

Town of West Seneca

Capital Project Management

MARCH 2020



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

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Report Highlights

Town of West Seneca

Audit Objective

Determine whether the Town properly planned and managed a capital project.

Key Findings

The Board:

- Did not properly plan and manage the capital project and clearly inform taxpayers when the estimated cost and scope of the project changed.
- Was not fully transparent on the anticipated project costs. As a result, original estimates were \$9.8 million and increased by more than \$3.6 million after competitive bids were received.

Town officials did not:

- Ensure an itemized project budget outlining revenues and expenditures was maintained in the accounting records and periodically updated.

Key Recommendations

- Prepare realistic estimates and ensure the project costs are clearly defined.
- Prepare and approve an itemized budget, and amend and update the budget as the project changes.

Town officials agreed with our recommendations and indicated they planned to take corrective action.

Background

The Town of West Seneca (Town) is located in Erie County. The Town is governed by an elected Town Board (Board) composed of a Supervisor and four Board members. The Board is responsible for the general management and oversight of the Town's financial operations. The Supervisor serves as the chief fiscal officer.

In September 2016, the Board accepted an engineering and architectural proposal for library renovation and construction of a community center and Town offices. The project was completed in June 2018.

Quick Facts

Population	44,700
Initial Estimated Project Cost	\$9.8 million
Final Project Cost	\$13.5 million
Debt Issued	\$10.3 million

Audit Period

January 1, 2012 – July 31, 2019

Capital Project Management

How Should a Board Plan, Authorize and Monitor a Capital Project?

A governing board is responsible for the oversight and management of capital projects, including ensuring that projects are properly planned and managed, funding is authorized and costs are kept within the approved budget. The board and town officials should monitor progress and implement necessary changes to ensure the project is completed in the most cost-effective manner.¹ Proper planning of a capital project requires that the board have a thorough understanding of the project's overall scope and estimated cost before authorizing the project. Initial estimated costs must be realistic so a board can plan financing and keep the taxpayers informed.

When financing a project with debt, a board must adopt a bond resolution at the project's inception that includes, among other things, a statement of specific objects or purposes or class of objects or purposes for which the obligations to be authorized by the resolution are to be issued and a statement of the estimated maximum cost and a plan of financing of the total cost. In lieu of this statement, the resolution may specify that such information has been set forth in a capital budget or in an appropriation for such specific or class of objects or purposes or in a previously adopted bond resolution. After adoption of a capital budget, the supervisor is responsible for properly recording the project budget and subsequent financial activities.

The board should ensure that any changes to the project plan are within the project scope or premise of the initial proposal and update the corresponding budget. The board should ensure that all its actions and proceedings are documented in official records to ensure transparency to taxpayers. The board should monitor the status of the project by reviewing monthly financial reports that compare actual revenues and expenditures to the related budget.

The Board Was Not Fully Transparent About the Project Scope and Budget

The Board began planning a repair and maintenance project for the library in 2012, which expanded to a plan to construct a community center. According to the September 24, 2012 Board minutes, the Board requested the Town engineer² to prepare architectural drawings and plans for the library as part of the overall concept plans for the site.

In July 2014, the Board and engineer presented a plan to renovate the existing library and include a 10,000 square foot addition. The Board minutes indicated

¹ Refer to our publication *Capital Projects Fund* available at www.osc.state.ny.us/localgov/pubs/lgmg/capital-projects-fund.pdf

² The Town hired an outside engineer to serve as Town engineer.

that the existing library (7,000 square feet) would be renovated at a cost of \$175 per square foot and the addition would be constructed at a cost of \$275 per square foot, which we calculated at an estimated total cost of \$3.9 million.

The Supervisor told us that in November 2014 a snow storm damaged the building that housed the Town's recreation department and in 2015, another building, which housed the Town's finance office, was found to have damage. Due to concerns, the finance office was moved to a temporary location. The Supervisor told us that it became necessary to address these issues by including them in the capital project. Additionally, the Board wanted to create a community center that Board members believed would be a catalyst for the Town's economic development and growth.

