



# Genesee County Purchasing

## Report of Examination

Period Covered:

January 1, 2014 – June 12, 2015

2015M-241



Thomas P. DiNapoli

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# State of New York Office of the State Comptroller

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## **Division of Local Government and School Accountability**

March 2016

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 County Legislature 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 Genesee County, entitled Purchasing. 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*

# Introduction

## Background

Genesee County (County) is located in western New York and has a population of approximately 60,000 residents. The County is governed by a nine-member Legislature. The County's budgeted appropriations for 2015 totaled \$150 million, which included general fund appropriations of \$105 million.

The County Manager is charged with the overall supervision and coordination of all County departments. An elected County Treasurer (Treasurer) serves as the chief financial officer. The appointed Highway Superintendent is responsible for supervising the maintenance of County roads, bridges and culverts; County-owned vehicles and equipment; the County Airport; and the County's Parks, Recreation and Forestry Division.

The County operates a centralized purchasing system supervised by the Purchasing Director. The County also provides purchase cards to employees upon the recommendation of department heads and approval by the Treasurer's office and Purchasing Director. Purchase card activity in 2014 totaled \$239,000.

## Objective

The objective of our audit was to examine certain County procurement practices. Our audit addressed the following related question:

- Are County officials obtaining the desired quantity of materials and supplies at the lowest possible cost in accordance with the adopted policies?

## Scope and Methodology

We examined the highway materials and supplies bid and purchase card activity for the period January 1, 2014 through June 12, 2015.

We conducted our audit in accordance with generally accepted government auditing standards (GAGAS). More information on such standards and the methodology used in performing this audit are included in Appendix C of this report. Unless otherwise indicated in this report, samples for testing were selected based on professional judgment, as it was not the intent to project the results onto the entire population. Where applicable, information is presented concerning the value and/or size of the relevant population and the sample selected for examination.

## 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 A, have been considered in preparing this report. As indicated in

Appendix A, County officials generally disagreed with the report, but indicated they would take corrective action for one of our recommendations. Appendix B includes our comments on issues raised in the County's response letter.

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

# Purchasing

County officials are responsible for ensuring that the appropriate quality and quantity of goods and services are purchased at the lowest possible cost. In order to meet that goal, the Legislature adopted a comprehensive purchasing policy and a purchase card policy to provide guidance and expectations to County officials and employees when procuring goods and services.<sup>1</sup>

We found that the County may not have obtained the desired quantity of materials and supplies at the lowest possible cost in accordance with the adopted policies. The Highway Department did not have documentation that it always made purchases from the vendor with the lowest bid price. County officials and employees who were provided with purchase cards did not always comply with the purchase card policy and the Treasurer's office did not adequately audit purchasing card transactions. As a result, the County cannot ensure that all purchases were made at the lowest cost and in compliance with the purchase card policy.

## Highway Materials and Supplies Bids

Unless an exception applies, General Municipal Law (GML) requires that purchase contracts in excess of \$20,000 be awarded to the lowest responsible bidder or on the basis of best value (e.g., competitive offer),<sup>2</sup> and that contracts for public work in excess of \$35,000 be awarded to the lowest responsible bidder. In determining whether the dollar threshold will be exceeded, the County must consider the aggregate amount reasonably expected to be spent on "all purchases of the same<sup>3</sup> commodities, services or technology to be made within the 12-month period commencing on the date of the purchase," whether from a single vendor or multiple vendors. In addition, adequate records should be maintained to show that the best possible pricing was obtained.

Because GML, by its express terms, requires a single award of each contract, a municipality may not divide an award of a single contract

<sup>1</sup> Also see General Municipal Law.

<sup>2</sup> A county may elect to award "purchase contracts" which exceed the statutory threshold (i.e., \$20,000) to a responsive and responsible offeror on the basis of "best value" (competitive offering) as an alternative to an award to the lowest responsible bidder. However, a county must first authorize the use of best value by local law. For this purpose, best value is defined, in part, as a basis for awarding contracts "to the offeror which optimizes quality, cost and efficiency, among responsive and responsible offerers." Therefore, in assessing best value, non-price factors may be considered when awarding the purchase contract. The basis for a best value award must reflect, whenever possible, objective and quantifiable analysis.

