



Schoharie County

Stream Restoration Project and Contract Process

Report of Examination

Period Covered:

January 1, 2013 — September 23, 2014

2015M-87



Thomas P. DiNapoli

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State of New York Office of the State Comptroller

Division of Local Government and School Accountability

August 2015

Dear County 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 Board of Supervisor 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 Schoharie County, entitled Stream Restoration Project and Contract Process. 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 New York State 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

Schoharie County (County), located in central New York State, covers 626 square miles and has approximately 32,750 residents. The County's 2015 budgeted general fund expenditures of \$71.2 million were funded primarily with real property and sales taxes, State and federal aid and user fees.

The County is governed by a 16-member Board of Supervisors (Board) that is responsible for adopting policies and procedures as well as oversight of County contracts and projects. The Chairman of the Board is responsible, along with other administrative staff, for the County's day-to-day management.

In May 2012, the Board entered into an agreement with a federal agency to have work performed on six streams needing repair to prevent future flood damage. These streams were heavily damaged during Hurricane Irene and Tropical Storm Lee in 2011. The federal agency estimated the cost to repair all six streams to be \$21 million. Due to project cost overruns, the Board requested that our Office perform an audit, having numerous discrepancies detailed in a complaint.

Scope and Objective

The objective of our audit was to examine the County's oversight of the Stream Restoration Project (Project) and the overall contract process for the period January 1, 2013 through September 23, 2014. We extended our scope back to May 1, 2012 and forward through February 2015 to review Board meeting minutes related to the Project. Our audit addressed the following related questions:

- Did the Board ensure that the Co-Managers properly monitored the Project?
- Did the Board ensure that County contracts were properly approved, monitored and paid?

Audit Results

While we commend the Board for contacting us with its concerns regarding the Project, we found that the Board should have known about most of the discrepancies detailed in the complaint (see Appendix A for our comments on the complaint). The Board did not provide adequate oversight of the planning and execution of the Project and did not ensure that the Co-Managers properly monitored the Project. The Board did not always provide clear, written expectations, such as the authority granted the appointed Project Co-Managers, or their monitoring and interim reporting requirements for the Project. As a result, the Board halted further work on the Project until it received clarification on the Project's status and costs. The construction phase of the Project was further delayed due to the redesign and requirements for landowner access, which resulted in increases in material and prevailing wage rates.

The Board did not ensure that County contracts were properly approved, monitored and paid. Of 40 contracts, 11 did not have approval of both the Board and the County Attorney, and four contract renewals/amendments were not approved by either the Board or the Attorney. No procedures were taken to ensure the lowest possible cost was paid for 18 of 28 professional service contracts included, totaling \$1.2 million. For the other 10 contracts totaling \$6.3 million, although no quotes or requests for proposal (RFPs) were required per the County’s procurement policy, County officials did use RFPs to seek the lowest possible cost.

Comments of County Officials

The results of our audit and recommendations have been discussed with County officials and their comments, which appear in Appendix B, have been considered in preparing this report. County officials disagreed with certain aspects of our findings and recommendations in our report, but indicated that they planned to implement some of our recommendations. Appendix C includes our comments on the issues raised in the County’s response letter.

Introduction

Background

Schoharie County (County) is located in central New York State and covers 626 square miles. The County has approximately 32,750 residents. The County's 2015 budgeted general fund expenditures totaled \$71.2 million. These expenditures were funded primarily with real property and sales taxes, State and federal aid and user fees.

The County is governed by a 16-member Board of Supervisors (Board) that is responsible for adopting policies and procedures and oversight of County contracts and projects. The Chairman of the Board is responsible, along with other administrative staff, for the County's day-to-day management. The procurement of goods and services is a significant County function. The initiating department head, Board, County Attorney (Attorney) and Purchasing Agent/County Auditor (Auditor) and her staff all play a role in the contract approval process. The procurement procedures are outlined in the County's Policies and Procedures Manual, which covers County procurement of goods and services. This manual sets forth specific guidelines to follow when procuring goods or services through various mechanisms, such as formal sealed bids, requests for proposals, competitive proposals (quotes) and others.

