

**Town of Ramapo**  
**Internal Controls Over Selected Financial**  
**Activities**

**Report of Examination**

**Period Covered:**  
**January 1, 2009 – November 17, 2010**

**2011M-143**

---

## TABLE OF CONTENTS

Page

### **AUTHORITY LETTER**

### **EXECUTIVE SUMMARY**

### **INTRODUCTION**

Background  
Objective  
Scope and Methodology  
Comments of Local Officials and Corrective Action

### **BOARD OVERSIGHT**

Recommendations

### **BASEBALL STADIUM**

Stadium Financing  
Feasibility Analysis  
Recommendations

### **FINANCIAL CONDITION**

Budget Estimates  
Operating Deficits and Fund Balance  
Inter-Fund Advances  
Exceeding Appropriations  
Recommendations

### **INFORMATION TECHNOLOGY**

Breach Notification  
Disaster Recovery  
Auto Complete Setting  
User Accounts  
Inappropriate Computer Use  
Information Security Awareness Training  
Banking Policy  
Recommendations

**APPENDIX A** Response From Local Officials  
**APPENDIX B** Audit Methodology and Standards  
**APPENDIX C** How to Obtain Additional Copies of the Report  
**APPENDIX D** Local Regional Office Listing

## State of New York Office of the State Comptroller

---

### Division of Local Government and School Accountability

[Month] 2011

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 of Ramapo 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 Town of Ramapo, entitled *Internal Controls Over 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**  

---

**EXECUTIVE SUMMARY**

The Town of Ramapo (Town) is located in Rockland County and has 12 villages including; Airmont, Chestnut Ridge, Hillburn, Kaser, Montebello, New Hempstead, New Square, Pomona, Sloatsburg, Spring Valley, Suffern and Wesley Hills. The Town Board (Board) is the governing and legislative body of the Town. It determines policy and appropriates funds for various governmental functions and services. The Board has the rights to adopt and manage the budget, control and have custody of Town property, and oversee the Town's various Departments.

The Town provides various services to its residents, including maintaining and improving Town roads, snow removal, public improvements, recreation and cultural activities, water, and general governmental support. Budgeted appropriations for the fiscal years 2009 and 2010 were \$71.4 million and \$74.9 million, respectively.

**Scope and Objective**

The objective of our audit was to assess the Town's internal controls over selected financial activities for the period January 1, 2009, to November 17, 2010. We expanded the scope of our audit to include January 1, 2008, to May 18, 2011, to review the trends associated with the Town's finances and to include the Town's actions related to the baseball stadium construction project. Our audit addressed the following related questions:

- Did Town officials properly oversee and monitor the planning and construction of the baseball stadium to ensure compliance with taxpayer wishes?
- Are internal controls over the Town's finances appropriately designed to safeguard Town assets?
- Are internal controls over the Town's information technology (IT) system appropriately designed to protect electronic data?

**Audit Results**

Town officials have inappropriately mingled the activities of the Town and the Ramapo Local Development Corporation (RLDC) in the construction of a minor league baseball stadium, in contradiction to the expressed will of the Town's residents. These actions allowed Town officials to circumvent laws the Town is required to abide by for the approval and construction of such projects, and has resulted in the Town paying over \$35.4 million in improvement costs and being liable for at least \$25 million in bonds issued for debt on property that the Town no longer owns. In addition, there is little likelihood that the project will generate sufficient revenue to help the Town pay for this outstanding liability.

The Town will pay approximately \$27.5 million<sup>1</sup> in principal and interest payments on these bonds over the next five years. This is significantly more than the approximately \$7 million a feasibility consultant projected the baseball stadium would generate in net revenues available for debt service during the same time frame. The Town does not have a written agreement with the RLDC outlining how the RLDC will reimburse the Town for the principal and interest on these bonds. Supposedly the RLDC is relying on revenues that will be generated from the sale of affordable housing units to reimburse the Town. However, the RLDC obtained loans of approximately \$29.9 million that were also guaranteed by the Town to build these units. These loans must be repaid before any revenues generated from the sale of the units can be made available to reimburse the Town for payments related to the \$25 million bonds. As a result, it is unlikely that the RLDC will be able to reimburse the Town for the full principal and interest payments made on the \$25 million bonds.

