

Town of Van Etten

Procurement and Supervisor's Fiscal Oversight

AUGUST 2019



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

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Report Highlights

Town of Van Etten

Audit Objective

Determine whether Town officials purchased goods and services economically.

Determine whether the Supervisor safeguarded cash.

Key Findings

- Town officials purchased a fire truck for more than \$300,000 without competitive bidding, and did not seek competition for goods that fell below the bid limits or for professional services.
- The Supervisor did not provide oversight of the bookkeeper's recordkeeping and reporting of financial activity.

Key Recommendations

- Ensure officials and employees follow competitive bidding statutes, and policy requirements to solicit and document competition when making purchases.
- Provide adequate oversight of the bookkeeper.

Town officials agreed with our recommendations and indicated they planned to initiate corrective action.

Background

The Town of Van Etten (Town) is located in Chemung County. The Town is governed by an elected Town Board (Board) composed of four Board members and the Supervisor. The Board is responsible for the general management and control of financial affairs.

The Supervisor serves as the chief executive and financial officer and is responsible for the day-to-day financial activities. The Supervisor's financial duties include maintaining accounting records and providing monthly financial reports to the Board. The Board appointed a bookkeeper to assist the Supervisor in performing these duties.

Quick Facts

2017 and 2018 Vendor Purchases	\$2.1 million
Square Miles	41.57
Population	1,557
2018 Total Appropriations	\$1.5 million

Audit Period

January 1, 2017 – May 17, 2019

Procurement

How Should Officials Procure Goods and Services?

New York State General Municipal Law (GML) requires awarding all contracts for public works involving expenditures exceeding \$35,000 and all purchase contracts exceeding \$20,000 to the lowest responsible bidder.¹ As an alternative to complete bidding, the Town may elect to award purchase contracts which exceed these thresholds on the basis of best value.²

In addition, GML requires that a board adopt written policies and procedures for procuring goods and services not required by law to be competitively bid, such as professional services. GML states that these goods and services must be procured in a manner that ensures the prudent and economical use of public funds in the best interest of taxpayers, and is not influenced by favoritism, extravagance, fraud or corruption.³

A board must ensure that the policies and procedures clearly provide for obtaining alternative proposals by using a request for proposal process (RFP) for professional services and written or verbal quotes for purchases less than the bid thresholds. GML permits town officials to set forth in their policies the circumstances when or the types of procurements, such as professional services, for which the town has determined RFPs will not be in its best interests. However, using a competitive method such as an RFP process would help ensure that the board obtains needed qualified services with the most favorable terms and conditions for the best price.

Policies and procedures should require documentation of actions taken with each procurement method, and identify the individuals responsible for purchasing and their titles. Officials are required to annually review and update the written procurement policy. A board should ensure that the thresholds established for obtaining quotes and RFPs are reasonable to ensure competition.

In lieu of seeking competition, a town can make purchases using contracts awarded by the New York State Office of General Services (State contracts) or contracts bid by other governments (e.g., county contracts). In determining the necessity for competitive bidding, the aggregate amount expended for the same commodity or service within the 12-month period beginning on the purchase date must be considered.

¹ New York State General Municipal Law (GML), Section 103

² The Board must first authorize the use of the best value method for awarding purchase contracts by the adoption of a local law. In assessing best value, non-price factors can be considered when awarding the purchase contract. For this purpose, best value is defined, in part, as a basis for awarding contracts to the offeror that optimizes quality, cost and efficiency among responsive and responsible offerors. In assessing best value, non-price factors may be considered when awarding the purchase contract. However, when possible, the basis for a best value award must reflect objective and quantifiable analysis.

³ GML, Section 104-b

Officials Did Not Procure Goods and Services in Accordance With GML and Board Policy

The Board adopted and annually reviewed a procurement policy that addressed obtaining quotes or proposals requirements for purchases of goods and services that exceed \$2,000, but fall below the Town's competitive bid limits for purchases over \$10,000 during the year and public works contracts exceeding \$20,000.⁴

The policy does not require soliciting competition, such as written proposals or quotes, when procuring professional services. In addition, officials have not developed formal procedures for seeking competition when procuring these services, including the specific documentation that should be maintained to support the decisions made.

The policy states that the purchaser is required to compile a list of all vendors from whom quotes or proposals were requested and a list of all quotes or proposals offered by vendors. The policy further requires that all information gathered be preserved and filed with the documentation supporting the subsequent purchase or public works contracts.

Purchases Subject To Competitive Bidding – We reviewed all 18 purchases made in 2017 and 2018 totaling approximately \$1 million that required competitive bidding in accordance with the policy and/or GML. Although Town officials generally solicited bids as required, we found that they purchased a fire truck in 2018 for \$300,071 for use by the Community Fire and Rescue, Inc., a fire company (Company) that provides fire protection services to the Town, without seeking bids or best value competitive offerings.

