



Village of Bronxville

Internal Controls Over Purchasing

Report of Examination

Period Covered:

June 1, 2007 — June 25, 2009

2009M-184



Thomas P. DiNapoli

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State of New York Office of the State Comptroller

Division of Local Government and School Accountability

January 2010

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 the Board of Trustees 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 Village of Bronxville, entitled Internal Controls Over 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 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 Bronxville (Village) is located in the Town of Eastchester, Westchester County. The Village has approximately 6,500 residents and provides various services including library, public safety, street maintenance, lighting and snow removal. A Mayor and a Board of Trustees (Board), which is composed of four Trustees, who are elected and serve without pay, govern the Village. The Board is responsible for adopting local laws that protect the health, safety, property, and general welfare of Village residents, and managing local affairs through the adoption of an annual budget.

The Village Administrator (Administrator) is the chief operating officer of the Village. The Administrator supervises the daily activities and operations of the Village and serves as the Village Clerk. The Village Treasurer is the chief fiscal officer of the Village. The Treasurer is responsible for the Village's financial operations and the preparation of the annual budget, and advises Village officials on all financial matters. The Village's annual budget was approximately \$13.4 million for the 2008-09 fiscal year.

Objective

The objective of our audit was to examine internal controls over purchasing. Our audit addressed the following related question:

- Are the internal controls over the purchase of goods and services appropriately designed and operating effectively to safeguard Village assets?

Scope and Methodology

Our overall goal was to assess the adequacy of the internal controls put in place by officials to safeguard Village assets. To accomplish this, we performed an initial assessment of internal controls so that we could design our audit to focus on those areas most at risk. Our initial assessment included evaluations of the following areas: financial condition and oversight, cash receipts and disbursements, purchasing, payroll, Justice Court, and tax assessment. Based on that evaluation, we determined that controls appeared to be adequate and limited risk existed in most of the financial areas we reviewed. We did determine that limited risk existed in the purchasing area and, therefore, we examined internal controls over purchasing for the period June 1, 2007 through June 25, 2009.

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 Village officials and their comments, which appear in Appendix A, have been considered in preparing this report. Village officials generally disagreed with our recommendations. Appendix B includes our comments on the issues raised in the Village'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 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 Clerk's office.

Purchasing

A good system of internal controls over procurement consists of policies and procedures that allow an organization to provide reasonable assurance that it is using its resources effectively and complying with applicable laws and regulations. The Board is responsible for designing internal controls that help safeguard the Village's assets and ensure the prudent and economical use of taxpayers' moneys when procuring goods and services. The objectives of a procurement process are to obtain services or materials, supplies, and equipment of the desired quality, in the quantity needed, and at the lowest price, in compliance with applicable Board and legal requirements. This helps ensure that taxpayer dollars are expended in the most effective manner.

General Municipal Law (GML) requires the Board to solicit bids for purchases and public work contracts that exceed competitive bidding thresholds and to adopt written policies and procedures for the procurement of goods and services that are not subject to competitive bidding requirements. These policies and procedures should indicate when District officials need to use competition such as Requests for Proposals (RFPs) and quotations, as well as the procedures for determining which method will be used, and should provide for adequate documentation of the actions taken. Our review disclosed that while the Board did solicit bids where required, it did not adopt an adequate purchasing policy and Village officials did not always adhere to the Board-adopted policy.

Professional Services

The Board adopted a purchasing policy that does not require use of competitive methods or outline procedures for acquiring professional services. The policy states that the acquisition of professional services, unless directed by the Board, requires no solicitation of proposals or quotations. The Village's procurement policy does not provide any other guidance for what alternative methods Village officials should take to ensure that they procure professional services at the most favorable terms and in the best interest of Village taxpayers.

