



Village of Ellicottville

Procurement

Report of Examination

Period Covered:

June 1, 2014 — October 28, 2016

2016M-426



Thomas P. DiNapoli

Table of Contents

	Page
AUTHORITY LETTER	1
INTRODUCTION	2
Background	2
Objective	2
Scope and Methodology	2
Comments of Village Officials and Corrective Action	2
PROCUREMENT	4
Recommendations	6
APPENDIX A Response From Village Officials	7
APPENDIX B Audit Methodology and Standards	9
APPENDIX C How to Obtain Additional Copies of the Report	10
APPENDIX D Local Regional Office Listing	11

State of New York Office of the State Comptroller

Division of Local Government and School Accountability

April 2017

Dear Village 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 Village 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 Village of Ellicottville, entitled Procurement. 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 Village of Ellicottville (Village) is located in Cattaraugus County (County) and has a population of approximately 375 residents. The Village provides various services to its residents, including general government support, water, wastewater treatment, road and sidewalk maintenance and code enforcement. Village appropriations for the 2016-17 fiscal year total approximately \$1.9 million.

The Village is governed by an elected Board of Trustees (Board), which is composed of four trustees and a Mayor. The Board is the legislative body responsible for oversight and general management of the Village's financial operations. The Mayor serves as chief executive officer and is responsible for the Village's day-to-day operations. The Village Clerk-Treasurer, who is appointed by the Board, serves as the chief fiscal officer and is responsible for maintaining the Village's accounting records, depositing and disbursing Village money and preparing and filing financial reports.

Objective

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

- Did the Board ensure that goods and services were procured in accordance with the Village's procurement policy and applicable laws?

Scope and Methodology

We examined the Village's purchasing practices for the period June 1, 2014 through October 28, 2016.

We conducted our audit in accordance with generally accepted government auditing standards (GAGAS). More information on such standards and the methodology used in performing this audit are included in Appendix B 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 Village Officials and Corrective Action

The results of our audit and recommendations have been discussed with Village officials, and their comments, which appear in Appendix A, have been considered in preparing this report. Village officials generally agreed with our findings and recommendations and indicated they planned to initiate corrective action.

The Board has the responsibility to initiate corrective action. A written corrective action plan (CAP) that addresses the findings and recommendations in this report should be prepared and forwarded to our office within 90 days, pursuant to Section 35 of General Municipal Law. For more information on preparing and filing your CAP, please refer to our brochure, *Responding to an OSC Audit Report*, which you received with the draft audit report. We encourage the Board to make this plan available for public review in the Clerk-Treasurer's office.

Procurement

General Municipal Law (GML) requires the Board to advertise for bids on contracts for public works involving expenditures of more than \$35,000 and on purchase contracts involving expenditures of more than \$20,000. GML further requires the Board to adopt written policies and procedures for the procurement of goods and services that are not required by law to be procured pursuant to competitive bidding requirements, such as professional services and items that fall under bidding thresholds. The procurement policy should clearly indicate when Village officials must obtain competition, outline procedures for determining the competitive method that will be used and describe the documentation requirements and responsibilities. These methods can include competitive bidding, sending out a request for proposal (RFP) and obtaining written and verbal quotes.

Each year at the annual organizational meeting, the Board reviews and readopts the procurement policy. The policy provides specific guidelines for Village officials to follow when soliciting competitive bids and quotes for the purchase of goods and services. The Village spent approximately \$644,000 in 2014-15 and \$588,000 in 2015-16 for goods and services.

We reviewed 21 purchases totaling \$784,364.¹ Village officials generally followed the procurement policy and GML for 15 of these purchases. However, Village officials did not competitively bid the purchase of a truck for \$23,682 and did not obtain quotes, as required by the procurement policy, for five purchases totaling \$75,334. Also, while not required by the procurement policy, Village officials did not use competitive methods to procure professional services from four service providers who were paid a total of \$411,818.

Competitive Bidding – The procurement policy provides for specific exceptions from competitive bidding requirements, including purchasing through a State or county contract.

We reviewed four purchases totaling \$181,180 that exceeded the competitive bidding thresholds. While Village officials purchased a backhoe (\$88,369) and a truck (\$19,389) off State contracts and road materials (\$49,740) off a county contract, they did not competitively bid the purchase of a new pick-up truck (\$23,682). Village officials told us that the vendor led them to believe they were a State contract vendor. However, we found that this vendor was not awarded a State

¹ See Appendix B for information on our methodology.

contract for this vehicle. Therefore, the purchase should have been competitively bid.

