



Fishers Island Waste Management District Purchasing

Report of Examination

Period Covered:

January 1, 2014 – June 30, 2015

2015M-292



Thomas P. DiNapoli

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State of New York Office of the State Comptroller

Division of Local Government and School Accountability

January 2016

Dear District 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 Fishers Island Waste Management District, 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 Fishers Island Waste Management District (District) is located in the Town of Southold in Suffolk County. It is a component unit of the Town of Southold, which is financially accountable for the District. As a district corporation of the State, the District is distinct and separate from the Town and is governed by an elected five-member Board of Commissioners (Board).

The District's primary function is to provide safe and efficient disposal of household garbage, furniture, appliances, recyclables, construction waste and yard debris for individuals residing within District boundaries (Fishers Island). The District serves about 235 year-round residents and employs seven people: four full-time and three part-time employees. The District's 2014 actual expenditures totaled \$999,516, which were funded primarily with real property taxes. Budgeted expenditures for the 2015 fiscal year were \$610,540.

The District's Operations Manager is responsible for overseeing the daily operations at the transfer station and compost station. The District's Business Manager is responsible for business office operations, including overseeing payment of invoices and submitting reports to the Board. Both managers are permitted to purchase goods and services and are responsible for ensuring compliance with all District purchasing guidelines.

Objective

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

- Did the Board ensure that District officials purchased goods and services in compliance with General Municipal Law and the District's purchasing policy?

Scope and Methodology

We examined the District's purchasing practices for the period January 1, 2014 through June 30, 2015.

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
District Officials and
Corrective Action**

The results of our audit and recommendations have been discussed with District officials, and their comments, which appear in Appendix A, have been considered in preparing this report. District officials generally agreed with our recommendations and indicated they planned to take corrective action. Appendix B includes our comments on issues raised in the District's response letter.

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 Business Manager's office.

Purchasing

The primary purpose for obtaining bids, quotes and proposals is to encourage competition in the procurement of supplies, equipment and services that will be paid for with public funds. The use of competition provides taxpayers with the greatest assurance that goods and services are procured in the most prudent and economical manner and at the lowest possible price and that the procurement is not influenced by favoritism, extravagance, fraud and corruption.

The District's purchasing policy does not require District officials to use competitive bidding for any purchases. As a result, District officials did not adhere to General Municipal Law (GML) bidding requirements for purchases of goods and services. Also, District officials did not always comply with the District's purchasing policy by obtaining written quotes for purchases. Consequently, the District paid \$27,411 more than necessary when procuring goods and services.

Competitive Bidding

GML requires that purchase contracts in excess of \$20,000 be awarded to the lowest responsible bidder or on the basis of best value (competitive offer) and that contracts for public work that exceed \$35,000 be competitively bid. Competitive bid solicitations must be publicly advertised, and bids must be received in writing and remain sealed until publicly opened at a scheduled place and date. Competitive quote solicitations may be received in writing or verbally. GML allows exceptions to competitive bidding for items purchased under State or county contracts or for purchases available from only one source (sole source). If the District chooses to procure from a sole-source vendor, it must retain supporting documentation to indicate proof of the sole-source justification.

The District's purchasing policy does not require competitive bids for any purchases. Instead, it requires three written quotes for purchases in excess of \$5,000 and public works contracts in excess of \$10,000. Regardless of the stipulations in the District's purchasing policy, the Board must comply with GML's competitive bidding requirements.

The District paid 97 vendors \$917,792 during our audit period. We reviewed a judgmental sample¹ of 15 vendors that the District paid approximately \$488,267 during 2014 or 2015. Five purchases²

¹ Refer to Appendix C for further information on our sample selection.

² These purchases were for a stump grinder, skid steer, two compactors, pickup truck and refuse hauling services. A skid steer is a small, rigid-framed, engine-powered machine with lift arms used to attach a variety of tools or attachments, such as a bucket or pallet forks.

totaling \$423,162 exceeded GML competitive bidding thresholds, but the District did not use competitive bidding when selecting the vendors that provided the goods and services. District officials told us they did not seek competitive bids because they did not understand the difference between obtaining competitive bids versus obtaining quotes from vendors. In addition, although District officials told us they obtained quotes for these five purchases, they were unable to provide us with quote documentation for one, a stump grinder purchase.

For two purchases where quote documentation was available, the District did not use the vendor who provided the best price. Had the District purchased from the vendor who provided the lowest quote, it could have saved at least \$26,690. For example, although the District received a \$65,890 quote for the skid steer purchase, it instead paid \$78,962 to another vendor, a \$13,072 difference. District officials told us that the second vendor provided specialized equipment, which made the vendor a sole source. However, officials did not provide adequate documentation to support the sole-source justification.