<sup>3</sup> For this purpose, commodities, services or technology that are similar or essentially interchangeable should be considered "the same."

among several lowest bidders or even among bidders submitting identical bids. However, we have concluded that to the extent that the proximity of the vendor is reasonably related to the cost of the goods or services being sought (e.g., stone, gravel or sand to be hauled to a municipal facility), a municipality may prescribe a distance factor in the bid specifications. For example, the specifications may provide that the vendor's proximity to the area served will be considered when determining the lowest bidder. When a vendor other than the lowest priced bidder is awarded a contract based on the distance factor, the municipality must be prepared to demonstrate how proximity resulted in converting a bidder with a higher price on the commodity to the actual low bidder (e.g., calculating the cost of hauling).

The County solicited sealed bids for highway materials and supplies such as road oils, asphalt products, drainage pipe, crushed stone and pavement marking services.<sup>4</sup> The 2014 highway materials and supplies bid specifications states that delivered materials are to be awarded to the lowest bid meeting specifications based on the lowest unit cost per item and items picked up by the Highway Department are to be awarded based on the "lowest unit cost" per item using the formula for mileage from plant to project.<sup>5</sup>

The Highway Department subsequently purchased materials and supplies from various bidders. The Highway Superintendent told us that, because they pick up most of the highway materials, he selects a vendor by using the mileage formula set forth in the specifications to identify the "lowest unit cost" for each project.

However, it is not evident that this method of purchasing resulted in obtaining the overall lowest cost. We selected the three highest dollar amount paid claims for the five highway material and supply vendors who submitted bids for asphalt, stone and road marking services, totaling almost \$1.9 million.<sup>6</sup> Six of the 15 claims tested did not include documentation to demonstrate that the purchases were made from the vendors with the lowest overall price. We found that for the aggregate purchase of asphalt and stone products, the low bid price was \$10,000 less than the County's purchase price before factoring in the transportation costs. However, because the Highway Superintendent did not document the calculation of the lowest overall price, he could not demonstrate that the County obtained the lowest overall cost. The Highway Superintendent stated that, because the formula is a simple calculation, he does the analysis when deciding which vendor to use. However, he does not maintain a record of this information.

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<sup>4</sup> The County solicits a separate bid for pavement marking services.

<sup>5</sup> \$.50 per ton per mile

<sup>6</sup> In 2014, the County paid \$1.7 million for asphalt products, \$142,000 for pavement marking and \$33,000 for stone.

In addition, we reviewed all 15 claims to determine if charges on the claims matched the vendors' bid prices and if the claims were properly calculated and found that all 15 claims used the correct per unit cost. However, for the three pavement marking services invoices, the vendor charged the County for striping 303.5 centerline road miles of County-owned roadways when the County maintains only 258.7 centerline road miles. The vendor's charge for striping the additional 45 centerline road miles cost the County \$14,000. The Highway Superintendent is currently reviewing documentation to determine why the County paid to have excess road miles striped.

## **Purchase Card Policy**

The Legislature adopted a purchase card policy which limits single card purchases to \$500 and monthly aggregate card purchases to \$2,000. Furthermore, the policy prohibits splitting purchases to circumvent the \$500 transaction limit and the use of the card by other than the cardholder.

The purpose of the County's purchasing card program is to establish an efficient, cost-effective method of purchasing and paying for small-dollar transactions. This program is designed to replace a variety of processes, including petty cash and certain purchase orders. Using purchase cards can result in cost savings to a government entity by reducing procurement administrative costs. The Treasurer's office is required to periodically audit purchasing card transactions for compliance with the County policies.

County officials and employees who were issued purchase cards did not always comply with the purchase card policy. Seven purchases, totaling \$8,000, were made by Highway Department employees. Two of the seven purchases appeared to be split to stay under the single purchase limit of \$500. Three of the seven purchases, for a tool box, brake meter and airport lighting, were each over \$1,000 and required three verbal quotes, but no evidence of quotes was included with the claims.<sup>7</sup>

We also found that over \$21,000 in purchases, or 9 percent of the total purchases, made with the cards by all County departments were to a select group of vendors for similar materials and supplies, such as paint, tools, safety equipment and building materials. Periodically evaluating purchase card activity for purchases of similar goods may provide opportunities for cost savings.