We found that the Board has not exercised effective oversight of the Town. Board members told us that they received no financial reports; such as detailed project cost reports for Town projects (including the baseball stadium), budget versus actual reports, and generally did not receive or review contracts. Additionally, Board members told us that they did not know how much the baseball stadium would cost the taxpayers or how it would be paid for.

We also found that the Town had operating deficits of over \$5.6 million in 2010 in three major operating funds which caused a deficit fund balance in all three funds. The deficits occurred because of unrealistic revenue estimates and the Board's failure to monitor and adjust the budget when it became clear that the Town would not achieve anticipated results. During 2009 and 2010, the Town advanced approximately \$3.3 million and \$3.9 million, respectively, among funds with differing tax bases, but failed to pay back those funds by the close of the fiscal year as required by law. The advancing funds lost \$17,243 in interest because they were not paid back with a comparable rate of interest.

The Board did not establish adequate information technology policies, including a breach notification policy, online banking policy or policies for assigning or deactivating user accounts. Further, the Board has not adopted an entity-wide disaster recovery plan; therefore, in the event of a disaster, Town personnel have no guidelines or plan to follow to resume mission-critical functions. In addition, the auto-complete setting was enabled on the online banking computer. We also found multiple instances of non-work-related computer usage. As a result, the Town's computer system and electronic data may be susceptible to loss, unauthorized use, or improper disclosure.

### **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.

---

<sup>1</sup> This includes \$25 million in principal + \$2.5 million in interest.

## Introduction

### Background

The Town of Ramapo (Town) is located in Rockland County and has 12 villages, including Airmont, Chestnut Ridge, Hillburn, Kaser, Montebello, New Hempstead, New Square, Pomona, Sloatsburg, Spring Valley, Suffern and Wesley Hills. The Town provides various services to its residents, including maintaining and improving Town roads, snow removal, public improvements, recreation and cultural activities, water, and general governmental support.

The Town Board (Board) is the governing and legislative body of the Town. It determines policy and appropriates funds for various governmental functions and services. The Board is comprised of the Town Supervisor (Supervisor) and four councilpersons. Councilpersons are elected at large in odd-numbered years for four-year terms; these terms are staggered so that two councilpersons are elected each biennial session.

The Supervisor is the chief executive officer of the Town and is responsible, along with other administrative staff, for the day-to-day management of the Town under the direction of the Board. The Supervisor, who also is a voting member of the Board and Director of Finance, is responsible for oversight of the Town's ongoing capital projects and general Town finances. Budgeted appropriations for the fiscal years 2009 and 2010 were \$71.4 million and \$74.9 million, respectively.

The Director of Automated Systems (Director) is responsible for the day-to-day operations of the Information Technology (IT) Department, which is overseen by the Supervisor and the Board. The Department comprises two IT personnel who report to the Director. The IT Department is responsible for the Town's 41 laptops, 179 desktop computers, and 26 servers. The Town contracts with various outside vendors for IT-related services.

### Objective

The objective of our audit was to assess the internal controls over selected financial activities including the construction of a baseball stadium, financial condition and information technology. Our audit addressed the following related questions:

- Did Town officials properly oversee and monitor the planning and construction of the baseball stadium to ensure compliance with taxpayer wishes?
- Are internal controls over the Town's finances appropriately designed to safeguard Town assets?
- Are internal controls over the Town's IT system appropriately designed to protect electronic data?

## **Scope and Methodology**

We examined the Town's internal controls over selected financial activities, including the baseball stadium, financial condition and IT for the period January 1, 2009, to November 17, 2010. We expanded the scope of our audit to include January 1, 2008, to May 18, 2011, to review the trends associated with the Town's finances and to include the Town's actions related to the baseball stadium.

Our audit disclosed areas in need of improvement concerning some IT controls. Because of the sensitivity of this information, certain vulnerabilities relating to passwords are not discussed in this report but have been communicated confidentially to Town officials so they could take corrective action.

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 is included in Appendix B 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.