Because District officials did not seek competition for purchases, taxpayers cannot be assured that goods and services were obtained at the desired quality, most favorable cost and in the most prudent and economical manner, and that procurement was not influenced by favoritism, extravagance or fraud. Also, because District officials did not choose the lowest cost vendor, the District paid \$26,690 more than necessary for equipment.

Written Quotes

For purchases below GML's bidding thresholds, the District's purchasing policy requires District officials to obtain written quotes for purchases that exceed \$2,000 and public works contracts that exceed \$5,000. The purchasing policy should require District officials to retain documentation of all quotes obtained for procurements. In the event that the District chooses to award a contract to a vendor that is not the lowest bidder or quote, the purchasing policy should require District officials to retain documentation and an explanation for this choice, such as for emergency or sole-source situations.

District officials did not always use competitive methods for purchasing goods and consumable products that required quotes. In addition, the District's purchasing policy does not specify any requirements for retaining adequate quote documentation or outline what constitutes an emergency and how it should be handled.

We judgmentally selected and reviewed payments totaling \$65,105 made to 10 vendors that required either two or three written quotes³

³ Refer to Appendix C for further information on our sample selection.

and found that District officials did not obtain written quotes for eight purchases totaling \$54,271. Four purchases of \$38,820 required three written quotes, and four other purchases totaling \$15,451 required two written quotes. District officials acknowledged they did not follow the purchasing policy's requirements for obtaining quotes for these eight purchases.

In addition, for one purchase in which District officials obtained the required number of quotes, they did not use the vendor who provided the best price. When purchasing flooring, the District received a quote from one vendor for \$5,263, but instead chose to pay \$5,984 to another vendor, a \$721 difference. District officials could not explain why they made this choice and could not provide us with any documentation or explanation for choosing the vendor that provided the higher quote.

Because District officials did not obtain quotes in accordance with the District's purchasing policy, the District incurred higher costs than necessary for goods and services purchased.

Recommendations

The Board should:

1. Amend the District's purchasing policy to ensure it is in compliance with GML competitive bidding rules. The Board also should annually review and update the policy, as necessary, to ensure it meets the District's needs.
2. Ensure that District officials comply with the purchasing policy and GML competitive bidding requirements when purchasing goods or entering into public works contracts that exceed thresholds established by the policy and GML.
3. Require District officials to document the reason for awarding a purchase contract to a vendor who does not submit the lower bid or quote.

APPENDIX A

RESPONSE FROM DISTRICT OFFICIALS

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

The District's response letter refers to an attachment that supports the response letter. Because the District's response letter provides sufficient detail of its actions, we did not include the attachment in Appendix A.

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January 16, 2016

Ira McCracken, Chief Examiner
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Hauppauge, NY 11788-5533

Re: Purchasing audit January 1, 2014-June 30, 2015
Response to draft Audit Report and Corrective Action Plan

As provided in the OSC'S rules we are responding to the draft Audit Report. The FIWM board has reviewed and concurs with the findings of the Office of the State Comptroller. We feel the assessment was fair and enlightening.

As we became aware of the deficiencies in our purchasing practices, we immediately researched and addressed issues identified during the audit along with a careful study of OSC's procurement guide.

Our auditors encouraged questions, posed suggestions and pointed out areas of our policy that needed review with our business manager and commission. Because of this, we felt comfortable in rebuilding our purchase policy before receiving your draft audit.

We were cognizant that we needed to take into consideration our unique locality and the difficulties of obtaining competitive bids and quotes while following GML during the rebuilding of our policy.

Our newly adopted policy of November 23, 2015 addresses each of the recommendations on page 8 of your draft audit.

We have attached our purchase policy so that the reader may follow the corrective actions we have taken and implemented.

See
Note 1
Page 11

RECOMMENDATIONS TO FIWMD:

1. Amend the District's purchasing policy to ensure it complies with GML competitive bidding rules. The Board also should annually review and update the policy, as necessary, to ensure it meets the District's needs.

Our new purchase policy has been amended to reflect GML's competitive bidding rules. It is to be reviewed annually and amended as needed (page 8).

See
Note 1
Page 11

2. Ensure that District officials comply with the purchasing policy and GML competitive bidding requirements when purchasing goods or entering into public works contracts that exceed thresholds established by the policy and GML.

Page 5 addresses policies and procedures with regard to competitive bidding requirements.

Page 8 specifies how the policies and procedures will be observed.

Page 7 refers to public works thresholds but we have not yet addressed a public works policy or procedures.

3. Require District officials to document the reason for awarding a purchase contract to a vendor who does not submit the lower bid or quote.

Pages 5 and 7 of our purchase policy addresses this recommendation.

Because we believe in and strive for transparency in the district to whom we serve, we find it prudent to respond specifically to three of the audit findings.

