

Bethpage Public Library

Procurement

JUNE 2021



OFFICE OF THE NEW YORK STATE COMPTROLLER
Thomas P. DiNapoli, State Comptroller

Contents

- Report Highlights 1**

- Procurement 2**
 - How Should a Library Procure Goods and Services? 2
 - Library Officials Did Not Always Seek Competition When Required. . 3
 - The Director Presented Questionable Quotes to the Board and Did Not Properly Seek Competition for Certain Contracts. 4
 - The Board Did Not Always Seek Competition for Professional Services 6
 - Library Officials Did Not Always Adhere to the Library’s Credit Card Use Policy 7
 - What Do We Recommend? 7

- Appendix A – HVAC Bid Analysis 9**

- Appendix B – Response From Library Officials 10**

- Appendix C – Audit Methodology and Standards 13**

- Appendix D – Resources and Services 15**

Report Highlights

Bethpage Public Library

Audit Objective

Determine whether the Bethpage Public Library (Library) Board of Trustees (Board) ensured goods and services were procured competitively and in accordance with the Library's policies.

Key Findings

The Board did not ensure goods and services were procured competitively and in accordance with the Library's policies. Therefore, taxpayers do not have assurance that the best prices were obtained.

- Officials did not obtain competitive quotations or consider competitive bidding for 36 of 46 claims reviewed totaling \$104,572.
- The Director presented questionable quotes to the Board and did not properly seek competition for certain contracts, including contracts totaling \$44,864 awarded to a company to which the Director had close personal ties.
- Officials did not seek competition for two of five professional service providers who were paid a total of \$37,637. In addition, officials made credit card purchases totaling \$16,497 without documentation of soliciting competition.

Key Recommendations

The Board should ensure:

- Competitive quotes and/or bids are obtained and that officials recuse themselves from negotiating contracts with related parties.
- Competitive proposals for professional services are obtained on a periodic basis and that credit card charges comply with the procurement policy and are supported by receipts or invoices.

Library officials agreed with our recommendations and indicated they have initiated corrective action.

Background

The Library is a school district public library located in the Town of Oyster Bay. The Library is part of the Nassau Library System.

The Library is governed by a five-member Board elected by the Bethpage School District residents.

The Board is primarily responsible for general oversight of the Library's financial affairs. The Director's position is responsible for managing day-to-day operations, including all purchases.

The Library is funded primarily by real property taxes.

Quick Facts

2018 Expenditures	\$2.6 million
Nonpayroll Disbursements for the Audit Period	\$2 million
Employees	40

Audit Period

July 1, 2017 – December 31, 2018.

Procurement

How Should a Library Procure Goods and Services?

Generally, the law requires that purchase contracts exceeding \$20,000 and contracts for public work exceeding \$35,000 must be let for competitive bidding and awarded to the lowest responsible bidder. In determining whether the dollar threshold will be exceeded, a library must consider the aggregate amount reasonably expected to be spent on all purchases of the same or similar commodities, services or technology over the course of a 12-month period, whether from a single vendor or multiple vendors. As a general guide, items or work of the same or similar nature that are customarily handled by the same vendors or contractors should also be treated as a single item for determining whether the dollar threshold will be exceeded. Adequate records should be maintained to show that the best possible pricing was obtained.

Local governments are required to adopt written policies and procedures governing the procurement of goods and services not subject to competitive bidding requirements, to help ensure the prudent and economical use of public money, to facilitate the acquisition of goods and services of maximum quality at the lowest possible cost under the circumstances and to guard against favoritism, improvidence, extravagance, fraud and corruption. The Library's procurement policy states that, whenever feasible, purchases not required to be bid may be made through State, county, or other municipal and cooperative agreements. The Library's procurement policy also requires:

- A minimum of three telephone quotations for purchases of single items under \$2,500 and for the procurement of services under \$5,000.
- Three written quotations for purchases of single items between \$2,500 and \$19,999 and for the procurement of services (including labor) between \$5,000 and \$34,999 unless they cannot be obtained through reasonable efforts.
- Purchases of goods or services pursuant to proposals or quotes exceeding \$5,000 must be awarded by the Board.
- When written quotations are necessary, the results of any solicitation must be attached to the purchase order.

