

# Village of Scotia

## Parking Tickets and Justice Court Operations

JUNE 2019



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

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# Report Highlights

## Village of Scotia

### Audit Objective

Determine whether Village officials properly account for and enforce the collection of issued parking tickets.

Determine whether Justice Court (Court) collections were recorded and reported accurately and timely.

### Key Findings

- The Village had 6,776 unpaid parking tickets totaling \$354,705 outstanding as of July 31, 2018.
- The Clerk used her discretion to forgive late fees totaling \$5,110 on 184 (or 78 percent) parking tickets.
- The Court's bail liability was \$36,425, or \$6,924 less than the \$43,349 recorded in the system as of July 31, 2018.

### Key Recommendations

- Ensure current enforcement practices are operating effectively and consider adding alternative measures that may increase the collection of fines and related penalties.
- Reduce or forgive late fees only upon receiving written approval from the Justice.
- Correct the bail account financial records.

Village officials generally agreed with our recommendations and indicated they planned to initiate corrective action.

### Background

The Village of Scotia (Village) is located in the Town of Glenville in Schenectady County. The Village is governed by a Board of Trustees (Board) composed of a Mayor and four Trustees. The Board is responsible for the general management and control of Village finances and overseeing financial activities.

The Village has one elected and one appointed Justice and a full-time Court Clerk (Clerk). The Justices are responsible for enforcing the collection of parking fines from tickets issued by the Police Department and for reporting the financial activities to the Office of the State Comptroller's (OSC) Justice Court Fund (JCF) monthly. The Clerk is responsible for assisting with financial responsibilities, including collecting and recording payments, issuing receipts, making deposits and preparing monthly reports.

#### Quick Facts

<b>2018-19 Budgeted Appropriations</b>	\$9,243,688
<b>Population</b>	7,729
<b>Unpaid Tickets as of July 31, 2018</b>	6,776
<b>Dollar Amount of Unpaid Tickets as of July 31, 2018</b>	\$354,705
<b>Bail Disbursements Made During Audit Period</b>	\$62,613

### Audit Period

June 1, 2017 – July 31, 2018

# Parking Tickets

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## **How Should Village Officials Account for Parking Tickets and Enforce the Related Fines?**

Parking ticket fines can be a substantial revenue source for village operations. The board is responsible for adopting written policies governing parking ticket operations while the justices are responsible for implementing board policy and establishing procedures that provide court employees with clear guidelines on how to enforce the collection of outstanding parking ticket fines.

Village officials have options to supplement enforcement efforts and increase collection rates including delinquency notices, vehicle impoundment, amnesty programs<sup>1</sup> and participating in the New York State Department of Motor Vehicles (DMV) Scofflaw Program (Scofflaw Program).<sup>2</sup> Officials can also supplement efforts by enacting ordinances that permit the use of arrest warrants or civil actions, using license plate readers to identify vehicles with significant parking violations or contracting with collection services.

Because court fines will not necessarily be collected for each parking violation issued, a collection benchmark rate should be used by village officials to occasionally assess whether enforcement practices are operating effectively.

In addition, village officials should establish policies and procedures over assessing, collecting and forgiving late fees. The Village's Board-adopted policy states that late fees will not be forgiven unless exigent circumstances exist and that the Clerk must contact the elected Justice to approve any reduction and/or forgiveness of late fees.

## **Board Policy Was Inadequate and Court Officials Did Not Effectively Enforce Parking Ticket Fines**

The Board-adopted policy did not provide guidelines on how to enforce the collection of outstanding parking tickets. In addition, the Court's methods of enforcing the collection of unpaid parking tickets by issuing delinquency notices and impounding vehicles were not operating effectively and the Court did not participate in any other alternative enforcement practices. During our audit period, the Court disposed 400 of 847 issued parking tickets, resulting in a parking ticket collection rate of 47 percent. The Village had 6,776 unpaid parking tickets totaling \$354,705 as of July 31, 2018.<sup>3</sup>

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1 Programs in which unpaid fines could be paid without penalty, or some alternative, for a designated period of time. A village should only implement an amnesty program when it is anticipated that the resulting collections would justify the forfeiture of penalties or other fees.

