

# Town of Pawling

## Procurement

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JUNE 2021

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

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# Report Highlights

## Town of Pawling

### Audit Objective

Determine whether Town of Pawling (Town) officials used a competitive process to procure goods and services.

### Key Findings

Town officials did not always use a competitive process to procure goods and services. Officials did not:

- Develop detailed procedures for procuring professional services in their procurement policy.
- Seek competition for professional services obtained from eight service providers paid \$342,770 of the 10 professional services tested.
- Competitively bid for sanitation services totaling \$186,821.

### Key Recommendations

- Revise the procurement policy to provide a clear method for procuring professional services.
- Procure professional services by soliciting proposals or quotes at reasonable intervals.
- Comply with the Town's procurement policy and competitive bidding requirements when making purchases.

Town officials disagreed with our findings and recommendations. Appendix B includes our comments on issues raised in the Town's response letter.

### Background

The Town, located in Dutchess County, is governed by an elected Town Board (Board) which includes the Town Supervisor (Supervisor) and four Board members. The Board is responsible for the general management and control of the Town's finances and operations.

The Supervisor serves as the chief executive and chief fiscal officer and is responsible for the day-to-day operations. The Supervisor designated a bookkeeper who records and reports financial transactions.

#### Quick Facts

2020 Appropriations \$4,454,008

2021 Appropriations \$4,523,272

#### Total Procurements For the Audit Period

Number 2,258

Number Reviewed 375

Amount \$4,020,570

Amount Reviewed \$1,914,714

### Audit Period

January 1, 2019 – August 31, 2020

# Procurement

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## How Should Town Officials Procure Goods and Services?

Towns are generally required to advertise for competitive bids for purchase contracts exceeding \$20,000 and public works contracts exceeding \$35,000. A board is further required to adopt written policies and procedures for procuring goods and services not subject to competitive bidding requirements, such as professional services, to ensure the prudent and economical use of public funds in the town's best interests. In lieu of soliciting competitive bids, towns may use other publicly awarded government contracts, such as those of a county or the New York State Office of General Services (State contract).

Although not required by law, a town should award professional service contracts only after soliciting competition. Using requests for proposals (RFPs) is an effective way to ensure a town receives the desired good or services at the best price (refer to our publication Seeking Competition in Procurement available at [www.osc.state.ny.us/files/local-government/publications/pdf/seekingcompetition.pdf](http://www.osc.state.ny.us/files/local-government/publications/pdf/seekingcompetition.pdf)).

Issuing RFPs for professional services (services rendered by attorneys, engineers and certain other services requiring specialized or technical skills, expertise or knowledge, the exercise of professional judgment or a high degree of creativity) helps ensure a town obtains the needed services upon the most favorable terms and conditions and avoids the appearance of partiality when awarding such contracts.

A town's procurement policy may also set forth circumstances when, or types of procurements for which, in the town's sole discretion, the solicitation of alternative proposals or quotations will not be in the town's best interest. These exceptions should be limited and be set forth only when properly justified in the public interest. Otherwise, the effectiveness of the procurement policy and its procedures will be diminished. Town officials should develop detailed procedures that are appropriate for the size and complexity of its operations.

The Town's procurement policy requires Town officials to obtain at least three verbal or written quotes, or proposals for purchase contracts between \$500 and \$5,000 and at least three formal written quotes or proposals for purchase contracts between \$5,000 and \$19,999 and to use competitive bidding procedures for contract amounts of \$20,000 and up. In addition, the policy requires the officials to obtain at least three verbal or written quotes or bids for public works contracts under \$5,000, and three formal written quotes for public works contracts between \$5,000 to \$34,999.99, and use a sealed bid process for contract amounts of \$35,000 and up.

