



Town of Orangeville

Highway Procurement

Report of Examination

Period Covered:

January 1, 2010 — December 22, 2011

2012M-9



Thomas P. DiNapoli

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State of New York Office of the State Comptroller

Division of Local Government and School Accountability

April 2012

Dear Town 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 Town 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 Town of Orangeville, entitled Highway 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 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 Town of Orangeville (Town) is located in Wyoming County and has a population of approximately 1,300 residents. The Town provides various services to its residents including street maintenance, snow plowing, fire protection, and general government support. Expenditures incurred in providing these services are accounted for in the general, highway, and fire protection district funds. For the 2011 fiscal year, the Town's budgeted expenditures were approximately \$207,000 for the general fund and \$728,000 for the highway fund. Operations are financed primarily by real property taxes, State aid, and grants.

The Town is governed by an elected Board (Board), comprised of four council members and the Town Supervisor (Supervisor). The Board is responsible for the general management and control of the Town's financial affairs including establishing and monitoring compliance with Town policies. The Board is also responsible for auditing and approving claims against the Town. The Supervisor serves as the chief executive officer and chief fiscal officer and is responsible for the disbursement and custody of Town moneys. The Highway Superintendent is an independently elected official who is responsible for maintaining the Town's roads, including the procurement of goods and services for the highway department.

Objective

The objective of our audit was to review the Town's process for purchasing highway materials and equipment. Our audit addressed the following related question:

- Are Town officials purchasing the desired quality and needed quantity of highway materials and equipment at the lowest cost?

Scope and Methodology

We examined the Town's purchases of highway equipment and road materials during the period January 1, 2010 through December 22, 2011.

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.

Comments of Local Officials and Corrective Action

The results of our audit and recommendations have been discussed with Town officials and their comments, which appear in Appendix A, have been considered in preparing this report. Town officials

generally disagreed with our findings but indicated they would be taking corrective action with respect to certain recommendations. Appendix B includes our comments on issues raised in the Town's response.

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 the 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 Town Clerk's office.

Procurement

The Board and Highway Superintendent are responsible for ensuring that the Town purchases the desired quality and quantity of goods and services at the lowest cost. To accomplish this, Town officials should seek competition and/or use available State and county contract prices when available. Town officials may seek price competition by publicly advertising for bids or, when bidding is not required by law,¹ by requesting proposals or obtaining written or verbal quotes from several vendors. The appropriate use of competition provides taxpayers with the greatest assurance that goods and services are procured in the most prudent and economical manner, that goods and services of desired quality are being acquired at the lowest possible price and that procurement is not influenced by favoritism, extravagance, or corruption.

We found that the Board, prior to March 2011, did not adopt a written purchasing policy as required by GML. After adopting a policy in March 2011, the Board and Highway Superintendent did not follow the policy. Also, the Town did not properly bid three equipment purchases totaling over \$437,000 and diesel fuel totaling more than \$66,000. The Town also purchased materials totaling \$67,000, not subject to competitive bidding requirements, without obtaining price quotes. As such, the Town could not demonstrate that the lowest cost was obtained and may have incurred unnecessary costs. In addition, the Board did not adequately monitor highway department purchasing practices during its audit of claims. As a result, the Town purchased \$146,000 of road materials that it did not appear to need at the time purchased. Furthermore, the Town could have saved more than \$20,000 by using highway employees and equipment to haul these materials.

We reviewed all of the Town's purchases of road materials, fuel, and highway equipment, totaling more than \$1.18 million² during our audit period. Purchases totaling approximately \$968,000 met the thresholds for competitive bidding. However, Town officials did not properly bid three equipment purchases totaling over \$437,000, and more than \$66,000 in diesel fuel was purchased by the Town without using the required competitive process. The Town properly bid or

¹ General Municipal Law (GML) requires bidding when an item or commodity group exceeds established dollar limits. Dollar thresholds require local governments to advertise for bids for purchase contracts that equal or aggregate to more than \$20,000, and public works contracts that equal or aggregate to more than \$35,000. Purchases made through State and county contracts need not be competitively bid.

