



Town of Lewis

Highway Purchases

Report of Examination

Period Covered:

January 1, 2012 — November 30, 2013

2014M-103



Thomas P. DiNapoli

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State of New York Office of the State Comptroller

Division of Local Government and School Accountability

June 2014

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 Board 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 the Town of Lewis, entitled Highway Purchases. 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*

Introduction

Background

The Town of Lewis (Town) is located in Lewis County and has a population of approximately 850. The Town is governed by an elected Town Board (Board) comprised of the Town Supervisor (Supervisor) and four Board members. The Board is responsible for overseeing the Town's operations, finances and overall management and provides guidance through the enactment of policies and procedures. The Supervisor, who serves as the Town's chief executive and chief fiscal officer, is responsible for implementing the Board's policies. The Town's Highway Superintendent¹ is an elected official and is responsible for overseeing highway operations, including purchases.

The Town provides various services to its residents including maintenance and improvements of Town roads, snow removal, refuse collection, fire protection and general government support. For the 2014 year, the Town's budgeted appropriations were approximately \$232,000 for the general fund and \$450,000 for the highway fund, which were funded primarily with revenues from real property taxes, refuse revenues and State aid.

The Board re-adopted its procurement policy in January 2013. The policy governs the procurement of goods and services not required to be competitively bid pursuant to General Municipal Law (GML). The Town does not have a centralized purchasing function. Instead, each department is responsible for administering its own purchasing activities. The Board is responsible for ensuring that department heads comply with the Board-adopted procurement policy.

Objective

The objective of our audit was to review the Highway Department's (Department) purchasing practices. Our audit addressed the following related question:

- Were Department purchases made in accordance with competitive bidding statutes and the Town's procurement policy, and were they adequately supported and authorized?

Scope and Methodology

We examined the Department's purchasing practices for the period January 1, 2012 through November 30, 2013.

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.

¹ The newly elected Highway Superintendent's term began on January 1, 2014.

**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. Town officials generally agreed with our findings and indicated they have taken corrective action.

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

Highway Department Purchases

Town officials are responsible for designing internal controls to safeguard Town assets and help ensure that goods and services of the best quality are obtained at the lowest possible price, in compliance with Town policies and legal requirements. This helps to ensure that taxpayer dollars are expended in the most efficient manner. It is important that Town policies are current and made available to staff. The Town's procurement policy should describe the procurement methods to be used (i.e., written and verbal quotations), when to use each method, and what documentation should be maintained for procurement decisions. In most circumstances, department purchases should be audited and approved by the Board prior to payment for the goods or services to ensure that all purchases are authorized, received and for legitimate Town purposes.

The Board did not ensure that the former Highway Superintendent followed the Town's procurement policy or competitive bid statutes. As a result, the Board has no assurance that all Department purchases were adequately supported and authorized.

Competitive Bidding – Unless an exception applies, GML requires that purchase contracts and contracts for public work in excess of \$20,000 and \$35,000, respectively, be publicly advertised for bids and awarded to the lowest responsible bidder. In lieu of advertising for bids, the Town may use certain contracts awarded by the New York State Office of General Services (OGS) or a county. Purchase contracts and contracts for public work which are not required to be competitively bid pursuant to GML are subject to the Town's procurement policies and procedures.

Although the Board re-adopted its procurement policy at its 2013 organizational meeting, it did not update the policy to include the current GML thresholds. As a result, the Town's procurement policy requires officials to competitively bid purchase contracts and contracts for public work in excess of \$10,000 and \$20,000, respectively.

We reviewed seven procurements² totaling \$190,269 that equaled or exceeded the Town's bidding requirements and identified \$100,854 of purchases that were not publicly advertised for bids or purchased through OGS or county contracts. In addition, purchases totaling \$45,283 lacked adequate support or authorization.³

² The Town made multiple payments for some of the procurements tested (for example, diesel fuel).

³ Some purchases had more than one deficiency.