Chautauqua County awarded a bid for vehicles which included a truck similar to the one purchased by the Village, but Village officials did not consider using the County's bid as an option. The Public Works Superintendent told us that he was unaware that the Village could piggyback on other bids, when allowed by the bidder, until after the Village had already purchased the truck. The cost of the truck on the County's bid was approximately \$1,000 less than the price paid by the Village.

Items Under Bidding Thresholds – The procurement policy indicates, in part, that all public works contracts costing less than \$35,000 but more than \$17,500 require a written proposal from three vendors, while public works contracts costing less than \$17,500 but more than \$5,250 require a written proposal from two vendors. Furthermore, all estimated purchases costing less than \$20,000 but more than \$6,000 require a written RFP from three vendors.

We reviewed 12 purchases and public works contracts that required written RFPs, totaling \$168,338. We found that Village officials did not issue RFPs for three purchases totaling \$42,924 and two public works contracts totaling \$32,410. These purchases included tennis court resurfacing (\$21,036), water line parts (\$19,692), diesel and unleaded fuel (\$12,867), tree trimming (\$11,374) and equipment rental (\$10,365). For example, Erie County awarded a bid for tree trimming services, but no evidence was provided to us indicating that Village officials considered the pricing of the Erie County bid award before they contracted with the vendor.

Professional Services – The procurement policy states that soliciting written proposals or quotes is not required for the acquisition of professional services, except when directed by the Board. However, the policy does not address the procedures to be followed for obtaining competitive pricing for these services when required by the Board.

Of the 21 purchases we reviewed, five purchases totaling \$434,846 were for professional services. We found that Village officials sent out an RFP for liability insurance (\$23,028) and from the two proposals received selected the lowest priced service provider. However, officials did not solicit competition through an RFP or obtain quotes for four other professional services totaling \$411,818. These services included a professional engineer (\$373,791), attorney (\$15,479), financial consultant (\$13,907) and accountant (\$8,641). Village officials told us that they did not seek competition for these services because the prior administration hired these service providers for the

past several years and had developed good working relationships with them.

Although Village officials followed the procurement policy when they obtained professional services, the solicitation of proposals and quotes for these services helps to ensure the most prudent and economical use of public money at the lowest possible cost to Village residents.

Village officials generally did a good job obtaining competitive bids and written quotes. However, the Village incurred higher costs than necessary when purchasing goods and services because it did not always solicit competition through the use of bids, State and county contracts, RFPs and written or verbal quotes.

Recommendations

The Board should:

1. Ensure competitive bids are obtained for purchases exceeding the bid limits as required by statute and the procurement policy.
2. Ensure that the required number of proposals are obtained for items that fall under the bidding thresholds.
3. Consider using available State and county contracts.
4. Consider revising its procurement policy to prescribe the methods for soliciting competition for professional services through the use of RFPs and written or verbal quotes.

APPENDIX A
RESPONSE FROM VILLAGE OFFICIALS

The Village officials' response to this audit can be found on the following page.

Village of Ellicottville

PO Box 475
Ellicottville, New York 14731
Phone (716) 699-4636
Fax (716) 699-4316

John A. Burrell
Mayor

Mary Flahn
Village Clerk

March 3, 2017

Mr. Jeffery D. Mazula, Chief Examiner
Buffalo Regional Office
295 Main Street, Suite 1032
Buffalo, NY 14203-2510

Also via email Muni-Buffalo@osc.state.ny.us

Dear Mr. Mazula:

Please consider this the Village's official response to the Draft Audit Report. Each Trustee has been able to review the report and the Village Clerk and I worked closely with your auditor and attended the exit discussion. We believe that the audit process was not only a positive experience; additionally it was educational for our management team. Overall, the Village agrees with the draft findings contained in the report.

Sincerely yours,


VILLAGE OF ELLICOTTVILLE

John A. Burrell
Mayor

APPENDIX B

AUDIT METHODOLOGY AND STANDARDS

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

- We interviewed Village officials to gain an understanding of the procurement process.
- We reviewed the Village's procurement policy to determine if it adequately addressed the procurement of goods and services.
- We reviewed a judgmental sample of 21 purchases made during our audit period. We selected our sample based on the total amounts the Village paid these vendors during our audit period.
- We reviewed bids, proposals, quotes and supporting documentation to determine if the purchases from our sample were made using competitive methods and/or were in compliance with the procurement policy and GML.