Competitive bidding is not required for the procurement of professional services which involve specialized skill, training and expertise, the use of professional judgment or discretion and/or a high degree of creativity. While local governments are permitted to set forth in their policies the circumstances for which the local government has determined soliciting alternative proposals or quotations will not be in the best interests of the local government, a competitive method, such as the use of a Request for Proposals (RFP) process on a periodic basis, can help ensure that the Library obtains services under the most favorable terms and conditions possible. When professional services are procured, written contracts

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....

... [T]he use of a RFP process on a periodic basis, can help ensure that the Library obtains services under the most favorable terms and conditions possible.

or detailed board resolutions are also essential for documenting the professional services to be provided, the time frames for these services, the basis for compensation and other terms and conditions. The Library's procurement policy states that proposals for contracts for professional services may be solicited; however, the Board retains discretion to decide if the use of RFPs for professional services is in the best interest of the organization.

Credit cards provide a convenient method for making small one-time purchases. To retain a reasonable level of control over credit cards, a board should adopt written policies addressing card distribution and use and describing procedures for monitoring usage. The Library's credit card use policy identifies the authorized users and states that purchases must adhere to established purchasing policy and documentation requirements and that original receipts must be submitted by the authorized user. The Board is responsible for auditing claims to ensure that Library officials follow legal requirements and Board policies when making purchases.

Library Officials Did Not Always Seek Competition When Required

Library officials did not always obtain the number of quotes required by the Library's procurement policy when procuring goods and services. During the audit period, officials made 270 payments by check to 46 vendors totaling \$293,284 for purchases that should have been subject to competition.

We reviewed 46 claims totaling \$126,907 from 36 vendors who were paid a combined total of \$290,839 during the audit period. Library officials paid 36 claims (78 percent) totaling \$104,572 without documentation of sufficient competition or an explanation that the claims fell within one of the exceptions under the policy or an applicable State or municipal contract. Twenty-five of these claims totaling \$20,691 required verbal quotations. Six of these claims totaling \$24,836 should have included written quotations. For example, officials paid a claim of \$3,403 to a vendor that was paid \$10,745 during the year for janitorial services without competition or written quotations as required by their policy. In addition, five claims totaling \$59,045 were supported by quotations that were questionable.

Library officials did not consistently adhere to the Library's procurement policy. Because the Board did not ensure competition was sought and adequate documentation was attached to each claim when it conducted its audit of claims, officials did not always comply with the procurement policy. Therefore, taxpayers do not have adequate assurance that the Library received the best price for goods and services purchased.

Library officials paid 36 claims (78 percent) totaling \$104,572 without documentation of sufficient quotations or an explanation that the claims fell within one of the exceptions under the policy, or an applicable State or municipal contract.

The Director¹ Presented Questionable Quotes to the Board and Did Not Properly Seek Competition for Certain Contracts

The Board approved the contracts without determining whether competitive bidding was required for certain contracts or adequately reviewing the quotes to ensure the independence, qualifications and experience of the vendors that submitted competitive quotes. Based on our review we believe that certain services were not competitively bid and the Library's procurement policy was not adhered to. We identified the following matters pertaining to five contracts with three vendors totaling \$65,749 (heating, ventilation and air conditioning (HVAC) \$44,864, paving \$7,475, and flooring \$13,410) in which the Director presented questionable quotations to the Board for approval.

HVAC – The Library paid an HVAC contractor \$44,864 for maintenance services and a chiller pipe repair. Due to the value and timing of the procurements, the services required competitive bidding.²

The Director's spouse was the HVAC company's office manager, and a relative was a co-owner of the HVAC company. While the Board was aware of the relationships between the Director and the company prior to awarding these three contracts,³ the Board allowed the Director to be responsible for obtaining competitive quotes, rather than requiring him to recuse himself from the process.