- Diesel fuel purchases totaling \$31,694 in 2012 and \$41,660 in 2013 were not competitively bid in accordance with GML. The Highway Superintendent told us that the Town has not bid its fuel in years. By not following GML and the Town's own procurement policy, Town officials cannot assure taxpayers that they are procuring diesel fuel in the most economical manner.
- The former Highway Superintendent used personal funds to purchase a used roller on behalf of the Town at a private auction for \$27,500 in August 2012. He was subsequently reimbursed by the Town.⁴ This purchase, which exceeded the dollar threshold set forth in GML, was made without the solicitation of competitive bids and prior to the Board's audit and authorization. Although the Town's procurement policy appears to exempt, in certain circumstances, the purchase of second-hand goods from any source (including auctions) from competitive bidding and obtaining quotes, GML does not provide such an exemption when the purchase is from a private source.⁵

The former Highway Superintendent told us he received verbal authorization from Board members prior to making the purchase. However, a claim was never presented to the Board for audit and authorization prior to payment. The Supervisor told us she was not aware of the purchase until the former Highway Superintendent submitted an invoice for reimbursement from the Town. Town officials verified that the Town received the used roller and we found that the Town reimbursed the Highway Superintendent for the correct amount. However, when purchases are made without a proper audit of the related claims and solicitation of competitive bids when required, the Board and taxpayers do not have adequate assurance that payments are for legitimate Town purposes and that tax dollars are being spent in the most prudent manner.

- The Board authorized a purchase totaling \$17,783 that did not have adequate supporting documentation because it was paid from a statement and did not include an itemized invoice from the vendor. We subsequently obtained a copy of the invoice and found that the purchase was for road materials and was made from an OGS contract. When officials authorize

⁴ The Town reimbursed the Highway Superintendent on August 10, 2012 and the Town's check cleared the bank on August 13, 2012.

⁵ GML contains an exception to competitive bidding requirements for purchases of surplus or second-hand equipment from other governmental entities; however, this exception does not apply to purchases from private sources.

payments based on statements, the Town is at risk of making duplicate payments and officials may not verify that they are obtaining contract items or pricing and may overpay for goods or services.

Purchases Requiring Quotes – The Town’s procurement policy requires two verbal quotes from vendors for purchase contracts between \$250 and \$2,999 and three written/fax quotes or written proposals for purchase contracts between \$3,000 and \$9,999. The policy also requires two verbal quotes for public works contracts between \$250 and \$2,999, two written/fax quotes for public works contracts between \$3,000 and \$4,999 and three written/fax quotes or written proposals for public works contracts between \$5,000 and \$19,999.

We reviewed 27 purchases totaling \$85,595 that were not subject to competitive bidding requirements pursuant to GML, but were subject to the Town’s purchasing policy related to oral and written quotes. All of the purchases reviewed were adequately authorized by the Board, but we found no documentation to support that the former Highway Superintendent obtained written or verbal quotes for 12 purchases totaling \$41,342. These purchases included excavator repairs (\$7,860), screened sand (\$6,636), truck repairs (\$6,142), cutting edges/plow shoes (\$5,121), road materials (\$2,078 and \$1,535), tires (\$2,246 and \$1,809), gravel (\$2,460), a tank (\$2,241), culvert pipe (\$2,064) and a rake (\$1,150). The former Highway Superintendent told us that he obtained quotes but did not keep them. The Town’s procurement policy provides that officials must maintain documentation to support their actions. Without this documentation, the Board has no assurance that purchases were made in the most cost effective manner. In addition, we found two purchases totaling \$8,620 that lacked adequate support.⁶ When the Board approves payments that are not adequately supported, there is a heightened risk that the Town could make inappropriate payments to vendors or employees.

The former Highway Superintendent told us that the Board did not provide a copy of the Town’s procurement policy to assist him in understanding the Town’s purchasing requirements. The Board’s failure to monitor compliance with the Town’s procurement policy increases the risk that goods and services may not be acquired at the lowest price, which could result in unnecessary costs to Town taxpayers.

⁶ These purchases were for road materials (\$6,556) and culvert pipe (\$2,064).

Advance Payments – As a general rule, a town may not make payments in advance of the receipt of goods or services.⁷ In November 2012, the Board authorized a \$10,000 claim submitted by the former Highway Superintendent for prepayment of road materials to be received in the following year. Although Board members told us they were aware that this was an advance payment, the claim did not specify that the materials had not yet been delivered and there was no written contract disclosing the consideration to be received for the advance. As a result, there was a risk that the Town would not receive the goods from the vendor or that the Town could lose taxpayer moneys if the vendor defaulted.

We requested and reviewed documentation from the vendor that indicated the \$10,000 advance payment was applied as credits against \$27,785 in road materials purchased in 2013. Although the Town received credits against the 2013 purchases, as a general rule, the Board cannot authorize the payment of claims before the related goods or services have been received.

Recommendations

1. The Board should provide a copy of its procurement policy to all Town officials and employees involved in purchasing.
2. The Board should ensure that Town officials comply with GML and the Town's policy requirements when procuring goods and services.
3. The Board should not authorize the payment of claims before the related goods or services have been received, except when permitted by law, and it should ensure that claims contain adequate supporting documentation prior to authorization.