2 Under this program, local governments notify the New York State Department of Motor Vehicles (DMV) when a vehicle registrant has three or more unresolved parking tickets in an 18-month period. When this occurs, the DMV denies the vehicle registration renewal until the registrant appropriately addresses the outstanding tickets.

3 Figure 1 includes periods outside of our audit period to provide context for when the tickets outstanding as of the end of our audit period were issued.

**Figure 1: Outstanding Parking Ticket Fines and Late Fees**

Year	Tickets Issued	Revenue Received	Tickets Outstanding	Fines and Late Fees Outstanding	Percentage Outstanding
<b>Before 2014</b>	27,647	\$415,578	4,859	\$250,565	18%
<b>2014</b>	1,330	\$22,560	600	\$31,525	45%
<b>2015</b>	919	\$14,400	416	\$22,350	45%
<b>2016</b>	693	\$10,475	324	\$17,605	47%
<b>2017</b>	693	\$9,715	370	\$20,555	53%
<b>2018<sup>a</sup></b>	404	\$5,940	207	\$12,105	51%
<b>2014 to 2018 Totals</b>	4,039	\$63,090	1,917	\$104,140	47%
<b>Grand Total</b>	<b>31,686</b>	<b>\$478,668</b>	<b>6,776</b>	<b>\$354,705</b>	<b>21%</b>

a Through July 31, 2018

Delinquency Notices – The Court’s computerized system (system) was not set up to generate batch delinquency notices for mailing at designated time intervals.<sup>4</sup> Rather, the Clerk issues delinquency notices when the system notifies her that a vehicle owner has received two or more prior outstanding parking violations when entering a subsequent parking violation. Delinquency notices were issued for 158 parking tickets during the period June 1, 2017 to July 31, 2018. These notices resulted in payment and disposition for 77 issued tickets. However, 447 parking tickets issued during the period June 1, 2017 to July 31, 2018 remained non-disposed as of July 31, 2018, including 40 tickets issued to 12 plate numbers that each had three or more parking tickets issued without delinquency notices being sent. In addition, only 25 percent of the 1,917 outstanding tickets with fines and late fees totaling \$104,140 were issued delinquency notices.<sup>5</sup>

**Figure 2: Use of Delinquency Notices**

Year	Tickets Issued	Tickets Outstanding as of 7/31/18	Fines and Late Fees Outstanding as of 7/31/18	Delinquency Notices Issued	Delinquency Notices Issued to Outstanding Tickets
<b>2014</b>	1,330	600	\$31,525	111	19%
<b>2015</b>	919	416	\$22,350	86	21%
<b>2016</b>	693	324	\$17,605	79	24%
<b>2017</b>	693	370	\$20,555	107	29%
<b>2018<sup>a</sup></b>	404	207	\$12,105	94	45%
<b>Totals</b>	<b>4,039</b>	<b>1,917</b>	<b>\$104,140</b>	<b>477</b>	<b>25%</b>

a Through July 31, 2018

4 The system can be configured to perform this function.

5 Figure 2 includes periods outside of our audit period to provide context for when the tickets outstanding as of the end of our audit period were issued.

Vehicle Impoundment – Although a local law was adopted on March 13, 2013 to authorize the impounding of vehicles for unpaid parking tickets,<sup>6</sup> the Court did not use this enforcement technique until March 2018. From March 29, 2018 through July 31, 2018, the Court directed the impoundment of four vehicles with a combined total of 101 outstanding tickets with fines and fees totaling \$5,100. Although this technique effectively prompted payment of outstanding tickets, the Clerk forgave 21 percent or \$1,075 in late penalties without obtaining approval from the elected Justice, as required by Board policy.

