



Franklin County Procurement

Report of Examination

Period Covered:

January 1, 2015 — July 31, 2016

2016M-366



Thomas P. DiNapoli

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State of New York Office of the State Comptroller

Division of Local Government and School Accountability

January 2017

Dear County 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 County Legislature 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 Franklin County, 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

Franklin County (County) is located in northeastern New York State and has a population of approximately 51,600. The County encompasses 19 towns and six villages.¹ The County is governed by the County Legislature (Legislature), which is composed of seven members, one of whom also serves as the Chairman. The Legislature is responsible for the general oversight of the County's financial affairs and for safeguarding its resources. The Chairman is the chief executive officer and the elected County Treasurer is the chief fiscal officer.

The County Manager is the County's chief administrative officer and is charged with the County's overall administrative operation under the Legislature's direct supervision. The County Manager is responsible for the general supervision and coordination of the activities of all County departments to efficiently implement the Legislature's directives. The County Manager acts as the County's purchasing agent. The County also employs an assistant purchasing agent in the County Manager's office who handles the day-to-day management of the County's purchasing. The County's budgeted appropriations for the 2016 fiscal year were approximately \$101.2 million, which were funded primarily with revenues from real property taxes, sales tax, State aid and Federal aid.

Objective

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

- Did the County procure goods and services in accordance with its purchasing policy and applicable statutes?

Scope and Methodology

We reviewed the County's procurements for the period January 1, 2015 through July 31, 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.

¹ Only a portion of the Village of Saranac Lake is in the County.

**Comments of County
Officials and
Corrective Action**

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

The Legislature 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 Legislature to make this plan available for public review in the Clerk of the Legislature's office.

Procurement

General Municipal Law (GML) generally requires competitive bidding for purchase and public works contracts that exceed \$20,000 and \$35,000, respectively. In lieu of seeking competitive bids, the County is authorized to make purchases using New York State contracts awarded by the Office of General Services (OGS) or contracts bid by other governments. In determining the necessity for competitive bidding, the aggregate amount to be expended for the same commodity or service within the 12-month period, commencing on the date of the purchase, must be considered.

GML also requires the Legislature to adopt written policies and procedures for the procurement of goods and services not subject to the competitive bidding requirements, such as professional services.² These policies and procedures should describe procurement methods, explain when to use each method and require adequate documentation of actions taken. The Legislature should also monitor and enforce compliance with its purchasing policy. This helps ensure that the County obtains goods and services of the required quantity and quality at competitive prices and protects against favoritism, extravagance, fraud and corruption. These goals are achieved by procuring goods and services in compliance with GML and the County's purchasing policy.

The County procured purchase and public works contracts that exceeded the competitive bidding thresholds in accordance with GML and procured purchase and public works contracts that did not exceed the competitive bidding thresholds in accordance with the County's purchasing policy. However, the County did not procure professional services in accordance with the County's purchasing policy. The County did not use requests for proposal (RFP)³ to procure services that were provided to the County during our audit period from 11 service providers who were paid a total of \$1,551,961 for these services. As a result, the County may have paid more than necessary when obtaining these services.

Competitive Bidding – We reviewed 25 purchase and public works contracts totaling \$3,506,592 that the County entered into during

² Competitive bidding is not required for the procurement of professional services which involve specialized skill, training and expertise; use of professional judgment or discretion; or a high degree of creativity.

³ An RFP generally is a document that provides detailed information concerning the type of service to be provided, including minimum requirements and, where applicable, the evaluation criteria that will govern the contract award.

our audit period that exceeded the competitive bidding thresholds to determine whether they were procured in accordance with GML. We found that the County procured all 25 purchase and public works contracts in accordance with GML. Specifically, 10 of the contracts totaling \$2,578,001 were competitively bid by the County, nine of the contracts totaling \$652,361 were procured using State contracts awarded by OGS and six of the contracts totaling \$276,230 were procured using contracts bid by other governments.

Purchasing Policy – The Legislature’s adopted purchasing policy requires County officials and employees to obtain at least three verbal quotes for purchase and public works contracts between \$1 and \$4,999 and at least three written quotes for purchase contracts between \$5,000 and \$19,999 and public works contracts between \$5,000 and \$34,999. In addition, the policy requires at least three verbal quotes for professional service contracts between \$1 and \$1,000, at least three written quotes for professional service contracts between \$1,001 and \$9,999 and the use of an RFP for professional service contracts of \$10,000 or more.

We reviewed 20 purchases totaling \$189,706 that were made by the County during our audit period that did not exceed the competitive bidding thresholds to determine whether they were procured in accordance with the County’s purchasing policy. We did not identify any discrepancies.

We also reviewed 15 professional service providers who were each paid in excess of \$10,000 for a total of \$2,050,964 during our audit period to determine whether their services were procured using RFPs in accordance with the County’s purchasing policy. The County did not use RFPs to procure the services provided from 10 of the professional service providers who were paid \$1,440,761 during our audit period.

Figure 1: Professional Services Procured Without an RFP

Professional Service ^a	Expenditures
Physical Therapy (3)	\$448,218
Case Management (1)	\$319,654
Speech Therapy (3)	\$275,566
In-Home Care (1)	\$200,107
Nonresidential Domestic Violence (1)	\$146,216
Labor Relations (1)	\$51,000
Total	\$1,440,761

^a Total number of service providers in each category shown in parentheses.