The engineer prepared a preliminary estimate of \$9.8 million for the community center construction and library renovation project, which was presented to the Board in March 2016. This estimate included such things as unfinished space for future offices on the first floor, a community recreation room, first floor mechanical room and unfinished space for a café. Based on this estimate, on May 23, 2016, the Board passed a bond resolution subject to permissive referendum³ that determined the estimated maximum cost of the project to be \$9.8 million.

The project was to be financed by the issuance of up to \$8.4 million in serial bonds, application of \$1.4 million in funding from the Town's equipment lease/purchase agreement dated February 12, 2016, related to the Town's energy performance contract dated November 15, 2014 (energy performance contract funding), and application of any funding expected to be received from the State for the project. The \$9.8 million estimated maximum cost included \$7.9 million for building repairs and construction and \$1.9 million for furnishings and contingencies. In September 2016, the Board formally accepted the proposal from the engineer's firm to provide engineering and architectural services related to the project; this proposal stated that the project budget was approximately \$9.5 million.

The Board solicited bids in October 2016, which were received in November, and awarded to five contractors on December 5, 2016. While the engineer's initial estimate for the project was \$9.8 million, the post-bid estimated cost increased to more than \$13.4 million, approximately \$3.6 million more than the estimated maximum cost established by the Board. According to a memo from the engineer to the Board dated December 5, 2016, the bids were more than the initial estimate because it was made prior to the addition of second-story office space

³ A permissive referendum is a ballot proposition submitted to qualified electors of the town at a special election, to approve or disapprove a bond resolution that has been adopted by the town board. A permissive referendum is held if the requisite number of qualified electors petitions the town board to hold the special election for the ballot proposition.

and the high ceiling space for the recreation department. The memo stated that the additional work would require an additional borrowing of \$2.2 million.

The Supervisor told us this change allowed for the mechanical room to be moved to the second floor, the addition of unfinished space for future offices on the second floor and an increase in ceiling height for the recreation department to allow for a half-court for basketball. However, Town officials were unable to provide us with documentation showing, nor could we find evidence in the Board minutes, that the Board adopted another resolution to effect these changes and increase the estimated cost of the project before soliciting bids or starting the project. However, the October 31, 2016 architectural plans provided to us by the engineer included the additional work and these plans were included in the contract documents provided for contractors to inspect when preparing their bids.

Figure 1: Comparison of the Board’s Maximum Cost Estimates with Post-Bid Estimates

Project Element	Board Approved Maximum Cost Estimate (May 2016)	Post-Bid Estimate (January 2017)	Difference
Repairs and Construction	\$7,865,045	\$11,895,100	\$4,030,055
Furnishings and Contingency	\$1,967,000	\$1,551,030	(\$415,970)
Total Costs	\$9,832,045	\$13,446,130	\$3,614,085

Although the initial plan included some first floor unfinished office space,⁴ we question whether \$3.6 million (37 percent) in additional costs over the original estimate was within the overall scope of the original project plan established by the Board and presented to the public. Town officials and the engineer were unable to provide us with an amended budget reflecting the added costs due to these changes.

The increase in cost, and the change in plan were documented in the Board minutes only after the bids were received. Additionally, we found no evidence that the engineer’s memo explaining the increase in cost was made available to taxpayers, because it was not documented in the Board’s record of proceedings. In addition, the post-bid project estimates and subsequently updated budget were not prepared in the same itemized format as the original estimate. For example, the original estimate itemized the different elements of the building, thereafter updated estimates were presented based on total bid amounts for each contractor’s trade.⁵