**Figure 3: Forgiven Late Fees For Vehicle Impoundment**

Owner	Date Notified	Date Towed	Unpaid Tickets	Amount Owed	Amount Paid	Variance	Collection Rate	Paid Date
1	3/28/18	3/29/18	32	\$1,575	\$1,200	\$375	76%	3/29/18
2	5/23/18	6/11/18	39	\$1,900	\$1,375	\$525	72%	6/11/18
3	6/5/18	6/11/18	17	\$850	\$850	\$0	100%	6/11/18
4	6/26/18	6/27/18	13	\$775	\$600	\$175	77%	6/28/18
<b>Totals</b>			<b>101</b>	<b>\$5,100</b>	<b>\$4,025</b>	<b>\$1,075</b>	<b>79%</b>	

Late Fee Forgiveness – The Clerk collected payments on 400 outstanding parking tickets during our audit period for which the Village should have collected \$17,280. We determined 237 of these tickets should have had late fees added and collected. However, the Clerk forgave late fees totaling \$5,110 on 184 (or 78 percent) of these tickets without first getting approval to do so from the elected Justice, as required. As a result, the Village only collected \$12,170 because the Clerk continued this practice, as performed by the prior clerk, and indicated that she was not provided with adequate supervision from the Justice.

Scofflaw Program – Although the Court had the ability, it did not use the Scofflaw Program to enforce the payment of unpaid parking tickets. From our review, the Village could have scoffed the renewal of 42 vehicle registrations, for which 174 issued tickets remained outstanding with fines and fees totaling \$9,500 during our audit period. In January 2013 OSC issued an audit report<sup>7</sup> that included findings that the Village could enhance revenues by participating in the Scofflaw Program. While the Village’s corrective action plan indicated that the Court was enrolled in the Scofflaw Program, the Court did not report any vehicles to the DMV as part of the Program.

6 The Village adopted a local law and updated its codes and regulations enabling the impounding of vehicles that have three or more unresolved parking tickets in an 18-month period (i.e., determined to be scofflaw).

7 NYSOSC Audit Report 2012M-148

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Because the Board did not establish a collection benchmark rate, it was unable to monitor whether enforcement practices for outstanding parking ticket collections were being used effectively. The Mayor and the elected Justice stated the Court is understaffed and employees have not had an opportunity to evaluate enforcement techniques. The failure to effectively enforce the collection of unpaid parking tickets was the result of the Board not adequately addressing findings in the previous audit report and ensuring the Court was adequately pursuing the collection of revenues for parking tickets. By participating in any of the various enforcement methods available, the Village could increase revenues from parking ticket fines.

Except for the ineffective enforcement practices discussed, Court officials generally accounted for parking tickets properly. However, without adequate policies and procedures governing parking ticket operations that provide Court employees with clear guidelines on how to account for parking tickets and enforce the collection of outstanding parking fines, Village officials cannot ensure that revenues received are properly recorded and deposited and that enforcement practices are effective.

### **What Do We Recommend?**

The Board and Court officials should:

1. Adopt and implement written policies and procedures for collecting and enforcing outstanding parking ticket fines.
2. Develop a collection benchmark rate for parking ticket collections and periodically monitor and review unpaid parking tickets to assess the effectiveness of enforcement practices.
3. Ensure current enforcement practices are operating effectively and consider adding alternative measures that may increase the collection of fines and related penalties.

The Clerk should:

4. Obtain written approval from the Justice before forgiving any late fees.

# Justice Court Operations

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A court has jurisdiction over vehicle and traffic, criminal, civil and small claim cases. Justices adjudicate legal matters within the court's jurisdiction and administer money collected from fines, surcharges, civil fees, and bail.<sup>8</sup>

The Court accepts payments in the form of cash, check, money order, credit card and e-payments,<sup>9</sup> which can be deposited into one of three bank accounts. Each Justice has their own account for fines and fees and there is one account for bail transactions. The Clerk makes deposits and prepares checks to be signed by the Justices.

The Court assigns each case file a unique number and the relevant case information, including disposition, is entered into the system. The information in the system is used as a case file index and allows the Clerk to locate the case file for use in the Court.

## **How Should Justices Account for Court Funds and Maintain Case Files?**

Justices must ensure that court personnel issue receipts to acknowledge the collection of all funds paid to the court, record each receipt in the accounting records and deposit all funds intact (i.e., in the same amount and form as collected) as soon as possible but no later than 72 hours from the date of collection, exclusive of Sundays and holidays. Justices should provide adequate oversight of the work performed by court personnel.