In the fall of 2011, Hurricane Irene and Tropical Storm Lee flooded parts of the County and caused major damage. In 2012, a federal agency performed an analysis¹ of streams in the County for which work could be performed to reduce the possibility of another flood. In May 2012, the Board entered into an agreement with the federal agency to have work performed on six streams:² Platter Kill, Little Schoharie, Line Creek, Dave Brown Mountain, Armlin Hill Road and West Richmondville Road. The federal agency estimated the cost to complete all six streams to be \$21 million, in which the federal government would pay up to 75 percent, or \$15.8 million, of the total construction costs and up to 7.5 percent, or \$1.9 million, for soft costs (such as engineering), leaving the County responsible for 25 percent

¹ The federal agency sent a project list to all town supervisors within the County requesting information regarding streams in need of repair to help prevent future flooding.

² The contract completion date for Platter Kill and Little Schoharie was July 18, 2014, Line Creek was April 6, 2015 and Dave Brown Mountain was January 1, 2014; however, the original contractor scheduled to work on Dave Brown Mountain pulled operations out of the area. In February 2015, County officials assigned the Dave Brown Mountain work to the contractor working on Platter Kill and Little Schoharie. The Armlin Hill Road and West Richmondville Road stream projects were completed by County employees on September 11, 2014 and July 24, 2013, respectively.

of the actual construction costs. In July 2012, the Board appointed two Co-Managers to oversee the Stream Restoration Project (Project) – the County’s Director of Planning and Economic Development³ and the County’s Commissioner of the Department of Public Works (DPW).

In January 2013, the Board entered into a contract with an engineering firm (Engineering Firm A) to provide engineering and construction oversight of the Project for an initial amount totaling \$2.875 million. After engineering designs were completed, the County awarded work to be done on four creeks⁴ to three construction companies. Original construction bids came in at \$17.2 million, which was lower than the estimated costs in the federal award for these four streams. In the summer of 2013, redesigns relating to Platter Kill and Little Schoharie (due to additional agency reviews and a storm which caused damages to these two streams) caused these two contracts to be re-bid, and delays in start times caused four change orders which increased construction costs by \$2.1 million, bringing total actual construction costs to \$19.3 million.

The Board entered into an agreement with New York State Urban Development in December 2013, which would provide up to 25 percent, or \$5.3 million, to be used for construction and administrative costs, such as engineering, not covered by the federal award. In February 2014, the Board increased its contract with Engineering Firm A by \$1.3 million,⁵ for a new total contracted amount of \$4.2 million. In May 2014, the Board filed a complaint⁶ with our Office regarding the Project cost overruns and work being performed outside scope of Engineering Firm A’s contract.

In July 2014, the County hired another engineering firm (Engineering Firm B) to be the Project’s financial coordinator for approximately \$79,000. This contract was amended in October 2014, authorizing Engineering Firm B to “be an advocate representing the [Board’s] interest in the [Project] decision making process and a needed communication conduit between the Project Team⁷ and the [Board]. . .” and increased the amount to \$180,000, even though neither of the original Co-Managers were compensated for their additional duties. In September 2014, County officials received a letter from a different State agency notifying them of the approval for a \$650,000 grant to

³ The County’s Director of Planning and Economic Development was removed as acting Co-Manager in October 2014.

⁴ The other two streams, which were smaller in size, were completed in-house by the County’s DPW.

⁵ This increase was caused by hourly rate increases and rework performed due to additional agency reviews and landowner access.

⁶ See Appendix A for a copy of the complaint.

⁷ The Project Team includes Engineering Firm A, the Co-Managers, the County Treasurer and the federal agency awarding the grant.

be used for the Project. During the same time period, the County was awarded \$300,000 from a federal agency to assist with the increase in engineering costs.

Objective

The objective of our audit was to examine County officials' oversight of the Stream Restoration Project (Project) and the overall contract process. Our audit addressed the following related questions:

- Did the Board ensure that the Co-Managers properly monitored the Project?
- Did the Board ensure that County contracts were properly approved, monitored and paid?