4 First floor cubicles and a mechanical room.

5 General, mechanical, electrical, plumbing and fire protection contractors.

After construction began, on January 18, 2018, the Board adopted a bond resolution, subject to permissive referendum,⁶ authorizing additional financing for the project with a revised estimated maximum cost of \$14.9 million, or \$5.1 million more than the initial cost estimate. The plan of financing included the issuance of up to \$5.1 million in serial bonds, in addition to the \$8.4 million in bonds previously authorized by the May 23, 2016 bond resolution, application of \$1.4 million in energy performance contract funding and application of \$1.6 million in grant funds expected from the State. Total financing sources included in this resolution totaled \$16.5 million (more than the project's estimated maximum cost indicated in the resolution by approximately \$1.6 million). Officials did not prepare a detailed itemized budget in connection with this bond resolution to demonstrate the reason for the increase in the estimated cost.

While the Board established financing sources needed to fund the project, only the initial revenue and appropriation budget entries were recorded in the accounting system. Subsequent budget changes were not recorded in the system. As a result, up-to-date budget status reports could not be prepared. Consequently, the Board was unable to effectively monitor the project by ensuring financing sources were sufficient to fund expenditures or that the budget was always in balance. After appointment in September 2017, the Director of Finance manually prepared spreadsheets that were used by the Board and Town officials to monitor the project.

Following the adoption of the January 18, 2018 bond resolution, in February 2018, the Board was petitioned by residents seeking a referendum on that resolution. In light of the petition, the Board passed a resolution on February 26, 2018 stopping any further project expenditures, and directing the Town Attorney, the Director of Finance and the Town's engineering firm to work with outside counsel, outside accountants and project contractors to provide a report and recommendations concerning the project, including the status of construction, costs incurred, legal obligations and available savings from changes in the scope of work, among other things.

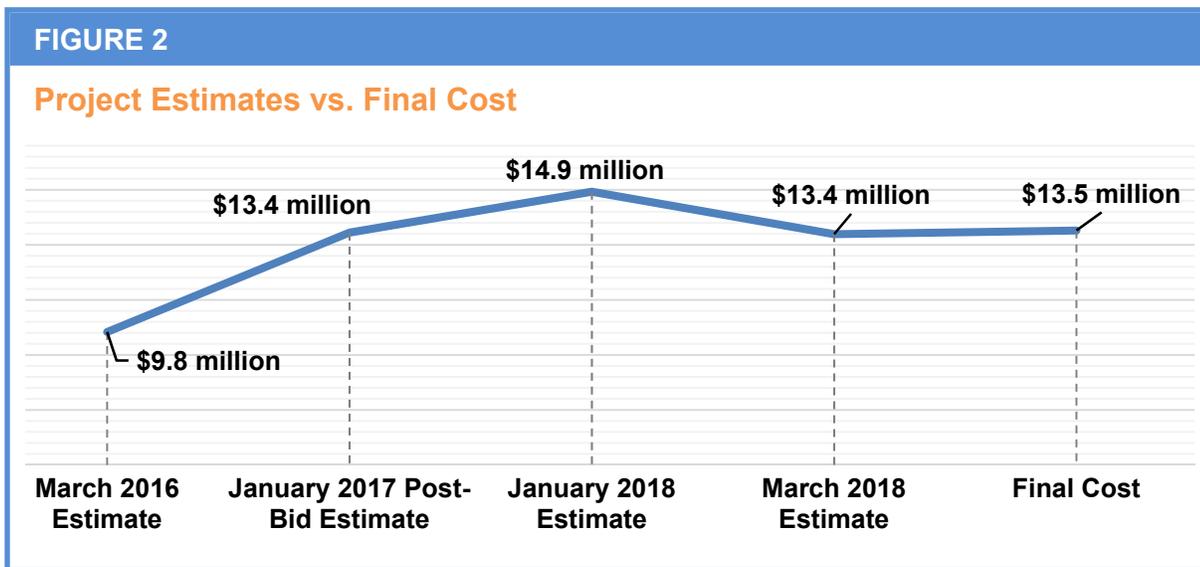
Before the referendum could be held, the Board adopted a resolution on March 12, 2018 to rescind the January 18, 2018 bond resolution. As a result, residents were unable to vote on that particular borrowing authorization. At the March 12, 2018 meeting, the Board adopted another bond resolution, subject to permissive referendum, with an estimated maximum project cost to be approximately \$13.4 million.

