



# Town of Bedford

## Selected Financial Activities

### Report of Examination

Period Covered:

January 1, 2010 — March 31, 2011

2011M-186



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

January 2012

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 Bedford, entitled Selected Financial Activities. 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 Bedford (Town) is located in Westchester County, and serves approximately 18,000 residents. The Town is governed by a Town Board (Board) which comprises the Town Supervisor (Supervisor) and four elected Board members. The Board is responsible for the general management and control of the Town's financial affairs. The Supervisor, who serves as the chief executive officer and the chief financial officer, is responsible, along with other administrative staff, for the day-to-day management of the Town under the direction of the Board. The Town's 2011 budgeted appropriations for all funds was approximately \$25.2 million. The Town's Justice Court (Court) collected approximately \$1,845,000 in fines from January 1, 2010 through March 31, 2011.

#### **Scope and Objective**

The objective of our audit was to examine the Town's water district, Court operations and health insurance benefit costs for the period January 1, 2010 through March 31, 2011. Our audit addressed the following related questions:

- Did the Board and Town officials provide sufficient oversight and management of water district operations?
- Did the Board and the Justices provide sufficient oversight and management of Court operations to ensure the proper accounting and reporting of financial transactions?
- Did Town officials calculate health insurance buyout incentives accurately?

#### **Audit Results**

We found a lack of segregation of duties in water billing and collection, which increased the risk of loss and irregularities. Furthermore, the Board did not enforce the collection of water rents from residents by imposing penalties, which caused a delay in the collection of rents to finance the expenditures related to consumption. Unpaid bills totaling \$151,809 for 2009 and 2010 were re-levied on property taxes for fiscal years 2010 and 2011, respectively, without any penalties. Also, the Comptroller did not ensure the timeliness of deposit for \$243,680 of the \$274,412 in receipts we reviewed. Finally, the Town failed to follow the prescribed procedures for the public hearing for the improvement and extension of a water district.

The Board and Justices did not ensure that the internal controls over Court operations were appropriately designed or operating effectively. Known liabilities exceeded cash in two of three Court

bank accounts by \$4,466. The bail listing contained 48 cases that were disposed of between 1991 and 2008 but had a negative amount totaling \$5,857. Exonerated bail was neither always returned, nor was it turned over to the Town as required. As a result, public moneys are at risk of loss or misappropriation.

Town officials did not use the correct health insurance premium, as prescribed by the employees' contract, to compute the health insurance buyout incentive. The Town overpaid 11 employees an extra \$1,505 from January to March 2011. If the calculation error is not corrected, the Town will end up overpaying the 11 employees an additional \$6,021 for the remaining nine months of the year.

### **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. Except as specified in Appendix A, Town officials generally agreed with our recommendations and indicated that they planned to take corrective action. Appendix B includes our comments on issues raised in the Town's response letter.

# Introduction

## Background

The Town of Bedford (Town) is located in Westchester County, covers an area of about 39 square miles, and serves approximately 18,000 residents. The Town is governed by the Town Board (Board) which comprises the Town Supervisor (Supervisor) and four elected Board members. The Board is responsible for the general management and control of the Town's financial affairs. The Supervisor, who serves as the chief executive officer and the chief financial officer, is responsible, along with other administrative staff, for the day-to-day management of the Town under the direction of the Board. The Town Comptroller (Comptroller) is responsible for auditing the books and records of Town officers and employees who receive or disburse moneys during the fiscal year and making all deposits.

The Town provides various services to its residents including maintenance and improvements of Town roads, snow removal, and general government support. These services are financed mainly by real property taxes, departmental income, and State aid. The Town's 2011 budgeted appropriations for all funds was approximately \$25.2 million. The Town's Justice Court (Court) collected approximately \$1,845,000 in fines from January 1, 2010 through March 31, 2011.

## Objective

The objective of our audit was to examine the Town's water district, Court operations and health insurance benefit payments. Our audit addressed the following related questions:

- Did the Board and Town officials provide sufficient oversight and management of water district operations?
- Did the Board and the Justices provide sufficient oversight and management of Court operations to ensure the proper accounting and reporting of financial transactions?
- Did Town officials calculate health insurance buyout incentives accurately?

## Scope and Methodology

We examined the Town's water billings, the establishment a new water district, and Court operations for the period January 1, 2010 to March 31, 2011. We also evaluated the Town's health insurance costs to determine if there are any cost savings opportunities for the Town for 2010 and 2011.

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 are included in Appendix C 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. Except as specified in Appendix A, Town officials generally agreed with our recommendations and indicated that they planned to take corrective action. Appendix B includes our comments on issues raised in the Town's response letter.