Scope and Methodology

We examined County officials' oversight of the Project and contract process for the period January 1, 2013 through September 23, 2014. We extended our scope back to May 1, 2012 and forward through February 2015 to review Board meeting minutes related to the Project.

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 D of this report.

Comments of County Officials and Corrective Action

The results of our audit and recommendations have been discussed with County officials and their comments, which appear in Appendix B, have been considered in preparing this report. County officials disagreed with certain aspects of our findings and recommendations in our report, but indicated that they planned to implement some of our recommendations. Appendix C includes our comments on the issues raised in the County'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 County Clerk's office.

Stream Restoration Project

The Board is responsible for the general oversight of all capital projects which includes contract authorizations, monitoring and controlling projects' progression and costs to ensure timely completion within established budgets. This responsibility could include delegating certain responsibilities to department heads or contracted third parties for the day-to-day oversight of the planning and construction of projects. If duties are delegated, the Board's expectations should be clearly communicated in order to ensure a smooth project implementation.

The Board did not ensure that the Co-Managers⁸ properly monitored the Project. The Board requested that our Office perform an audit, having numerous Project discrepancies detailed in a complaint.⁹ While we commend the Board for contacting us with its concerns regarding the Project, we found that the Board should have known about most of these complaints (see Appendix A for our comments on the complaint). The Board did not provide adequate oversight of the planning and execution of the Project. The Board did not always provide clear, written expectations, such as the authority granted the appointed Project Co-Managers, or their monitoring and interim reporting requirements for the Project. Also, although the contract with Engineering Firm B was clear as to the Board's expectations, the contract between the Board and Engineering Firm A was not. In short, the numerous discrepancies the Board complained about generally resulted from a lack of proper oversight by the Board.

While the Board received monthly updates from the Co-Managers and Engineering Firm A on the Project's status, certain Board members claimed they were not fully aware of the Project's costs, including additional costs associated with any additional work performed. Several Board members claimed that Engineering Firm A performed work that was not in the initial scope of the contract and that they were not made aware of this additional work. However, the additional work performed was listed in Engineering Firm A's contract as work Engineering Firm A could do at specified hourly rates in excess of the approved contract amount and was noted as being discussed in the February 2013 Board meeting minutes. While the Board members were all provided copies of the contract with Engineering Firm A, that

⁸ The Co-Managers were the main contact persons for the County and were responsible for overseeing the Project, maintaining communications with external parties, reviewing and approving invoices and presenting information to the Board.

⁹ See Supra note 6.

included provisions for additional work, the Board members either did not fully understand that the additional work was not included in the total contract cost, or had not read the contract.

Moreover, the reimbursable amounts for engineering costs were limited to 7.5 percent of the actual construction costs.¹⁰ However, the Board agreed to a contract with Engineering Firm A at an amount equal to 14 percent of the estimated construction costs, creating a funding gap. The Board expanded this funding gap when it hired a second engineering firm, Engineering Firm B, in July 2014 to financially coordinate the Project.¹¹ Therefore, these funding gaps were caused directly by actions taken by the Board.

Additionally, although the Board's contracts with the construction companies appropriately outlined timelines for the submission of billings, there were no such timelines in the contract with Engineering Firm A. As a result, Co-Managers could not track percentage of completion as bills for engineering work were not submitted on a regular basis. Therefore, the bills could not be traced to specific deliverables listed in the contract scope of services. Delays from various Project redesigns resulted in construction work not beginning until November 2014, and bills for construction work were not required to be submitted as of the end of our fieldwork, so we could not determine if they were being submitted in accordance with the contracts.

The Project progressed beyond the Board members' general understanding of the scope because they assigned the responsibility for the day-to-day management without clearly communicating expectations. Eventually, the Board halted further work on the Project until it received clarification on the Project's status and costs. The construction phase of the Project was further delayed due to the redesign and requirements for landowner access, which resulted in increases in material and prevailing wage rates. Additionally, the taxpayers' share of the Project's costs increased by approximately \$1.3 million due to increases in engineering costs.¹² The County has obtained approval for additional State and federal aid, but this will not fully offset these costs. Furthermore, the delays in the Project have extended the risk of damage from future flooding.