The revised financing plan included the issuance of up to \$1.9 million in serial bonds in addition to the \$8.4 million bonds previously authorized by the May 23, 2016 resolution, application of \$1.4 million in energy performance contract funding

⁶ This resolution was subsequently rescinded, as discussed below.

and \$1.6 million in grant funds expected to be received from the State. The March 12, 2018 bond resolution included an estimated maximum cost for the project that was \$1.5 million less than the January 18, 2018 bond resolution’s estimated maximum cost of \$14.9 million.

The Board minutes for the March 2018 meeting included the reports received from Town officials requested by the previously discussed February 26, 2018 resolution. The report from the Town Attorney stated that the original bond resolution was adopted before the final design and the project was publicly bid. The report also indicated that \$3.1 million of the \$5.1 million proposed serial bond funding on January 18, 2018 was to serve as money to be used to address cash flow issues while waiting for grant reimbursement, and not the actual cost of the project. If the Board intended to use \$3.1 million for cash flow purposes, it was not transparent to taxpayers because the increase in estimated cost to \$14.9 million made it appear to be necessary to complete the project.



The Town Attorney’s report also stated that the \$3.1 million intended for cash flow purposes was no longer needed because certain grants had been received, which the Town’s consultants were unaware of. Therefore, the estimate of required cash was overstated. We found that as of March 12, 2018, the energy performance contract funding and one grant totaling \$1.9 million were received and/or available as of February 2016.

Further, the Town Attorney’s report specified that the \$14.9 million in estimated cost was overstated by \$1.4 million as costs related to the energy performance contract funding was included twice after a miscommunication between the engineer and bond counsel. The Supervisor and the engineer were jointly responsible for preparing reports used by the Board to monitor the project and

it appears that they had adequate time to communicate accurate information to the engineer and bond counsel. Additionally, if detailed itemized reports were prepared, Town officials may have been able to identify and correct such reporting errors. The other two grants totaling approximately \$594,000 were received on April 30, 2018, and two grants, totaling approximately \$592,000, were still outstanding at the end of our audit fieldwork.

When inaccurate costs are included in project estimates, there is an increased risk that the Board may issue more debt than necessary. In addition, there is risk the additional funding may be used for costs that were not in the original project scope.

The Board and Town officials did not properly plan and manage the capital project and clearly inform taxpayers when the estimated cost and scope of the project changed. Had the Board provided more detailed and accurate budgetary information and better explained how the financing sources would be used, taxpayers would have been in a better position to make more informed decisions.

What Do We Recommend?

The Board should:

1. Prepare and approve an itemized budget and amend and update it as the project plan changes.
2. Ensure all Board action and proceedings are recorded in the official Board minutes to ensure transparency to taxpayers.
3. Ensure accurate cost estimate schedules or budgets are available in connection with the bond resolution.

The Supervisor should:

4. Ensure complete and accurate accounting records are maintained and provide the Board with monthly reports comparing actual revenues and expenditures to budgeted amounts.

Appendix A: Response From Town Officials



Office of the West Seneca Town Supervisor Hon. Gary A. Dickson

February 24, 2020

Office of the New York State Comptroller
Buffalo Regional Office
295 Main Street, Suite 1032
Buffalo, NY 14203-2510

RE: Audit Response

To whom it may concern:

This Supervisor, having not been a Town official at the time of the project, recognizes the need for greater transparency and more input solicited from the residents as it relates to the need and expenditure for such a large capital project. There was no referendum for this particular project, which would have provided the residents an opportunity to be heard as to whether they were in favor of this particular project. The project grew in scale overtime, and in my opinion, falls short of filling the Town's needs, especially for The Recreation Department. A hallway from the community room to the main hall had to be added after the building was occupied, and the second floor of the building was not completed during the construction.