We reviewed 10 vendors who were paid for professional services during the audit period. We found that the Village did not solicit competition, such as an RFP, or provide adequate documentation of actions taken when procuring six of the 10 professional services vendors, who were paid approximately \$332,000 during our audit period. The professional services procured included \$159,572 for legal services, \$33,826 for engineers, \$125,000 for assessor consultant services, and \$13,642 for a workers' compensation agent.

Village officials stated that they sought alternate proposals for professional services. However, the documentation they provided us did not support their assertions. Village officials have no assurance that they are obtaining professional services at the most favorable terms and in the best interest of Village taxpayers, without a comprehensive policy that adheres to GML and outlines the methodology for procurement of professional services.

Competitive Quotes

The Village's Purchasing Policy requires two verbal or written quotes from vendors for purchases between \$2,000 and \$5,000 and three written quotes from vendors for purchases greater than \$5,000 and below \$10,000. Furthermore, the policy requires two written proposals from vendors for public work contracts between \$5,000 and \$10,000 and three written proposals from vendors for public works contracts between \$10,000 and \$20,000.

We found that Village officials did not always comply with the Village's policy and obtain the required number of quotes or proposals when procuring products and services. We examined payments to seven vendors totaling approximately \$51,000 that required quotes or proposals. We found five of the seven purchases or services, totaling approximately \$44,000, were procured without soliciting the required quotes or proposals. The purchases included:

- \$4,000 for equipment
- \$5,400 for tree and shrub removal
- \$5,800 for landscaping
- \$10,800 for pest control¹
- \$17,900 for traffic signs and parking line painting¹

Village officials informed us that the Village had used the landscaping and pest control services for a number of years and they saw no need to change vendors. In the cases of the tree and shrub removal and traffic signs, officials claimed to have solicited quotes but were unable to provide us with supporting documentation. Finally, for the purchase of equipment, they told us that this was the only vendor that could supply a particular plow; however, they did not have documentation to show support for their claim that this was a sole source vendor. The failure to comply with the Village's procurement policy increases the risk that goods and services may not be acquired at the lowest price, which could result in unnecessary costs to Village taxpayers.

¹Both of these purchases are considered public work contracts.

Recommendations

1. The Board should revise its procurement policy and require the use of competition such as requests for proposals and quotations for the procurement of professional services.
2. The Board should ensure that Village officials obtain the necessary quotes or proposals in accordance with the Village procurement policy.

APPENDIX A
RESPONSE FROM LOCAL OFFICIALS

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



Mary C. Marvin
Mayor

January 6, 2010

Office of the State Comptroller
Division of Local Government and School Accountability
33 Airport Center Drive, Suite 103
New Windsor, NY 12553

**Re: Village of Bronxville Report of Examination
For the Period June 1, 2007 to June 25, 2009**

Ladies and Gentlemen:

We are writing to respond to the draft report of examination you have provided to us for the period described above.

CAUSE FOR EXAMINATION

As you know, we are most disturbed about the motivation for this examination and your office's lack of transparency regarding that motivation. It was obvious to us from the outset that your examiners were dispatched to the Village because of some specific issue. We repeatedly asked for confirmation that this was the case and requested that the issue be identified so we could address it directly.

See
Note 1
Page 12

It was only after weeks of examination, which we believe confirmed that we run a tight fiscal operation, that your office acknowledged you were here because of a specific citizen complaint. When you still refused to identify the topic of the complaint we filed a Freedom of Information Request. Amazingly, our request was initially denied by your office. It was only upon appeal, and when the Director of the New York State Committee on Open Government confirmed that there was no legal basis for your office to withhold the requested information, that we were provided with a redacted version of documentation regarding a citizen complaint relating to our professional assessment consultant.

When we discussed this with you we determined that this was indeed your focus. We were stunned when we determined that you were not aware that another division of your office had actually pre-approved our contract with the assessment consultant when he was engaged. When we made you aware of this, we expected your examination would be closed with an

See
Note 2
Page 12

entirely favorable report. While you have issued an overall favorable report, we can not help but conclude that the criticisms you have made were made to save face.

