



Town of Enfield Purchasing

Report of Examination

Period Covered:

January 1, 2015 — August 15, 2016

2016M-377



Thomas P. DiNapoli

Table of Contents

	Page
AUTHORITY LETTER	1
INTRODUCTION	2
Background	2
Objective	2
Scope and Methodology	2
Comments of Local Officials and Corrective Action	3
PURCHASING	4
Recommendations	6
APPENDIX A Response From Town Officials	7
APPENDIX B OSC Comments on the Town's Response	11
APPENDIX C Audit Methodology and Standards	12
APPENDIX D How to Obtain Additional Copies of the Report	13
APPENDIX E Local Regional Office Listing	14

State of New York Office of the State Comptroller

Division of Local Government and School Accountability

January 2017

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 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 Enfield, 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

The Town of Enfield (Town) is located in Tompkins County (County) and has a population of approximately 3,500 residents. The Town Board (Board) is composed of four elected Board members and an elected Town Supervisor (Supervisor). The Board is responsible for overseeing Town operations, including the procurement of goods and services. The Supervisor serves as the Town's chief executive and chief fiscal officer. The Supervisor is generally responsible for the administration and supervision of the Town's day-to-day fiscal operations, which includes maintaining accounting records and providing the Board with timely, accurate and useful financial information.

The Town does not have a centralized purchasing function, so each department head, such as the Highway Superintendent (Superintendent), is responsible for administering the purchasing activities for his or her respective department. The Board is responsible for ensuring that the department heads comply with the Board's adopted procurement policy.

The Town provides various services to its residents, including general government support and maintaining and improving Town roads. The Town's 2016 budgeted appropriations for its general and highway funds totaled approximately \$628,600 and \$958,700, respectively, and were primarily funded by real property taxes and State aid.

Objective

The objective of our audit was to evaluate the Town's purchasing practices. Our audit addressed the following related question:

- Did Town officials ensure that goods and services were procured in a manner to ensure the prudent and economic use of public money?

Scope and Methodology

We examined the Town's purchasing practices for the period January 1, 2015 through August 15, 2016.

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 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. Except as specified in Appendix A, Town officials generally agreed with our recommendations and indicated they planned to take corrective action. Appendix B includes our comments on issues raised in the Town's response.

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 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 Clerk's office.

Purchasing

General Municipal Law (GML) generally requires the Board to advertise for bids on purchase contracts involving expenditures of more than \$20,000 and on contracts for public works involving expenditures of more than \$35,000. Exceptions from competitive bidding requirements include, but are not limited to, purchases through a New York State Office of General Services (OGS) contract or a County contract. Goods and services that are not required to be bid must be procured in a manner to assure the prudent and economical use of Town money.

GML also requires the Board to adopt a written procurement policy for the procurement of goods and services that do not have to be competitively bid. The policy should outline when Town officials should use alternative competitive methods and should require adequate documentation of actions taken. For example, prior to awarding contracts for professional services and insurance coverage, the Board should solicit written proposals or quotes, such as through a request for proposals (RFP) process, because it is an effective means to procure such services with the most favorable terms and conditions for its residents. Furthermore, the Board should monitor compliance with its policy and GML by ensuring claims are supported with adequate quotes or proposals and are in accordance with applicable contract rates and terms.

The Town's procurement policy, last updated in 2014, provides guidance on the procurement of goods and services subject to competitive bidding along with procurement methods for purchases not required to be competitively bid. The policy outlines specific dollar threshold requirements for obtaining and maintaining written quotes. It requires three written quotes for purchase contracts costing more than \$5,000 and public works contracts over \$20,000 but below the bidding thresholds. The policy does not specify a process for the procurement of professional services.

The Board did not provide adequate oversight of Town purchases to ensure the prudent and economical use of its residents' money. While Town officials generally competitively bid and utilized OGS or County contracts where appropriate, they did not seek competition for professional services and did not obtain the proper number of quotes for purchases subject to their policy. As a result, there is a heightened risk that purchases were not at the lowest cost to the Town residents. Furthermore, we found the Town could have saved over \$6,000 if it had purchased heating oil and road sand through the available OGS and County contracts.

Use of Competition — We reviewed individual and aggregate purchases in excess of \$5,000¹ totaling approximately \$1.2 million to determine if Town officials properly sought competition. We found that Town officials generally awarded bids or purchased through the OGS contract as appropriate. More specifically, we tested 13 purchases totaling \$978,400 where competitive bidding was required and found they properly awarded bids for all but two purchases totaling \$56,400 for road sand and a roller. However, Town officials did not always obtain the proper number of quotes for purchases subject to their policy. For example, we tested 12 purchases totaling \$92,900 that required quotes, and found that the Superintendent and Supervisor did not obtain three written quotes for five of the purchases (\$32,460). Moreover, Town officials did not solicit proposals for professional services and insurance coverage totaling \$149,700.

