



# Town of Wilson

## Purchasing

### Report of Examination

Period Covered:

January 1, 2012 — February 11, 2014

2014M-77



Thomas P. DiNapoli

# Table of Contents

	<b>Page</b>
<b>AUTHORITY LETTER</b>	2
<b>INTRODUCTION</b>	3
Background	3
Objective	3
Scope and Methodology	3
Comments of Local Officials and Corrective Action	3
<b>PURCHASING</b>	5
Recommendations	8
<b>APPENDIX A</b> Response From Local Officials	9
<b>APPENDIX B</b> Audit Methodology and Standards	12
<b>APPENDIX C</b> How to Obtain Additional Copies of the Report	13
<b>APPENDIX D</b> Local Regional Office Listing	14

# State of New York Office of the State Comptroller

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## Division of Local Government and School Accountability

July 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 Wilson, 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 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 Wilson (Town) is located in Niagara County and serves a population of approximately 6,000 residents. The Town is governed by a five-member elected Town Board (Board) comprised of a Town Supervisor and four council members. The Board is responsible for the general management and control of the Town's financial affairs. The Town provides various services to its residents, including street maintenance and improvements, water and sewer, snow removal, fire protection and general government support. The 2014 Town budget includes appropriations totaling more than \$3 million, which are funded primarily by real property taxes, sales tax and State aid.

The Highway Department is supervised by an elected Highway Superintendent (Superintendent) and has five full-time employees. In addition to maintaining Town roads, the Superintendent is responsible for supervising the Town's water and sewer operations.

## Objective

The objective of our audit was to evaluate the Town's internal controls over purchasing and addressed the following related question:

- Does the Board ensure that purchases made by the Highway Department comply with the Town's procurement policies?

## Scope and Methodology

We examined the Town's internal controls over purchasing for the period January 1, 2012 through February 11, 2014.

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 B of this report.

## Comments of Local Officials and Corrective Action

The results of our audit and recommendations have been discussed with Town officials and their comments, which appear in Appendix A, have been considered in preparing this report. Town officials generally agreed with our findings and planned to initiate 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 Board to make this plan available for public review in the Town Clerk's office.

## Purchasing

The Board and Highway Superintendent are responsible for ensuring that the Town purchases the desired quality and quantity of goods and services at the lowest cost. To accomplish this, according to General Municipal Law (GML), the Board must adopt a procurement policy and annually review the policy to ensure it reflects the Board's current expectations for procurement activity. Before authorizing claims for payment, the Board must thoroughly audit claims, which includes ensuring that each claim voucher has adequate supporting documentation, including evidence of the appropriate number of verbal or written quotes and proposals and any exceptions to competitive bidding requirements and the Town's purchasing policy. Good management practices suggest that department heads attach quotes and bidding documentation to claims prior to the Board's audit and approval of the claims.

The Town may purchase from State and county contracts, contracts awarded by the Federal government, or any other state as an exception to competitive bidding requirements. However, before using contracts awarded by another state, Town officials must determine whether the contracts have been awarded in a manner that is consistent with the competitive bidding requirements of GML. If Town officials intend to use these competitive bidding exceptions to purchase goods and services, they should maintain appropriate documentation with the claims to allow the Board to understand officials' decision to use the exception. This documentation, which should be attached to the vendor's claims and audited by the Board prior to payment, may include copies of the relevant contracts and a cost savings analysis to demonstrate that this purchase method was cost-effective for the Town.

The Board adopted a procurement policy that requires Town officials to solicit quotes or competitive bids, depending on the amount of the purchase or public works contract.<sup>1</sup> However, the Board does not

<sup>1</sup> The policy requires Town officials to obtain two verbal quotes when purchasing goods that cost between \$1,000 and \$3,000. When purchasing goods between \$3,001 and \$10,000, the policy requires Town officials to use a request for proposals (RFP) process and to obtain proposals from three vendors. The policy also requires Town officials to use competitive bidding for purchases of goods that cost more than \$10,000. For public works contracts, the policy requires Town officials to use an RFP process to obtain written proposals from two contractors for contracts between \$3,001 and \$10,000 and from three contractors for contracts totaling \$10,001 to \$20,000. For public works contracts of more than \$20,000, the policy requires Town officials to use competitive bidding. In addition, GML requires local governments and school districts to use competitive bidding for purchases of more than \$20,000 and public works contracts of more than \$35,000.

review the procurement policy annually to ensure it properly reflects the Board's current expectations for procurement activity, as required by law.<sup>2</sup> The Board also did not ensure that the Superintendent complied with GML's competitive bidding requirements or the Town's procurement policy when making purchases. The Superintendent did not consistently solicit written quotes or competitive bids as required, or attach appropriate supporting documentation to claims.