The Supervisor told us that the Town made the purchase after he identified fire trucks online used for demonstrations (demo trucks) that he thought would meet local requirements. He believed that the demo trucks were a better value than a new truck and asked a member of the Company if one of the demo trucks he selected would work for the Company's needs. The Board approved the fire truck purchase without requiring competition, erroneously citing the purchase as an acquisition of professional services.

Purchases Requiring Quotes or Proposals – We reviewed all 36 purchases from 2017 and 2018 ranging from \$2,001 to \$10,000 totaling \$162,642 to determine whether quotes or proposals were obtained. We found that officials did not obtain quotes or proposals as required by the policy for 14 purchases totaling \$70,889 (44 percent).

General fund purchases totaled \$39,280 and included roofing materials for the Town hall, paving of the Town hall parking lot and installation of a new clock tower.

⁴ The Town policy has lower competitive bidding thresholds than GML.

Highway fund purchases totaled \$27,680 and included insulation for the highway garage, a pressure washer, electrical and mechanical repairs and tree removal services. The remaining purchase totaled \$3,929 from the fire protection fund to outfit a fire truck.

Professional Services – Officials obtained professional services from three professional service providers who were paid \$280,550 in 2017 and 2018 without seeking competition. These services were for legal (\$43,760), insurance (\$18,790) and fire protection services (\$218,000).

The Supervisor told us that the reason they did not look at other options for legal services was because they believe their current attorney provides excellent service for their needs. The Supervisor also told us that they use an insurance broker who he believes is finding the best price for insurance coverage. In addition, the Supervisor told us that fire protection services obtained through the Company was not bid because they are the Town's only local option.

We found that these professional services were for legitimate and appropriate purposes. However, officials told us that there are several local fire protection service providers available. When a competitive process is not used, the Board has little assurance that professional services are procured in the most economical manner and in the best interest of residents.

By not seeking competition for the purchase of goods and services, the Board cannot ensure that quality goods and services obtained are at the lowest possible cost. Seeking competition also guards against favoritism, extravagance and fraud, while allowing interested vendors a fair and equal opportunity to compete.

What Do We Recommend?

The Board should:

1. Ensure officials and employees follow competitive bidding statutes and procurement policy requirements.
2. Develop procedures for obtaining professional services, to require officials and employees to award contracts above a reasonable limit only after soliciting competition, and provide guidance as to how competition should be solicited, including written RFPs and written or verbal quotes.
3. Ensure quotes or proposals are solicited and documented in accordance with the procurement policy before auditing and approving claims.

Supervisor's Fiscal Oversight

What Are the Supervisor's Fiscal Responsibilities?

A town's financial data must be complete, accurate and up-to-date to be relevant and useful for managing town operations. New York State Town Law (Town Law) requires the supervisor, as chief financial officer, to collect, receive and have custody of all money belonging to or due the town,⁵ pay board approved claims on warrant of the town clerk,⁶ and maintain a complete and accurate account of the receipt and disbursement of all town money.

When the supervisor assigns these duties to a bookkeeper, the supervisor must provide sufficient oversight of the duties performed to ensure duties are properly segregated or that compensating controls are in place.⁷ In addition, the supervisor must maintain and have custody of records to adequately document the transactions of public business and ensure the protection of such records. Further, the supervisor is responsible for annually accounting to the board for all money received and disbursed and producing all supporting books, records, receipts, warrants, vouchers and cancelled checks or check images.⁸

The Supervisor Did Not Adequately Oversee the Bookkeeper

The Supervisor delegated his financial responsibilities to the bookkeeper and failed to provide adequate oversight. The bookkeeper recorded receipts and disbursements and processed payroll using a computerized accounting program and prepared the Supervisor's monthly and year-to-date financial reports. She also made online transfers between the Town's savings and checking accounts and printed checks from check stock maintained at her personal business residence. The Supervisor signed checks presented to him from the bookkeeper and deposited receipts. Check stock was not inventoried and a supply was also kept in his truck for handwritten checks.

Although the Supervisor and Board received monthly financial reports prepared by the bookkeeper that identified the money received, the Supervisor did not reconcile the supporting documentation for the collections he deposited to receipts recorded in the accounting system or that were included on the monthly reports. While the Board audited each bill, except for health insurance⁹ and some

5 New York State Town Law (Town Law), Section 29

6 Except for payment of fixed salaries, principal and interest on indebtedness, regular or stated compensation of officers and employees and amounts becoming due upon lawful contracts exceeding one year (Town Law, Section 125). The supervisor may make payments in advance of audit for public utility services, postage, freight and express charges if authorized by the board (Town Law, Section 118).

7 Oversight activities can include, but are not limited to, reviewing budget-to-actual and other financial reports, bank reconciliations, bank statements and canceled check images and reviewing and approving disbursements before payment.