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.

## Water District

The Board is responsible for adopting ordinances, rules and regulations for the water district operation and ensuring proper segregation of duties in each Town department. This includes establishing policies relating to the billing, collecting and accounting for water district rents. The Board is also responsible for ensuring that the Town follows applicable legal and regulatory requirements during the normal course of business.

The Board has not established policies relating to the billing, collecting and accounting for water district rents. Town officials have not developed procedures to ensure that duties are segregated, customers are properly billed, and that collections are accounted for consistently and properly safeguarded. Poor segregation of duties in the area of water billing and collection result in increased risk of loss and/or irregularities.

Furthermore, the Board did not enforce the collection of water rents from residents by imposing penalties. Unpaid bills totaling \$151,809 for 2009 and 2010 were re-levied on property taxes for fiscal years 2010 and 2011, respectively, without any penalties. Also, the Comptroller did not ensure the timeliness of deposits.

### Segregation of Duties

Proper segregation of duties ensures that no one person controls all phases of a transaction and provides for the work of one employee to be verified by another employee in the course of their duties. In a water billing system, the individual responsible for generating bills should not have the ability to make adjustments to accounts without supervisory approval and should not be responsible for the collection and recording of receipts.

Duties involving water transactions are not adequately segregated. The senior office assistant is in charge of the billing and collection of water rents, and adjusting customers' accounts, without oversight. Because of the weak controls, we selected and reviewed 21 individual water bills for the quarter ended March 31, 2011, totaling \$3,011, to determine if the bills were calculated in accordance with Board approved rates. We did not find any material exceptions. However, the ability to control all aspects of the billing and collection process and to make adjustments to customer accounts without supervisory approval or another employee's review increases the risk that funds could be misappropriated and records could be adjusted to avoid detection.

## **Water Payments**

Town Law stipulates that the Board has the power to adopt ordinances, rules and regulations for the operation of the water district. Town Law also stipulates that the Board may enforce compliance with the ordinances, rules and regulations by imposing penalties and levying the penalties against violators to the subsequent year's property taxes and/or cutting off the supply of water to those who violate the ordinances.

The Board did not adopt ordinances, rules and regulations for the collection of water rents. The Town does not charge penalties for late payment of water bills. Water billings totaled \$1,083,637 in 2009 and \$1,127,012 in 2010. Unpaid bills of \$77,636 in 2009 and \$74,174 in 2010 were re-levied on property taxes for fiscal years 2010 and 2011, respectively, without any penalties added. If the Board adopted an ordinance that imposes a penalty for late payment of water bills, users would be encouraged to pay their bills on time, and the Town would receive revenues it needs to finance water operations in a timely manner.

## **Deposit of Receipts**

Although Town Law requires town supervisors to deposit all moneys within 10 days of receipt, sound business practice mandates shorter timeframes, such as daily deposit, when large amounts have been received, to avoid the risk of loss or theft.

The senior office assistant collects all receipts and turns them over to the Comptroller for deposit. We reviewed water rent collection and deposits for three months – December 2010, January and February 2011, totaling \$274,412 – and traced the receipts to the bank statement to determine the timeliness of the deposits. Of the \$274,412 collected, \$243,680 was deposited between one to seven days after receipt. For example, payments totaling \$12,642.72 were received on January 7, 2011 but were not deposited until January 14, 2011.

When deposits are not made timely, the Comptroller is exposing the water rent collection to the risk of loss.

## **Improvement and Extension**

The Town adopted a final order to establish Extension No. 1 (Extension) to the Town of Bedford Consolidated Water District No. 1 in December, 2009. The area of the Extension consists primarily of two facilities of the New York State Department of Correctional Services<sup>1</sup> (DOCS). The Town Law provides that a notice of hearing for the establishment or extension of a special district must set forth, among other things, the improvements proposed, the maximum amount proposed to be expended for the district or extension improvement,

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<sup>1</sup> As of April 1, 2011, the Department of Correctional Services and the Division of Parole merged to form a new agency, the Department of Corrections and Community Supervision.

the cost of the district or extension to the "typical property" and, if different, the "typical one or two family home," and the proposed method of financing. "Cost" for this purpose includes the amounts that are estimated for debt service, operation and maintenance and other charges, such as user fees, related to the improvements.

