



Village of Schuylerville Procurement

Report of Examination

Period Covered:

June 1, 2012 — April 30, 2014

2014M-228



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State of New York Office of the State Comptroller

Division of Local Government and School Accountability

October 2014

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 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 the Village of Schuylerville, 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 Schuylerville (Village) is located in Saratoga County (County) and has a population of approximately 1,400. The Village provides fire protection, street maintenance, garbage removal, snow removal, sewer services and general government support to its residents. The Village cooperates with the Village of Victory to provide water services to its residents. The Village's budgeted appropriations of \$1.5 million for the general and sewer funds for the 2014-15 fiscal year are funded primarily by real property taxes, sales tax, sewer rents, garbage charges and State aid.

The Village is governed by a Board of Trustees (Board) which comprises four elected Trustees and an elected Mayor. The Board is responsible for the general oversight of the Village's operations. The Mayor is the chief executive officer. The Treasurer, who is appointed by the Board, is the chief fiscal officer and, in addition to maintaining the accounting records, is responsible for receiving, disbursing and maintaining custody of Village moneys.

The Board adopted a procurement policy that includes provisions for procuring goods within the limits outlined in New York State General Municipal Law (GML). Department heads are responsible for making purchases and adhering to the policy, including obtaining quotes to ensure that goods and services are obtained at reasonable prices from responsible vendors.

Objective

The objective of our audit was to evaluate the Village's procurement practices. Our audit addressed the following question:

- Does the Village use competitive procedures for the procurement of goods and services?

Scope and Methodology

We examined the Village's procedures for the procurement of goods and services for the period of June 1, 2012 through April 30, 2014.

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 is included in Appendix B 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 agreed with our recommendations and indicated that 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 the GML. 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.

Procurement

It is important that Village officials purchase goods and services as economically as possible to help minimize costs. Unless an exception applies, purchase contracts in excess of \$20,000 and contracts for public work in excess of \$35,000 are required to be publicly advertised and awarded to the lowest responsible bidder.

The Village may elect to award purchase contracts which exceed the monetary threshold on the basis of “best value” (competitive offering) as an alternative to an award to the lowest responsible bidder.¹ However, the Board must first authorize the use of the best value method for awarding purchase contracts by the adoption of a local law. Best value is a basis for awarding contracts “to the offerer which optimizes quality, cost and efficiency, among responsive and responsible offerers.”² Therefore, in assessing best value, non-price factors can be considered when awarding the purchase contract.³ Specifications for a best value award should describe the general manner in which the evaluation and award of the offer will be conducted and, as appropriate, identify the relative importance of weighing price and non-price factors.

The decision to award purchase contracts using the best value method must also be based on objective and quantifiable analysis, such as a cost-benefit analysis, whenever possible. Therefore, when evaluating and determining whether to accept a higher-priced offer, the Village generally should use a cost-benefit analysis to show the quantifiable value or savings from non-price factors that offset the price differential of the lower-priced offers. The Village’s procurement policies should require documentation of this analysis. Furthermore, the Village must comply with public advertising and requirements for a public opening of offers.⁴

In addition, when competitive bidding is not required pursuant to GML, the Village is still subject to its own procurement policies and procedures.⁵ Depending on the cost of purchase contracts and contracts

¹ For this purpose, the term “purchase contract” includes contracts for service work, but excludes contracts necessary for the completion of a public works contract covered by the prevailing wage provisions of Article 8 of the New York State Labor Law.

² See New York State Finance Law Section 163(1)(j). GML Section 103(1) cross-references the definition of “best value” in New York State Finance Law, Section 163.

³ Non-price factors can include, but are not limited to, reliability of a product, efficiency of operation, difficulty or ease of maintenance, useful lifespan, ability to meet needs regarding timeliness of performance and experience of a service provider with similar contracts.

⁴ See GML Section 103(2)

⁵ See GML Section 104-b

for public work, the Village's procurement policy requires Village officials to solicit bids, use State contracts or obtain competitive quotes to ensure that the Village obtains goods and services at the lowest cost.

The Board provides oversight of the Village's purchasing function by auditing and approving claims. Claims contain documentation including vendor invoices, voucher forms and other documentation related to the purchases, such as evidence that the department heads obtained quotes.