We reviewed the three quotations presented to the Board with each of the two HVAC maintenance contracts and the chiller pipe repair. The three quotes for the maintenance contracts had almost identical text. This seemed unusual since the Director told us the vendors were verbally instructed on the work to be performed. It also seemed unusual that logos and letterheads on the quotations from the two contractors that were not selected varied from their prior year's quotations. When we inquired with the vendors that were not awarded the contract about their quotes, we found:

- The first contractor stated that while he submitted a quote associated with the 2017 contract, neither he nor his company submitted the quote presented to the Board in 2018.
- The second company confirmed that they submitted the quote in 2018 as a courtesy, knowing they would not be awarded the contract. The owner of the second company was not able to identify the letterhead on the 2017 quote

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1 The former Director resigned effective February 2020.

2 See bid analysis in Appendix A

3 Although the Board acknowledged the Director's relationship with the HVAC company, the Board's disclosure and the Director's conflict of interest certification annexed to the Board minutes lacked any detail whatsoever regarding the nature of the Director's relationship with that company. Instead, the Director's conflict of interest certification, dated October 15, 2014, merely stated, "All contracts and bids were authorized by the Board before I was appointed as Assistant Director."

but believes the quote may be legitimate. However, he could not explain why the letterheads were different.

For the quotes submitted for the chiller pipe repair, we found:

- The owner of a company that purportedly submitted a quote said that neither he nor his company provided the proposal presented to the Board.
- The owner of the other company that submitted a quote is related to a co-owner of the HVAC company that was awarded the contract.

Because the HVAC services were not competitively bid and it is questionable if three actual, individually provided competitive quotes were obtained for any of the HVAC contracts, adequate competition was not sought before awarding these contracts.

Paving – The Library also paid a paving contractor \$7,475 to repave its parking lot. We reviewed the three quotes the Director presented to the Board and found:

- The two unsuccessful vendors submitted quotes from companies without a web presence or business address.
- The first unsuccessful vendor is owned by the winning vendor's president.
- The second unsuccessful vendor provides parking lot maintenance, but not paving services and therefore would not have been able to perform the work.

We were informed that the winning vendor provided the quote from its president's company and recommended that the Director obtain the quote from the second unsuccessful vendor. Therefore, we question if competition was actually sought before awarding this contract.

Flooring – The Library also paid a general contractor \$13,410 for the installation of flooring at the Library. We reviewed the two other competing quotations and found:

- One of the proposals was from a company that had not been in business for about 12 years and did not have a valid license to perform the work.
- Another proposal was from a masonry contractor who did not visit the Library for measurements. Instead, he was provided with measurements by the vendor that was awarded the contract.

Additionally, there is no indication that the Director sought to obtain the flooring services through a State contract or other available municipal contract, as recommended by the Library's purchasing policy. Therefore, we also question if actual competition was sought for this contract.

The public has no assurance that the Library paid the best price for these services because the Board approved the contracts without ensuring that the Director obtained independent quotes from qualified vendors.

The Board Did Not Always Seek Competition for Professional Services

During the audit period, the Library paid \$101,912 to five professional service providers. Officials did not solicit competition for two professional service providers (accounting and architecture) who were paid a combined total of \$37,637. However, officials did seek competition for legal and information technology (IT) services totaling \$64,275 (figure1). The Library issued an RFP for legal services within our audit period, but not for IT services.



Officials did not solicit competition for two professional service providers (accounting and architecture) who were paid a combined total of \$37,637.

Officials told us that the Library has had a long-term relationship with the accounting firm and has not solicited competition in quite some time. The Director told us that the Library approached numerous engineers and/or architects for a planned capital project, but no written RFP was prepared or sent to vendors. One architect responded to the inquiry.

The Library paid a consultant \$29,600 for IT services during our audit period. While the Library did seek competition for IT services by advertising in a local paper in September of 2016, only one consultant, the one who was hired, responded. Additionally, the proposal from the consultant that responded to the request lacked technical qualification or certification details. A more comprehensive solicitation effort, such as notifying qualified vendors directly and posting an RFP on the Library's website, would help to ensure the largest pool of potential vendors is made aware of the Library's needs.

We also reviewed 14 claims totaling \$69,720 that were paid to these five professional service providers. All five service providers had written agreements that were approved by the Board and payments made were in accordance with those written agreements.