As required by the Town Law, the Town conducted a public hearing prior to establishing the Extension. On the same day, the Town conducted a public hearing on the construction, acquisition and equipping of a water distribution and purification facility for the Consolidated Water District No. 1 as extended or to be extended. The improvement was constructed at an estimated cost of \$23.9 million, with capacity to serve the extension. The notice of hearing for the Extension indicated that the cost of the extension would be \$0 as to "direct capital costs" financed by the issuance of debt by the Town. It further stated, however, that the lands in the Extension would be responsible for an annual cost for operation and maintenance of the Town's water system, the sale of water, and "a requisite portion of the debt service on the amount financed by the Town" for the filtration plant. In addition, the notice stated that "an analysis of the cost of the Extension to the typical properties or homes in the extension under rules established by the Office of the State Comptroller (OSC) does not apply because the facilities in the Extension operated by DOCS are state lands and not residential or commercial properties..."

We believe that the notice of hearing on the Extension could have more effectively communicated all pertinent information as to the costs to the typical property. While the notice generally recites that the property in the Extension will be responsible to pay for operation and maintenance of the water system, the sale of water and a portion of the cost of debt service on debt issued for the purification facility, it does not quantify those costs by setting forth an estimated dollar amount. Based on our review of the contract between the Town and DOCS, it appears that the Extension would be responsible for costs of debt service of approximately \$5,500,000, and estimated annual operation and maintenance of \$628,512. The lack of such information, even if a notice of hearing meets the literal requirements of the Town Law, can undermine the primary purpose of the Notice, which is to provide the public with key information concerning the matter that is the subject of the hearing.

## **Recommendations**

1. The Board should ensure that the duties of the senior office assistant are segregated so that one person does not control all aspect of water billing and collections.
2. The Board should consider adopting an ordinance and imposing a fee for late payment of water bills.

3. The Board should ensure that receipts totaling large amounts are deposited at least daily.
4. The Board should ensure that future notices of hearings for the establishment or extension of special districts include all pertinent cost information.

## Justice Court

Justices are charged with accounting for their Court's financial transactions and safeguarding public resources. They are responsible for ensuring that Court financial transactions are processed and recorded and financial reports are filed in a timely manner; pertinent laws, rules and regulations are followed; and regular monitoring and reviewing of Court personnel work performance are done. Justices must also ensure that exonerated bail is refunded or transferred to the Town so it can be used for the benefit of the taxpayers. Although the Justices are primarily responsible, the Board also shares responsibility for overseeing Court operations. Without adequate oversight, accountability over the Court's financial operations is diminished. Justices may employ a Court clerk to assist them in meeting their responsibilities.

The Town's two Justices did not ensure that the internal controls over Court operations were appropriately designed or operating effectively. Bank reconciliations were incomplete, aged unclaimed bail was not turned over to the Town, and monthly records were not accurate and up-to-date. Also, Court known liabilities exceeded cash in two of three Court bank accounts by \$4,466. The bail listing contained 48 cases that were disposed of between 1991 and 2008 but had a negative amount totaling \$5,857. As a result, public moneys are at risk of loss and/or misappropriation with little risk of detection.

### **Accountability/Bank Reconciliation**

It is important for Court personnel to verify the accuracy of financial records and establish control over cash by reconciling bank accounts monthly. Court officials should also compare cash on hand and on deposit to detailed lists of outstanding bail and amounts due to others. This comparison is referred to as an accountability analysis. Any moneys that cannot be identified after performing these procedures must be reported and remitted to the State Comptroller's Justice Court Fund (JCF). The documentation of a bank reconciliation and analysis of liabilities help to ensure that the Court is appropriately addressing its custodial function.

Although the clerks performed monthly bank reconciliations for fines and bail, the reconciliations were incomplete because they did not take bail listing and amount to be reported to JCF into consideration. In addition, neither clerk compared the cash on hand and on deposit to a detailed list of outstanding bail and amounts due to the JCF and others. Instead, they used a previous month balance (which they called book balance) and reconciled it to the bank balance. The book balance was not accurate since it was carried from previous months which were not properly reconciled.

Due to this control weakness, we prepared bank reconciliations and accountability analyses for the months of January, February, and March 2011 for each Justice's fine account and the bail account.<sup>2</sup> The clerk did not maintain an accurate list of bail held by the Court. The bail list maintained by the clerk exceeded the bank balance by \$4,031. We also found that Justice Quarranta's cash at the bank was lower than his known liabilities by \$435.

The clerk in charge of reconciling the bank accounts told us that she was aware that the reconciliations were not in the proper format, but was afraid of changing anything due to the fact that it was the reconciliation format she was told to follow. The failure to reconcile bank accounts and liabilities significantly increases the risk of unauthorized use or disposition of cash and makes it more likely that Town officials will not detect cash shortages, errors and/or irregularities in a timely manner. In addition, without sufficient controls and monitoring of all bail money received and an accurate pending bail list, the Justices are not aware of their current liabilities.