Although road sand was available through the County contract, the Superintendent opted to not use the awarded vendor due to perceived poor material quality. Furthermore, the Superintendent did not accept the lowest bid for a roller totaling \$30,100 but instead purchased a roller for \$32,400 because the engine was made by the requested manufacturer and had fewer hours than the lower bid. Although the Superintendent's justifications appeared reasonable, the Board relied exclusively on the Superintendent and Supervisor and was not aware of, or involved in, the decision-making process. Furthermore, the Board did not provide sufficient oversight through its claims audit function. Specifically, it did not ensure purchases were made in accordance with its policy or ensure that the policy addressed professional services.

Contract Compliance — We tested 61 vendor payments totaling \$810,087 to ensure that the payments were in accordance with associated contract terms. We found minor discrepancies² which suggests the Board did not properly review the claims. When the Board does not ensure vendor payments are in accordance with the contract amounts, there is a risk that the Town could pay more for goods and services than agreed upon.

Because of these deficiencies, we compared all heating fuel oil and road sand purchases, totaling \$31,840, to OGS and County contracts to determine if the Board received the goods at the lowest available price. We found that the Town could have saved over \$6,000 if they had used the OGS or County contracts.

¹ Refer to Appendix C, Audit Methodology and Standards, for details on our sample selection.

² We discussed these minor discrepancies with Town officials.

When the Board does not verify that Town officials have complied with the policy or that vendors have complied with contract terms, there is an increased risk that goods and services may not be obtained at the best value to ensure the most prudent and economical use of public money. Furthermore, professional services and insurance coverage can involve significant dollar expenditures. Accordingly, seeking competition for professional services and insurance coverage may be an opportunity to generate significant cost savings for the Town.

Recommendations

The Board should:

1. Review and update the procurement policy to include guidance for the procurement of professional services.
2. Verify that Town officials are properly obtaining bids or quotes or using available OGS and County contracts.
3. Ensure all payments are in compliance with agreed upon contract terms.

Town officials should:

4. Follow the competitive bidding and quotes requirements of the procurement policy when obtaining goods and services on behalf of the Town.
5. Attach relevant contract bids and information to claims for the Board's review during its claims audit process.

APPENDIX A

RESPONSE FROM TOWN OFFICIALS

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

TOWN OF ENFIELD

Ann S. Rider *Town Supervisor*

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14850

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December 23, 2016

H. Todd Eames, Chief Examiner
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44 Hawley St.
Binghamton, ny 13901-4417

re: Reply to draft audit report covering purchasing
practices from January 1, 2015 – August 15, 2016

Dear Mr. Eames:

The Enfield Town Board is in receipt of the draft audit done on purchasing practices of the Town during the time period January 1, 2015-August 15, 2016. In an exit interview held November 29, 2016, [REDACTED] Senior Examiner went over the report and highlighted the deficiencies found.

On or about February of 2016, the Supervisor asked the then current fuel supplier if they would meet State Bid price on fuel oil. They said they could not do that. The Supervisor then contacted another local supplier who said they would meet State bid price. The Town has received our fuel oil from this supplier since that time, saving the Town considerable money as a result.

See
Note 1
Page 11

From prior employment, the current Supervisor is aware of local hourly rates of practicing attorneys and their specialties in the Ithaca area. Our current attorney, who specializes in municipal law, has a much lower rate than most any other attorney in our area, from lawyers who specialize in real estate or those who specialize in criminal law. I was also reminded by our Town Attorney that under General Municipal Law this service is expressly exempt from the bidding process. This, however, does not leave a paper trail and does not allow the public to see the proof of the Supervisor's general knowledge or the specifics of NYS General Municipal Law.

See
Note 2
Page 11

Many years ago, the Town of Enfield entered into the Tompkins County Health Consortium for the express purpose of cooperating and forming a larger pool of recipients so we could get a better price for health insurance. This allowed participants to help shape the services and costs. Over the past 5-7 years this has saved the taxpayers of the Town of Enfield a lot of money. But, again, the paper trail is not readily available and you have to actually attend the meetings of the Consortium and see and read the financial reports to realize the great savings this organization has made to local taxpayers during the past 5-7 years.

See
Note 3
Page 11

Again, many years ago the Town joined the Association of Towns of the express purpose of being able to get property and liability insurances from New York State Municipal Insurance

Reciprocal (NYMIR), a program designed to bundle many small municipality to spread risk over a bigger pool of people and therefore, get more competitive prices on insurances that all municipalities need. I also want to note that insurance contracts are exempt from competitive bidding (*Surdell v. City of Oswego*, 1977, 91 Misc.2d 1041 and *Lynd v. Heffernan*, 1955, 286 App.Div. 597, app. withdrawn, 1 N.Y.2d 919; 34 Opns St Comp, No. 78-473).