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

---

## **Board Oversight**

The Board has a fiduciary responsibility for Town assets and finances, and an obligation to serve the community, protect taxpayers' interests, and exercise good faith and due diligence. The Board, along with Town officials, is responsible for managing and overseeing the Town's overall fiscal affairs and safeguarding its resources. This responsibility includes establishing a sound internal control environment.

An important component of any system of internal controls is the control environment or "the tone at the top." The control environment is the foundation of a good internal control system, providing discipline and structure upon which the other components are based. It reflects management's attitude about internal controls and includes the integrity, ethical values, and competence of the entity's personnel, and management's philosophy and operating style. When this foundation is not strong or the control environment is not positive, the overall system of internal controls will not be as effective as it should be. The Board and Town officials must act with the highest ethical standards and carry out their oversight responsibilities in conformance with applicable laws, rules and guidelines that they expect their employees to follow. The Board and Town officials must be leaders in diligently protecting Town resources that are entrusted to them.

As the legislative body, the Board should establish and oversee much of the policy, financial, and ethical framework within which the Town operates. Through its actions and policies, the Board should chart the course for the Town's activities. The Board is responsible for monitoring the results of operations. Local governments routinely participate in construction projects that span several years and cost millions of dollars. It is important that the Board monitor the status of these substantial projects. The most common disclosures are project-based financial statements providing selected details of each project, such as total cost-to-date compared to budget or authorization.

The Board has not exercised effective oversight of the Town. The Board neither established policies nor oversaw the Town's financial operations. Board members told us that they received no financial reports; such as detailed project cost reports for Town projects (including the baseball stadium discussed in the next section), budget versus actual reports, and generally did not receive or review contracts. The Board made its decisions based upon representations from the Town Attorney and Supervisor. Additionally, although Board members should ensure they receive all necessary information, for the most part, they have not requested the information or ensured that they received requested information. In fact, Board members told us that they did not know how much the baseball stadium would cost the taxpayers or how it would be paid for. Without proper information, there is a risk that inappropriate decisions may be made which could result in further costs to taxpayers.

### **Recommendations**

1. The Board should establish and maintain a control environment that fosters a commitment to

compliance with relevant laws and Town policies. The Board also should routinely monitor the implementation and effectiveness of the internal control system.

2. The Board should ensure that financial decisions are based upon competent information.
3. The Board should require the Supervisor to provide project-based cost reports.

DRAFT

## **Baseball Stadium Capital Project**

Capital projects are usually long-term projects which require relatively large sums of money to acquire, develop, improve, or maintain. The Board is responsible for oversight and management of the Town's capital projects, including establishing internal controls to help ensure that capital projects are properly and adequately planned and managed. Effective controls help ensure that projects are properly planned, funding is authorized, and project costs are kept within their approved budget.

Local Development Corporations (LDCs) are private, not-for-profit corporations often created by, or for the benefit of, local governments for economic development or other public purposes. Although created by, or for the benefit of a local government, an LDC is a separate private corporation, distinct from the local government, having its own set of powers under the governing statutes. In exercising these powers, LDCs generally are not subject to the same requirements and procedures as local governments with respect to borrowing, procurements and certain other matters that relate to implementing a capital project. These requirements and procedures applicable to local governments are intended for the protection of taxpayers.

In September 2008, the Board formed the Ramapo Local Development Corporation (RLDC). According to the RLDC's Certificate of Incorporation, the RLDC's mission and objective is to "lessen the burdens of government by undertaking and promoting urban redevelopment initiatives in the Town...that will include real estate acquisition, development and management, real estate project finance, and other [permissible] community-based economic development activities..." The Supervisor, who is a voting member of the Board, serves as the President and a voting member of the RLDC.

### **Stadium Financing**

In June 2009, the Board purchased approximately 61 acres of property located at Fireman's Memorial Drive and Pomona Road for an estimated cost of \$8.4 million for general municipal purposes. Subsequent to the purchase, the Board decided to build a baseball stadium, as part of an urban renewal plan, which would serve as the home field for a minor league baseball team with approximate seating capacity of 3,500 and parking for 900 vehicles. In February 2010, the Board entered into an agreement with the RLDC to assist the Town with the development of the baseball stadium.