The initial bond resolution for the Community Center and Library was based on the estimated budget, as provided by the Town Engineers. After this resolution was passed, changes were made to the original design due to the Town's loss of the Burchfield Nature Art Center's building offices as well as some mechanical changes that were made to accommodate the changes in design. As a result, when the Town went out to bid, the bids came back significantly higher than what was estimated in the original budget. The initial bond resolution that was passed provided adequate funding to begin construction. Phase I of construction was required to be completed by June 30, 2017, in order to qualify to be reimbursed by certain grant funding. The Town did not pass the second bond resolution until the funds were needed to continue the project. The Town was under a strict deadline for Phase II of the project to be completed by June 30, 2018, in order to be reimbursed by the remaining grant funding that had been awarded. The professional report that was issued in March 2018 recommended that the second bond resolution be rescinded and that a new resolution be adopted. As a result of this funding, construction was able to continue and the June 30, 2018 grant deadline was met.

The Town acknowledges that during the initial phase of the project, the Board was not provided with updated budget reports to monitor the cost of the project. The clerk who was responsible for updating budget in the accounting system fell ill and was out for several months, eventually passing away. During the course of the project, the Town held bi-weekly construction meetings that included the Town Engineer and a representative from each contractor which were monitored by Town Board Members and the Town Attorney in order to provide an up to date status report of each component of the project. Further, in October 2017, the Town hired a Director of Finance which replaced the Comptroller position which had been vacant for a number of years. By filling this position, the Town now had a person to ensure the accounting system was kept up to date in regards to the capital project budget. The Director of Finance provided to the Board with detailed budget updates that were above the level of detail that the reports ran from the software system was able to provide.

Corrective Action Plan

Moving forward, the Town is dedicated to ensuring public support and involvement in decision-making for large capital projects. The Town will strengthen its internal controls surrounding the Capital Project process and to ensure full transparency to the public. As a matter of corrective action, prior to beginning a project, a Capital Project Initialization Form will be required to be completed including a detailed description of the project and an itemized proposed budget that identifies funding sources for the project. This Capital Project Form will be included as an agenda item at a Town Board Meeting subject to a Board vote prior to the project beginning. Over the course of the project, periodic updates will be provided at Town Work Sessions by the appropriate department heads. These updates will include all change orders that are approved so that the public can be kept up to date on any and all changes that are made to the project as well as budget status reports. The timing of these updates will be determined based on the length and scope of the project. Upon completion of the project, a Capital Project Completion Form will be completed including a summary of the course of the project, the final cost of the project and the status of all funding sources. This Capital Project Completion form will also be included as an agenda item to be accepted by the Town Board.

Sincerely,

Gary A. Dickson
Town Supervisor

Appendix B: Audit Methodology and Standards

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 Town officials and reviewed Board minutes to determine whether the Board adopted a resolution that established and identified the project, authorized the maximum estimated cost and established how the project would be financed, and to determine whether the Board and Town officials prepared an itemized budget.
- We reviewed the available project budget to ensure the Board and Town officials prepared a balanced budget and that the Town had adequate financing sources to cover the estimated cost of the project.
- We reviewed Board minutes to assess whether the Board properly established and documented bond resolutions.
- We assessed the adequacy of the monthly financial reports the Supervisor and/or Town officials provided to the Board to monitor the project.

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.

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 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 Town Clerk's office.

Appendix C: Resources and Services

Regional Office Directory

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

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

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

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

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

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

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

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

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

www.osc.state.ny.us/localgov/index.htm

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

BUFFALO REGIONAL OFFICE – Jeffrey D. Mazula, Chief Examiner

295 Main Street, Suite 1032 • Buffalo, New York 14203-2510

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