¹⁰ These actual construction costs totaled \$19.3 million as of the end of our audit scope period.

¹¹ The contract for Engineering Firm B was initially approximately \$79,000 and increased to \$180,000 in October 2014 due to providing additional oversight services.

¹² See Supra note 5.

Recommendations

The Board should:

1. Have a thorough understanding of contracts prior to approving them.
2. Create policies and procedures relating to monitoring projects, even if some oversight has been delegated. These procedures should include, at a minimum:
 - Ensuring work is performed in accordance with contracts prior to payment and report any variances to the Board in a timely manner.
 - Tracking the percentage of completion, calendar days and budget-versus-actual disbursements.
 - Establishing clear communication expectations between project manager(s), contracted third parties and the Board.
3. Develop controls to ensure approval of any changes to contracts, discuss implications of such changes and address such changes to avoid unnecessary expenditures and delays.

Contract Process

The Board is responsible for ensuring that County contracts are properly approved in accordance with the County's procurement policy, monitored and paid. General administration and oversight provides taxpayers with assurance that services are procured in the most prudent and economical manner, that services of desired quality are being acquired at the lowest possible price and that procurement is not influenced by favoritism, extravagance, fraud or corruption. According to the County's Policies and Procedures Manual, all contracts must be approved by the Board and Attorney. The Board should establish written policies and procedures relating to the monitoring of contractual agreements to ensure that all services are provided in accordance with the contractual agreement and invoices for payment are properly supported and contain sufficient documentation. These procedures should ensure periodic reconciliations between contractual provisions, payments and accounting records. Moreover, the Board should ensure payments and change orders are reviewed and approved, and are for appropriate purposes.

The Board did not ensure that County contracts were properly approved, monitored and paid. Specifically, we selected 40 contracts to review and found:

- There was no indication that six of the 40 contracts reviewed were approved by either the Board or Attorney.
- Five of the 40 contracts were approved by the Board, but there was no indication of Attorney approval.
- For four of the 40 contracts, the original contracts were signed by both the Board and Attorney. However, the renewals/ amendments were not approved by either the Board or the Attorney.

Out of the contracts above, 12 contracts totaling \$7.1 million required bids or quotes, and County officials appropriately followed the County's procurement policy. However, of the remaining 28 contracts (all of which were professional service contracts), no actions were taken to ensure the lowest possible cost was paid for 18 totaling \$1.2 million. For the other 10 contracts totaling \$6.3 million, although no quotes or requests for proposal (RFPs) were required per the County's procurement policy, County officials did use RFPs to seek the best possible value.

The Board relies on Department heads to monitor and control their respective contracts, and provides no oversight. Therefore, we randomly selected 10 contracts to review and found that two were not being properly monitored and controlled. Specifically, there was no support to indicate that anyone was comparing the invoices to the services listed in the contracts. In addition, we judgmentally selected 11 change orders and found that they all were Board-approved and were for appropriate County purposes. Moreover, while the Auditor and her staff audit for accuracy (i.e., ensuring mathematical accuracy of invoices), they do not compare rates billed to Board-approved contracts to ensure proper amounts are billed.

These errors occurred because the Board has not established adequate procedures to ensure all County contracts are properly approved and monitored. For example, there are no procedures in place to ensure Department heads provide all contracts to the Board and Attorney to approve and sign, and there are no specifications regarding how frequently contracts should be reviewed, or what specifically should be reviewed. In addition, the County's current procurement policy does not outline procedures to ensure the best economic value is obtained for professional service contracts. Furthermore, the Auditor and her staff do not have copies of Board-approved contracts available for their review while auditing claims.