Employees are required to sign a cardholder agreement which indicates that the employee understands the intent of the purchase

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<sup>7</sup> Per the County's procurement policy, purchases costing over \$1,000 require three verbal quotes, purchases costing from \$5,000 to \$19,999 require three written quotes and public works contracts costing from \$5,000 to \$34,999 required three written quotes.

card program and agrees to adhere to the guidelines. Out of the 124 active card holders, a signed cardholder agreement was provided for 13 employees (10 percent). Therefore, we question whether County officials are properly disclosing purchase card program guidelines to cardholders.

Finally, the Treasurer's office is not adequately auditing purchasing card transactions. A periodic and thorough review of overall purchase card activity by the Treasurer's office could help identify employees who are not using the card in accordance with the purchase card and procurement policies and identify possible cost savings.

## **Recommendations**

The Highway Superintendent should:

1. Determine if the road-striping vendor overcharged the County and seek a refund if the County was overcharged.
2. Maintain adequate documentation to help ensure that purchase contracts are awarded to the lowest responsible bidder in accordance with GML.

The Purchasing Director should:

3. Ensure that employees who are provided with purchase cards understand their responsibilities, sign the cardholder agreement and adhere to the policy.

County officials and purchase card holders should:

4. Obtain and document verbal quotes for purchases in accordance with the purchasing policy.
5. Use the purchase cards in accordance with the purchase card policy.

The Treasurer's office should:

6. Perform a thorough audit of purchasing card activity to determine if County policies are being followed and cost savings opportunities are being realized.

## **APPENDIX A**

### **RESPONSE FROM COUNTY OFFICIALS**

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

# GENESEE COUNTY

JAY A. GSELL  
County Manager  
[igsell@co.genesee.ny.us](mailto:igsell@co.genesee.ny.us)

L. MATTHEW LANDERS  
Assistant County Manager  
[mlanders@co.genesee.ny.us](mailto:mlanders@co.genesee.ny.us)



COUNTY COURTHOUSE  
7 Main Street  
Batavia, New York 14020  
(585) 344-2550 Ext. 2204  
Fax: (585) 345-3077

February 1, 2016

Office of the State Comptroller  
295 Main Street, Suite 1032  
Buffalo, New York 14203

To Whom it May Concern:

Genesee County disagrees wholeheartedly with all but one of the findings with the Office of the State Comptroller. The following are the County's responses to each recommendation made in the report:

## 1. Highway Materials and Supplies Bids

It has been the goal of the Genesee County Highway and Purchasing Departments to maximize resources and receive value for expenditures. We act in what we consider is in the best interest of the County. Our intent is to insure the taxpayer receives the most for their dollar.

Each year, Genesee County receives sealed, competitive bids for Highway Construction Materials. Over 199 individual products are bid on by over 21 separate vendors. The products included in the bid cover everything from aggregates and asphalt to culvert pipe, concrete and emulsions. From these bids Genesee County creates and awards, via Legislative resolution, a bid list to be used by the County Highway Superintendent throughout the year. This is a common and long-standing practice used by many, if not all, counties in New York State. Rather than award a specific contract to a singular vendor the County Legislature awards all of the bids so that they may be used when needed. The lowest responsible bidder is determined at the time of use based on the location of the project relative to the source of the material being supplied. This process is monitored using a calculation allowed for the bid specifications. The following formula and language is directly from the bid specification:

See  
Note 1  
Page 13

### VI. EVALUATION AND AWARD PROCEDURE

*After thorough evaluation by the County of Genesee as to the bidders meeting specifications, Genesee County will make the award for this bid to the responsible bidder submitting the lowest bid meeting specifications. The award of contract for materials bid under these specifications will be based on the following criteria:*

*Items are to be awarded based on lowest unit cost per item.*

*GROUP II - FOB PLANT: Items to be picked up by Genesee County at the vendor's plant or location.*