Village officials did not always use competitive procedures for the procurement of goods and service as required by GML. We found that a contract for public work for paving in the amount of \$51,150 was not competitively bid. We also found that two equipment purchase contracts for \$50,000 and \$109,970 were not competitively bid. Although the Board awarded the \$50,000 purchase contract using what they believed was a "best value" method, the award did not adhere to the best value method requirements. As a result, the Village may have incurred higher costs than necessary, or, in the case of best value, may not have optimized quality, cost and efficiency for the items it acquired.

The Village's purchasing policy is reviewed annually and the bidding thresholds are more restrictive than current GML requirements.⁶ The policy includes procedures that department heads are required to follow when making purchases that are not subject to competitive bidding. The policy requires two verbal quotes from vendors for purchases and public works contracts between \$500 and \$2,999, two written quotes for purchases and public works between \$3,000 and \$9,999 and three written quotes for public works contracts between \$10,000 and \$19,999.

We reviewed 35 purchases totaling \$5,766,796 made during our audit period that were subject to either competitive bidding, best value requirements or the requirements established in the Village's procurement policy to assess if Village officials complied with these requirements. Of these 35 purchases, eight totaling \$5,429,269 were for a wastewater treatment project and were either competitively bid or awarded pursuant to the Village's procurement policy. The remaining 27 purchases totaling \$337,527 were for other Village purposes. We found that Village officials either competitively bid or awarded the contracts pursuant to the Village's procurement policy

⁶ The Village's procurement policy provides bidding thresholds of \$10,000 for purchase contracts and \$20,000 for public work contracts. GML was amended to increase the bidding threshold from \$10,000 to \$20,000 for purchase contracts (effective June 22, 2010) and from \$20,000 to \$35,000 for contracts for public work (effective November 12, 2009).

for 24 of these purchases totaling \$126,407. However, three purchases totaling \$211,120 were not competitively bid or properly awarded on the basis of best value, in accordance with GML. Specifically, as previously noted, we found that a contract for public work for paving in the amount of \$51,150 was not competitively bid and a pay loader for \$109,970 and a used garbage truck for \$50,000 were not competitively bid or awarded on the basis of best value in accordance with GML.

- Village officials stated they thought competitive bidding was not necessary for the paving contract because the contractor was already performing paving work on a separate Village project. They felt that the contractor could offer a good price because additional costs would not be incurred for mobilizing equipment. The failure to obtain competitive bids makes it questionable as to whether the Village received the best price for the paving project.
- The Mayor informed us that the new pay loader was not competitively bid because it was an emergency purchase. However, the minutes of the Board meetings did not note any discussion or Board decision to award the purchase of the new pay loader and there was no documentation or other evidence that an actual emergency existed that would have required an exception to the bidding requirements. The lack of bids for this procurement makes it questionable whether the Village obtained the equipment at the best price.
- The Board awarded a \$50,000 purchase contract for the used garbage truck after receiving three written quotes,⁷ using what they thought was the best value method in accordance with GML. However, we believe the Village did not meet the requirements for using the best value method. Specifically, the Board did not pass a local law to authorize the use of the best value method prior to making this purchase⁸ nor did the Village publicly advertise for competitive offers. Furthermore, while the Town did receive written quotes prior to awarding the purchase contract, it appears the Village did not establish specifications to describe the general manner in which the evaluation and award of competitive offers would be conducted, or use an objective and quantifiable analysis, such as a cost-benefit analysis, to document the quantifiable

⁷ Written quotes received were for three trucks of different models, specifications, miles and years. Two quotes received were for \$48,000 and \$52,000, less the \$2,000 trade-in for the old truck. The remaining quote was for \$54,900.

⁸ On June 11, 2014, subsequent to this purchase, the Board passed a local law to allow purchasing using the best value method.

value or savings that offset the price differentials of the lower-priced offer. Without adequate competition by seeking offers or preparing a cost-benefit analysis of the offers received, Village officials could not assure, and we were unable to assess, that the garbage truck purchased was the best value for the Village.