When the Board does not approve all contracts, payments for unauthorized or inappropriate purposes could occur. There is also a risk that County officials could be overpaying for professional service contracts because the procurement policy does not include a procedure for ensuring competition. The Board cannot ensure that services of desired quality are being acquired at the lowest possible price, and that procurement is not influenced by favoritism, extravagance, fraud or corruption.

Recommendation

4. The Board should develop policies and procedures to ensure that, at a minimum:
 - Department heads provide the Board and the Attorney with all contracts for review/approval.
 - Contracts are monitored so that all services provided are in accordance with the agreement and invoices for payment are properly supported and contain sufficient documentation.
 - Department heads obtain the best economic value for professional services.

- Department heads provide the Auditor and her staff with a signed copy of the contract.

APPENDIX A

COUNTY BOARD OF SUPERVISORS' COMPLAINT¹³

Regarding the contract that Schoharie County entered into with Engineering Firm A to complete this project:

Why are there major discrepancies in what the Board approved and what the County ultimately entered into with Engineering Firm A?

The Board agreed to a cap of 15 percent of total estimated construction costs, or \$3.15 million. However, Engineering Firm A's original contract was \$2.875 million, which is approximately 14 percent of total estimated construction costs, or \$275,000 less than the agreed upon 15 percent cap. We find this variance nominal and in the County's favor. Therefore, we deemed that there were not major discrepancies in what the Board approved and what the County ultimately entered into with Engineering Firm A.

Who authorized amending the contract to something other than what the Board approved?

The Board allowed the Chairman of the Board to enter into the contracts on its behalf. We were not able to verify this complaint as we were not provided documentation to support differences between contracts. Also, we interviewed five Board members who said they had not read any of the contracts relating to the Project except for Engineering Firm B's contracts.

Why was the Board not immediately informed of such amendments? Especially prior to the execution of the contract?

Since the contract entered into was less than the Board-approved 15 percent cap of the total estimated construction costs and we were not provided documentation to support that the signed contract and the Board-approved contract were not the same, we could not determine the validity of this complaint.

Regarding Project cost overruns:

Why did major Project cost overruns occur?

Administrative Costs: The costs for Engineering Firm A to design the project as well as provide construction oversight created overruns beyond the reimbursable amount for these purposes.

Construction Costs: We determined increases in construction costs occurred because the Project did not start on time due to changes in engineering designs, issues obtaining landowner easements which caused delays in obtaining permits, and the Board's political environment. These delays ultimately caused a 12 percent, or \$2.1 million, increase in prevailing wage rates, means and methods¹⁴ and material costs. However, these costs are currently still within reimbursable amounts.

¹³ Information in italics was provided by County officials. OSC response is not italicized.

¹⁴ A term used in construction to describe the day-to-day activities a contractor employs to complete construction. Changes to engineering designs or requirements to de-water the streams while working would change the day-to-day activities to complete the project.

Who authorized these overruns?

The administrative cost overruns were authorized at the time the Board approved the contract. The construction cost overruns were due primarily from the untimely execution of the Project. Therefore, the Board should have discussed the cost impact of such delays. Instead, delays occurred in all phases from a delayed start, to delays during the Project planning and execution. Since the overruns are driven by inflationary increases to wages and materials, the elapsed time added more costs collectively. We did not find a particular claim or collection of claims that directly caused the original construction cost estimates to be exceeded.

When did the potential for Project cost overruns become apparent?

The potential for Project cost overruns became apparent when the contract with Engineering Firm A was approved by the Board in January 2013, because the contract with Engineering Firm A was 14 percent of the estimated construction costs. Engineering costs would only be reimbursed at up to 7.5 percent of actual construction costs. The Board should have been aware that delays would cause additional costs.

Why was the full Board not immediately informed of these overruns? Especially prior to their occurrence?

Project overruns occurred based on various reasons such as redesign costs, extended agency reviews and legal issues related to landowner access. However, Engineering Firm A did not submit monthly billings to the Co-Managers, nor were they required to under contractual terms. If monthly billings were submitted, Board knowledge of the overruns would have been sooner.

Regarding Engineering Firm A working outside the scope of the contract: Why did Engineering Firm A work outside the scope of the contract?