Because officials did not seek competition frequently enough, they have little assurance that professional services are procured in the most prudent and economical manner.

Library Officials Did Not Always Adhere to the Library's Credit Card Use Policy

The Library had 22 credit card statements with payments totaling \$53,390 during the audit period. We reviewed 13 credit card statements composed of 322 individual credit card transactions totaling \$41,381 to determine whether Library officials adhered to the Library's policies regarding credit card use and procurement. Thirty-four individual transactions totaling \$4,663 were not supported with receipts. Upon request, Library officials provided 29 of the 34 receipts, leaving five transactions totaling \$413 that were unsupported.

While all 322 transactions appear to be for legitimate Library purposes, we selected and reviewed 76 purchases totaling \$15,755 to ensure that the items purchased were available and included in the Library's inventory. All items, with minor exceptions were available for review and included in inventory.

We also identified all single purchases between \$500 and \$2,500 and found that Library officials made all 16 of these purchases totaling \$16,497 without documentation to indicate they solicited verbal quotations. For example, Library officials purchased an electric floor cleaner for \$1,739 without verbal quotations. Although the purchasing policy required the solicitation of verbal quotes, it did not include procedures for documenting the solicitation of those quotes.

Paying claims for credit card purchases without adequate supporting documentation, including evidence that purchases comply with the Library's purchasing policy, increases the risk of improper and wasteful credit card purchases and paying for unauthorized items.

What Do We Recommend?

The Board should:

1. Ensure competitive quotations and/or bids are obtained in compliance with the law and the Library's procurement policy and that adequate supporting documentation is maintained for actions taken.

-
2. Require additional detail in the Library's conflict of interest forms and/or Board minutes to better inform taxpayers on the nature of potential conflicts.
 3. Require officials to recuse themselves from negotiating contracts with related parties.
 4. Require officials to adhere to the purchasing policy and consider State and other municipal contracts when feasible.
 5. Review quotations to ensure vendors are independent and qualified prior to awarding contracts.
 6. Periodically obtain competitive proposals for professional services.
 7. Ensure that professional service proposals include qualifications, such as relevant certifications, in their fields.
 8. Ensure that credit card charges comply with the procurement policy and are supported with itemized receipts or invoices.

Appendix A: HVAC Bid Analysis

On May 15, 2018, the Board approved a proposal from the HVAC company for \$27,600⁴ to replace the chiller pipe in the Library's HVAC system. On October 15, 2018, the Board approved a proposal from the same HVAC company for \$17,700 for a three-year HVAC maintenance contract. On October 31, 2018, when the Board issued its first payment under this maintenance contract for \$5,600, the Library had already paid \$36,973 in HVAC-related expenses to this same HVAC company in the preceding 11 months.⁵

If Library officials had considered the aggregate amount of either of the contracts approved, or the payments made, within the 12-month period surrounding the three-year HVAC maintenance contract, then it would have been evident that competitive bidding for that contract was required. To the extent that Library officials considered the aggregate amount of these contracts or payments and decided that competitive bidding was not required, that decision should have been clearly documented in the Library's records.

4 Based on a series of statutory amendments to New York State General Municipal Law (GML), it appears that many services (other than those governed by the prevailing wage requirements of article eight of the Labor Law) are now generally categorized under the GML as "purchase contracts" and not "contracts for public work." In such instances, the Office of the State Comptroller recommends that political subdivisions and districts therein categorize the service contract as a "purchase contract," subject to the \$20,000 competitive bidding threshold set forth in GML Section 103 (1).

5 Includes payments made by the Library to the same HVAC company under an earlier HVAC maintenance contract

Appendix B: Response From Library Officials



47 Powell Avenue, Bethpage, NY 11714 | 516 • 931 • 3907

April 22, 2021

Ira McCracken
Office of the State Comptroller
NYS Office Building
Room 3A10
250 Veterans Memorial Highway
Hauppauge, NY 11788

Re: Response and Corrective Action Plan to OSC Preliminary Draft Findings

Dear Mr. McCracken,

Please accept this document as our audit response and Corrective Action Plan, submitted by the Bethpage Public Library in response to *Procurement, Report of Examination 2019M-219*.