When purchasing products from other governmental entities, the Superintendent also did not attach appropriate documentation to the claims to demonstrate that he complied with Town policy or obtained the correct government contract bid price. Furthermore, during the Board's audit of claims, it did not ensure that Town officials obtained the appropriate number of verbal or written quotes for purchases, or verify that the prices charged to the Town were appropriate government contract prices, before it approved claims for payment.

We reviewed 25 claims<sup>3</sup> totaling \$902,967 for highway purchases made in 2012 and 2013 to determine if they complied with the Town's procurement policy or were competitive bidding exceptions and contained appropriate documentation. Of these claims, eight totaling \$422,685 complied with the Town's purchasing policy. Of the remaining 17 claims, six totaling \$132,411 did not contain any documentation to indicate the purchases were competitively bid as required, seven totaling \$44,358 did not include any evidence that the required quotes were obtained, and four totaling \$303,513 did not include adequate documentation to indicate whether Town officials used State or County contract pricing when making these purchases. Four examples are as follows:

- The Board awarded an annual contract to lease heavy equipment from the same local vendor for more than ten consecutive years. This vendor was paid more than \$17,000 in 2012 and more than \$45,000 in 2013 for the rental of heavy equipment and the purchase of materials such as stone, mulch and topsoil. The related claims did not contain evidence to indicate that Town officials obtained alternative quotes, publicly solicited competitive bids or considered whether it would be more advantageous to use Town equipment to haul the materials purchased. In addition to these purchases not complying with Town policy, the Board cannot demonstrate that it obtained the lowest price for equipment rental and materials from this vendor.

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<sup>2</sup> The Board adopted the Town's procurement policy in 1992 and has not changed it since.

<sup>3</sup> Refer to Appendix B for further information on our sample selection.

- Each year, the Superintendent has a vendor restripe virtually all Town roads, at an annual cost of approximately \$12,000. In 2012 and 2013, the Town did not use the low bidder that was awarded the County contract for this service. If the Town used the County contract vendor, it would have saved \$1,300 over this two-year period. In addition, we question why the Town restripes 97 percent of its roads every year, beginning since at least 2008. Town officials could not provide us with any evidence to indicate that the Superintendent evaluated the current striping condition before authorizing the vendor to perform the service. A Niagara County Department of Public Works official provided us with documentation indicating that eight of the County's 12 towns and villages had between 4 percent and 45 percent of their roads restriped in 2013. The Town could save money if it restriped Town roads only on an as-needed basis. The Superintendent told us that he is following past practices and feels that a bright stripe enhances road safety.
- In July 2013, the Town purchased a tractor for \$45,298 and two mowers totaling \$30,558 from a contract awarded by a municipality's purchasing agency located in the State of Minnesota. However, the documentation provided by the Superintendent for these purchases did not include evidence that the bid process was consistent with GML's competitive bidding requirements.<sup>4</sup> Although the vendor provided a tractor quote to the Superintendent, no documentation was available to verify that the Town received the contract rate. Also, the Superintendent did not perform a cost savings analysis to determine if this purchase method was cost-effective for the Town. For example, similar equipment is available on a New York State contract, but the Superintendent did not provide any indication that he had consider purchasing the tractor from that contract. In addition, the Superintendent did not realize that the two mowers were not part of the other state's contract and, therefore, were not competitively bid, as required by the Town's procurement policy.
- During 2012 and 2013, the Superintendent purchased two pickup trucks and one dump truck totaling more than \$258,000 from vendors awarded State and County contracts. However, the Superintendent did not include contract price information in the claims vouchers for these purchases. Therefore, the

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<sup>4</sup> Since these purchases were made, the New York State (NYS) Legislature amended GML to indicate that other states' contracts can be used by NYS local governments on the basis of "best value." For further guidance, refer to our publication titled "*Seeking Competition in Procurement*."



Board would not have been able to determine if the Town obtained State or County contract prices for these purchases when it audited and approved the claims for payment.

Because the Superintendent did not use competition when renting heavy equipment and restriping Town roads, the Town and taxpayers have no assurance that the Town received the best value for the rentals and services or that these purchases were not influenced by favoritism, improvidence, extravagance, fraud or corruption. Without the appropriate use of competition, Town officials cannot be assured that they are obtaining the best quality of goods and services at the most reasonable cost to taxpayers. In addition, without proper documentation supporting these efforts, the Board cannot effectively audit the related claims.