The contract allowed Engineering Firm A to perform additional work for the County, such as obtaining necessary easements for landowner access, at specified hourly rates.

Who authorized this additional work?

Engineering Firm A's contract stipulated that the Board appoint someone that would have full control over the Project, which includes authorization. The Board appointed two Co-Managers, one of which authorized the additional work. Also, we found that Engineering Firm A reported to the Board in February 2013 that they were performing work related to gaining landowner easements for the project.

Why was the Board not immediately informed of this additional work, prior to its commencement, especially if this incurred an additional cost to the County?

The Board was informed of the additional work, beginning February 2013 and subsequent months, via reports at the monthly meetings by Engineering Firm A and the Co-Managers.¹⁵

¹⁵ Additional work performed was reported to the Board in February 2013 and in subsequent months. We reviewed monthly invoices submitted to the County by Engineering Firm A from January 2013 through December 23, 2014 and could not determine when the additional work started but noted billing for this work did not start until July 2013.

However, the Board did not read the contract and, therefore, was not aware that the work being performed was not included in the total costs noted in the contract and would cost extra. Co-Managers should have reported to the Board that the additional work to be completed by Engineering Firm A required additional costs, but it is ultimately the Board's responsibility to establish requirements regarding what information should be reported to it.

Currently, Project cost overruns are projected to cost Schoharie County taxpayers an additional \$2.6 million.

We determined current overruns to be \$1.45 million related only to engineering costs. When the Board originally signed Engineering Firm A's contract at an amount of 14 percent of estimated engineering costs, the Board immediately created a funding gap of \$1.3 million, as the federal award will only pay for 7.5 percent, or \$1.6 million, of the engineering costs. Although there are currently construction cost overruns totaling \$2.09 million, these overruns are still within current reimbursable amounts.

This is unacceptable. The actions that led us to this point must be revealed, and those responsible must be held accountable.

We determined that the Board is responsible and had been made aware of all items. However, the failure to read contracts, adopt policies and procedures regarding monitoring projects, and stalling the Project has led to additional costs that in the future could increase the local taxpayer share of the Project.

APPENDIX B

RESPONSE FROM COUNTY OFFICIALS

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



Schoharie County Board Of Supervisors

P.O. Box 429, County Office Building

Schoharie, NY 12157

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Richard Lape
Chairman

Larry Bradt
Vice Chairman

July 29, 2015

Office of the NYS Comptroller
State Office Building, Room 1702
44 Hawley Street
Binghamton, New York 13901-4417

Re: Response to Audit Report Findings for Schoharie County Stream Restoration
Project and Contract Process (2015M-087)

Gentleman;

Thank you for the opportunity to respond to your Audit Report, its results and its recommendations. This response will be followed in due course with the corrective action plan, hereinafter CAP, which will be prepared and forwarded to your office within the ninety (90) day period set forth in General Municipal Law Section 35.

For your information, corrective action was already well in the works prior to commencement of your audit, at least on most of the points you have raised. The Board of Supervisors has spent the better part of the last two (2) years working on:

1. Refining policies and procedures, which is intended to be approved within next few months;
2. Former Chairman of this Board, Philip R. Skowfoe, Jr., identified issues pertaining to contracts and departments failing to follow proper policies and procedures, and implemented a system for recordation with the Clerk of the Board; and
3. During July 2014, the Board of Supervisors retained the services of the engineering firm identified by you as Engineering Firm B in your Audit Report, with the intended purpose of gaining more in-depth hands-on financial oversight over the project and an expanded set of checks and balances. We believe the Comptroller's Office should be crediting us for wanting this extra layer of professional oversight which we put into place for the express purpose of saving taxpayer dollars, rather than now criticizing us for engaging a second engineering firm.

