

Etna

Volunteer Fire Department

Procurement

MAY 2019



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

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Report Highlights

Etna Volunteer Fire Department

Audit Objective

Determine whether the Board established adequate controls over procurement.

Key Findings

- Department officials generally did not document their efforts to obtain competition for purchases.
- The Board did not establish policies or procedures for the procurement of goods and services.
- Certain officers did not disclose their interest in contracts.

Key Recommendations

The Board should:

- Ensure Department officials seek, and maintain documentation of, competition for purchases.
- Adopt policies and procedures for the procurement of goods and services.
- Adopt a code of ethics to set forth standards of conduct in accordance with the GML.

Officials agreed with our report and indicated they planned to take corrective action.

Background

The Etna Volunteer Fire Department, Inc. (Department) is a not-for-profit organization located in the Town of Dryden (Town) in Tompkins County. The Department provides fire protection services to Town residents through an annual contract.

The Department is governed by its bylaws and an eight-member Board of Directors (Board).

The Fire Chief (Chief) takes charge of the Department at all alarms and is responsible for directing the efforts of all fire personnel at an emergency scene. The Treasurer is responsible for receiving and depositing all money collected, paying all Board-approved expenses and preparing the annual financial report. The Secretary is responsible for maintaining a record of all written reports and monthly Board meetings.

Quick Facts

Total Purchases	215
Amount Purchased	\$155,541
2018 Fire Protection Contract	\$150,000

Audit Period

January 1, 2017 – October 24, 2018

Procurement

Any member of the Department can make a request to the Board to initiate a purchase. If the purchase is approved by the Board, the membership subsequently approves the payment of the purchase at their monthly meetings.

What Are Adequate Controls Over Procurement?

A board should establish controls to help ensure that purchases are reviewed and approved before they occur. In addition, one person should not be responsible for initiating, approving, disbursing, recording and reconciling a purchase. If it is not possible to segregate these duties, compensating controls should be implemented.

A board should also establish policies and procedures for the procurement of goods and services to help ensure the prudent and economical use of public money and help to guard against favoritism, improvidence, extravagance, fraud and corruption. Such policies and procedures can provide guidance with regard to how competition should be sought (i.e., specified number of bids, written/verbal quotes, requests for proposal, etc.) based on the type of purchase and dollar value thereof.¹

In addition, pursuant to New York State General Municipal Law (GML),² fire companies are required to adopt a code of ethics setting forth the standards of conduct reasonably expected. GML also provides for public disclosure for any elected and/or appointed officer of a volunteer fire company responsible for governance who has, will have or later acquires an “interest”³ in any actual or proposed contract or other agreement with the fire company of which he or she is a member. The public disclosure is to be made in writing and be part of the official record of the proceedings of the governing board.

Department Officials Generally Did Not Document Their Efforts to Obtain Competition

The Board reviewed and approved purchases before they occurred and adequately segregated duties by hiring a third-party bookkeeper to reconcile all Department bank accounts monthly. Although Department officials told us they actively seek the best price for goods and services, they did not maintain sufficient documentation to support their statements. Also, the Board did not adopt policies and procedures to govern procurement.

¹ Compare, sample procurement policy for local governments and school districts: <https://osc.state.ny.us/localgov/pubs/lmg/seekingcompetition.pdf>.

² GML Section 209-ee

³ GML generally provides that an elected or appointed officer is deemed to have an interest in the contracts of, amongst others, a corporation of which such individual is an officer, director or employee, and of a corporation any stock of which is owned or controlled directly or indirectly by such individual.

We reviewed all 215 purchases totaling approximately \$155,500 during the audit period and found that only one of seven purchases exceeding \$5,000, for \$5,775 for an industrial washing machine,⁴ had documentation of competition being sought.

Figure 1: Purchases

Dollar Ranges	Number	Total Amount
\$500 or less	159	\$23,556
\$501 - \$1,000	26	\$18,807
\$1,001 - \$5,000	23	\$47,020
Greater than \$5,000	7	\$66,158
Total	215	\$155,541

While we did not find lower pricing for the three other purchase contracts that exceeded \$5,000, without policies and procedures to help provide guidance on how and when competition should be sought, there may be an increased risk that goods and services are not being procured in the most economical manner and in the best interests of the membership.

The Board Did Not Adopt a Code of Ethics and Certain Interests in Contracts Were Not Disclosed

The Board did not adopt a code of ethics to set forth standards of conduct, and certain officers did not disclose in writing their apparent “interest” in certain contracts the Department entered into, as required.⁵

For example, the Department’s Secretary is the owner and chief executive officer of an incorporated construction company. In addition, the Department’s Fire Chief is an employee of the construction company. During the audit period, we found that the construction company entered into a contract with the Department to renovate the Department’s fire hall banquet room for a cost of \$11,500, which was paid to this company. As an officer and employee of the construction corporation, respectively, it appears the Secretary and Chief would each be deemed to have an interest in the Department’s contract with the construction company. There

⁴ The other six purchases exceeding \$5,000 included purchase contracts for lockers (\$7,100), turnout gear (\$7,174) and pagers (\$6,444); two professional service contracts for insurance coverage (\$13,957 and \$14,208) and one contract for the remodel of the banquet hall (\$11,500).