To safeguard court funds, including bail proceeds, and ensure adequate accountability, justices must maintain complete and accurate accounting records of collections and disbursements. Justices should maintain a record of the date bail is received, who paid it and the case to which it relates.

On a monthly basis, justices should perform a reconciliation between the bank balance and the checkbook balance for each bank account. Also, an accountability of funds should be conducted by preparing a list of court liabilities and comparing it to reconciled bank balances and money on hand. Any discrepancies should be investigated and resolved, and any unidentified funds should be remitted to the New York State Justice Court Fund (JCF).

For each case brought before the court, justices must maintain separate case files, and such records must include all relevant case information and be properly and accurately reported to the JCF. The status of each case (e.g., awaiting the defendant's first appearance, fines assessed and due, closed, etc.) in the individual case files should agree with the case status in the system.

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<sup>8</sup> Justices collect bail from defendants to ensure their appearance in court to answer charges. Bail money is returned when the case has been adjudicated or used to pay Court-imposed fines and fees.

<sup>9</sup> E-payments allow payees to pay online. The online site is handled by a third party.

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## Bail Balance Was Overstated

The Clerk issued receipts in sequential order; generally deposited fines, fees and bail timely and intact; accurately reported collections to the JCF; and issued disbursements for appropriate purposes signed by the Justice. However, we found that she did not record the issuance of five bail disbursements totaling \$3,300 in the system. Furthermore, an additional 40 bail disbursements totaling \$20,990 were not recorded timely. The Clerk stated that she often recorded the date the check cleared the bank account into the system instead of the date of the actual disbursement which is what she should record. Additionally, the Clerk indicated bail held on behalf of two defendants totaling \$150 should have been returned and bail held on behalf of nine defendants totaling \$1,950 should have been forfeited. The Clerk stated that formal procedures have not been established to ensure bail is returned or forfeited timely.

The Clerk prepared a schedule that identified collections deposited monthly and compared it to the bank statements. However, because neither she nor the Justices performed bank reconciliations or accountability analyses, which we had recommended in a prior audit,<sup>10</sup> we reconciled the Justices' fines and fees and bail bank accounts and compared cash assets to known liabilities for each month during our audit period and discussed minor reporting exceptions with officials. We also inspected bail records prior to our audit period and found bail returned to defendants was incorrectly or not recorded at all for 14 defendants totaling \$3,624 dating back to February 1990. Therefore, the Court's actual bail liability was \$36,425, or \$6,924 less than the \$43,349 recorded in the system as of July 31, 2018.

OSC also previously reported the Justices did not know how much of the bail money in their combined bank account was attributable to current pending cases and the source of the remaining funds, for which unidentified amounts should have been reported and remitted to the JCF. These continued discrepancies indicate that the Justices did not take adequate corrective action in response to our prior audit findings and recommendations. As a result, the Justice's bail liability has been consistently overstated and recording errors have remained undetected and uncorrected. Additionally, we identified a \$692 cash overage in the bail bank account for every month reviewed<sup>11</sup> and \$1,958 that was deposited in the bail account in error on January 18, 2018 but should have been deposited into one of the Justice's fines and fees account. Upon notifying the Clerk of this mistake, it was deposited to the Justice's bank account on May 31, 2018. Without performing bank reconciliations and accountability analyses, the Justices cannot identify and correct errors timely. Furthermore, by not adequately accounting for bail disbursements, the Court's bail balance was overstated.

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<sup>10</sup> In addition to our audit (NYSOSC Audit Report 2012M-148), the Village's prior independent audits also discussed the lack of reconciliations and accountability analysis.

<sup>11</sup> The overage appears to be related to a transaction(s) that occurred prior to our audit period.

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## Dispositions Were Not Properly Recorded

Our prior audit report noted the Justices did not review open cases to ensure the volume of such cases appeared reasonable and all dispositions were properly recorded. To determine if appropriate corrective action had been taken, we obtained a pending case report generated from the system and found it contained 1,092 old undisposed cases going back to the 1980s. However, 493 cases listed in the report had been assigned a code in the Court's system indicating the case was disposed. We selected 120 cases from the pending cases report to review case files and determine if the status of cases was properly recorded.