8 Town Law, Section 123.

9 The Board did not audit health insurance and workmen's compensation bills paid in accordance with the highway department's collective bargaining agreement.

handwritten checks issued by the Supervisor, the Supervisor did not verify that the checks that cleared the bank or bank transfers were for appropriate purposes because he did not review canceled check images or bank transfers.

Further, no one independently reviewed the monthly bank reconciliations prepared by the bookkeeper or bank statements because they were mailed directly to her business/ residence.

Finally, the bookkeeper did not provide adjusting or correcting accounting entries to the Supervisor for review or approval. Therefore, the bookkeeper, who had custody of the check stock and bank statements and access to online banking could disburse funds without the Supervisor or Board's knowledge.

Because of the lack of oversight, we reviewed all receipts totaling \$1.23 million and disbursements totaling almost \$1.3 million for 2017 and found all were accounted for by the bookkeeper in the computerized accounting software. However, because the bookkeeper netted revenues and expenditures totaling \$53,870 in the accounting software, receipts and disbursements were misstated in the monthly reports to the Supervisor and Board. In addition, handwritten checks issued by the Supervisor were not timely recorded and reported because the bookkeeper was unaware of them until she received the bank statement. As a result, not all of these expenditures were approved by the Board.

Although our review of receipts and disbursements found no unexplained discrepancies, the bookkeeper's online access to the Town's saving and checking bank accounts, the uncertainty of the computer controls,¹⁰ the lack of review and reconciliations and the recording of net rather than gross receipts increases the risk that money could be misappropriated without detection and errors or irregularities could occur and remain undetected and uncorrected.

Because the Supervisor did not reconcile supporting documentation for cash received and disbursed to transactions recorded in the accounting system, the bank statements or the monthly reports and the Board did not approve of all disbursements, officials cannot be sure that cash is adequately safeguarded.

The Supervisor Did Not Present His Records for Audit by the Board

The Supervisor did not annually account with the Board for all money received and disbursed during the year. The Supervisor failed to produce all supporting books, records, receipts, warrants, vouchers and cancelled checks or check images for the Board to audit.

¹⁰ Refer to The Supervisor Did Not Adequately Safeguard Online Banking Transactions section.

Without an annual audit, officials are at risk of failing to detect and correct errors, irregularities, or fraudulent activity in a timely manner. In addition, the Board's ability to monitor financial operations is diminished.

What Are Effective Online Banking Controls?

Users of online banking can review current account balances and account information, including recent transactions, and transfer money between bank accounts and to external accounts. GML allows town officials to disburse or transfer funds in their custody by means of electronic or wire transfers, provided the governing board has entered into a written agreement with the bank.¹¹

In addition, GML requires that the banking agreement prescribe the manner in which electronic or wire fund transfers will be accomplished and identify the names and numbers of bank accounts from which such transfers may be made and the individuals authorized to request the transfers.¹²

Town officials should adopt an online banking policy, provide cybersecurity awareness training¹³ and ensure use of a dedicated town-owned computer for this purpose. GML requires the town to implement a security procedure that includes verifying that a payment order is for the initiating town and detecting payment order errors in transmission or content. It is essential that Town officials establish procedures and provide training to ensure that staff are securely accessing banking websites to help reduce the risk of unauthorized transfers from both internal and external sources.

The Supervisor Did Not Adequately Safeguard Online Banking Transactions

The bookkeeper performed all online transactions, recorded financial transactions and prepared the Supervisor's financial reports for the Board on her personal computer. In addition, on occasion others helped with the Town's records. As a result, we were unable to assess the control environment of this computer, including who had access to the computer and whether sufficiently secured passwords were used, virus protection was in place and up-to-date, securely stored backups were regularly made, personal, private and sensitive information¹⁴ was stored on the computer in a secured manner and the computer was scanned

11 GML, Section 5-A

12 Ibid.

13 Cybersecurity awareness training helps employees understand their roles and responsibilities and provides them with necessary skills to avoid putting data at risk of loss or misuse.

14 Personal, private and sensitive information is any information to which unauthorized access, disclosure, modification, destruction or use or disruption of access or use could have or cause a severe impact on critical functions, employees, customers, third parties or other individuals or entities.

for malicious software and other threats. In addition, when others have access to Town records, this further compromises data security.

Town officials use one bank for online transfers by the bookkeeper. However, officials were unable to locate a copy of the bank agreement and the bank was unable to provide one for us. The Board did not adopt an online banking policy, provide cybersecurity awareness training or adequately segregate online banking duties.

We found that the bookkeeper performed all online transactions without any oversight and used her personal computer instead of a dedicated Town computer for these transactions. As a result, there is no assurance that authorized access to online bank accounts was limited and protected from threats from malicious software, which could subject cash assets to misappropriation.

