



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. Mark A. Nicotra, Supervisor
Members of the Town Board
Town of Salina Town Hall
201 School Road
Liverpool, New York 13088

Report Number: S9-12-20

Dear Mr. Nicotra and Members of the Town Board:

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 Salina (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 Salina. 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 findings specific to the Town. We discussed the findings and recommendations with Town officials and considered their comments, which appear in Appendix A, in preparing this report. Town officials agreed with our findings and recommendations and plan to initiate corrective action. 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 can improve its controls and monitoring of asphalt road-surfacing projects by obtaining assurance that the asphalt materials purchased meet contract specifications. The Town

does not obtain the job mix formula and the daily batch reports, nor does it test the hot asphalt mix products received, despite language in its asphalt contracts that the vendors would conduct such testing at no cost to the Town. Without these documents and procedures, the Town cannot be certain the asphalt products provided are the same products bid and billed for by the vendor.

The Town's controls over other aspects of the asphalt cement purchases and the prevailing wage laws were adequate. Town officials monitored projects by having an on-site presence, by visiting 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 sign an approval for payment. Our tests comparing the tonnage per invoices to bid prices disclosed no discrepancies. We also verified that the employees paid by job classification were paid consistent with the applicable prevailing wages.

Background and Methodology

The Town covers 15 square miles with 100 miles of highway lanes and has approximately 33,700 residents. The Town's 2012 adopted budget totaled \$13.5 million.

The Town is governed by a five-member Town Board. The Highway Superintendent (Superintendent) is in charge of maintaining the Town's roads. The Highway Department's budget was approximately \$4.7 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 17 HMA road surfacing projects.¹ The Town's projects consisted of situations where the vendor delivered and applied HMA to a road site. The Town categorizes the projects as capital and non-capital projects. The capital projects are monitored by the Town

¹ We 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.

Engineer, while the non-capital projects are monitored by the Highway Superintendent. The following table summarizes the Town’s asphalt projects for 2011.

2011 Asphalt Project Summary				
Type of Project	Number	Asphalt Ordered (Tons)	Cost of Asphalt	Total Project Cost
Capital	2	1,368 ^a	\$ 383,555	\$ 1,485,754
Non-capital	15	3,605 ^b	\$ 298,368	\$ 356,691
Total	17	4,973	\$ 681,923	\$ 1,842,445
^a The asphalt quantities for capital projects are depicted in square yards. The town provided us with the tonnage amount based on their conversion.				
^b The asphalt quantities for non-capital projects are depicted in tons.				

Section 220 of the New York State Labor Law (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.

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 can improve its controls and monitoring of asphalt road-surfacing projects by obtaining the job mix formula and the daily batch reports and by conducting core sample tests to verify that the HMA is consistent with bid specifications. The Town did not exercise a contractual clause for testing the product, at the contractor’s expense, to determine whether the HMA met specifications, and did not obtain available vendor reports of ingredients in batches of the asphalt mix.

The Town’s controls over other aspects of the asphalt purchases and the 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 Town project managers have the primary duty of monitoring road-surfacing projects. They conduct daily visual inspections of the job site, and review HMA, delivery tickets from vendors, and project costs. The Town compares the delivery tickets and the bid specifications to orders and billed invoices to verify accuracy.

The Town has limited assurance that the HMA products are consistent with bid specifications. Town officials do perform visual inspections of the HMA and visit asphalt vendors. However, despite a contractual provision allowing the Town to request core samples at the vendor's expense, Town officials did not request these tests. Town officials felt that, based on the on-site presence and their experience and knowledge with asphalt, there was no reason to exercise the contract provisions for testing. The contracts between the Town and asphalt vendor contain the following language:

"the engineer may require laboratory testing of cored pavement samples to determine properties of the pavement at the contractor's expense. "

Additionally, the Town did not obtain and review the job mix formula or the daily batch reports from the vendor that detail asphalt mix ingredients. Without additional procedures to validate the quality and composition of the vendor's HMA products, the Town risks purchasing asphalt products that fail to meet its bid specifications.

To test the Town's current monitoring controls, we judgmentally selected three asphalt road-surfacing projects completed during our scope period, which used 1,471 tons of asphalt costing \$280,486. Positively, we found that the tonnage and named product from the invoiced amounts charged to the Town matched the bid prices.

Prevailing Wages – The 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 payroll² 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. The prevailing wage laws applied to all three sampled projects. The Town had obtained the project's certified payrolls, and the appropriate Town official had signed an approval for payment indicating his review. We reviewed a certified payroll from each of the applicable projects and found that the 13 employees paid by job classification were paid consistent with the applicable prevailing wage rates.

Recommendations

1. The Town should obtain the core samples contractually allowed to obtain better assurance that the HMA product matches the contract specifications.

² Approved by management prior to payment

2. The Highway Superintendent should obtain the job mix formula and the daily batch reports from the asphalt vendor to help ensure that the HMA received is what the Town contractually agreed to purchase.

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

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

APPENDIX A

RESPONSE OF TOWN OFFICIALS

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



Town of Salina
OFFICE OF THE TOWN SUPERVISOR

Mark A. Nicotra
Town Supervisor
Nancy A. O'Neil
Secretary to the Supervisor

Salina Town Hall
201 School Road – Room 112
Liverpool, NY 13088
(315) 457-6661
Fax: (315) 457-4476

Colleen Gunnip
Deputy Town Supervisor

www.salina.ny.us
supervisor@salina.ny.us

January 9, 2013

██████████
Principal Examiner, Office of the State Comptroller
Statewide and Regional Projects
State Office Building, Room 1702
44 Hawley Street
Binghamton, New York 13901-4417

Report Number: S9-12-20

Dear ██████████

We would like to thank the Office of the State Comptroller, and especially the auditors that worked at the Town of Salina for their professionalism. It was a very informative to have their expertise and knowledge as we strive to provide services while maintain costs controls. We generally agree with the audit recommendation and plan to implement them during the next fiscal year when obtaining bids for paving projects.

Audit finding:

Include in the bid specification the requirement to provide the Town the job mix formulas

Town Response:

A requirement to provide the job mix formula will be included in future bid awards. This formula will be compared to the daily batch reports by the Highway Superintendent to insure that the paving material is in compliance with the bid specifications.

Audit finding:

Include in the bid specification the requirement to provide the Town daily batch reports from the asphalt supplier.

Town Response:

A requirement to provide daily batch reports from the asphalt manufacturer will be included in the bid specification. These daily batch reports will be sent to the Highway Superintendent who will be responsible for comparing them to the bid specifications.

Audit finding:

Conduct core samples test to verify the asphalt material used is in compliance with the bid specifications.

Town Response:

The Town recognizes the need to test the asphalt material to insure compliance with the bid requirements. However, it is reluctant to dig into new pavement. Instead, it will take samples of the material delivered onsite and have it sent out to a laboratory for testing. This will be done at the expense of the contractor.

If there are any questions, please contact me.

Sincerely,

Mark A. Nicotra
Supervisor
Town of Salina

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.