## Bail

Bail for pending cases is similar to a customer deposit and is posted by defendants (or possibly by others on behalf of the defendants), generally to guarantee appearance in court to answer charges. Consequently, it is essential that each Justice maintain a record of bail. Exonerated bail should be given back to the person who posted the bail, less any applicable bail fees. Court personnel should make good faith effort for a reasonable period of time to locate the person who posted bail. If a Court is unable to return bail, it may transfer such moneys to the chief fiscal officer of the municipality pending a claim. Cash bail still unclaimed six years after exoneration of the bail becomes the property of the municipality.

The pending bail list maintained by the clerk did not agree with the bank balance as discussed above. Furthermore, as of March 31, 2011, the bail listing contained 383 cases with bail totaling \$49,845.39 of which 48 cases had negative amounts<sup>3</sup> totaling \$5,857. Of the 48 cases with negative amount, 29 were disposed between 1994 and 2008 with amounts totaling (\$3,972). We also found that exonerated bail was not always returned to the person who posted bail or turned over to the Town. We reviewed the bail listing without including the negative bail amounts and found that there were 189 cases, disposed between 1991 and 2011, with unreturned bail totaling \$13,570 in the bail account. Of those 189 cases, 114 totaling \$7,152.19 were

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<sup>2</sup> Each Judge has a bank account for fines and there is one combined account for bail held by both Justices.

<sup>3</sup> Negative amounts imply that the Court was owed money, in this case, \$5,857. The Court was still expecting to receive bail money from individuals. Normally, the bail account will have a positive or zero balance.

disposed for more than six years and should have been turned over to the Town.

The clerk was not certain about the reason for the negative amount and told us that she was looking into the matter. Justice Jacobsen and his clerk told us that they will open a new account for the bail and start fresh while looking for the discrepancies. By not keeping accurate pending bail accounts, the Justices are not aware of their current liabilities and cannot effectively identify potential errors or irregularities. By not making an effort to contact the persons who posted exonerated bails and not transferring unclaimed bails to the Town accountant in a timely manner, there is an increased risk that persons will not receive the refunds to which they are entitled, and unclaimed bails cannot be used for the benefit of taxpayers.

## **Reporting**

Every Justice is required to issue receipts for, and maintain detailed records of, all moneys received. Such records should be complete, accurate, up to-date, and maintained in accordance with the fiscal guidelines contained in the *Handbook for Town and Village Justices and Court Clerks*, published by the State Comptroller's Office. Every Justice is required by law to report the court activities of the preceding month to the JCF. The Court collected approximately \$1,845,000 in fines during our audit period.

We found that the Court's month end records were not accurate and up to date. For example, the collection for March 31, 2011 totaling \$7,325 was not reported in the March report but instead was included in the April 2011 report. Therefore, Court cases were not updated to reflect the receipts collected on March 31st until April 2011. This happened because the clerks issued hand-written receipts of collections on the last day of the month and did not enter them into the system until the first business day of the following month.

By not promptly entering receipts into the system, clerks do not report all the monthly collections, hence, the report does not reflect the actual month collections. Because of these deficiencies, the Justice did not have adequate assurance that all moneys received during the audit period were properly recorded and deposited.

## **Recommendations**

5. The Justices should ensure that the monthly bank account reconciliations compare cash on hand and on deposit to detailed lists of outstanding bails and amounts due to others. Any differences should be promptly investigated and, if necessary, corrective action taken.

6. The Justices should investigate and resolve the differences between the Court's net cash assets and known liabilities and should report and remit any unidentified moneys to the JCF.
7. The Justices should ensure that the clerks keep an accurate bail listing and investigate all bails with negative amounts.
8. The Justices should ensure that a good faith effort is made to locate the individuals who posted exonerated bails and return the bails to those individuals. If the Court cannot locate those individuals, they should transfer the moneys to the Town, pending a claim. Bail still unclaimed after six years should be reclassified as Town property.
9. The Justices should ensure that all collections for the month are entered into the defendant account and reported on the monthly report to JCF in the month in which they were collected.

## Health Insurance Buyout Incentive

Town officials have a fiduciary duty to monitor all Town costs, including those associated with providing health insurance benefits to employees. Health insurance premiums are one of the fastest-rising local government expenditures. The increasing cost of providing health insurance coverage to employees contributes substantially to the financial challenges confronting local officials. By offering a buyout incentive to eligible employees, the Town can reduce these costs. Town officials estimated health insurance coverage costs for fiscal years 2010 and 2011 at \$2,520,458 and \$2,739,676, respectively.