- 1) PAGE 7 OF DRAFT AUDIT: For two purchases where quote documentation was available, the District did not use the vendor who provided the best price. Had the District purchased from the vendor who provided the lowest quote, it could have saved at least \$26,690.

Referencing purchase #1: (\$13,072 compactors) The decision, made by the Board at a public meeting was to purchase 2 Compactors from the vendor with the higher quote because the compactors were made with a thicker gauge steel, allowing a longer life for the equipment. We were unable to locate another vendor to supply the same gauge of steel. GML requires that we include this specific information in our documentation for the purchase and we did not. This type of oversight is addressed on our purchase policy adopted November 23, 2015.

See
Note 2
Page 11

- 2) *Referencing purchase #2: (\$13,618 SKID STEER) The decision, made by the Board at a public meeting (11/22/14), with the input of the staff that would be operating the unit, was to select the higher priced skid steer because it included a selectable high/low hydraulic pressure range that would be required for an optional shear that we intend on purchasing in the future; the equipment allowed for more diversified usage than the lower priced skid steer, it carried a tier 4 safety level and appeared to be of superior quality.*

The lower priced unit did not offer a high-pressure range or meet the other qualities of the higher priced skid steer. GML requires that we include this specific information in our documentation for the purchase and we did not. This type of oversight is addressed on our purchase policy adopted November 23, 2015.

See
Note 2
Page 11

- 3) PAGE 7 OF DRAFT AUDIT: For one purchase in which District officials obtained the required number of quotes, they did not use the vendor who provided the best price. When purchasing

flooring, the District received a quote from one vendor for \$5,263, but instead chose to pay \$5,984 to another vendor, a \$721 difference.

The board choose the higher priced vendor because they exhibited the most interest and provided valuable input for the intended purchase. GML requires that we include this detail in our documentation for the purchase and we did not. This type of oversight is addressed on our purchase policy adopted November 23, 2015.

This audit process has made FIWMD aware of specific requirements of General Municipal Law. We are committed to our governing policies and values and are grateful for the opportunity to improve our operations, initiate strategies to reduce costs and strengthen controls.

Ann Banks, Chair

Fishers Island Waste Management District

APPENDIX B

OSC COMMENTS ON THE DISTRICT'S RESPONSE

Note 1

The District's newly adopted purchasing policy does not comply with GML. District officials should consult with legal counsel to develop and amend the policy.

Note 2

GML requires all purchase contracts involving an expenditure of more than \$20,000 and all contracts for public work involving an expenditure of more than \$35,000 be awarded to the lowest responsible bidder. The specification document sets forth the standards and requirements that competitors must observe and provides them with information necessary to prepare their bids or offers. Specifications provide prospective vendors a common standard by which to be measured, such as steel gauge, hydraulic pressure range required and safety tier level sought. When competitive bidding is required, the award of the contract is made to the lowest priced responsible bidder which has complied with the specifications. Because the District did not provide specifications to the vendors, they were unable to determine the product features that the District desired on the compactors and skid steers. Without specifications, the vendors were unable to determine the common standard that they were being held to and, consequently, were unable to adequately bid for these purchase contracts.

APPENDIX C

AUDIT METHODOLOGY AND STANDARDS

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

- We interviewed District officials to gain an understanding of the purchasing process.
- We reviewed the District's purchasing policy and related purchasing procedures.
- We reviewed Board minutes for our audit period to identify purchasing-related discussions and decisions.
- We judgmentally selected a sample of 15 vendors to review for compliance with GML and District policy. We identified a total population of 97 vendors who were paid a total of \$917,792 during our audit period. We removed all vendors who were paid less than the \$2,000 quote threshold, which left a total population of 36 vendors who were paid \$766,967. These 36 vendors included six who were paid in excess of the GML bid thresholds, 16 who were within the three-quote threshold requirement and 14 who were within the two-quote threshold requirement. We also chose to include two vendors from the original population, who the District paid less than \$2,000, due to their relationships with the District's Business Manager, creating a total sample group of 38 vendors. Our final sample consisted of three smaller groups chosen from among the 38 vendors: five of the six who were paid more than the GML bid threshold, five from the three-quote group and five from the two-quote group. We chose to review only five of the six vendors that were paid more than the GML bid threshold because the sixth was a professional service provider and, therefore, did not fall under the GML requirements. We chose to review the five from the three-quote group and five from the two-quote group based on the vendors' names.
- We reviewed all invoices for the two vendors with a related-party interest to the District's Business Manager.
- We reviewed pertinent documents for each vendor in our sample of 15, including all quotes, vouchers, vendor invoices and written vendor agreements.
- We reviewed vendor histories and related invoice details to determine whether aggregate purchases exceeded bidding limits.

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.

APPENDIX D

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