

# Town of Palermo

## Procurement and Fuel Inventory

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NOVEMBER 2020

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OFFICE OF THE NEW YORK STATE COMPTROLLER  
Thomas P. DiNapoli, State Comptroller

# Contents

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<b>Report Highlights</b>	1
<b>Procurement</b>	2
How Should a Town Procure Goods and Services?	2
The Procurement Policy Was Not Updated or Adequate	3
Officials Did Not Always Competitively Procure Goods and Services	3
What Do We Recommend?	5
<b>Fuel Inventory</b>	7
How Should Town Officials Adequately Safeguard and Account for Fuel?	7
Town Officials Did Not Adequately Safeguard Fuel Inventory	7
What Do We Recommend?	9
<b>Appendix A – Response From Town Officials</b>	10
<b>Appendix B – Audit Methodology and Standards</b>	13
<b>Appendix C – Resources and Services</b>	15

# Report Highlights

## Town of Palermo

### Audit Objective

Determine whether Town of Palermo (Town) officials used competitive methods when procuring goods and services and properly accounted for and monitored diesel and gasoline fuel.

### Key Findings

Town officials did not always use competitive methods when procuring goods and services or properly account for and monitor diesel and gasoline fuel. Town officials:

- Purchased \$299,298 in goods and services that should have been competitively procured however \$101,121 was purchased without competition.
- Overpaid a vendor by almost \$2,500.
  - Invoices were not compared to contract terms.
- Were not familiar with all of the Town's procurement policy requirements and have not reviewed and approved it since 2002.
  - The policy is outdated, does not provide adequate guidance or comply with New York State General Municipal Law (GML).

### Key Recommendations

- Review and update the procurement policy and use competitive methods when procuring goods and services, including professional services.
- Ensure payments for purchases using State or county contracts agree with contract pricing.
- Periodically reconcile gallons of fuel on hand to records showing the beginning inventory and gallons delivered, dispensed and on hand.

Town officials agreed with our findings and indicated they would implement corrective action.

### Background

The Town is located in Oswego County (County).

The Town is governed by an elected Town Board (Board) which includes the Town Supervisor (Supervisor) and four Board members. The Board is responsible for the general management and control of the Town's financial operations. The Supervisor serves as the chief executive and chief fiscal officer.

The Town has an elected Highway Superintendent (Superintendent), who is responsible for overseeing all highway department operations.

### Quick Facts

Non-Payroll Expenditures	\$1,131,983
Fuel Gallons Purchased	15,700
Fuel Cost	\$33,600
Population	3,664

### Audit Period

January 1, 2019 – December 31, 2019. We extended our scope period forward to March 4, 2020 to review fuel purchases and usage.

# Procurement

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## How Should a Town Procure Goods and Services?

Seeking to use competitive methods in the procurement of goods and services is not just a matter of ensuring compliance with laws and local policy. An effective purchasing process can help towns obtain services, supplies and equipment of the right quality and quantity from the best qualified and lowest-priced sources, in compliance with board policies and other legal requirements. This process helps the town use its resources efficiently and helps guard against favoritism, extravagance and fraud.

At a minimum, GML generally requires towns to advertise for competitive bids for purchase contracts exceeding \$20,000 and public works contracts exceeding \$35,000.<sup>1</sup> GML further requires a board to adopt written policies and procedures for the procurement of goods and services not subject to competitive bidding requirements, to ensure the prudent and economical use of public money in the town's best interests.<sup>2</sup> This can be accomplished through requests for proposals (RFPs) in the case of professional services<sup>3</sup> or written quotes for other types of purchases that fall below bidding thresholds.

Policies and procedures should require documentation of actions taken with each procurement method, and identify the individuals responsible. It is vitally important that officials and employees have sufficient knowledge about the laws and local policies that guide competitive procurement. In addition, Town officials should ensure claims are supported by original invoices rather than billing statements and that the Town does not pay sales tax.