Overall, we acknowledge and accept the key findings and key recommendations of this report, and have proactively enacted corrective changes in response.

Key Findings

1. Officials did not obtain competitive quotations or consider competitive bidding for 36 of 46 claims reviewed totaling \$104,572.

Response: The Library believes that quotations were considered, or bid for, properly as per our procurement policy, but acknowledges that documentation for such quotations was insufficient. Procedurally, administration has already begun documenting quotations and bids more thoroughly to better demonstrate compliance to our procurement policy.

Corrective Action Plan: The Library has amended our procurement policy to address documentation required for quotations and bids, and to have such documentation presented to the Board in a timely manner. In this way, documentation for quotations and bids will be available, as well as held on file within the administrative office.

2. The Director presented questionable quotes to the Board and did not properly seek competition for certain contracts; including contracts totaling \$44,864 awarded to a company to which the Director had close personal ties.

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Response: The Library acknowledges that it would have been prudent for the Director to have recused himself from this specific transaction. There was nothing present at the time that lead the Board to believe the quotes were questionable.

Corrective Action Plan: Regarding any purported conflict of interest, the Board has amended our conflict of interest policy to include an additional Interest in a Transaction or Decision form for both key employees and Trustees. This is to ensure that potential conflicts of interest are documented both generally (through our Conflict of Interest Certification form) as well as in regards to specific transactions or decisions. The Board will also enforce this policy as it pertains to discussion of, and voting on, any transaction or decision in which a key employee or Trustee has a documented conflict of interest. Regarding the issue of questionable quotations, the Board has amended our procurement policy to specify the documentation that is required for quotations and bids, and that such documentation will be presented to the Board in a timely manner and held on file within the administrative office.

3. Officials did not seek competition for two of five professional service providers who were paid a total of \$37,637. In addition, officials made credit card purchases totaling \$16,497 without documentation of soliciting competition.

Response: Regarding solicitation of professional services, it is noted in our procurement policy (and reiterated in this report) that competitive bidding is not required for the procurement of professional services. However, the Library acknowledges that, in order to receive the most favorable terms for professional services, the Library should periodically solicit proposals for these services. Regarding the credit card purchases totaling \$16,497 without documentation of soliciting competition, the Library maintains that administration was abiding by our procurement and credit card policies, but acknowledges that proper documentation was insufficient. Procedurally, administration has already amended our process of approving purchase orders, as well as providing documentation in compliance with our purchasing policy and credit card policy.

Corrective Action Plan: Regarding solicitation of professional services, the Library has amended its procurement policy to state that proposals shall be periodically solicited. Regarding credit card purchases, both the procurement policy and the credit card policy have been amended to specify under which circumstances a purchase order is required, and what documentation is required for a purchase order. As it relates specifically to credit card purchases, documentation of purchase orders and itemized receipts will be filed in the administrative office, as well as submitted to the Board for review with the credit card statement.

Key Recommendations

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1. Competitive quotes and/or bids are obtained and that officials recuse themselves from negotiating contracts with related parties.

Corrective Action Plan: Regarding the procurement of competitive quotes and/or bids, the Library has amended our procurement policy to specify the documentation that is required for quotations and bids, and that such documentation will be presented to the Board in a timely manner and held on file within the administrative office. Regarding any purported conflict of interest, the Board has amended our conflict of interest policy to include an additional Interest in a Transaction or Decision form for both key employees and Trustees. This is to ensure that potential conflicts of interest are documented both generally (through our Conflict of Interest Certification form) and in regards to specific transactions or decisions. Furthermore, the Board will also enforce this policy as it pertains to discussion of, and voting on, any transaction or decision in which a key employee or Trustee has a documented conflict of interest.

2. Competitive proposals for professional services are obtained on a periodic basis and that credit card charges comply with the procurement policy and are supported by receipts or invoices.

Corrective Action Plan: Regarding solicitation of professional services, the Library has amended its procurement policy to state that proposals shall be periodically solicited. Regarding credit card purchases, both the procurement policy and the credit card policy have been amended to specify under which circumstances a purchase order is required, and what documentation is required for a purchase order. As it relates specifically to credit card purchases, documentation of purchase orders and itemized receipts will be filed in the administrative office, as well as submitted to the Board for review with the credit card statement.