The Town currently offers a buyout incentive equal to half of the married premium amount to employees who opt out of health insurance coverage. Currently, 11 Town employees have opted for the buyout, receiving payment totaling \$187,765 for the years 2010 and 2011. Because the buyout was not correctly calculated, employees in the buyout program could be overpaid by more than \$6,000 in the current year.

Employees' bargaining agreements stipulate that an employee who waives the health insurance benefit shall be compensated 50 percent of the lowest premium rate in effect.<sup>4</sup> There are 11 Town employees who received health insurance buyout incentives.

We found that the Comptroller used the higher premium to calculate the buyout incentive for 2011. The New York State Health Insurance Program (NYSHIP) rate in effect was \$45.62 higher than the other health insurance offered. As of March 31, 2011, the Town has overpaid the 11 employees by \$1,505.30 from January to March 2011. If the calculation is not corrected, the Town will end up over paying the 11 employees by \$6,021 for the buyout for fiscal year 2011.

The Director of Personnel informed us that the Town Attorney advised them to use the NYSHIP rate for the buyout because he believed it was the insurance with the lowest premium. However, NYSHIP had the highest rates in 2011. As a result, the Town is incurring unnecessary expenses that could have been avoided.

### Recommendation

10. Town officials should ensure that all health insurance buyout payments are calculated as stipulated in the contract. They should seek recovery of overpayments made to employees.

<sup>4</sup> The Town provides two types of health insurance coverage.

**APPENDIX A**  
**RESPONSE FROM LOCAL OFFICIALS**

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

**TOWN OF BEDFORD**  
**OFFICE OF THE SUPERVISOR**

Lee V. A. Roberts  
Supervisor

Peter Chryssos  
Deputy Supervisor

Marcy W. Marchiano  
Secretary to Supervisor



TOWN BOARD  
Peter Chryssos  
Francis Corcoran  
Chris Burdick  
David Gabrielson

December 9, 2011

██████████  
Division of Local Government and School Accountability  
Office of the State Comptroller  
33 Airport Center Drive, Suite 103  
New Windsor, NY 12553

Dear ██████████

With respect to the recommendations of the Office of the State Comptroller, the following are our responses commencing with the Water Department recommendation:

Recommendation 1. The Board should ensure that the duty of the senior office assistant is segregated so that one person does not control all aspect of water billing and collections.

Town Response. The issue at hand is that this is a one person office. This position has been responsible for all aspects of the billing and collection process with the following exceptions: (1) data collection is performed by water maintenance operators in electronic data collection devices. This data is downloaded into the billing program to create invoices to customers of the district. (2) Reports are generated by the billing program which is reviewed by the Commissioner of Public Works. Invoices are then sent to customers who pay their balances directly to the department.

Although the ability to control all aspects of the billing process is within the control of one person, the State Auditor had no material findings within the period selected and reviewed.

Corrective Action Plan (CAP). The Town of Bedford recognizes the need for segregation of duties. This becomes increasingly difficult as the economy dictates a reduction in staff sizes. We have reviewed the comments and have moved the creation of invoices to the Finance office, thus allowing for a separation of duties.

Recommendation 2. The Board should consider adopting an ordinance and imposing a fee for late payment of water bills.

Town Response: The lack of late payment penalties did allow for delays in receipt of water invoice payments. These outstanding amounts were ultimately collected when they past due amounts were levied onto the individual tax bills.

CAP The Town Board has adopted penalties for late payment as well as additional fees if it becomes necessary to add the arrears to the individual's tax bill.

Recommendation 3. The Board should ensure that receipts totaling large amounts are deposited at least daily.

321 BEDFORD RD • BEDFORD HILLS, NY 10507  
Tel. (914) 666-6530 • Fax (914) 666-5249  
E-mail: supervisor@bedfordny.info • www.bedfordny.info

Town Response: The State Auditor reviewed 32 checks and determined that several were not deposited timely. The auditors' opinion was that deposits should be made daily but also does point out that Town Law requires deposits be made within ten (10) days. Based on our review of the checks in question it was revealed that none were deposited past the ten (10) required by law. That fact being stated, it is the Town of Bedford's policy to deposit within seventy-two (72) hours which is a best practice supported by our independent auditors. On a 72 hour basis, of the 32 checks reviewed by the state auditor, 7 were beyond that point.

CAP The Town of Bedford will continue to follow the best practice of depositing within 72 hours with the exception of every effort will be made to ensure larger deposits are brought to the bank daily.

Recommendation 4. The Board should ensure that future notice of hearings to the public includes all key information, such as project costs.