Village officials did not ensure that competitive procurement procedures were always followed to obtain goods and services at the lowest possible price. Furthermore, the requirements for using the best value method were not met by the Village officials. Without first obtaining competition, in accordance with GML, when procuring goods and services, Village officials cannot assure they are receiving goods and services at the desired quality at the lowest cost or, in the case of best value awards, in a manner that optimizes quality, cost and efficiency.

Recommendations

The Board should ensure that Village officials comply with competitive procedures when procuring goods by:

1. Ensuring that competitive bids or competitive offers are awarded in accordance with GML.
2. Providing guidance in the procurement policy as it relates to the best value method as an alternative way to award purchase contracts.

APPENDIX A
RESPONSE FROM LOCAL OFFICIALS

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



Village of Schuylerville

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October 23, 2014

Jeffrey P. Leonard
Office of the State Comptroller
One Broad Street Plaza
Glens Falls, New York 12801-4396

**RE: *Village of Schuylerville Procurement - Draft Report of Examination
for Period June 1, 2012 – April 30, 2014***

Dear Mr. Leonard:

The Village of Schuylerville Board of Trustees has reviewed the draft audit. The Mayor and Clerk/Treasurer met with [REDACTED] and [REDACTED] on September 26, 2014. Present at the meeting was Mayor John Sherman and Clerk/Treasurer Anna Welfley. Joining the meeting initially and at the end of the meeting was Deputy Mayor/Trustee Charles Sherman.

The information presented has demonstrated that areas of our Procurement Policy Procedures were not always followed in obtaining goods and services ensuring the lowest possible price and following the best value method without the proper cost-benefit analysis prior to the purchase as well as having a best value local law in place. We agree with the recommendations stated in your findings and are taking the appropriate steps to ensure that the Procurement Policy is updated with the necessary changes and adhered to.

We appreciate the efforts of your [REDACTED] and [REDACTED]. They were at all times during the process professional, thorough and courteous. They interacted with the office staff and the Mayor extensively as well as meeting with each of the Trustees, asking and answering questions to get an accurate view of the village's financial operations and procurement process.

Thank you for the time and effort your office has spent in this examination. It is our priority to manage government resources efficiently and effectively to provide accountability for taxpayer dollars spent to support our village.

Very truly yours,

John Sherman, Mayor

APPENDIX B

AUDIT METHODOLOGY AND STANDARDS

Our overall goal was to determine whether the Village used competitive procedures for the procurement of goods. To accomplish our objective, we interviewed Village officials, performed limited tests of transactions and reviewed pertinent documents such as Village policies and procedures, Board minutes and financial records and reports for the period June 1, 2012 through April 30, 2014. Our testing included the following procedures:

- We interviewed Village officials and employees to obtain an understanding of internal controls over the procurement process.
- We selected a test sample by first sorting the Village's vendor history and excluding all purchases under \$499, as well as utility payments and payroll to which the Village's purchasing policy does not apply. We sorted the remaining population by dollar amount to test adherence to the purchasing policy and GML requirements. We selected⁹ 10 purchases between \$500 and \$2,999, 10 purchases between \$3,000 and \$9,999 and 15 purchases over \$10,000.
- We tested the sample of purchases between \$500 and \$2,999 for adherence to the procurement policy and to determine whether Village officials verbally requested quotes for goods.
- We tested the sample of purchases between \$3,000 and \$9,999 for adherence to the procurement policy and to determine whether there was:
 - o Written quotes were obtained from two vendors for purchases and whether
 - o Written quotes were obtained from two contractors for public works.
- We tested the sample of public works contract between \$10,000 and \$19,999 for adherence to the procurement policy and to determine whether written quotes were obtained from a minimum of three contractors for public works.
- We tested the sample of purchases over \$10,000 and public works contracts over \$20,000 to determine whether:
 - o The purchases or public works contracts were subject to competitive bidding requirements, per the Village's policy, and were bid. If a purchase was not bid, we determined whether it was purchased under a valid State or County contract or if the purchase was made due to an emergency situation.
 - o The bids were properly published.
 - o The purchases or public works contracts were awarded to the lowest responsible bidder or if an explanation provided of why the lowest bid was not selected.

⁹ Randomly selected using a spreadsheet function

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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