GML requires the town board to review the written procurement policy annually.<sup>4</sup> The Town's procurement policy requires competitive bidding for purchase contracts exceeding \$10,000 and public works contracts exceeding \$20,000. Purchases below that threshold are to be made with the use of written RFPs, written quotations, verbal quotations or any other methods that assure that goods will be purchased at the lowest price and that favoritism will be avoided. Specifically, the policy requires written quotes for purchases over \$3,000 with certain exceptions (professional services, emergency purchases, second-hand goods).<sup>5</sup> Good business practice requires the use of an RFP for professional services and insurance, where price should not necessarily be the sole criterion for awarding the contract.

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1 GML Section 103

2 GML Section 104-b

3 Professional services generally include services rendered by attorneys, engineers, and certain other services requiring specialized or technical skills, expertise or knowledge, the exercise of professional judgment or a high degree of creativity.

4 GML Section 104-b

5 Purchases between \$250 and \$2,999.99 are subject to verbal quotes.

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In lieu of seeking competition, a town is authorized to make purchases using contracts awarded by the New York State Office of General Services (State Contracts) or contracts bid by other governments (e.g., county contracts). In determining the necessity for competitive bidding, the aggregate amount within the 12-month period beginning on the purchase date must be considered.

### **The Procurement Policy Was Not Updated or Adequate**

The Board has not updated or revised the procurement policy since 2002. As a result, the policy is outdated because it references previous GML bidding thresholds for purchase contracts in excess of \$10,000 and public works contracts in excess of \$20,000, rather than the current GML thresholds of \$20,000 and \$35,000, respectively. While the Board may choose to require competitive bidding for procurement below the GML thresholds, it should update its policy. The Supervisor told us that officials were unaware that the Board is required to annually review the procurement policy.

In addition, the policy is inadequate because it does not:

- Identify the individuals (by title) who are responsible for procuring goods and services.
- Specify the appropriate number of written and verbal quotes needed.
- Require the solicitation of competition (e.g., issuing RFPs or obtaining quotes) for professional services.

Also, Town officials were unfamiliar with the procurement policy requirements for obtaining written quotes. The policy states that purchases over \$3,000, but below bid thresholds, require written quotes to show evidence of competitive procurement. Meanwhile, the Town officials believed the threshold was \$5,000.

Because the policy is outdated, it does not provide clear guidelines, and officials responsible for purchasing are not familiar with certain policy requirements, Town officials cannot be assured that the procurement of goods and services is made in the most economical manner as intended.

### **Officials Did Not Always Competitively Procure Goods and Services**

We reviewed 581 non-payroll cash disbursements totaling \$1,131,983 and identified 54 expenditures totaling \$299,298<sup>6</sup> that were subject to bids, quotations or RFPs. We reviewed the related invoices and supporting documentation and found that Town officials did not verify that State and county contracts and pricing were used and did not seek competition for purchases totaling \$101,121.

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The Board  
has not  
updated or  
revised the  
procurement  
policy since  
2002.

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Town officials  
did not verify  
that State  
and county  
contracts and  
pricing were  
used and  
did not seek  
competition  
for purchases  
totaling  
\$101,121.

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<sup>6</sup> 54 payments to 23 vendors

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Competitive Bidding – We reviewed all three purchases<sup>7</sup> totaling \$162,287 that exceeded the threshold for competitive bidding in the Town’s policy and required officials to either solicit competitive bids or utilize contracts competitively awarded by the State or other governments. The Town spent \$88,014 on rock salt, \$41,137 on hot mix asphalt and \$33,136 on diesel fuel. Officials told us they use county and State contracts. However, not all of the payments were made to vendors that had been awarded those contracts and the price paid did not always match the contract price.

Both the Superintendent and the Supervisor told us they used a county contract when purchasing hot mix asphalt. However, there was no evidence that they did because the vendors awarded the county contract did not include the vendor used by the Town. We searched the New York State Office of General Services web site and found that although this vendor was coincidentally awarded a State contract, the State contract price was not extended to the Town. Had officials checked for and used the State contract they would have verified that the prices received agreed with the State contract prices and therefore saved \$2,460.

Because Town officials did not compare invoices to the prices per the contracts, they also did not realize that the diesel vendor who had the State contract was charging them the wrong rates for diesel fuel. Although the differences were small,<sup>8</sup> Town officials should compare prices according to the contracted price to ensure they are not overpaying for any goods or services.