*Items are to be awarded based on lowest unit cost per item using the formula for mileage from plant to project (\$.50/ton/mile).*

*Example: Project location - 15 miles from plant X .50/mile = \$.75/ton additional*

*Material Cost \$23.00/ton FOB Plant*

*Comparative Cost \$30.50/ton at Project*

*The County of Genesee reserves the right to waive the award depending on waiting time and/or loading delays at a plant. This will be calculated into the lowest total cost per unit to be applied to the County system.*

The County always uses the low bidder for delivered commodities such as culvert pipe, transit mix concrete and service provided products such as emulsified asphalt, recycling and milling. There is no formal contract for awarding these products other than through the bid list referenced in the County Legislature's award resolution. To produce specific contracts for each product supplied by individual vendors would result in over 80 contracts. Due to the excessive administration required to establish this number of contracts, the county simply awards the bid list with the stipulation that the lowest bidder be used.

The concern addressed in the Comptroller's Report deals with the lack of a definitive low bid to plant-produced items picked up by the County, such as asphalt and aggregate. The award of these products remains to the lowest responsible bidder; however, the low bid is determined by location and distance using the formula provided in the specification. This process is used as it is impossible to award a contract to just the low bidder at the time of the bid opening. The price of picking up and hauling materials from the plant/quarry to the job site is very expensive and far outweighs the difference in bid prices at the time of the opening.

For example, the low bidder at bid opening for Type 3 binder asphalt was Cambria Asphalt from their Medina Plant at \$56.00/ton, however, when the County paves a road in the Town of Pavilion later in the summer the distance from the Plant to the job results in significant additional trucking and manpower which results in significant added cost to the project and the County. A more reasonable solution would be to use Hanson Aggregates, which although supplying a higher bid of \$57.85 for the same product, is much closer in Stafford. Even though the same product at Hanson is \$1.85/ton more, the County saves approximately \$11.00/ton to purchase from Hanson rather than Cambria in Medina which is 22 miles further away from the project than the Hanson plant. Hauling from Medina on a 1,000 ton job would add \$11,000 to the job, whereas the more expensive Hanson product adds \$1,850. The county saves \$9,150 on the project by using the closer plant with the more expensive product.

Additionally, vendors oftentimes cannot supply product due to lack of raw materials, crowded conditions at the plant due to other large agency jobs, or plant breakdowns. Oftentimes there is little to no notice in these situations and the County must react quickly to keep from stagnating its work force. Having an alternate purchase option is critical in these situations as well.

By implementing the Comptroller's recommendation that a singular award be made to the low bid vendor at the time of bid opening, the County eliminates any flexibility to respond in situations where the project is distant from the supplier or other outside forces have created a scenario where obtaining product from the low bidder at bid opening is not possible. With a limited construction season, flexibility is paramount. Implementing this method award would also add significant cost and schedule delays to projects in an environment of limited resources and a short construction season. The Comptroller's suggestion at the exit interview of using "Zone Pricing" does not make sense either as the quarries do not care where they are supplying product. The price is the same for pickup if you are coming from Batavia or Syracuse.

We appreciate the Comptroller’s review of our bidding practices to ensure our residents are getting the best value of their tax dollars, but the County will continue to use its current award process as it truly provides the best value to its residents and ensures the County Highway Superintendent has the flexibility to keep the highway crews productive throughout the short construction season. The current process saves taxpayers substantial money relative to the overall cost of the highway project. Bottom line, it is a common sense approach that is easily defensible to taxpayers.

## **2. Road-Striping Charge**

The Comptroller’s report identified a discrepancy relative to the total mileage billed to the County under the pavement markings contract. The County agrees with what appears to be an overbilling from the contractor. The Highway Superintendent has reached out to the pavement markings contractor and together they are reviewing and reassessing marking logs to verify mileage. At the time of the County’s Response, it appears the pavement marking contractor inadvertently billed the County for some town highway mileage. The County will work with the contractor moving forward to recover any overpayment made to the contractor.