See
Note 3
Page 12

OVERALL CONSTRUCT OF REPORT

As you know from our discussions, we believe that the report is structured in a way which could mislead the average reader regarding your conclusions as to the overall quality of our fiscal operations. As noted above, while your ultimate focus was to be a particular contract issue, your examiners spent many hours reviewing and questioning us about every aspect of our fiscal operation. We are pleased that you added into the report a statement that “our initial assessment included evaluations of the following areas: financial condition and oversight, cash receipts and disbursements, purchasing, payroll, Justice Court and Tax assessment. Based on that evaluation, we determined that controls appeared to be adequate and limited risk existed in most of the financial areas we reviewed”. While that statement is made in the body of the report, we believe that the title and the overall construct of the report, with its apparent focus on only the contract area described above, would lead a reader who does not know the background to a negative view of the Village’s overall fiscal operations. We believe that, at a minimum, the conclusion of the report should reflect the high quality of our overall fiscal operation.

See
Note 4
Page 13

PROFESSIONAL SERVICES

This is the section of the report where the criticism regarding the assessment consultant services is found. From the questions we were asked during the examination, and our discussions with you thereafter, it is clear that you believe, as a matter of policy, that formal RFP’s should be used for the engagement of professionals. However, this is not required by New York State law. In fact, in other audit reports you have published online you have acknowledged that New York law does not require RFP’s for professional services.

See
Note 5
Page 13

This does not mean, however, that Bronxville Village officials did not seek competition and negotiate fees in the case of each of the areas of professional services mentioned in your report. Initially, we were not asked if we had done so. We were only asked if we had issued RFP’s. After seeing your initial draft, we met with you and explained verbally the competitive process we had gone through with respect to the various professionals mentioned in the report, including the hours of interviews which were conducted by the Mayor and Village Administrator and the reports that were given to the public about each process. We then provided you with documentation regarding these processes. We do not understand why the criticisms remain in your report, particularly regarding the assessor consultant whose contract another division of your office pre-approved.

We also note that our policy regarding professional services has been in place for many years. It is keeping with the advice of the New York State Conference of Mayors, and it has never been questioned over all these years by your office or our own external auditors.

COMPETITIVE QUOTES

See Note 6 Page 13

You have identified five purchases the Village made totaling \$44,000.00 over the two year audit period. These represent .17% of the Village's total expenditures of \$26,348,965.00 for that time period. We have provided you with our explanation regarding these purchases. We do not think they merit further comment. We would only note that while we agree that we should strive to be perfect, the fact that only these few items merited comment in your report is itself indicative of the careful operation we run.

Finally, we wish to acknowledge that the personnel from your office who were sent to conduct this audit and who met and discussed it with us have acted in a most courteous and professional manner towards us.

Sincerely,



Mary C. Marvin
Mayor

cc: James Staudt, Village Attorney

APPENDIX B

OSC COMMENTS ON THE VILLAGE'S RESPONSE

Note 1

We held an entrance conference with Village officials, including the Mayor, on June 23, 2009 and explained the audit process. The fact that we had received a taxpayer complaint was only one of several factors that led to our decision to audit the Village. We made it clear to Village officials during the entrance conference that we had received a taxpayer complaint concerning tax assessments in the Village, and that we would review the issues raised in the complaint during our audit planning. During our audit planning, we evaluated internal controls relating to financial condition and oversight, cash receipts and disbursements, purchasing, payroll, and the Village's Justice Court.

The Mayor submitted a FOIL request to obtain copies of any taxpayer complaints, requesting all correspondence from certain named individuals. The State Comptroller's Records Access Officer acknowledged that this Office had records relating to the Mayor's request, but denied the request because the records were being reviewed as part of an on-going audit. The Mayor appealed to the State Comptroller's Records Appeal Officer who determined that the records could be released with information identifying the complainant redacted. The complaints were subsequently sent to the Mayor with the redacted personal information.