² Includes 145 payments totaling \$1,181,246

used State and county contracts for the remaining purchases totaling \$465,000. Our exceptions are as follows:

- In June 2010 the highway department purchased a front loader priced at \$169,900. In August 2011, that loader was traded in for a new loader priced at \$180,945. Neither of these transactions resulted from competitive bidding or using a State contract. The Town paid approximately \$2,000 for the loader in 2010 and \$11,800 in 2011, because of substantial trade-in allowances for the Town's used loader. The Highway Superintendent told us that he did not think that bidding was required because the final cost of the purchase was under \$20,000. However, the estimated gross cost of an item, without deducting for a trade-in allowance, must be considered for the bidding threshold. For the 2011 purchase transaction, we note that the loader that was traded in for \$169,125 had a sale price of \$169,900 as indicated on the vendor's June 2010 invoice to the Town. There was no indication that the Town determined what the market value of the 2010 front loader was at the time it was traded in. Moreover, the Town could have purchased a comparable front loader on State bid in August 2011 for \$155,214, approximately \$25,000 less than the loader priced at \$180,945.
- The Town purchased a dump truck³ body and related plow equipment in August 2010 for \$86,351 that was \$6,351 higher than the lowest bid received. The Town received four bids and the Board minutes noted that all bidders successfully met the bid specifications. However, the Town did not indicate in the minutes why the Town awarded the contract to other than the lowest bidder. Town officials may reject a low bid if it does not comply with bid specifications, or if a vendor is deemed to be not a responsible bidder. The rationale for rejecting the bid should be documented to demonstrate that the Town complied with bidding requirements. According to the Highway Superintendent, the vendor awarded the contract was able to deliver the equipment immediately while the others could not and he was concerned the equipment would not be delivered before the winter season. Highway employees also explained that they preferred to use the selected vendor's equipment because it was of better quality and easier to use.
- The Town purchased more than \$30,000 of diesel fuel in 2010 and more than \$36,000 of diesel fuel in 2011 without

³ The dump truck cab and chassis were also purchased in August 2010 for \$118,675. The Town bid and awarded the cab and chassis contract as a separate equipment purchase, which complied with competitive bidding requirements.

obtaining competitive bids as required. Although the price paid per gallon for diesel fuel was competitive when compared to State contract prices, taxpayers do not have assurance that the procurement of fuel is free of favoritism.

We found that, of the \$212,000 in purchases that were not subject to competitive bidding requirements, Town officials did not seek competition or obtain quotes for purchases totaling more than \$67,000. We determined that the Town could have saved money by purchasing these goods/services differently, as follows:

- The Town purchased more than \$24,000 of unleaded gasoline and heating fuel without seeking competition. We found that had the Town purchased these fuels through State contract, it could have saved over \$1,800.
- The Town paid more than \$13,000 to purchase material used to control dust on Town roads without seeking competition.
- During the period reviewed, the Town paid over \$30,000 to third-party vendors to haul stone and gravel purchased from a local quarry to the Town's highway facility. Not only were these services procured without the benefit of competition, but we also found that the Town could have saved more than \$20,000 if it had hauled the stone and gravel using Town employees and trucks instead of hiring third-party vendors. According to the Highway Superintendent, the Town sometimes chose to have the hauling company transport the materials, because the highway department trucks were being used for plowing. However, he also explained that the hauling vendor would often initiate the deliveries.

We also found that the Town had an unusually large inventory of different types of highway materials. Upon further review, we determined that during 2010 and 2011, the Town spent more than \$146,000 to purchase stone and gravel for use on Town roads. In addition, we were told that certain stone and gravel purchases were initiated at the vendor's request rather than being initiated by the highway department. According to the Highway Superintendent and highway employees, the third-party hauling company contracted by the Town would contact the Town when business was slow or when its drivers anticipated being in the area. The Town would then purchase stone or gravel for the hauling company to deliver regardless of whether it was needed at that time. Further, we found that the highway department maintained no records to document planned or completed highway projects or to document how much or when stone and gravel was used for Town roads.

The Highway Superintendent said that he does not monitor usage of these road materials to ensure it is reasonable and he maintains no inventory records for stone and gravel. We also found that the Town has not established adequate physical controls to protect the stockpiles of stone and gravel being stored behind the highway facility. Without adequate records documenting the amount of materials purchased, used, and on-hand, the highway department cannot properly account for these commodities or determine whether there is sufficient or excessive material being purchased and stored. As a result, the Town is at risk of receiving unnecessary or excessive services and incurring the waste or misuse of its stone and gravel inventories.