The Clerk was unable to locate 20 case files, most of which were related to cases prior to 2010. For the remaining 100 cases, the status of four cases was not accurately recorded in the system and, with the exception of minor discrepancies discussed with Village officials, we determined the status of 70 cases was accurately recorded as non-disposed in the system. The other 26 cases had been previously disposed of. However, the cases had not been disposed of properly in the system due to a clerical error made when recording the disposition of cases. As a result, these cases were not permanently closed out. Without an adequate process for updating the case files in the system, Village officials lack assurance that the information contained in the system, which is used to index cases, is accurate and complete.

## What Do We Recommend?

The Justices should:

5. Develop and implement procedures to ensure bail is returned or forfeited timely.
6. Ensure bank reconciliations and accountability analyses are performed on a monthly basis and promptly investigate and resolve any discrepancies.
7. Ensure bail disbursements are recorded in a timely manner.
8. Correct the bail account financial records.
9. Return identifiable bail funds and remit unidentified funds to the JCF.
10. Develop a corrective action plan in response to this audit that includes actions to be taken and the timeline for implementation and monitor progress against the plan.
11. Implement a process for updating case files and perform a periodic review of all open cases to ensure the volume of such cases appears reasonable and all dispositions are properly recorded.

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The Clerk should:

12. Properly close disposed cases.

# Appendix A: Response From Village Officials

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***Scotia Village Court***

**4 N. Ten Broeck St  
Scotia, NY 12302  
518-374-2099**

Jason A. Frament  
Village Justice

Victoria Ferrante  
Court Clerk

Wednesday, May 29, 2019

Office of the New York State Comptroller  
Glens Falls Regional Office  
Jeffrey P. Leonard, Chief Examiner  
One Broad Street Plaza  
Glens Falls, New York 12801-4396

**Re: Response to Audit, Village of Scotia Justice Court**

Dear Sir/Madam:

Please allow this letter to serve as the Village of Scotia Justice Court's response to your Report of Examination.

Initially, it should be noted that over the past several years, traffic tickets in the Village of Scotia have dramatically increased, so much so that the Village was required to hire a part time clerk to assist. As the workload increased without anticipation on the part of the Justice Court, so did the need for additional resources and personnel. As such, the collection of unpaid parking tickets, while certainly a priority, could not realistically be continuously followed up on a consistent basis because of the lack of workforce and significantly increased workload in other areas.

In addition, with respect to the bail issues and dispositions, it should be noted that some of the aspects related to this report date back to the 1980s, a time when the current Village Justice was not even an attorney, but rather in elementary school. Furthermore, with respect to the bail balance being overstated, it should be noted that this audit reviewed a time period dating back to February of 1990, a time when the current Village Justice was in high school.

Regardless, we have already taken steps to correct certain aspects listed in this report including, but not limited to, sending out delinquency notices to unpaid parking ticket defendants, requiring any reduction of late fees be handled by the Judge only in open court, towing certain vehicles with the requisite number of unpaid tickets and

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following up with the Scofflaw program. We have also taken steps to ensure the bank accounts are properly reconciled and the bail issues from years ago be taken care of.

I thank you for your detailed review and report and look forward to drafting and completing a complete corrective action plan in the near future.

Sincerely,

Jason A. Frament  
Scotia Village Justice

## Appendix B: Audit Methodology and Standards

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We conducted this audit pursuant to Article V, Section 1 of the State Constitution and the State Comptroller's authority as set forth in Article 3 of the New York State General Municipal Law. To achieve the audit objective and obtain valid audit evidence, our audit procedures included the following:

- We interviewed Court and Village officials and reviewed policies and the Village Code to gain an understanding of the Court's financial operations, parking ticket enforcement practices and procedures and assessed whether they were operating effectively.
- We reviewed a report of all issued, paid and unpaid parking tickets as of July 31, 2018 and determined the collection rate of outstanding fines and late fees.
- We reviewed 535 receipts collected over three months of our audit period totaling \$101,746 to ensure they were deposited timely and intact.
- We reviewed 27 check disbursements from the Justices' fines and fees accounts totaling \$406,950 and 111 check disbursements from the Justices' bail account totaling \$62,613 to determine whether they were made for appropriate purposes.
- We reconciled the bank account balances and performed month-end accountabilities for all accounts to determine whether assets agreed with known liabilities at month-end.
- We compared amounts from a current bail list to supporting documentation (i.e., manual bail log, bank statements and canceled check images, case files, and other miscellaneous Court documents) to determine if the list was accurate.
- We determined whether Village officials initiated adequate corrective action in response to prior audit recommendations.