Town Response: Our response to this is accompanied by a written response (enclosed) from our Bond Counsel, Kenneth Bond, Esq. from Squire, Sanders, et al

The Town of Bedford's failure to disclose the cost to the residents is inaccurate if not completely untrue. This information was disclosed in the public hearing in 2009 as well as in the Map, Plan & Report (MPR). Zero cost to the residents was the known fact at the time of the public hearing.

See  
Note 1  
Page 23

The extension of the district and the construction of the water filtration plant are two separate issues and two separate public hearing were held for them.

CAP The Town maintains that all issues were handled correctly in this matter, however, if the Office of the State Comptroller desires, an amended public hearing can be held disclosing the new fact of the signed agreement with the Department of Corrections (November 2011). This information was not known fact at the time of the public hearing in 2009 nor during the time of the state auditors field work (March 2011).

See  
Note 2  
Page 23

Recommendations 5 through 9 are addressed in the enclosed letter signed by the two Town Justices -- Kevin Quaranta and Eric Jacobsen.

Recommendation 10. Town officials should ensure that all health insurance buyout payments are calculated as stipulated in the contract. They should seek recovery of overpayments made to employees.

Town Response: Upon a review of the State Auditors' comments in this area, we agree that the amount of the buyout was not calculated correctly. This was done at the suggestion of the Town's labor attorney. It was our belief that the Town's primary insurance NYSHIP would remain the lower cost premium.

CAP The Town Comptroller will issue letters to each individual who received an overpayment and request the funds be returned to the Town. The Town is working toward a \$5,000 flat rate buyout with its bargaining unions and administrators. One unit has agreed to this change. There will be no reoccurrence of this issue.

Thank you very much for your consideration of our response.

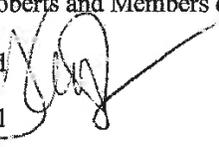
Sincerely,



Lee V.A. Roberts

**TOWN OF BEDFORD OFFICE OF THE SUPERVISOR**  
321 BEDFORD RD • BEDFORD HILLS, NY 10507  
Tel. (914) 666-6530 • Fax (914) 666-5249  
E-mail: supervisor@bedfordny.info • www.bedfordny.info

**M E M O R A N D U M**

**To:** Hon. Lee V.A. Roberts and Members of the Town Board, Town of Bedford, New York  
**From:** Kenneth W. Bond   
**Date:** December 5, 2011  
**Re:** Audit of Town of Bedford Water System Financing by the Office of the State Comptroller – Response Letter

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**CONFIDENTIAL**

The Office of the State Comptroller (“OSC”) recently completed a draft audit report (the “Audit”) of the Town of Bedford, New York (the “Town”) for the period January 1, 2010 to and including March 31, 2011. In the Audit with respect to the Town’s extension and financing activities with respect to Town of Bedford Water District No. 1 (the “District”) in 2009, it contains a critical comment to the effect that the Town Board failed to disclose or inaccurately disclosed the cost to the typical property in the extension proceedings relating to the District under section 209-D of the Town Law. The Audit then proceeds to admonish the Town Board to be more careful in preparing its Town Law notices, emphasizing the importance of accurate disclosure in such notices. In our view as the Town’s bond counsel, (i) OSC’s critical comment in the two full paragraphs of page 10 of the Audit misapplies the law to the facts and should be deleted and replaced, and (ii) recommendation 4 on page 10 of the Audit should be deleted.

See  
Note 1  
Page 23

By way of background, Squire Sanders was engaged by the Town to serve as bond counsel in the fall of 2009. The Town had commenced design of a \$23.9 million water filtration plant project (the “Project”) some months earlier for which completed Town Law and SEQRA proceedings were required to be submitted by the Town to an agency of the State of New York by December 31, 2009 in connection with an application for American Recovery and Reinvestment Act (“ARRA”) funding for the Project. Our approach to meet the December 31, 2009 deadline was to proceed on parallel time tracks to (i) extend the District, (ii) authorize the financing of the Project under section 202-b of the Town Law and Local Finance Law, and (iii) secure determination of no significant impact on the environment or climate change under SEQRA. All of the foregoing proceedings were completed to meet the December 31 ARRA funding application deadline. Financing of the Project has proceeded successfully for the Town.