What Do We Recommend?

The Supervisor should:

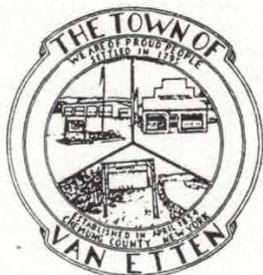
4. Provide adequate oversight of the bookkeeper, such as reconciling supporting documentation to collections deposited, recorded in the accounting system or included on the monthly reports.
5. Review disbursements and determine the need for online transfers by comparing to the warrants and certified payrolls before payment.
6. Prepare an inventory and maintain custody of blank check stock, review canceled check images and bank transfers to verify that all checks clearing the bank are for appropriate purposes and transfers are made only between Town savings and checking accounts.
7. Enable notifications and other security measures available from the banks, including secondary approvals and email notifications every time an online transaction occurs.
8. Ensure that the bookkeeper provides the reconciliations and bank statements for review and discontinue the practice of mailing bank statements directly to the bookkeeper.
9. Ensure that the bookkeeper provides any adjusting or correcting entries for prior approval.
10. Not write and issue checks before Board audit, except for the limited exceptions permitted by law.

-
11. Ensure that all financial data is located on the Town's computers, protected and safeguarded and remove all Town data located on the bookkeeper's personal computer.
 12. Enter into an online banking agreement with the financial institution and ensure that the agreement includes the names of authorized personnel and the accounts that can be accessed.
 13. Annually submit financial records and supporting documentation to the Board for audit.

The Board should:

14. Establish written policies and procedures for cash receipts, disbursements and online banking that address the duties, procedures, records and oversight required to safeguard Town funds.
15. Annually audit the Supervisor's records.

Appendix A: Response From Town Officials



The Town Of Van Etten

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Chemung County
New York

"We Are Of Proud People"

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(607) 589-4435

August 8, 2019

[REDACTED]
Office of the New York State Comptroller
Division of Local Government and School Accountability
The Powers Building
16 West Main Street
Suite 522
Rochester, NY 14614

Dear [REDACTED]

The Town Board of Van Etten has reviewed the preliminary draft findings and are in agreeance with your report.

The Town Board of Van Etten will be creating Corrective Action Plans, utilizing your recommendations, and will present them to you within 90 days after the final report has been issued.

Best regards,

George Keturi
Town Supervisor

Appendix B: 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 objectives and obtain valid audit evidence, our audit procedures included the following:

- We interviewed Town officials and employees to gain an understanding of the procurement and purchasing processes and the Supervisor's oversight of the bookkeeper.
- We reviewed the procurement policy and evaluated its adequacy.
- We reviewed Board minutes for 2017 and 2018 that related to our audit objectives.
- We examined all 18 purchases made in 2017 and 2018 that required competitive bidding. We reviewed bid documents for evidence that officials competitively bid purchases and selected the lowest responsible bidder, in compliance with GML and the procurement policy. If the purchase lacked bidding documents, we determined whether the purchase was made using another acceptable method (State contract or other municipal contract) and whether the amounts charged agreed with the contract. When purchases lacked required support we discussed these with officials to determine the reasons.
- We examined all 36 purchases made in 2017 and 2018 falling within the policy's bidding thresholds (from \$2,001 to \$10,000) that required two or three quotes or proposals. We reviewed supporting documentation including quotes, proposals, invoices and purchase vouchers to determine whether officials followed the policy. When officials did not maintain appropriate documentation we discussed these purchases with them to determine the reasons.
- We reviewed all six professional service providers paid in 2017 and 2018. We reviewed documentation to determine whether officials sought competition when awarding contracts. We used our professional judgment to determine whether the services procured were appropriate. For those services where officials did not seek competition, we inquired for an explanation.
- We compared all 2017 receipts to reported revenue on the monthly Supervisor's report. We also compared all deposits listed on the bank statements to deposit compositions obtained directly from the bank and reports from department officials.
- We compared all 2017 payrolls and abstracts to monthly reported disbursements and all monthly reported disbursements to bank disbursements to determine whether disbursements were approved, reported and accurate.

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

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 Clerk's office.

Appendix C: Resources and Services

Regional Office Directory

www.osc.state.ny.us/localgov/regional_directory.pdf

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

www.osc.state.ny.us/localgov/costsavings/index.htm

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

www.osc.state.ny.us/localgov/fiscalmonitoring/index.htm

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

www.osc.state.ny.us/localgov/pubs/listacctg.htm#lmgm

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

www.osc.state.ny.us/localgov/planbudget/index.htm

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

www.osc.state.ny.us/localgov/pubs/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/localgov/finreporting/index.htm

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

www.osc.state.ny.us/localgov/researchpubs/index.htm

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

www.osc.state.ny.us/localgov/academy/index.htm

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