Board members indicated that they believed that the RLDC could build the stadium at a lesser cost because the RLDC does not have to comply with the Wicks Law. The Wicks Law generally requires multiple prime contracts for public works projects for the construction of buildings. When the Wicks Law applies, municipalities must award separate prime contracts for three major components of the work: electrical, plumbing, and HVAC (heating, ventilating and air conditioning). One or more contracts generally are awarded to general contractors for the remainder of the project scope. Furthermore, General Municipal Law (GML) requires that local governments competitively bid contracts for public work that involve expenditures in excess of

\$35,000. By using the RLDC to construct the stadium, the Board, in effect, circumvented the procurement laws that would have applied if the Town directly pursued the project.

In May 2010, the Board, by resolution, agreed to guarantee \$16.5 million in financing to be obtained by the RLDC. Generally, with several exceptions, the State's Constitution (article VIII, §1) prohibits a town from loaning its credit (e.g., guaranteeing loans) to or in aid of any public or private corporation or association.

Town taxpayers filed a petition for a special election on the resolution. The petition sought to directly protest the Board's resolution which authorized and agreed to provide a financial guarantee of the financing to be obtained by the RLDC for the development of the baseball stadium. In August 2010, the Board's resolution was defeated, with 71 percent of the votes cast against it. According to published reports, the Supervisor subsequently stated that the stadium would be built with private and not taxpayer funding.

Following the vote, the Board continued to expend Town funds on improvements to the property. In November 2010, with knowledge that the RLDC was unable to obtain or generate the necessary funds to complete the project, the Board, by resolution, transferred the property to the RLDC. Although the Town transferred the property, it retained responsibility to pay for the \$8.4 million in debt associated with the original purchase of the property and subsequent improvements, which are estimated to be an additional \$27 million. As a result of this decision, Town taxpayers have liability or potential liability for as much as \$35.4 million<sup>2</sup> in costs associated with a property the Town no longer owns.

In February 2011, the Board passed a resolution agreeing to serve as "guarantor" of \$25 million in short term obligations to be issued by the RLDC with a maturity date not to exceed five years. Taxpayers had previously indicated that they were opposed to the guarantee of 30-year bonds; in an apparent attempt to avoid the voters' opposition and guarantee the RLDC bonds, bonds with five-year terms were agreed upon. Under the "guarantee," the Town has agreed to be obligated to pay the principal and interest payments directly, with reimbursement from the RLDC. The Town agreed to a risky guarantee whereby revenues were pledged to pay these liabilities before any other Town payments were made. This could affect payments such as salaries and could impact essential services provided by the Town. Further, this may give RLDC bondholders a prior right to be paid over those holding obligations issued directly by the Town.<sup>3</sup>

---

<sup>2</sup> The cost shown above represents unaudited amounts as of June 8, 2011, and is not the total cost, as the project was ongoing as of this date.

<sup>3</sup> We understand that several issues related to the stadium's financing remain in litigation. Therefore, we have not made findings on underlying legal issues relating to the financing. Nonetheless, we find that the transaction raises significant legal issues, including: 1) The New York State (NYS) Constitution generally prohibits towns from loaning their credit (e.g., guaranteeing loans) to or in aid of any private or public corporation or association; 2) A local government may not submit a proposition to referendum, even upon petition of the voters, unless expressly authorized or required by statute. It is not clear under what statute the resolution was made subject to permissive referendum; 3) The NYS Constitution prohibits towns from making gifts or loans of property to or in aid of private entities. Although characterized by the Town and the RLDC as a "Purchase and Sale," the Town received no cash consideration for transfer of property. The "purchase price" under the transfer agreement was stated as "RLDC's development and construction of the Project...and the resulting community benefits to be derived therefrom..." It is unclear whether the purchase and sale is for adequate consideration so as not to constitute an unconstitutional gift by the Town.