Note 2

The Village hired the retired assessor of the Town of Greenburgh who was already receiving a State pension. The State Comptroller's Division of Retirement Services contacted Village officials and reviewed the contract to ensure the assessor was not getting both a pension and a salary from Bronxville as the Village assessor and found that the assessor was hired as consultant and not an employee. The Division of Retirement Services did not "pre-approve" this contract as stated in the Village's response. Such pre-approvals are not within the purview of the Division of Retirement Services.

In addition, we note that the assessor consultant was hired without any type of competition. Had the Village sought competition, it may have obtained assessor advisory services for less than the \$125,000 it paid the consultant.

Note 3

This statement shows a lack of understanding of an audit and our audit process even though we met with Village officials before, during and after the audit and kept them abreast of our examination and findings. The issues included in this report represent opportunities for Village officials to improve the effectiveness of their financial operations. The Village's decision to attempt to attack the audit process is counter-productive.

Note 4

Our audit report is structured to inform readers of the deficiencies identified during the audit. As explained to Village officials, we reviewed internal controls to determine areas with weaknesses and focused on those areas during the audit. Since our audit testing is performed on a sample basis, we do not test every transaction. Our report accurately reflects deficiencies identified during the audit and makes recommendations for improvement.

Note 5

We met with and discussed each audit finding with Village officials during the course of the audit. Our report discusses the deficiencies of the Village's policy. General Municipal Law specifically requires that written policies and procedures be adopted for goods and services that are not subject to competitive bidding. The Village's purchasing policy does not provide any guidance for what methods officials should use to procure professional services but states that professional service requires no solicitation of proposals or quotations. In addition, subsequent to the audit Village officials submitted documents to support their claim of seeking competition from the vendors mentioned in the draft report. We reviewed the documentation supplied and found in the case of a parking study, the documentation was sufficient to support the Village's claim that it sought competition and we removed that finding from our audit report. However, in all other cases we deemed the documentation insufficient to provide evidence of seeking competition.

Note 6

As explained to Village officials, we reviewed internal controls to determine areas with weaknesses and focus on those areas during the audit. We reviewed a limited sample of approximately \$50,000 of the Village's purchases for compliance with the Village's purchasing policy relating to verbal and written quotes. Approximately \$43,000 of the purchases we reviewed were made without evidence of required quotes, which is an error rate of 86 percent. We believe this illustrates significant deficiencies in the Village's procurement of goods and services.

APPENDIX C

AUDIT METHODOLOGY AND STANDARDS

Our overall goal was to assess the adequacy of the internal controls put in place by officials to safeguard Village assets. To accomplish this, we performed an initial assessment of internal controls so that we could design our audit to focus on those areas most at risk. Our initial assessment included evaluations of the following areas: financial condition and oversight, cash receipts and disbursements, purchasing, payroll, Justice Court, and tax assessment.

During the initial assessment, we interviewed appropriate Village officials and personnel, performed limited tests of transactions and reviewed pertinent documents and processes, such as policies and procedures, Board minutes, and financial records and reports. In addition, we obtained information directly from the computerized financial databases and then analyzed it electronically using computer-assisted techniques. This approach provided us with additional information about the Village's financial transactions as recorded in its databases. Further, we reviewed the Village's internal controls and procedures over the computerized financial databases to help ensure that the information produced by such systems was reliable.

After reviewing the information gathered during our initial assessment, we determined where weaknesses existed, and evaluated those weaknesses for the risk of potential fraud, theft and/or professional misconduct. We then decided upon the reported objective and scope by selecting for audit the area most at risk. We selected purchasing for further audit testing.

To accomplish the objective of this audit and obtain valid audit evidence, we interviewed Village officials and examined the following records to determine the effectiveness of internal controls pertaining to purchasing:

- Policies and procedures
- Vendor payment files and invoices
- Payments to professional service vendors
- Bidding, RFP, and quote documentation.

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.

APPENDIX D

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