⁷ Under Town Law, all claims, with certain exceptions not applicable here, must be accompanied by a statement by the officer whose action gave rise to the claim that the service was actually rendered or supplies or equipment was actually delivered.

APPENDIX A

RESPONSE FROM LOCAL OFFICIALS

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

Town of Lewis
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e-mail: TownofLewis@twcny.rr.com

Dawn Zagurski, Supervisor
Jane Allen, Town Clerk
Lynn "Frank" Platt, Highway Superintendent
Patrick Glennon, Town Justice

Councilmen: Karl Rauscher
Ian Klingbail
David Bird
Cindy Youngs

May 19, 2014

Rebecca Wilcox, Chief Examiner
Office of the State Comptroller
Syracuse Regional Office
State Office Building, Room 409
333 E. Washington Street
Syracuse, NY 13202-1428

RE: Unit Name: Town of Lewis
Audit Report Title: Report of Examination-Highway Purchases
Audit Report Number: 2014M-103

Dear Ms. Wilcox:

This letter is in response to the above-mentioned Audit for the Town of Lewis, Lewis County, New York.

The Town Board has received the Audit Recommendations report, unanimously agree with the findings, and will implement corrective actions on the recommendations.

At this time, the Board would like to combine the Audit Report findings and present our Corrective Action Plan.

Audit Recommendation #1:

The Board should provide a copy of its procurement policy to all Town officials and employees involved in purchasing.

Implementation Plan of Action: On February 17, 2014, a copy of the Town of Lewis Procurement Policy and Investment Policy was distributed to our

Supervisor, all Board Members and Highway Superintendent. Also, a cover sheet has been signed by each of the above members, stating “I have read, and understand, the contents of the Town of Lewis Investment Policy and the Town of Lewis Procurement Policy.” The signed cover sheets are filed with the Town of Lewis Clerk.

Implementation Date: February 17, 2014

Person Responsible for Implementation: Town Clerk, Jane Allen.

Audit Recommendation #2:

The Board should ensure that Town officials comply with the GML and the Town’s policy requirements when procuring goods and services.

Implementation of Plan of Action:

Board members, Town officials, and the Highway Superintendent will ensure that anyone involved in purchasing will follow all requirements, including obtaining the correct number of quotes, whether verbal or written, as stated in the Town of Lewis Procurement Policy.

Implementation Date: Effective immediately

Person Responsible for Implementation: Town of Lewis Supervisor

Audit Recommendation #3:

The Board should not authorize the payment of claims before the related goods or services have been received, except when permitted by law, and it should ensure claims contain adequate supporting documentation prior to authorization.

Implementation Plan of Action: The Town Board fully understands the implications of any payments and/or advances for any type of services or goods before they have been received. All purchases will have the required number of quotes and supporting documentation and payment will not be made until these documents are presented to the Board. The Board will strictly follow GML and Procurement policy.

Implementation Date: Effective immediately

Person Responsible for Implementation: Town of Lewis Supervisor

Dawn Zagurski, Supervisor Date 5/19/14

Karl Rauscher 5-19-14
Date

Jan Klingbail 3-19-14
Date

David Bird 5-19-14
Date

APPENDIX B

AUDIT METHODOLOGY AND STANDARDS

During this audit, we examined Highway Department purchases for the period January 1, 2012 through November 30, 2013. To accomplish our audit objective and obtain relevant audit evidence, our procedures included the following:

- We reviewed and assessed the adequacy of the Town's procurement policy and reviewed the Board minutes.
- We interviewed Town officials and employees to obtain an understanding of the Department's purchasing practices.
- We analyzed cash disbursement data to identify all significant Department procurements of goods and services, aggregated split or multiple orders where appropriate and categorized the significant procurements into the following categories: procurements subject to competitive bidding and procurements subject to verbal or written quotes under Board policy. We also assessed the adequacy of supporting documentation and determined if the procurements were authorized.
 - o Our review identified seven procurements for purchase contracts during our audit period totaling \$190,269 that were subject to competitive bidding requirements. We examined each procurement to determine whether the Town's procurement actions complied with GML, bidding requirements or Board policy. When officials told us that they had used a State or county contract, we verified that it was a valid contract.
 - o We selected 27 quotable procurements, each in excess of \$1,000 and totaling \$85,595. We determined if the purchases were made using a State or county contract or if verbal or written quotes were documented and retained as required by the Town's procurement policy.

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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