We conducted this performance audit in accordance with GAGAS (generally accepted government auditing standards). 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.

Unless otherwise indicated in this report, samples for testing were selected based on professional judgment, as it was not the intent to project the results onto the entire population. Where applicable, information is presented concerning the value and/or size of the relevant population and the sample selected for examination.

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A written corrective action plan (CAP) that addresses the findings and recommendations in this report should be prepared and provided to our office within 90 days, pursuant to Section 35 of General Municipal Law. For more information on preparing and filing your CAP, please refer to our brochure, *Responding to an OSC Audit Report*, which you received with the draft audit report. We encourage the Board to make the CAP available for public review in the Clerk-Treasurer's office.

## Appendix C: Resources and Services

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### **Regional Office Directory**

[www.osc.state.ny.us/localgov/regional\\_directory.pdf](http://www.osc.state.ny.us/localgov/regional_directory.pdf)

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

[www.osc.state.ny.us/localgov/costsavings/index.htm](http://www.osc.state.ny.us/localgov/costsavings/index.htm)

### **Fiscal Stress Monitoring** – Resources for local government officials experiencing fiscal problems

[www.osc.state.ny.us/localgov/fiscalmonitoring/index.htm](http://www.osc.state.ny.us/localgov/fiscalmonitoring/index.htm)

### **Local Government Management Guides** – Series of publications that include technical information and suggested practices for local government management

[www.osc.state.ny.us/localgov/pubs/listacctg.htm#lmgm](http://www.osc.state.ny.us/localgov/pubs/listacctg.htm#lmgm)

### **Planning and Budgeting Guides** – Resources for developing multiyear financial, capital, strategic and other plans

[www.osc.state.ny.us/localgov/planbudget/index.htm](http://www.osc.state.ny.us/localgov/planbudget/index.htm)

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

[www.osc.state.ny.us/localgov/pubs/cyber-security-guide.pdf](http://www.osc.state.ny.us/localgov/pubs/cyber-security-guide.pdf)

### **Required Reporting** – Information and resources for reports and forms that are filed with the Office of the State Comptroller

[www.osc.state.ny.us/localgov/finreporting/index.htm](http://www.osc.state.ny.us/localgov/finreporting/index.htm)

### **Research Reports/Publications** – Reports on major policy issues facing local governments and State policy-makers

[www.osc.state.ny.us/localgov/researchpubs/index.htm](http://www.osc.state.ny.us/localgov/researchpubs/index.htm)

### **Training** – Resources for local government officials on in-person and online training opportunities on a wide range of topics

[www.osc.state.ny.us/localgov/academy/index.htm](http://www.osc.state.ny.us/localgov/academy/index.htm)

## Contact

Office of the New York State Comptroller  
Division of Local Government and School Accountability  
110 State Street, 12th Floor, Albany, New York 12236

Tel: (518) 474-4037 • Fax: (518) 486-6479 • Email: [localgov@osc.ny.gov](mailto:localgov@osc.ny.gov)

[www.osc.state.ny.us/localgov/index.htm](http://www.osc.state.ny.us/localgov/index.htm)

Local Government and School Accountability Help Line: (866) 321-8503

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**GLENS FALLS REGIONAL OFFICE** – Jeffrey P. Leonard, Chief Examiner

One Broad Street Plaza • Glens Falls, New York 12801-4396

Tel (518) 793-0057 • Fax (518) 793-5797 • Email: [Muni-GlensFalls@osc.ny.gov](mailto:Muni-GlensFalls@osc.ny.gov)

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