## **3. Purchasing Card Cardholder Agreements**

All county personnel authorized to have a purchasing card do sign a cardholder agreement upon applying for a card and the county has 100% of those signed agreements, not the 10% as indicated. All agreements are kept on-file by department in the Purchasing Office. The agreements on file go back to 2011 when the County first starting using its current provider. No card is issued until the potential cardholder signs the cardholder agreement and returns this agreement to the Purchasing Department. Had the auditor asked the program administrator (County Treasurer) for assistance in getting the agreements when the former Purchasing Director couldn’t locate them, this would not have been an issue. The signed and dated agreements were located by the present Purchasing Director and presented to the auditor during the review meeting.

See  
Note 2  
Page 13

## **4. and 5. Adherence to Purchasing Card Policy**

The County’s Purchasing Card Policy is followed as written. No user can charge above their daily or monthly limit, period. If a user attempts to go over their limit, the card is declined. Exceptions can be made, but they require a written request from the user’s department head, and can only be increased by and with the approval of the County Treasurer, Deputy County Treasurer, or the Purchasing Director. Upon completion of the transaction the limits are returned to the original level. Periodic checks are completed to ensure that the system is set to limit all transactions to the established County limits.

See  
Note 3  
Page 13

## **6. Auditing of Purchasing Card Activity**

Purchases on the purchasing card program are likely the most audited purchases made in the county. The Purchasing Director or Deputy Treasurer signs in to the credit card website daily to review all the previous day purchases to make sure county purchasing procedures are being followed and that the purchase is warranted. Next, the credit card purchase is reviewed by the department’s coordinator to make sure it was a legitimate purchase. The department head reviews all of the purchases within the department and gives his or her approval. Finally, all of the purchasing card transactions go to the Treasurer’s Office where they once again are reviewed before being paid. This means that all purchases made as part of the purchasing card program are reviewed at a minimum of three different times. The original question posed by the auditor was, does the County Treasurer actually conduct an audit on the purchasing card program, and the answer to that question was no, as there is no need after all of the individual purchases have already been reviewed by the Purchasing Department, the County employee’s department and his or her department head, and by the Treasurer’s Office.

See  
Note 4  
Page 13

Sincerely,

Jay A. Gsell  
County Manager

Cc: County Treasurer

## APPENDIX B

### OSC COMMENTS ON THE COUNTY'S RESPONSE

#### Note 1

County officials are correct that transportation costs can be a significant part of the total cost of highway materials. The County's response indicates that it determined the lowest responsible bidder at the time of use of the commodity, based on the location of the project relative to the source of the material supplied. We have revised the report to reflect the County's response. Nonetheless, the County should still maintain adequate documentation to demonstrate that each award was made to the lowest responsible bidder in accordance with GML.

#### Note 2

Throughout the course of our audit, we made repeated requests for signed purchase cardholder agreements from the Purchasing Director. Furthermore, this finding was discussed with the Treasurer, Deputy Treasurer and the Purchasing Director at our end-of-fieldwork meeting. At the meeting, the Purchasing Director stated that he had signed purchase card policy statements for all new County employees who started after he became the Purchasing Director. However, he could not locate the other signed statements. The Treasurer did not provide additional information in response to the Purchasing Director's comment.

#### Note 3

We revised the report to reflect these additional controls over the use of the purchasing cards.

#### Note 4

We revised the report to clarify that the Treasurer's office is not adequately auditing purchasing card transactions. Furthermore, while the County indicates that these purchases are audited by various individuals, a periodic audit or evaluation of the overall purchasing card program could identify opportunities for cost savings and ensure compliance with County policies.

## APPENDIX C

### AUDIT METHODOLOGY AND STANDARDS

The objective of our audit was to review the County's procurement practices from January 1, 2014 through June 12, 2015. To achieve our audit objective and obtain valid audit evidence, we performed the following audit procedures:

- We interviewed Highway Department officials and employees and reviewed department policies and procedures to gain an understanding of the procurement process.
- We tested the highway materials and supplies bid awards for compliance with the purchasing policy.
- We selected the five largest highway material and supply vendors and tested the three largest invoices for each vendor for bid pricing and correct pricing extension.
- We tested Highway Department single and monthly purchases over purchase card thresholds for compliance with purchase card policy.
- We compared purchase card user reports to current employee lists and examined all available executed purchase card agreements.

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.

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