



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. Scott Russell, Supervisor
Members of the Town Board
Mr. Peter Harris, Superintendent of Highways
Town of Southold Town Hall
53095 Route 25
P.O. Box 1179
Southold, New York 11971

Report Number: S9-12-14

Dear Mr. Russell, Members of the Town Board, and Mr. Harris:

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 Southold (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 Southold. 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. Highway officials monitored projects by having an on-site presence, 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 the Highway Superintendent signs an approval for payment. Our tests comparing the tonnage and prices charged per the asphalt delivery tickets and bid prices to 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 54.5 square miles with 402 miles of highway lanes and has approximately 23,000 residents. The Town's 2012 adopted budget totaled \$38.5 million.

The Town is governed by a six-member Town Board. The Highway Superintendent (Superintendent) is in charge of maintaining the Town's roads. The Highway Department's budget was approximately \$5.4 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 10 HMA road-surfacing projects.¹ The Town had projects where the vendor delivered and applied HMA to a road site, as well as projects where Town employees picked up the HMA directly from the vendor and did the work themselves. 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
Vendor applied	2	4,409	\$ 495,168	\$ 955,743
Town applied	8	1,986	\$ 138,993	\$ 138,993
Total	10	6,395	\$ 634,161	\$ 1,094,736

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.

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 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 if it 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 and daily batch reports and periodically viewing and testing the actual HMA purchased.

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.

The Superintendent has the primary duty of monitoring road-surfacing projects. The Superintendent conducts daily visual inspections of the job site, and reviews HMA, delivery tickets from vendors, and project costs. The Town compares the delivery tickets with 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 core samples. The Superintendent felt that, based on his on-site presence and his 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 Town shall have the absolute right to make tests before and after delivery and placement of asphalt material to determine conformity to specifications, quality and standards of excellence. The Contractor agrees to bear all cost and pay for all tests which are deemed to be necessary in the opinion of the Town.”

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 1,762 tons of asphalt costing \$125,819. Positively, we found that the tonnage, named product and cost totals from the delivery tickets matched the bid prices and invoiced amounts charged to the Town.

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. The Town's contract with the asphalt vendor states:

“The New York State Department of Labor's Prevailing Wage Rate Schedules are part of this Contract. The Contractor is responsible for being familiar with the latest available schedules.”

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

² Approved by management prior to payment

our three sampled projects, the prevailing wage laws applied to only one.³ The Town had obtained the project's certified payrolls, and the Highway Superintendent had signed an approval for payment indicating his review. We reviewed a certified payroll from the applicable project and found that the 14 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. 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

³ Town employees, not subject to prevailing wage, completed the other two projects.

APPENDIX A

RESPONSE OF TOWN OFFICIALS

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

ACCOUNTING & FINANCE DEPT.

John A. Cushman, Town Comptroller
Telephone (631) 765-4333
Fax (631) 765-1366
E-mail: accounting@town.southold.ny.us



TOWN HALL ANNEX

54375 Main Road
P.O. Box 1179
Southold, NY 11971-0959
<http://southoldtown.northfork.net/>

TOWN OF SOUTHOLD
OFFICE OF THE SUPERVISOR

Ann Singer
Chief of Statewide and Regional Projects
Office of the State Comptroller
State Office Building, Room 1702
44 Hawley Street
Binghamton, NY 13901-4417

October 4, 2012

Dear Ms. Singer:

With regard to Report Number S9-12-14 concerning the review of the Town's processes for monitoring road-surfacing projects for the period January 1, 2011 through December 31, 2011, the Town agrees with your recommendations and has implemented the following procedures:

1. The Superintendent of Highways will conduct periodic sampling of asphalt materials, including those picked up at the asphalt plant, those delivered to specific job sites and through core sampling after paving has been completed. We concur that this sampling will help insure that the asphalt products we purchase match contract specifications. Note that records of all sampling activities will be reviewed by the Superintendent of Highways, and will then be submitted to the Town Clerk for retention in accordance with our record retention policy.
2. The Superintendent of Highways will obtain and review job mix formulas and daily batch reports from the asphalt vendors. These records will be included with the invoices when they are submitted to the Accounting and Finance Department for payment, and will be retained with the invoices in accordance with our record retention policy.

We appreciate the insight that the audit has provided the Town and believe that these and other suggestions made by the auditors will improve our operations and ultimately reduce costs associated with our road-surfacing projects.

Please feel free to contact me should have any questions or concerns.

Very truly yours,

Scott Russell
Supervisor

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.