The Project has three distinct components: (i) acquiring a source of pure water from the New York City tap, (ii) acquiring and constructing the Project, and (iii) providing water to facilities operated by the NYS Department of Corrections (“DOC”) located in the Town. It is the Town Law extension proceedings required to serve the DOC facilities with water which is the source of the Audit’s critical comment. At the time the extension proceedings were drafted, the extension to include the DOC facilities was viewed as a paper extension. DOC had yet to sign a

See  
Note 3  
Page 23

water usage agreement with the Town and there were no costs associated with the extension *per se* other than opening an existing valve to permit water to flow from the Town's water system into the existing water pipes in the DOC facilities. While it was assumed at the time the extension proceedings were undertaken that DOCs would at some point contribute to the cost of acquiring and constructing the Project and pay for water consumed in its facilities, no estimate could be determined – there was no agreement between DOC and the Town. Accordingly, the notice correctly indicated that the cost to the typical property is zero. Indeed, the map, plan and report, dated October 2009 and prepared by Hahn Engineering states ***“there will not be any improvements or costs associated to connect the Bedford Hills Correctional Facility and Taconic Correctional Facility to the Consolidated Water District #1.”*** [emphasis supplied]

See  
Note 4  
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Notwithstanding the technical accuracy of the extension proceedings under section 209-D of the Town Law, OSC criticizes the Town Board for not estimating, indeed speculating, what they might be if DOC and the Town had fully negotiated their water usage agreement. Because the extension proceedings were undertaken on a time of the essence basis to meet the ARRA funding deadline, given the information contained in said map, plan and report, it would have been reckless for the Town Board to do otherwise than provide notice of what it knew to be the facts at the time: there was to be no cost to any property in the District with respect to the extension to include the DOC facilities in the District.

See  
Note 5  
Page 23

Given the period under examination by OSC and the comments to which the Town objects to, it is clear that when the audit was conducted in 2011, OSC was looking at the fully executed Town/DOC water usage agreement. But look at the date on said agreement: it is after the extension proceedings were completed in 2009.

Fortunately, the Town Law addresses OSC's concern about disclosing costs known or to become known in future by providing amendatory proceedings to take new facts into account – such as DOC's contribution to the cost of the Project and water usage. If OSC wishes to suggest that the Town Board to undertake such amendatory proceedings and add a sentence at the end of the carryover paragraph at the top of page 10, that would be acceptable.

See  
Note 2  
Page 23

Finally, OSC comments that the Town Board by indicating zero cost of the extension is attempting to prescribe an exception to the meaning of a “typical property” as the term is defined in Town Law section 209-A. Such is not the case: the DOC facility is the typical property at issue. However, unlike a residential or commercial user already hooked up or about to be hooked up in an extension to an existing water system, who is appropriately charged immediately for the known cost of improvements in an extension, DOC would only pay for water if and when it entered into a water use agreement with the Town, a fact not in existence when the extension proceedings were undertaken. These terms of the agreement were clearly communicated to DOC in 2009. However, a fully executed agreement with the costs DOC is to bear was not delivered to the Town until November, 2011.

See  
Note 1  
Page 23

**TOWN OF BEDFORD  
COURT**

Town Justices  
Kevin J. Quaranta  
Erik P. Jacobsen



Court Clerks  
Helen B. Magnotta  
Diane Georgio

REPLY TO COMMENTS OF THE AUDITOR  
2011 AUDIT OF THE BEDFORD TOWN COURT  
Dated December 08, 2011



BACKGROUND

- A. As reported by the audit, the bail listing contained errors in cases disposed of between 1991 and 2008. These issues go back twenty (20) years.
- B. To place the figures in perspective, the Court records show an average of 8,314 VTL cases initiated each year during the last three year period. Vehicle and Traffic (VTL) cases started in 2008 were 8,900, 2009 were 7,561, in 2010, Judge Jacobsen's first year in office, 8,481 VTL matters initiated.
- C. If one includes the criminal, civil (small claims landlord tenant), Town Ordinance, Environmental and DOT, ABC NAV and additional cases, one realizes the caseload is considerably greater than just the VTL.
- D. It is also mentioned that in 2010 one of the Court employees was moved to the Water Department and not replaced. In 2011 two of the Court employees retired and were replaced, however, a third employee, the Court Intermediate Account Clerk (our only account clerk) left for another job and was not replaced.
- The Court staff has been reduced by two (2) full time employees during the past 2 years. The Court has met with a representative of the 9<sup>th</sup> Judicial District Supervising Judge's office. It was suggested we need an Assistant Court Clerk. Additionally, it was suggested the Town Controller office assist with monthly auditing and reconciliations. The Court has requested this assistance from the Town; both requests were denied due to budget reasons.
- E. Without appropriate staffing, risk of error remains.

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1

RECOMMENDATIONS/ACTION TAKEN

1. Upon learning of the issues appointments were made and kept with the Town Auditor and the Town Controller. Issues were immediately investigated and addressed.