See
Note 1
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We cannot proceed with this response until we lay out certain pertinent facts that we feel are important to the record. On August 28, 2011, Schoharie County was deluged by Tropical Storm Irene and the floods which followed. Quickly following on the heels of that disaster, Schoharie County was again slammed by Tropical Storm Lee and its floods on September 2, 2011, Catastrophic losses resulted from these storms and floods, including the destruction of more than 800 homes, more than 100 businesses, thousands of acres of agricultural land, public and private roads and bridges, public buildings, facilities, equipment, and vehicles. The losses both public and private, as well as the loss of taxable assessment that will never be regained, totaled several hundred million dollars. The devastation caused the loss and interruption of

critical public utilities and services in many places for more than a month. The County is still recovering to this day.

Many miles of rivers, streams, tributaries, watersheds and their banks throughout Schoharie County were severely damaged. Thousands upon thousands of tons of debris have filled these waterways, all missiles waiting to be fired off during the next storm, again to wreck havoc. As a result of this chaos, the County determined to move forward with the stream bank projects which are the subject of your audit report. It was felt by the then members of this Board, that it was important to move forward with these projects to benefit the people of Schoharie County, in order to attempt to prevent future disasters.

The projects were proposed and in large part federally funded with oversight by the Natural Resources Conservation Service (NRCS). Engineering Firm A, so identified in your Audit Report, with the concurrence of NRCS, was selected based on experience, but most importantly based on several select individuals who were identified in their submission as being on the team who would handle these projects. After award of the contract to Engineering Firm A, several of the select personnel deemed critical by the County and NRCS were removed from the projects by Engineering Firm A, without input or recourse by the County or NRCS.

Your Audit addressed the following questions:

1. Did the Board ensure that the co-managers properly monitored the Project?
2. Did the Board ensure that County contracts were properly approved, monitored and paid?

Relative to the first question, we respectfully disagree with your stated position that the Board of Supervisors “failed to provide adequate oversight of the planning and execution of the Project and did not ensure that the Co-Managers properly managed the Project.” The Co-Managers selected by this Board were professionals in their chosen fields, both County employees, one a Civil Engineer, the other a County Planner. Both Co-Managers were chosen based on their years of experience in managing various types of projects and in handling their funding streams. In addition, the County relied on the expertise of NRCS, whose involvement in these projects was not limited to being the main funding stream, but they were to serve as an additional set of eyes to see projects were completed according to approved designs. NRCS routinely appeared at public meetings and early on voiced no concerns.

This Board and its committees met on a regular basis with the Co-Managers and Engineering Firm A, requiring monthly status reports, which as each was given raised no concerns, with the words always being stated “that projects were on-schedule and under budget”. Thus, this Board was not asleep at the wheel, and in the earlier stages of projects were never informed projects were not on schedule; or projects might be running over budgeted amounts; or that Engineering Firm A (which again for clarification was the County’s engineering firm), was failing to submit timely pay requests so determination could be made of percentage of work completed; or that Engineering Firm A was doing additional work without this Board’s approval, which additional work was envisioned by this Board would be done by the County.

See
Note 2
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On this aspect of additional work, granted, the contract with Engineering Firm A provided a basis for compensation for additional work outside scope of work set forth in the base contract, but this Board was never informed by either Engineering Firm A or the Co-managers that additional work in obtaining easements was being performed. This additional work eventually resulted in additional fees totaling more than \$1.2 million. While the County did select Co-managers as its point of contact with Engineering Firm A, that was for purposes of day to day decisions that did not need Board approval. It is not even reasonable to infer that such a designation of “point of contact” would authorize what would become such a large expenditure without the approval of the Board. When regular monthly reports were made, there was an obligation by Engineering Firm A and Co-managers to inform the County, that such additional work was needed, so that at a minimum the Board could decide by vote how to proceed. The County was not informed of this additional work until “after the fact”, meaning after the services had already been rendered and the County obligated to pay.

See
Note 3
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These projects were not simple projects, and all the while there were more than an ample number of professionals manning this team, providing regular status reports to the Board “that projects were on-schedule and under budget”. It is difficult to comprehend that with so many professionals manning this team that there was not a better chain of communication, so problems that came to light later in the project were not intercepted and dealt with earlier on in the process.