Lastly, we noted that Town officials paid for diesel fuel off a statement and also paid the individual invoices, resulting in duplicate payments. They did not realize this until we brought it to their attention. This led to an overpayment of \$1,007, of which the Town received \$367 as a vendor credit. The Town is currently following up with the vendor to receive the remaining \$640 credit.

Professional Services – We reviewed payments to six professional service providers totaling \$71,507<sup>9</sup> to determine whether the Town sought competition. We found the Town did not utilize an RFP process or solicit quotes for \$49,098 paid to four of the six providers. These services included insurance (\$33,109), information technology consulting (\$8,868), land surveying (\$5,000) and legal fees (\$2,121). The Supervisor told us that the land surveyor was selected by the engineering firm the Town hired for a capital project, so the Town did not seek competition from different providers for the service.<sup>10</sup> She did not provide a reason as to why the other three service providers were not solicited via an RFP or

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7 16 disbursements

8 Overcharged a total of \$137 on three purchases and undercharged a total of \$214 on three other purchases, for a net of \$77 undercharged

9 24 disbursements

10 The Town used a competitive process to select the engineering firm.

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quote process. When the Town does not periodically issue RFPs for professional services, it cannot be assured it will achieve the best results for the taxpayer's dollars.

Written Quotes Required – We identified 14 purchases totaling \$65,504 that required the use of written quotes. Town officials did not seek written quotes for 11 of these purchases totaling \$52,023. These purchases included automotive and equipment repairs (\$35,609), gravel (\$4,920), a sliding gate (\$4,559), a phone system (\$3,468) and a high-pressure hose (\$3,467). The Supervisor, the Town Clerk, the Superintendent and Buildings and Grounds Department Head were under the impression that only purchases over \$5,000 required the use of written quotes. Also, the Supervisor told us that she thought certain repairs were exempt from the use of competition during procurement; however, the policy does not provide such an exemption.

We also noted that the Town paid over \$320 in sales tax on the phone system. The Town is exempt from paying sales tax. The Town Clerk has since notified the provider in an effort to seek a refund.

Because Town officials do not always follow the procurement policy and solicit competition when appropriate, the Board and officials have little assurance that the Town is procuring goods and services in the most prudent and economical manner and that procurements are free from favoritism. In addition, the Town risks acquiring goods and services at higher costs than necessary.

## **What Do We Recommend?**

The Board should:

1. Review and update the procurement policy to:
  - Reference the current GML bidding thresholds.
  - Identify the individuals responsible for purchasing and their titles.
  - Specify the appropriate number of written and verbal quotes needed.
  - Include competitive methods for procuring for professional services.
2. Annually review the procurement policy, update it as needed and ensure officers and employees are aware of and follow the policy.
3. Ensure that town officials comply with statutes and the Town's procurement policy when making purchases.

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Town officials should:

4. Ensure payments for purchases made using State or county contracts agree with the contract pricing.
5. Ensure claims are supported by original invoices rather than billing statements and that the Town does not pay sales tax.

# Fuel Inventory

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The Town maintains a 3,000 gallon above-ground diesel tank and a 300 gallon above-ground gasoline tank at the highway garage for use by the highway department. The Town has 11 fuel consuming vehicles in operation, and maintains 40 miles of Town roads, with an additional 20 miles of County roads that it plows during the winter. To refuel vehicles, employees turn on the fuel pump with a manual switch inside the highway garage. After they pump the fuel, they record the date, the driver, the vehicle and the amount dispensed on the manual log, and then turn off the switch. At the end of the year, the Superintendent gives the fuel log to the Town Clerk, who enters the purchases and usage on a spreadsheet for the Supervisor.

## **How Should Town Officials Adequately Safeguard and Account for Fuel?**

The board should adopt written policies and procedures to safeguard and account for the town's fuel inventory. Town officials are responsible for designing controls over fuel use to ensure fuel inventories are safeguarded and protected against the risk of loss, waste and misuse. Inventory records should be properly maintained to account for fuel purchased, used and on hand.