Recommendations

1. The Board should ensure strict adherence to its procurement policy and the bidding requirements of GML and regularly monitor for compliance during its audit of claims.
2. The Highway Superintendent should purchase fuel and equipment on State contract when economically beneficial to the Town.
3. The Highway Superintendent should initiate all stone and gravel deliveries to ensure that only necessary and appropriate amounts of road materials are purchased, and when feasible have highway employees haul these materials using Town trucks.
4. The Board and Highway Superintendent should properly restrict access to the Town's stone and gravel by physically securing and restricting access to the Town's stockpiles.

APPENDIX A

RESPONSE FROM LOCAL OFFICIALS

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

TOWN OF ORANGEVILLE

3529 Route 20A

Warsaw, New York 14569

585-786-2883 Phone

585-786-3432 Facsimile

Supervisor Gerald Stout ❖ Council Members: Hans Boxler, Jr. ❖ Andrew Flint ❖ Thomas Schabloski ❖ James Herman

April 3, 2012

Robert E. Meller, Chief Examiner
State of New York Office of the State Comptroller
295 Main Street
Room 1032
Buffalo, New York 14203

Re: **Town of Orangeville Highway Procurement – Report of Examination Response
January 1, 2010 – December 22, 2011
2012M-9**

Dear Mr. Meller:

Please accept this letter as both the response to the draft audit and the corrective action plan of the Town of Orangeville. The contents of this letter have been reviewed by the Highway Superintendent and the Town Board and a resolution approving this response and corrective action plan was unanimously passed at the meeting of the Town Board on April 3, 2012.

We take exception to several of the findings in the audit. However, we recognize the deficiencies may be in the faulty information provided. It is noted in the report that the Town did not properly bid three (3) equipment purchases totaling over \$437,000. However, there were only two (2) purchases outlined in the audit report; the John Deere Front Loader and the Dump Truck.

See
Note 1
Page 15

HIGHWAY PURCHASES OF ROAD MATERIAL, FUEL & HIGHWAY EQUIPMENT

- **JOHN DEERE FRONT LOADER – JUNE 2010**

Town Board Response:

The manufacturer of a rubber wheeled front loader offered a “buy back” option which, at the end of the day, costs the Town of Orangeville approximately \$10.00 per hour to own a loader (hours logged on machine). This “buy back” option provided that bi-annually, the manufacturer would replace the loader for approximately \$2,000 per year. Historically, this piece of equipment costs approximately \$10,000 per year

to own, based upon age and needed repairs, even more. This option also requires no other monetary contribution from the Town. There are no repairs to be made to this loader, or parts or tires to purchase. The Town has found in the past that after a few years with owned equipment, the Town becomes “nickel and dimed” to death with repairs, even just routine maintenance. It is advantageous and economical for the Town to employ this practice. Additionally, the audit stated that the use of State bid would have resulted in additional savings. However, in the realm of heavy equipment, certain manufacturers are in an upper echelon which results in equipment having a higher resale value as used equipment. This “buy back” option seemed far superior to owning and more cost effective.

See
Note 2
Page 15

Town Board Action Plan:

The Town Board will bid the loader when considering replacement. In the event the Board elects to go with a program offered by the manufacturer, they will attempt to solicit bids that are similar in nature. There will be more articulation in the meeting minutes delineating the Board’s decision to place the bid with the selected entity and the basis for the same.

● **DUMP TRUCK & PLOW – AUGUST 2010**

Town Board Response:

The board minutes noted all bids received were in conformance with the bid specifications. This is incorrect. The successful bidder was the only bidder in complete compliance with the specs. The other bidders had deficiencies. All other companies submitted bids for a truck with a standard transmission. The Highway Superintendent’s bid specs and preference was for a vehicle with an automatic transmission.

See
Note 3
Page 15

The bids were received at a time when delivery was of upmost importance. All bidders, except the successful bidder, had a three (3) to six (6) month delay in delivery. That would have placed the Town in a perilous position in the winter of 2010-11.