The Bethpage Public Library Board of Trustees would like to thank the New York State Comptroller's Office for providing a thorough report, and for the suggestions on procedural improvements. We have taken these recommendations seriously and have already enacted our Corrective Action Plan. All referenced policy changes were implemented on April 5, 2021, with both the Board of Trustees and library administration responsible for implementation.

Sincerely,

Mary Macaluso

President of the Bethpage Public Library Board of Trustees

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Appendix C: Audit Methodology and Standards

We conducted this audit 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. To achieve the audit objective and obtain valid audit evidence, our audit procedures included the following:

- We reviewed Board minutes for Board approval of purchases and other procurement-related actions.
- We interviewed Library officials to gain an understanding of the procurement processes for purchases under the bidding threshold, professional service providers and credit cards. We requested and reviewed claims and/or purchases and supporting documentation for all purchases tested.
- To arrive at our quotation population, we eliminated all payments related to payroll, retirement, health insurance, utilities and other State and local governments; purchases of copyrighted material (books, music, video and databases); payments related to library programs, postage, periodicals, conferences and/or training; refunds to library patrons; and payments for professional memberships from the Library's cash disbursement journal, resulting in a population of 270 payments by check to 46 vendors totaling \$293,284.
- From this list, we eliminated all vendors paid less than \$500 in a fiscal year. We selected the highest payment amount from the remaining 36 vendors and all 11 payments from one vendor resulting in a sample of 46 payments totaling \$126,907. We reviewed these claims to determine whether Library officials solicited appropriate competition and retained original invoices and whether the purchases appeared to be for legitimate library purposes.
- We reviewed written agreements and Board resolutions for approving professional service providers for the five professional service providers identified from cash disbursements from the Library's financial software. We reviewed documentation to determine whether officials sought competition for these services.
- We selected the highest three payments or the total number, if less than three, paid to each professional service provider in our audit period and reviewed these payments to determine whether they agreed with written agreements.
- We reviewed the Library's Board-adopted policies for procurement and credit card usage.
- For our credit card test, we identified 22 credit card statements with payments totaling \$53,390 made during our audit period. We selected all credit card payments in the 2018 calendar year, resulting in a sample of 13 credit card statements with payments totaling \$41,381. We reviewed credit card purchases to determine whether officials retained original receipts and

solicited the appropriate number of quotations, and whether the purchases appeared to be for legitimate library purposes. We also reviewed 76 purchases totaling \$15,755 to determine whether the items purchased were available and included in the Library's inventory.

We conducted this performance audit in accordance with generally accepted government auditing standards (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.

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.

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 provided 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 the CAP available for public review in the Library's office.

Appendix D: Resources and Services

Regional Office Directory

<https://www.osc.state.ny.us/files/local-government/pdf/regional-directory.pdf>

Cost-Saving Ideas – Resources, advice and assistance on cost-saving ideas

<https://www.osc.state.ny.us/local-government/publications>

Fiscal Stress Monitoring – Resources for local government officials experiencing fiscal problems

www.osc.state.ny.us/local-government/fiscal-monitoring

Local Government Management Guides – Series of publications that include technical information and suggested practices for local government management

<https://www.osc.state.ny.us/local-government/publications>

Planning and Budgeting Guides – Resources for developing multiyear financial, capital, strategic and other plans

www.osc.state.ny.us/local-government/resources/planning-resources

Protecting Sensitive Data and Other Local Government Assets – A non-technical cybersecurity guide for local government leaders

<https://www.osc.state.ny.us/files/local-government/publications/pdf/cyber-security-guide.pdf>

Required Reporting – Information and resources for reports and forms that are filed with the Office of the State Comptroller

www.osc.state.ny.us/local-government/required-reporting

Research Reports/Publications – Reports on major policy issues facing local governments and State policy-makers

<https://www.osc.state.ny.us/local-government/publications>

Training – Resources for local government officials on in-person and online training opportunities on a wide range of topics

www.osc.state.ny.us/local-government/academy

Contact

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