Town officials should ensure that fuel records are periodically reconciled to readings of fuel levels in the tanks as determined by physical tank measurements and ensure the reconciliations are reviewed and that material discrepancies are investigated and resolved. Fuel should be maintained in a controlled environment, and access to fuel tanks and pumps should be monitored and restricted to authorized personnel. When fuel is pumped, it should be recorded including the date, vehicle and gallons pumped.

## **Town Officials Did Not Adequately Safeguard Fuel Inventory**

The Board did not establish policies and procedures to ensure adequate controls were in place to account for and safeguard fuel. Although the highway department maintained fuel usage logs, the Superintendent did not maintain fuel inventory records to track fuel purchases, usage and the amount of fuel on hand.

The Town's fuel tanks have a flotation-type gauge to monitor diesel and gasoline inventory levels. The diesel float allows for a reading in one-eighth or quarter tank increments, whereas the gasoline float allows for a reading in quarter tank increments (See Figure 1). However, the Superintendent did not periodically record the number of gallons on hand based on the fuel gauge measurements or by taking stick measurements to determine the gallons of fuel in the tanks. Therefore, there was no process to compare fuel inventory records to the actual fuel on hand.

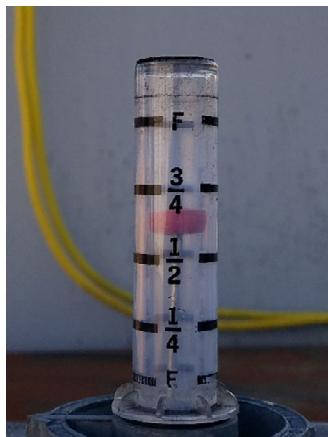
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**FIGURE 1**

**Fuel Tank Gauges**



**Diesel Gauge**



**Gasoline Gauge**

Although the Supervisor receives an annual spreadsheet with fuel purchases and usage, she did not request or require any inventory readings or fuel reconciliations from the highway department. Because fuel inventory records were not maintained and reconciled to physical inventories during our audit period, officials cannot be sure that fuel purchases were properly accounted for and that fuel was used only for Town purposes.

We reconciled fuel for a one-month period<sup>11</sup> while we were on site. We converted the fuel gauge readings to gallons and then performed a fuel reconciliation (beginning inventory plus fuel purchases minus fuel used, then compared to the ending inventory). We found only minor differences. We also compared 2019 fuel purchases to recorded fuel usage, and found that the total gallons used were reasonably close to the total gallons purchased.

Nonetheless, without effective controls over fuel inventories, there is an increased risk that diesel and gasoline inventories could be misused without detection.

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<sup>11</sup> February 4, 2020 through March 4, 2020

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## **What Do We Recommend?**

The Board should:

6. Adopt policies and procedures to ensure fuel inventories are properly accounted for, adequately safeguarded and reconciled periodically.
7. Appoint someone to review fuel reconciliations.

The Superintendent should:

8. Establish and maintain fuel inventory records showing the beginning inventory and the gallons of fuel purchased/delivered, dispensed (per usage records) and on hand.
9. Periodically reconcile the fuel inventory records to the gallons of fuel on hand as determined by physical fuel tank measurements. Investigate and resolve any discrepancies.

# Appendix A: Response From Town Officials

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**Town of  
Palermo  
New York**

**PATRICIA A. REDHEAD – SUPERVISOR**  
**53 County Route 35 \* Fulton, New York \* 13069 \* Phone: (315) 593-2333**

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September 30, 2020

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Re: Town of Palermo – Audit 2020M-100

To the Office of the NYS Comptroller:

The Town Board Town of Palermo in conjunction with the Town Supervisor and the Town Highway Superintendent hereby acknowledges receipt of the State Comptrollers Audit Findings – Report of Examination 2020M-100.

The Town Board further acknowledges the findings and agrees with those findings. The Town Board along with the Town Supervisor and Town Highway Superintendent has thoroughly reviewed the draft report and accepts it in its entirety as accurate.