Also, all other vehicles, other than the accepted vehicle, required a new fuel/exhaust additive that was being introduced for the first time. All involved, believed the expense of this piece of equipment justified a proven performance record and the Town was not interested in an industry first that had yet to develop the same.

Town Board Action Plan:

In the future, the Board will adopt a resolution that better delineates all pertinent information used when awarding bids.

- **ROAD MATERIALS, INCLUDING DUST CONTROL (AGGREGATES), DIESEL FUEL, UNLEADED GASOLINE & HEATING FUEL**

Town Board Response:

AGGREGATES

We disagree with the position of the draft report which criticizes the Town for “stockpiling” sand, gravel, salt and other aggregates. This practice has saved the Town thousands of dollars by purchasing when the price is low; when the method of acquisition is convenient by taking advantage of when companies have openings in their schedules rather than relying on a dedicated delivery date; and when it saves the taxpayers’ money. If a “vendor’s request” happens to be timely, reasonable and is below the state, county or bid price, it is advisable to take advantage of such an opportunity.

See
Note 4
Page 15

DIESEL, UNLEADED GASOLINE & HEATING FUELS

Due to the volatility of the cost of fuel, the Town has had difficulty in securing qualified bids from companies, as companies were unwilling to hold a bid price for twelve (12) months when prices were fluctuating daily. The Town acknowledges that given that reality, it should have sought another option. This has since resolved as in the ensuing months, the County of Wyoming solicited bids and the Town can use the County’s spec to be able to secure fuel at a competitive bid.

Further, there is only one vendor providing fuel and that vendor provides its own storage tanks for the Town’s use. Vendors do not use each others tanks and to continually bid this out will require the swapping out of storage tanks which is not realistic or practicable. It should be noted that Reisdorf’s is who Wyoming County now has a bid with and much of the Town’s supply came from that vendor.

Town Board Action Plan:

As to aggregates, the practice of purchasing when the price is low seems prudent and reasonable and the Town Board anticipates continuing such practice to protect public funds. The Town Board will continue to look for options to procure aggregates in the most cost effective means possible for the Town. We understand that we should receive aggregate prices annually and not permit delivery from a vendor to displace Town haulers when possible. However, given the wear and tear on equipment, the hourly wage of the Town employee making the run and the cost in having a “dead-head” haul in one direction, paying for one-way delivery from a vendor can be very advantageous to the Town in certain circumstances. Also, it should be noted, it is not the principal purpose of Town employees or Town trucks to

run long hauls over the road. Town trucks are not designed or set up for regular hauls and with a minimal load, they can become overweight, illegal and subject to fines and penalties.

In an effort to further protect aggregates, the Highway Superintendent will keep an inventory of road materials to enable him to monitor the usage of these commodities. Also, a written report will be required from the Highway Superintendent, to be presented at monthly board meetings detailing the status on completed road projects, current road projects and projected projects. This report will highlight what resources have been used, are being used and what material will be needed in the future.

The recommendations that the stone and gravel be physically secured will be addressed with the acquisition and installation of security cameras directed at those aggregates if the expense of such security system is reasonable. In addition, the New York State Police and Wyoming County Sheriff's Department will be required to include the area where such aggregates are stored during their normal and perhaps enhanced patrols since the area is easily accessible to the major state highway traversing the Town and is already frequently patrolled.

● **PURCHASING POLICY**

Town Board Response:

We acknowledge that the Town Board adopted a Purchasing Policy in March of 2011. This policy provides that prior to any purchase for over \$1,000 which is not subject state mandated bidding procedures; Department Heads must solicit at least three (3) informal quotes. The form used to collect this information must include the following:

- Description of the commodity, including options
- Prices and conditions quotes
- Date of quote and duration
- Contact person
- Department head determination of the preferred vendor with rationale

If three (3) sources are not readily available for a specific commodity, it must be noted as such by the Department Head. Solicitation can be made by phone, requesting a fax or an email verifying the above. This process also requires confirming that there is ample funding in the account to cover the anticipated purchase *before* such purchase is made. Once this procedure is followed and the Department Head has the paperwork to substantiate the purchase, the same can be made.