2. Regarding the Bail Account Issue:

A. A new bail account was created with the bank, however, the [REDACTED] computer program merges the accounts, a software issue yet to be resolved and possibly not able to be resolved. The Court contacted the NYS Comptroller and Town Attorney to establish bail return written policy.

B. Each 'error' file was pulled, as able; going back 20 years to 1991 some of the files had been shredded, however, computer printouts were made as best able.

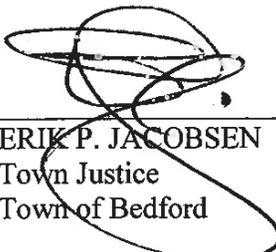
C. A supermajority, if not all of the errors have been indentified. The Court is attempting to reconcile the errors, however, as above-discussed, in the Judges' opinion, the Court is understaffed, and has difficulty in doing so and it will be quite time consuming.

3. The remaining issues appear issues of procedure and the Court understands have been resolved. For example, the collection for the last day of March was placed in the 1<sup>st</sup> day of April report, as the staff had been trained to close the account the last day of March for a final report. The Court staff had been following improper procedure.

The Court understands the issues of procedure were resolved, and requests the State Auditor and/or Town Auditor come to the Court to confirm the issues were properly addressed.

The issues and risks caused by lack of staffing continue; the Court reiterates concern.

  
\_\_\_\_\_  
KEVIN J. QUARANTA  
Town Justice  
Town of Bedford

  
\_\_\_\_\_  
ERIK P. JACOBSEN  
Town Justice  
Town of Bedford

## APPENDIX B

### OSC COMMENTS ON THE TOWN'S RESPONSE

#### Note 1

The Town was not as forthcoming with providing detailed cost information to the public as they could have been. However, after further review and consideration of the circumstances and discussions with the Town's Counsel after the conclusion of our fieldwork, we have revised the report to indicate that the Town could have more effectively communicated pertinent cost information to the public.

#### Note 2

We have no objection to the Town undertaking steps to provide additional cost information to the public.

#### Note 3

The Town's response indicates that in 2009 Town officials viewed the proposed extension as a "paper extension." However, the establishment of the extension was in anticipation of the construction of a \$23.9 million project water treatment plant based on a 2009 engineering plan which included capacity to provide approximately 500,000 gallons of water per day to the extension, about one-fourth of the capacity of the treatment plant.

#### Note 4

The purpose of the notice of hearing is to reasonably apprise the public of the estimated costs of the proposal at hand in the first year following formation of the district or extension, or if greater, the first year in which both principal and interest on any indebtedness and operation and maintenance costs will be paid. Even if the Town's statement that costs to the typical property would be \$0 met minimum legal requirements, the notice could have more effectively communicated pertinent information by providing an estimation quantifying potential costs to the typical property.

#### Note 5

Although no contract had been signed as of the date of the publication of the notice of hearing, we believe the Town still could have given some reasonable estimate quantifying potential costs.

## APPENDIX C

### AUDIT METHODOLOGY AND STANDARDS

Our overall goal was to identify potential saving in the health insurance area and assess the adequacy of the internal controls put in place by officials to safeguard Town assets. To accomplish our audit objective and obtain valid audit evidence, we performed the following procedures:

- We reviewed cash receipt records maintained by the water district clerk for completeness and adequacy.
- We tested samples of receipts recorded from December 1, 2010 to February 28, 2011 and compared them to deposits made to the bank.
- We reviewed the collection of water receipts and their associated fees.
- We reviewed all documentation on the improvement and extension of the consolidated water district.
- We interviewed the Court clerks concerning Court operations to understand the internal control system, and to determine whether Court operations complied with rules and regulations.
- We compared recorded cash receipts and disbursements with supporting documentation such as case files, records of bail transactions, and reports to the JCF.
- We conducted a cash count and reconciled the Justice's total available cash with known liabilities as of March 31, 2011. We also compared the Court's electronic records to data we obtained from the JCF.
- We traced duplicate cash receipts for bail to bail activity reports to verify that the payments were properly recorded in the Court's computer system.
- We reviewed bail account listing for accuracy and recorded accounts with negative amount.
- We collected and reviewed relevant financial data and health insurance invoices to determine the total annual cost of providing health insurance benefits to Town employees and the number of employees who received health insurance coverage during the audit period.

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.

## APPENDIX D

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**OFFICE OF THE STATE COMPTROLLER**  
**DIVISION OF LOCAL GOVERNMENT**  
**AND SCHOOL ACCOUNTABILITY**

Steven J. Hancox, Deputy Comptroller  
Nathalie N. Carey, Assistant Comptroller

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