This audit response is also serving as the Corrective Action Plan (CAP). Below are the steps taken within the Corrective Action Plan to ensure compliance with the audit reports recommendation(s). For each recommendation included in the audit report, the following is our corrective action(s) taken or proposed.

**Review and update the procurement policy and use competitive methods when Procuring goods and services, including professional services.**

The Town Board has worked in conjunction with town legal counsel to update its procurement policy to ensure that it is compliant and consistent with the recommendation set forth by the NYS Comptroller's Office. That draft policy and amendment to the Local Law of the Town of Palermo is pending, subject to a public hearing and final approval by the Town Board. That policy will address those concerns identified within the audit report including the following:

- Identify the individuals (by title) who are responsible for procuring goods and services.
- Specify the appropriate number of written and verbal quotes needed.
- Require the solicitation of competition per the procurement policy for professional services.

In addition to the adoption of the updated Procurement Policy, the Town Board will take the steps necessary to educate all town employees and officers as to the updated Procurement Policy including and an acknowledgement form for each employee as to the understanding of said Policy.

Furthermore, the Town Board will annually review the procurement policy to maintain consistency with the Comptroller's recommendations.

**Ensure payments for purchases using State or county contracts agree with contract pricing.**

As part of the policy update and the educational training, the Town Board will enact procedural policy to ensure that all purchases made within State or County Contracts agree with the contract pricing in place by those agencies. Along with those procedures will be an auditing component to review those type of purchases that will ensure compliance with the procurement policy and contracts.

**Ensure claims are supported by original invoices rather than billing statements and that the Town does not pay sales tax.**

The Town Board's auditing policy and procedures regarding vouchers, invoices and billing statements will be updated to include the requirement of all original invoices and review of any sales tax charges that are not applicable.

**Adopt policies and procedures to ensure fuel inventories are properly accounted for, adequately safeguarded and reconciled periodically.**

The Town Board will adopt a formal policy and procedure regarding fuel purchases and inventory. The Board will work in conjunction with the Highway Superintendent and legal counsel to ensure the following concerns are addressed:

- a. Appoint a board committee or engage the services of an auditor to review fuel purchases and reconciliations of all fuel purchases to the usage.
- b. Establish and maintain fuel inventory records that contain accountability for fuel purchased vs. fuel delivered to dispensed and usage records along with fuel remaining or on hand at the time recordings.
- c. The Board will periodically reconcile the fuel inventory records and investigate any discrepancies that may be noted or determined to have occurred.
- d. The Board will maintain all records of its activities regarding the fuel inventories, records and findings for audit purposes. Furthermore, the Board will consider alternative electronic methods of recording fuel usage/purchases and auditing procedures.

Furthermore, the Town Board Town of Palermo and the Town Supervisor acknowledges the seriousness of this situation and is taking the appropriate action to rectify the policies and procedures necessary to ensure accountability for all purchases including fuel.

We as a Town Board appreciate your assistance in completing this audit review and look forward to the future with a better understanding of the procurement and purchasing process. On behalf of the Town of Palermo Highway Superintendent and the Town Board Town of Palermo;

Sincerely,

Patricia A. Redhead  
Town Supervisor

Cc: Town Board Members

## Appendix B: Audit Methodology and Standards

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We conducted this audit 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. To achieve the audit objective and obtain valid audit evidence, our audit procedures included the following:

- We interviewed Town officials and employees, and reviewed the Town's procurement policy and Board minutes to gain an understanding of the Town's procurement process.
- We reviewed disbursement data to identify purchases subject to competitive bids, quotes and RFPs. We analyzed the disbursement data based on vendor, amount and invoice description to identify which, if any, method of seeking competition would be appropriate. We excluded payroll costs, debt service and payments to other governments from testing for competition. We identified 54 disbursements totaling \$299,298 that, in our professional judgment and according to the Town's policy and good business practice, would require the use of competitive bidding, quotes or RFPs to solicit competition.
- We reviewed all three purchase and public works contracts (16 disbursements) totaling \$162,287 that the Town entered into during our audit period that exceeded the procurement policy bidding threshold of \$10,000.<sup>12</sup> We reviewed documents to assess whether the procurements were properly bid or made by using State or county contracts.
- We reviewed all six purchases from professional service providers (24 disbursements totaling \$71,507). We interviewed officials and reviewed available documentation to determine whether RFPs were issued or quotes were obtained to procure these services.
- We identified 14 purchases totaling \$65,504 that required written quotes according to the procurement policy. We reviewed the claims and related documentation to determine whether officials obtained quotes as required.
- We obtained representations from Board members and other key Town officials that disclosed their outside employment and business interests, and those of their spouses. We compared these disclosures to disbursement records to determine whether the Town entered into any financial transactions that could conflict with key decision makers' outside business interests.
- We gained an understanding of the Town's manual fuel system and recordkeeping process by interviewing the Superintendent and through a walkthrough of the highway garage and fueling station. We reviewed the fuel usage logs for all of 2019 and for February 4, 2020 through March 4, 2020.

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<sup>12</sup> These three purchases also exceeded GML bid thresholds.

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- We performed a fuel inventory reconciliation by obtaining visual tank inventory readings on February 4, 2020 and accounting for fuel deliveries and usages (February 4 through March 4, 2020) and comparing this information to the visual tank inventory reading on March 4, 2020. We also compared the total fuel purchased throughout 2019 to the fuel usage recorded in the manual log.

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 objectives. We believe that the evidence obtained provides a reasonable basis for our findings and conclusions based on our audit objectives.

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.

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 provided 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 the CAP available for public review in the Town Clerk's office.

# Appendix C: Resources and Services

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## **Regional Office Directory**

[www.osc.state.ny.us/sites/default/files/local-government/documents/pdf/2018-12/regional\\_directory.pdf](http://www.osc.state.ny.us/sites/default/files/local-government/documents/pdf/2018-12/regional_directory.pdf)

## **Cost-Saving Ideas** – Resources, advice and assistance on cost-saving ideas

[www.osc.state.ny.us/local-government/publications?title=&body\\_value=&field\\_topics\\_target\\_id=263196&issued>All](http://www.osc.state.ny.us/local-government/publications?title=&body_value=&field_topics_target_id=263196&issued>All)

## **Fiscal Stress Monitoring** – Resources for local government officials experiencing fiscal problems

[www.osc.state.ny.us/local-government/fiscal-monitoring](http://www.osc.state.ny.us/local-government/fiscal-monitoring)

## **Local Government Management Guides** – Series of publications that include technical information and suggested practices for local government management

[www.osc.state.ny.us/local-government/publications?title=&body\\_value=&field\\_topics\\_target\\_id=263206&issued>All](http://www.osc.state.ny.us/local-government/publications?title=&body_value=&field_topics_target_id=263206&issued>All)

## **Planning and Budgeting Guides** – Resources for developing multiyear financial, capital, strategic and other plans

[www.osc.state.ny.us/local-government/resources/planning-resources](http://www.osc.state.ny.us/local-government/resources/planning-resources)

## **Protecting Sensitive Data and Other Local Government Assets** – A non-technical cybersecurity guide for local government leaders

[www.osc.state.ny.us/sites/default/files/local-government/documents/pdf/2020-05/cyber-security-guide.pdf](http://www.osc.state.ny.us/sites/default/files/local-government/documents/pdf/2020-05/cyber-security-guide.pdf)

## **Required Reporting** – Information and resources for reports and forms that are filed with the Office of the State Comptroller

[www.osc.state.ny.us/local-government/required-reporting](http://www.osc.state.ny.us/local-government/required-reporting)

## **Research Reports/Publications** – Reports on major policy issues facing local governments and State policy-makers

[www.osc.state.ny.us/local-government/publications?title=&body\\_value=&field\\_topics\\_target\\_id=263211&issued>All](http://www.osc.state.ny.us/local-government/publications?title=&body_value=&field_topics_target_id=263211&issued>All)

## **Training** – Resources for local government officials on in-person and online training opportunities on a wide range of topics

[www.osc.state.ny.us/local-government/academy](http://www.osc.state.ny.us/local-government/academy)

## Contact

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