See
Note 4
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Your audit has stated that this Board did not always provide Co-managers with clear, written expectations including the authority granted to them and expectations on their monitoring and interim reporting requirements. While this is true in the most stringent sense, that there was no written instrument, each party is a professional with years of experience, all knew their role and what was expected of them. If ever a doubt was encountered there was a clear and simple path for communication with the Board. On future projects, written instructions will be provided to all, in hopes of eliminating doubt as to intention, expectations and responsibilities of each party, but reduction to writing will not necessarily ensure smooth project implementation.

We agree that it is important that the Board have a thorough understanding of contracts prior to approving them. In fact, discussions were had relative to the perimeters of the contracts in question here and expectations, but this can be tightened up by the County Attorney, and those retained to advise the Board, spending more time in going over contracts with the Board. This will be the only practical approach, as the County Board consists of 16 part-time Supervisors, and the County is dealing with hundreds of contracts annually. Each contract needs to first gain approval of the oversight committee after explanation by Department Head, then it goes on to the full Board for consideration. The majority of contracts are mundane in content and impact and do not need to be individually reviewed by Supervisors, but as mentioned, more time and effort will go into dealing with the larger more critical ones.

Relative to the second question, the Board has been working on revising policies and procedures and tightening up its approval and monitoring of contracts, as well as the payments which are made pursuant to contracts. The audit identified certain departments were not submitting contracts for approval which was something we were unaware of, that too is or has

been cured. In addition, when dealing with contracts for professional services we will always try to get the best value, and will look at how best to determine that in future projects.

In conclusion, we appreciate your input and will be working on our CAP and will be submitting that to you in a timely fashion.

Respectfully submitted,

Richard T. Lape, Chairman
Schoharie County Board of Supervisors

APPENDIX C

OSC COMMENTS ON THE OFFICIALS' RESPONSE

Note 1

This increased cost added to the funding gap in the Project. Initially, employees provided oversight at no additional cost.

Note 2

This additional work was discussed at the February 2013 Board meeting and was listed in the original contract as work that could be performed at specified hourly rates in excess of the approved contract amount.

Note 3

The Board should establish clear communication expectations when duties have been delegated to avoid such misunderstandings.

Note 4

The Board would be responsible to establish this chain of command because it is responsible for the general oversight of all capital projects.

APPENDIX D

AUDIT METHODOLOGY AND STANDARDS

To accomplish our objective, we interviewed County officials, tested selected records and examined pertinent documents for the period January 1, 2013 through September 23, 2014. We extended our scope back to May 1, 2012 and forward through February 2015 to review Board meeting minutes related to the Project. Our examination included the following:

- We reviewed the County's Policies and Procedures Manual to gain an understanding of Board oversight responsibilities.

Our examination included the following steps specifically related to the Project objective:

- We interviewed County officials, Co-Managers and external third parties, and we reviewed Board and Committee meeting minutes and contracts to gain an understanding of the Project.
- We reviewed contract changes to determine if they were properly approved by the Board and Attorney.
- We reviewed contract amounts and funding sources to determine if there would be a potential local cost to County residents.
- We made a field visit to one of the stream restoration projects to determine if work had progressed as indicated.
- We developed audit procedures to address the issues identified in the Board's complaint to our Office.

Our examination included the following steps specifically related to the contract objective:

- We interviewed County officials, department heads and employees to gain an understanding of the contract process, which included approving, monitoring, controlling, paying and approving amendments to contracts.
- We randomly selected five contracts from the master contract list, 15 contracts from department heads contract lists and 20 contracts from the County's cash disbursement system to determine if contracts were approved in accordance with County's procurement policy.
- We randomly selected 10 contracts to determine whether contractual services were paid in accordance with the contract and services provided were supported, and to verify that the payment went to the appropriate contractual vendor.
- We randomly selected 10 contracts to determine if payments made per disbursement log totals were greater than contract amounts and if amendments or change orders were properly

approved and for appropriate purposes. We inquired of County officials if they were aware of any contract changes and tested one change that we were made aware of.

We conducted this performance audit in accordance with 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 E

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