See
Note 3
Page 11

In both of these areas, health insurance and property and liability insurance, the Town went to a "shared services" types of arrangement many years ago to save our taxpayers money, long before the State started suggesting this strategy.

The Highway Superintendent has verbally informed the Board of his choice on where to get sand and why he does not like the State Bid provider. He also informed the Board at a meeting of his decision to purchase the roller with the slightly higher asking price but the Board was not involved in making these decisions.

I want to thank you for your findings and the Board will be proposing resolutions and instituting procedures that your office has recommended during the Corrective Action Plan part of this audit procedure.

Very truly yours,

Ann S. Rider, Supervisor
Town of Enfield

TOWN OF ENFIELD HIGHWAY DEPT.

475 ENFIELD MAIN ROAD, ITHACA, NY 14850
607-272-6490

Office of the State Comptroller

Principal Examiner
Division of Local Government
And School of Accountability

To Respond to Your Preliminary Draft Report For the Town Of Enfield

Thank you for meeting with me on November 30, 2016 after this exit meeting and absorbing your report for the Town of Enfield, titled Purchasing, Period Covering January 1 2015- August 15, 2016 I have some concerns.

In the section titled Purchasing 6th paragraph, page 7 I feel it would be a fairer assessment if you had separated Sand saving and the Heating Oil savings, as these are two separate issues.

The Heating Oil saving could be a true savings, however as far as the savings listed for sand, I don't believe this is accurate. As stated at the time of the audit, I had conducted an investigation into the type of sand offered by the awarded vendor and found it unsatisfactory for the use needed for the Town of Enfield. It was not a "perceived opinion" but an investigated finding. Therefore, as far as the savings for sand, there was none because my 20 years of experience was not use the cheaper, lower quality sand from the awarded vendor. I respectfully ask that the report be worded to reflect these facts.

As far as the bids for a roller, the cheaper roller did not have a Cummings engine in it, and also had more engine hours, therefore was not compatible to the roller I purchased, nor did it meet the qualifications asked for when advertising for quotes and bids, I do understand the importance of making the town board aware of why decisions are made, and will endeavor to provide more documentation in the future of major purchases.

The relationships between the Town Board and Highway are sensitive enough without inserting more tension, which is what I feel will be the outcome of this report.

Thank you for your attention to these matters.

 Barry (Buddy) Rollins
Highway Superintendent Town of Enfield
607-272-6490
Highway@townofenfield.org

See
Note 4
Page 11

APPENDIX B

OSC COMMENTS ON THE TOWN'S RESPONSE

Note 1

While the Town saved money by moving to the new vendor, the Board did not ensure vendor payments were in accordance with the State contract amounts. We tested all nine deliveries for fuel oil from the new vendor and found that the vendor did not meet the State contract price in seven of the transactions, so the Town did not save as much as it would have by using the State contract. Furthermore, it is not enough to request a vendor to meet the State contract price. The Town must either purchase from the vendor with the State (or other appropriate) contract or obtain bids.

Note 2

While professional services, such as legal services and insurance, are not subject to competitive bidding, competition should be sought through other means, such as an RFP, as a best practice to ensure that the Town is receiving these services at the lowest cost to its residents.

Note 3

Health insurance payments made to the consortium were not included in our testing.

Note 4

By not using the State contract vendor for road sand, the Town paid an additional \$4,014. While the Superintendent may have valid reasons for selecting a particular vendor, Board meeting minutes did not include documentation that those reasons were communicated to the Board or that the Board was involved in the selection process.

APPENDIX C

AUDIT METHODOLOGY AND STANDARDS

To achieve our audit objective and obtain valid evidence, we performed the following procedures:

- We reviewed the Town's procurement policy and Board minutes and interviewed Town officials to gain an understanding of the procurement and claims audit processes.
- We reviewed competitive bidding and written quote documentation for individual and aggregate purchases over \$5,000 to determine whether the Town acquired these goods and services in compliance with GML and the procurement policy. We excluded payroll-related payments, payments to other governments and phone, Internet and cable purchases.
- For the purchases of heating fuel oil and road sand where the Town did not seek competition, we compared all payments to an OGS or County contract to determine if there was any potential cost savings.
- We searched the OGS website for contracts awarded for vehicles, construction equipment, diesel fuel and heating fuels and County contracts for road materials. We reviewed bid and contract awards and quotation documentation to determine if the payments made for these purchases agreed with contract prices.

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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