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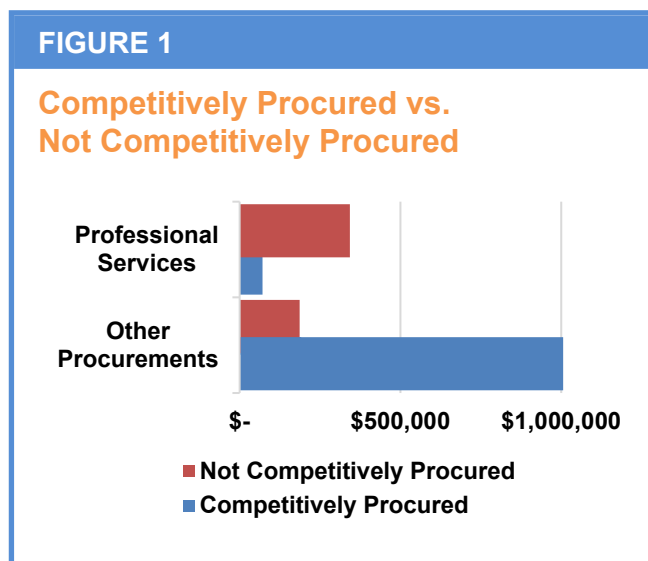
## The Policy Did Not Clearly Address the Procurement of Professional Services

The Town's procurement policy states that it may not be in the Town's best interests to solicit quotes or document the basis for not accepting the lowest bid when procuring professional services and requires officials to select professional service providers based on accountability, reliability, responsibility, skill, education and training, judgment, integrity and moral worth.

However, the policy did not describe the documentation required to support these procurements, and Town officials did not develop detailed procedures to supplement the policy. As a result, officials had no assurance the professional services were procured with the most favorable terms and conditions in the best interest of taxpayers.

## Officials Did Not Always Seek Competition for Purchases of Goods and Services

Town officials generally sought competition for procurements below \$20,000 and public works contracts below \$35,000. However, they did not always seek competition for professional services or solicit bids for purchases subject to competitive bidding, as required (Figure 1).



Professional Services – We reviewed payments to 10 professional service providers totaling \$414,020 during the audit period. We found the services of eight of these providers were not procured through the use of RFPs or another competitive process.

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Officials paid \$342,770 to eight professional service providers without seeking competition as follows:

- Engineering – \$160,741
- Information Technology – \$107,822
- Environmental Consulting – \$43,546
- Payroll – \$30,661

Town officials did not seek competition for these services because the procurement policy did not provide detailed procedures for procuring professional services.

Competitive Bidding – The Town’s procurement policy requires competitive bidding for purchase contracts exceeding \$20,000 and public works contracts exceeding \$35,000. These contracts are to be awarded by the Board to the lowest responsible bidder furnishing the required security after the bids were advertised.

We reviewed 57 vouchers paid to five vendors totaling approximately \$1.3 million during our audit period that were subject to competitive bidding. We found that 39 vouchers from four vendors totaling approximately \$1.1 million were properly purchased using competitive bidding, State contracts or cooperative bids. However, officials did not seek required competition from one vendor for sanitation services totaling \$186,821.

The bookkeeper told us that officials did not seek competition because this vendor was the only transfer station in the area, and the next closest one was 20 miles away. However, officials could have used the State contract for this service. When a competitive process is not used, the Board has less assurance that professional services are obtained with the most advantageous terms and conditions and in the best interest of taxpayers. Also, because officials did not seek competition for sanitation services, they had limited assurance that these services were procured in the most economical way and in the best interest of taxpayers.

## What Do We Recommend?

The Board should:

1. Revise the Town’s procurement policy to provide a detailed method for procuring professional services.
2. Procure professional services by soliciting proposals or quotes at reasonable intervals.
3. Ensure that Town officials comply with competitive bidding requirements and the Town’s procurement policy when making purchases.

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Officials paid  
\$342,770  
to eight  
professional  
service  
providers  
without  
seeking  
competition...