The Town does not have a written agreement with the RLDC outlining how the RLDC will reimburse the Town for the principal and interest on the \$25 million bonds that the Town is obligated to pay. To demonstrate the RLDC's ability to reimburse the Town, the bond prospectus indicates that the RLDC is relying on revenues that will be generated from the sale of affordable housing units to reimburse the Town for the principal and interest payments. However, the RLDC obtained loans of approximately \$29.9 million that were guaranteed by the Town to build the affordable housing units. These loans must be repaid before any revenues generated from the sale of the units are made available to reimburse the Town for payments related to the \$25 million bonds. Further, due to the economic downturn in the housing market, the sale of the housing units may not occur within the anticipated timeframe and estimated sales revenues may not be realized by the RLDC. As a result, the RLDC may be unable to reimburse the Town for the principal and interest payments made on the \$25 million bonds.

While there is no written agreement, the RLDC has committed to provide the revenues generated from the sale of affordable housing units to reimburse the Town for the principal and interest payments on the short term obligations issued in connection with the baseball stadium. These excess funds could have been used to fund other RLDC initiatives. This commitment will significantly impact the ability of the RLDC to further its mission and achieve its stated goals of lessening the burdens of government by undertaking and promoting urban redevelopment initiatives in the Town.

As a result of the decisions the Board made, Town taxpayers are now potentially responsible for approximately \$35.4 million in expenditures for a property not owned by the Town. Furthermore, the Town has agreed to guarantee an additional \$25 million in bonds issued by the RLDC against the voters' wishes.

### **Feasibility Analysis**

When implementing a capital project, Board members should ensure that there is a well-defined plan, which evaluates the cost of a project and the potential costs to taxpayers.

In an effort to determine the feasibility of the baseball stadium, the RLDC contracted with an outside vendor to perform a feasibility analysis. We reviewed this analysis and found that it was inadequate. We found that the consultant only considered the costs of the structure to be built; it did not consider the total cost of the project. Specifically, we found the following:

- The consultant did not incorporate the cost of the land or necessary property improvements to erect the structure.
- The consultant chose facilities that were built in 2002 and prior, which resulted in a cost per capacity<sup>4</sup> of \$3,581.

---

<sup>4</sup> Capacity is the total amount of seating available; therefore, the cost per capacity represents the amount of money it costs per seat. It is calculated by taking the total cost to build and dividing it by the number of seats.

- We found projects from 2005 to 2010 with cost per capacity ranging from \$3,900 to \$6,788.
- The figures used within the report were not consistent from one section to the next, and figures such as cost per capacity could not be recomputed based upon the information provided.

The consultant's report also included revenue estimates from the operation of the baseball stadium. The consultant estimated that the baseball stadium would generate approximately \$1.2 million in its first year of operation that would be available to pay debt service. The consultant projected this amount would increase gradually to approximately \$1.7 million in year 10.

The consultant concluded that \$20 million for vertical construction was the maximum amount that could be supported by the projected revenues. In making this assumption, the consultant anticipated that the RLDC would issue 32-year bonds to finance the project.

Further, only one of the four Board members stated that he received and reviewed the report; the remaining members did not receive the report at all. The Supervisor, who is also the President of the RLDC, relied upon this analysis to support his decision to construct and operate a baseball stadium. The analysis did not contain sufficient information to substantiate the decision to build the baseball stadium.

When the RLDC was unable to obtain financing consistent with the terms used in the consultant's feasibility analysis, the Board chose to move forward with the \$25 million bonds described above. The feasibility analysis was not updated to reflect the change in financing. The Town will pay approximately \$27.5 million<sup>5</sup> in principal and interest payments for these bonds over the next five years. This is significantly more than the approximately \$7 million the consultant determined the baseball stadium would generate in revenues available for debt service during the same time frame. Therefore, it appears that the RLDC has placed more financial burden on the Town and taxpayers via these financial transactions, and the Board moved forward with the project, whose feasibility is questionable.

### **Recommendations**

4. The Board should not use the RLDC to, in effect, circumvent procurement and financing laws that would have applied if the Town directly pursued a capital project.
5. The Board should perform feasibility analyses for future capital projects to determine all costs that will be associated with them. The Board should review these analyses prior to committing to capital projects.

---

<sup>5</sup> This includes \$25 million in principal and \$2.5 million in interest.