In addition, the County used an RFP to procure only \$12,000 of the \$123,200 paid for accounting services that were provided to the County during our audit period from another service provider. This resulted because the Legislature and the County Manager did not ensure that professional services were procured in accordance with the County's purchasing policy prior to entering into contracts with these service providers.

Furthermore, although the County used an RFP to procure tourism and marketing services from a service provider who was paid \$278,816 during our audit period, the proposals received were not properly evaluated. The three proposals received were not evaluated based on the evaluation criteria⁴ contained within the RFP and there was no documentation maintained to support the reasoning for the Legislature's selection of the service provider. However, there was no indication that this contract was awarded to this service provider because of favoritism.

When County officials do not adhere to the County's purchasing policy and award contracts for professional services through the use of RFPs, they cannot be certain or assured that the services were procured in the most economical manner and in the best interest of County residents. In addition, when proposals are received and not evaluated based on the criteria contained within the corresponding RFP, County residents cannot be assured that services were procured in their best interest.

Recommendations

The Legislature and County Manager should:

1. Ensure that County officials procure professional services in compliance with the County's purchasing policy.
2. Ensure that the evaluation and rationale for the selection of a service provider is documented.

⁴ The RFP stated that proposals would be evaluated and the award would be made based on the evaluation criteria, which included the responsiveness of the proposal (10 percent), qualifications and experience of the proposer (40 percent), price proposal (30 percent) and review of references (20 percent).

APPENDIX A
RESPONSE FROM COUNTY OFFICIALS

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



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December 21, 2016

NYS Office of the State Comptroller
Division of Local Government and School Accountability
One Broad St. Plaza
Glens Falls, NY 12801
Attention: [REDACTED]

Unit Name: Purchasing Department
Audit Report Title: Franklin County Procurement Report of Examination
Period Covered: January 1, 2015 – July 31, 2016
Audit Report Number: 2016M-366

Franklin County is responding to the purchasing audit that covers the period of 1/1/15-7/31/16 in the content of this correspondence. The audit response also incorporates the corrective action plan (CAP). Franklin County's position is that we agree with your audit findings and that increasing RFP's would be beneficial to county operations. Franklin County government will implement policies and procedures across county operations by updating the Purchasing policy by 3/1/17 to address and implement procedures from the audit recommendations.

Audit Recommendation:

1. Ensure that County Officials procure professional services in compliance with the County's Purchasing Policy.

Implementation Plan of Action:

- County Manager and Assistant Purchasing Agent will update the Purchasing Policy to increase the threshold for professional services. The threshold for professional services will be any contract that is equal to or exceeds \$50,000.
- The policy will state that three written quotes will be obtained for any professional service that is between \$1000 - \$49,999 and submitted to the County Manager's Office and auditor. If three written quotes cannot be obtained due to lack of availability of the professional service, this will be documented with a justification of sole source status.

Implementation Date:

- Purchasing Policy Update – 3/1/17.
- Prior to expiration of 2017 contracts, RFP’s will be issued for professional services as outlined in the updated Purchasing Policy as indicated above under “Implementation”.

Person Responsible for Implementation:

County Manager will submit to the Board of Legislature for review, recommendations and implementation of the revised Purchasing Policy that identifies and incorporates the Implementation Actions. County Manager and purchasing agents along with Department Leaders will implement the policy and plan.

Audit Recommendation:

2. Ensure that the evaluation and rationale for the selection of a service provider is documented.

Implementation Plan of Action:

Franklin County Purchasing Agent and/or Assistant Purchasing Agent will include an outline with the details of the weighted evaluation criteria in the RFP that will be used to evaluate the RFP responses. Upon receipt of the proposals, the County Manager, Department Head and Assistant Purchasing Agent will complete the evaluation based on the proposals and then submit each evaluation to the specific Department’s Legislative Committee for review, recommendation and documentation of rationale for the selected vendor. The award of the contract will be done by legislative resolution.

Implementation Date:

- January 1, 2017, any RFP’s that are issued will include an outline with the details of the weighted evaluation criteria in the RFP that will be used to evaluate the RFP responses. The implementation of this change will be followed as indicated above.

Person Responsible for Implementation:

The County Manager will ensure that the Purchasing Policy is updated and reviewed with the Board of Legislature that includes evaluations and rationale for professional service selection. The Board of Legislature will adopt the policy by resolution upon their satisfactory review. All Department Heads will be made aware of the policy changes and implementation and compliance will be managed by the specific department heads and monitored by the County Manager, Purchasing Department and Board of Legislature.

Signed:

Donna Kissard, County Manager

12/21/16

Date

APPENDIX B

AUDIT METHODOLOGY AND STANDARDS

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

- We interviewed County officials and employees and reviewed and evaluated the County's purchasing policy and procedures.
- We reviewed a judgmental sample of 25 purchase and public works contracts that the County entered into during our audit period that exceeded the competitive bidding thresholds to determine whether they were procured in accordance with GML. Our sample was selected based on vendor name and dollar amount.
- We reviewed a judgmental sample of 20 purchases that were made by the County during our audit period that did not exceed the competitive bidding thresholds to determine whether they were procured in accordance with the County's purchasing policy. Our sample was selected based on purchases that were \$3,000 or more and were made throughout our audit period.
- We reviewed a judgmental sample of 15 professional service providers who were paid by the County during our audit period to determine whether their services were procured in accordance with County's purchasing policy. Our sample was selected based on professional service providers who were paid in excess of \$10,000 during our audit period and professional service provider name.

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

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AND SCHOOL ACCOUNTABILITY

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