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# Appendix A: Response From Town Officials

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**James Schmitt**  
Town Supervisor  
**TOWN OF PAWLING**  
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June 2, 2021

RE: Town of Pawling Response to  
NYSOSC Report of Examination

Dear Ms. Reynolds,

In response to the Report of Examination conducted by New York State Office of the Comptroller, the Town responds as follows:

The report states the Town Procurement Policy did not clearly address the procurement of professional services. Page 2 of the 2019 Town Procurement and Surplus Policy, Item 3-f specifically states: "Pursuant to General Municipal Law 104-b(2)(f) the procurement policy may contain circumstances when, or types of procurement for which, in the sole discretion of the governing body, the solicitation of alternative proposals or quotations will not be in the best interest of the municipality." It further describes the considerations Town Council shall take in making their decisions. This policy was prepared with and reviewed by the Town Attorney.

See  
Note 1  
Page 7

The second and final issue noted in the Report of Examination is that the Town's claim for the use of Welsh Sanitation being sole source is not sufficient. The sole source claim is due to the fact that the next source is 20 miles away which would make hauling and gas costs prohibitive.

See  
Note 2  
Page 7

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Thank you for all of your hard work and communication during this process, we greatly appreciate all of the time and effort.

Sincerely,

James Schmitt  
Town Supervisor



# Appendix B: OSC Comments on the Town's Response

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## Note 1

Our finding was solely on the Town's lack of developing procedures to supplement the policy. The Board has discretion for whom it chooses for professional services. However, the Board should document the process it uses to determine how it makes that decision and ensure that documentation is available for public inspection.

## Note 2

This purchase did not meet the definition of a sole source procurement in which only one offeror can supply the required commodities or services. However, Town officials had the option to make this purchase via a State contract.

# Appendix C: Audit Methodology and Standards

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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, we performed the following audit procedures:

- We interviewed Town officials and employees involved in the purchasing process to gain an understanding of the Town's procurement practices.
- We reviewed the Board's adopted policies to determine whether they addressed procuring goods and services that are not subject to competitive bidding, in accordance with statutory requirements.
- We reviewed cash disbursement data for our audit period and identified 15 vendors with aggregate purchases totaling about \$2 million that were subject to competitive bidding requirements. Using our professional judgment, we selected five vendors paid approximately \$1.3 million during the audit period. For our sample, we selected five vendors who did not have active State, municipal or other cooperative contracts. We reviewed our sample to determine whether officials solicited bids for these goods and services and payments were for proper purposes. For those goods and services where officials did not solicit bids, we reviewed the State contract list to determine whether an acceptable alternative purchasing method could have been used.
- We reviewed cash disbursement data for our audit period and identified 34 payments totaling \$786,648 made to vendors providing professional services. We used our professional judgment to select a sample of professional service providers from the vouchers of the 10 highest paid professional service providers who were paid \$414,020 during our audit period. We reviewed our sample to determine whether the payments to these providers were for proper purposes.
- We randomly selected five of the 10 professional services providers from the previously selected sample and reviewed their vouchers to determine whether the payments made were in accordance with the providers' contracts. We also reviewed the RFP documentation, if any, to determine whether officials sought competition for these services. For those services for which the Town did not seek competition, we asked officials why they did not do so.
- We reviewed cash disbursement data for our audit period and identified 324 purchases totaling approximately \$1.2 million that did not require competitive bidding. We excluded vendors who were paid less than \$1,000 per year because the Town procurement policy gives a wider purchasing discretion for such purchases and used our professional judgment to select 60 vouchers totaling \$247,257 paid to 28 vendors (including five vouchers issued by two credit card companies).

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- We reviewed documentation for our sample to determine whether officials obtained quotes or used an acceptable alternative purchasing method and whether payments were for proper purposes. For those services where the Town did not obtain quotes, we asked officials why they did not seek or document quotes. We also reviewed the five selected credit card vouchers to determine whether officials had adequate authorization procedures in place to safeguard credit card purchases and whether credit card vouchers were reviewed by the Board as indicated by officials.
  - We performed an Internet search and compared products and services to identify companies providing similar products and services to the vendors identified as sole sources to determine whether a vendor was a sole source.

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 Town Clerk's office.

## Appendix D: Resources and Services

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### **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](http://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](http://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](http://www.osc.state.ny.us/local-government/required-reporting)

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## Contact

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