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 C

HOW TO OBTAIN ADDITIONAL COPIES OF THE REPORT

To obtain copies of this report, write or visit our web page:

Office of the State Comptroller
Public Information Office
110 State Street, 15th Floor
Albany, New York 12236
(518) 474-4015
<http://www.osc.state.ny.us/localgov/>

APPENDIX D
OFFICE OF THE STATE COMPTROLLER
DIVISION OF LOCAL GOVERNMENT
AND SCHOOL ACCOUNTABILITY

Andrew A. SanFilippo, Executive Deputy Comptroller
Gabriel F. Deyo, Deputy Comptroller
Tracey Hitchen Boyd, Assistant Comptroller

LOCAL REGIONAL OFFICE LISTING

BINGHAMTON REGIONAL OFFICE

H. Todd Eames, Chief Examiner
Office of the State Comptroller
State Office Building, Suite 1702
44 Hawley Street
Binghamton, New York 13901-4417
(607) 721-8306 Fax (607) 721-8313
Email: Muni-Binghamton@osc.state.ny.us

Serving: Broome, Chenango, Cortland, Delaware,
Otsego, Schoharie, Sullivan, Tioga, Tompkins Counties

BUFFALO REGIONAL OFFICE

Jeffrey D. Mazula, Chief Examiner
Office of the State Comptroller
295 Main Street, Suite 1032
Buffalo, New York 14203-2510
(716) 847-3647 Fax (716) 847-3643
Email: Muni-Bufferalo@osc.state.ny.us

Serving: Allegany, Cattaraugus, Chautauqua, Erie,
Genesee, Niagara, Orleans, Wyoming Counties

GLENS FALLS REGIONAL OFFICE

Jeffrey P. Leonard, Chief Examiner
Office of the State Comptroller
One Broad Street Plaza
Glens Falls, New York 12801-4396
(518) 793-0057 Fax (518) 793-5797
Email: Muni-GlensFalls@osc.state.ny.us

Serving: Albany, Clinton, Essex, Franklin,
Fulton, Hamilton, Montgomery, Rensselaer,
Saratoga, Schenectady, Warren, Washington Counties

HAUPPAUGE REGIONAL OFFICE

Ira McCracken, Chief Examiner
Office of the State Comptroller
NYS Office Building, Room 3A10
250 Veterans Memorial Highway
Hauppauge, New York 11788-5533
(631) 952-6534 Fax (631) 952-6530
Email: Muni-Hauppauge@osc.state.ny.us

Serving: Nassau and Suffolk Counties

NEWBURGH REGIONAL OFFICE

Tenneh Blamah, Chief Examiner
Office of the State Comptroller
33 Airport Center Drive, Suite 103
New Windsor, New York 12553-4725
(845) 567-0858 Fax (845) 567-0080
Email: Muni-Newburgh@osc.state.ny.us

Serving: Columbia, Dutchess, Greene, Orange,
Putnam, Rockland, Ulster, Westchester Counties

ROCHESTER REGIONAL OFFICE

Edward V. Grant, Jr., Chief Examiner
Office of the State Comptroller
The Powers Building
16 West Main Street, Suite 522
Rochester, New York 14614-1608
(585) 454-2460 Fax (585) 454-3545
Email: Muni-Rochester@osc.state.ny.us

Serving: Cayuga, Chemung, Livingston, Monroe,
Ontario, Schuyler, Seneca, Steuben, Wayne, Yates Counties

SYRACUSE REGIONAL OFFICE

Rebecca Wilcox, Chief Examiner
Office of the State Comptroller
State Office Building, Room 409
333 E. Washington Street
Syracuse, New York 13202-1428
(315) 428-4192 Fax (315) 426-2119
Email: Muni-Syracuse@osc.state.ny.us

Serving: Herkimer, Jefferson, Lewis, Madison,
Oneida, Onondaga, Oswego, St. Lawrence Counties

STATEWIDE AUDITS

Ann C. Singer, Chief Examiner
State Office Building, Suite 1702
44 Hawley Street
Binghamton, New York 13901-4417
(607) 721-8306 Fax (607) 721-8313