.

Sincerely,

Kathleen A. Walsh
Town of Brookhaven
Deputy Supervisor

Cc: Tamara Wright, Commissioner of Finance
John Rouse, Highway Superintendent

TOWN OF
HIGHWAY



BROOKHAVEN
DEPARTMENT

1140 OLD TOWN ROAD, CORAM, N.Y. 11727-3728

JOHN H. ROUSE
Superintendent of Highways

631-451-9200
Fax 631-732-2584

December 12, 2012

Steven J. Hancox, Deputy Commissioner
Office of the State Comptroller
Division of Local Government & School Accountability
PSU – CAP Submission
110 State Street, 12th Floor
Albany, New York 12236

Dear Mr. Hancox:

As Highway Superintendent for the last 9 years, I have worked to provide the residents of Brookhaven a model paving program. This required internal controls to monitor the effectiveness of our program. I agree with the summary of finding that characterizes our program and the benefits it provides to our residents. This success model will continue as a best practice in the Town of Brookhaven Highway Department.

Very truly yours,

JOHN H. ROUSE
Superintendent of Highway

APPENDIX B

AUDIT METHODOLOGY AND STANDARDS

We reviewed the Town's policies and procedures for monitoring hot asphalt mix purchased and payment of prevailing wages. As part of this process, we reviewed the applicable contracts, bid specifications, and claim/voucher packets. We non-bias judgmentally selected three projects for testing to ensure the materials matched the bid specifications for quantity and product type. We conducted detailed testing of project documentation, interviewed Town and Highway Department officials, and reviewed other documentation related to the objective for the audit scope period. We utilized the New York State Department of Transportation for consultation on asphalt composition, efficacy of core sample testing and project monitoring.

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.