## **Recommendations**

1. The Board should update the Town's procurement policy, review it annually as required and adopt revisions as needed.
2. The Board should monitor for compliance with the adopted procurement policy during its audit of claims.
3. The Superintendent should attach relevant State and County contract information to claims for the Board's review during its claims audit process.
4. Town officials should perform a cost savings analysis to demonstrate whether using another state's purchasing agency and contracts are cost-effective for the Town.

## **APPENDIX A**

### **RESPONSE FROM LOCAL OFFICIALS**

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

# TOWN OF WILSON

375 Lake Street  
P.O. Box 537  
Wilson, New York 14172-0537



*Joseph A. Jastrzemski, Supervisor*  
(716) 751-6704 Fax (716) 751-6706

*Wanda E. Burrows, Town Clerk*  
(716) 751-6704 Fax (716) 751-6706

www.wilsonnewyork.com

July 15<sup>th</sup>, 2014

[REDACTED]  
Office of the State Comptroller  
Division of Local Government and School Accountability  
PSU-CAP Submission  
110 State Street, 12<sup>th</sup> Floor  
Albany, NY 12236  
**RE: Town of Wilson Audit Response and Corrective Action Plan**

Dear [REDACTED]

As Supervisor of the Town of Wilson, I am writing today to acknowledge receipt of the draft Audit by your office of the Purchasing by the Town Highway Department. This is our Response Letter and Corrective Action Plan.

The Town of Wilson agrees that it should purchase the desired quality and quantity of goods desired. The Town of Wilson has a procurement policy in place but failed to review it annually in order to keep it current. To correct the problem, the Town Board adopted a new policy effective February 14, 2014, that is up to date, and will review it annually and adopt revisions as needed. The Town Board does thoroughly audit each claim and will pay special attention to supporting documentation such as verbal or written quotes, and any exceptions to the Town's purchasing policy.

The Town understands its option to purchase from State and County contracts as an exception to competitive bidding. When purchasing off these bids they will maintain appropriate documentation to explain the exception. The Highway Superintendent will also attach relevant documents to claims to indicate competitive bidding as required.

Regarding lease agreements for heavy equipment and driver, in the past the Town has bid out local projects and we were not satisfied with the quality of work and the time it took the lowest bidder to complete the contracted work. When all was said and done, it cost more by taking the lowest bid. As a result, we now sign a contract with a responsible business who we know does exceptional work in the agreed upon time frame. It should also be noted that the Highway Superintendent has looked at the possibility of using Town equipment to haul and deliver materials purchased, and has found it to be more expensive than hiring it out.

The Highway Superintendent does annual striping of roads in the Town for safety reasons. We have very limited street lighting, and find that the annual new striping helps clearly define the roadways for our residents, following past practices. He also agrees to evaluate the current striping condition before planning restriping each year.

Thank you for your recent Audit at the Town of Wilson. Your audit helps us to manage our resources efficiently and effectively.

Sincerely,

Joseph A. Jastrzemski  
Supervisor

## APPENDIX B

### AUDIT METHODOLOGY AND STANDARDS

Our overall goal was to determine whether the Highway Department was purchasing goods and services in accordance with the Town's adopted procurement guidelines and whether the guidelines were adequate. To accomplish the objective of our audit and obtain valid audit evidence, we interviewed officials, tested selected claims and examined pertinent documents for the period January 1, 2012 through February 11, 2014. Our procedures included the following steps:

- We reviewed the minutes of the Board's proceedings for Highway Department purchase requests and approvals.
- From a list of all claims paid during 2012 and 2013, we located and selected all claims paid to Highway Department vendors for purchases of materials and services that exceeded \$10,000. From this population, we selected the largest claim amount from each vendor, which resulted in 25 claims totaling \$902,967. During our review of these claims, when we found purchases that did not comply with the Town's procurement policy, we then reviewed all claims paid to these vendors to determine the impact of the findings on an annual basis.
- We reviewed relevant Highway Department competitive bidding and quotations documentation to determine whether purchases complied with the Town's purchasing policy.
- Where applicable, we compared claims to highway work records to corroborate the use of the materials indicated on the claim.
- We compared State and County contract documentation with Highway Department purchases. We examined contract and bid documents posted on the website of a municipal purchasing agency located in the State of Minnesota related to the Town's tractor purchase.

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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