This is a heightened restriction imposed by the Town and it was our belief at the time this policy was adopted that this would be the most prudent practice to ensure commodities were purchased at the most competitive price. We understand that this makes it more cumbersome for those in charge of procuring goods. However, it is believed this is worth the extra effort for the protection of the taxpayer and tax dollars. We acknowledge that once this policy was adopted; it needed to be followed and it wasn't. This had a lot to do with the multiple actions were occurring in the Town at that time that inhibited us from realistically implementing this policy.

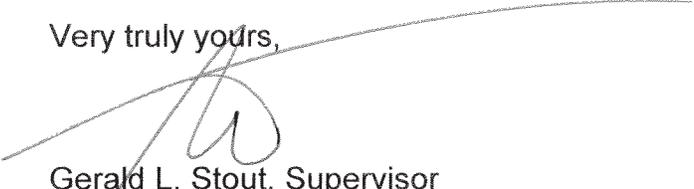
Town Board Action Plan:

It is our intention to continue to utilize this procedure and to institute it forthwith. We acknowledge that we have failed in the past to adhere to all conditions and requirements contained in the policy, but we are committed to attempting to utilize this procedure for all future purchases.

Again, this added step to save taxpayer monies and to facilitate procurement in such a fashion so that the same is complete and cost effective.

Thank you for the opportunity to respond to the recommendations in the audit and we hope you find our corrective action plan responsive, relevant and acceptable.

Very truly yours,



Gerald L. Stout, Supervisor
Town of Orangeville

PC to



via email:



APPENDIX B

OSC COMMENTS ON THE TOWN'S RESPONSE

Note 1

The audit report identifies three equipment purchases that were not properly bid: a front loader in June 2010 for \$169,900, another front loader in August 2011 for \$180,945, and a dump truck body with plow equipment in August 2010 for \$86,351.

Note 2

As the Town indicates in its response, the proper way of ensuring that the current arrangement is the best approach is to follow a competitive procurement process and evaluate the alternative proposals.

Note 3

In August 2010, the Town purchased a dump truck cab and chassis with an automatic transmission for \$118,675 and a dump truck body and related plow equipment for \$86,351. The Town bid and awarded the purchase contracts for this equipment in two separate transactions. We determined that Town officials complied with competitive bidding requirements when purchasing the cab and chassis. However, Town officials failed to adhere to competitive bidding requirements when they purchased the dump truck body and related plow equipment. We modified the report to more clearly identify these separate transactions

Note 4

Town officials did not provide any documentation to demonstrate that an appropriate amount of road materials had been purchased at the lowest cost or that cost savings were realized.

APPENDIX C

AUDIT METHODOLOGY AND STANDARDS

To accomplish the objective of the audit and obtain valid audit evidence, we interviewed appropriate Town officials and employees, tested selected records, and examined pertinent documents for the period January 1, 2010, through December 22, 2011. Our procedures included the following steps:

- We reviewed canceled check images, highway fund abstracts, and vouchers to identify all purchases made by the highway department for equipment, road materials, and fuel during the audit period.
- For purchases subject to competitive bidding requirements, we reviewed Board minutes, bid specifications, and other pertinent documents to determine if purchase contracts were properly bid and awarded in compliance with GML.
- For purchases made using State or county bids/contracts, we obtained the applicable contracts, pricing lists/schedules, from Town officials or other sources and verified that the vendor invoices correctly reflected the applicable pricing.
- To verify that the quality and quantity of materials and equipment purchased were suitable for their intended purposes, we interviewed appropriate Town officials and personnel to determine the highway department's needs and requirements for its projects and maintenance.
- We also reviewed records pertaining to the type and quality of materials and equipment desired and the quantity necessary for highway projects and maintenance such as bid specifications.
- If purchases were not made through a competitive process or using State or county contracts, we compared vendor prices to State contract pricing to determine if the Town could have obtained the goods at a lower price.
- We evaluated delivery and shipping costs for highway materials purchased by the Town but delivered by a third-party vendor. We compared the Town's cost for picking up materials using Town vehicles and employees to the cost of having it hauled by the third-party vendor and projected cost savings.

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.

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Steven J. Hancox, Deputy Comptroller
Nathalie N. Carey, Assistant Comptroller

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