⁵ New York State Not-For-Profit Corporation Law (NFPCL) Section 715-a also generally provides that not-for-profit corporations adopt, oversee the implementation of and compliance with, a conflict of interest policy to ensure that its directors, officers and key employees act in the corporation's best interest and comply with applicable legal requirements (see also, NFPCL Section 715). For purposes of this report, such provisions of the NFPCL were outside the scope of this audit. The Board, with consultation from legal counsel as appropriate, should review the provisions set forth in Sections 715 and 715-a of the NFPCL to help ensure that the Department is in compliance with the NFPCL.

was no indication that written disclosure was made in the Board's official record of its proceedings. There also was no indication that competition was sought for this job. Department officials told us that they believe the job would have cost more if performed by another contractor.

Additionally, the Treasurer is an employee of an insurance company, which is incorporated. Starting in 2016, the Department began contracting with the company each year for its insurance coverage.⁶ As an employee of the insurance company, it appears the Treasurer would be deemed to have an interest in the contracts between the Department and the insurance company, when the Department contracted with the company in 2017 and 2018.⁷ In that case, the Treasurer's interest in the contract should have been disclosed in writing. There was no indication, however, that any written disclosure of the Treasurer's interest in the contracts was made in the Board's official record of its proceedings during this period of time.

Board members told us that they were aware of these officials' outside business interests prior to contracting services with the companies, and that those interests did not influence the Board's decision to do business with the companies. However, to help avoid any appearances of impropriety or self-interest, these individuals should have publicly disclosed, in writing, their interest in the contracts.

What Do We Recommend?

The Board should:

1. Ensure Department officials seek, and maintain documentation of, competition for purchases.
2. Adopt policies and procedures for the procurement of goods and services. Such policies could include dollar thresholds and the manner by which competition will be sought (i.e., specified number of bids, written/verbal quotes, requests for proposal, etc.).
3. Adopt a code of ethics and comply with the disclosure requirements set forth in GML.

⁶ Insurance coverage is the largest expense the Department made during our audit period. In total, the Department spent approximately \$28,400 for insurance expenses to the Treasurer's employer.

⁷ The Department began contracting with the insurance company in 2016. At that time, the Treasurer was not an officer of the Department. However, this individual became an officer of the Department starting in 2017, first as Vice President and subsequently as Treasurer in 2018.

Appendix A: Response From Department Officials⁸



Responding to an OSC Audit Report

April, 23.2019

This letter serves as a response & corrective action plan for the following recommendations:

1. Ensure Department officials seek, and maintain documentation of, competition for purchases
2. Adopt policies and procedures for the procurements of goods and services. Such policies could include dollar thresholds and the manner by which competition will be sought. (i.e., Specified number of bids, written/verbal quotes, request for proposals.)
3. Adopt a code of ethics and comply with the disclosure requirements set forth in GML.

Attached is the Procurement policy as compliance with recommendation 1 & 2.

Attached is the Code of Ethics Policy as compliance with recommendation 3.

Both of these recommended policies Etna plans to adopt in the next 30-60 days.

While the OCS Audit process is time consuming, we appreciate they confirmed no fraud or misconduct was found and any complaints were unsubstantiated.

See Note 1 Page 6

Sincerely,

Thomas Lobdell, Board President

Etna Volunteer Fire Department Inc.

PO Box 300, Etna, NY 13062

⁸ Department official's response letter refers to enclosures that support the response letter. Because the Department's response letter provides sufficient detail of its actions, we did not include the attachment in Appendix A.

Appendix B: OSC Comment on the Department's Response

Note 1

Our audit was limited to controls over procurement from January 1, 2017 to October 24, 2018. Therefore, it would be imprudent for us to confirm that no fraud or misconduct occurred at the Department. As stated in our report, certain officers did not disclose in writing their apparent "interest" in certain contracts the Department entered into as required by GML.

Appendix C: Audit Methodology and Standards

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 Department officials and reviewed meeting minutes to gain an understanding of the procurement process and any policies or internal controls in place.
- We reviewed all 215 disbursements totaling \$155,500 that occurred during our audit period to assess whether there was proper Board approval, and we reviewed the meeting minutes and other documentation to assess whether competition was sought.
- We grouped all purchases during our audit period into different dollar ranges to calculate the number and amount of purchases made within each dollar range and the total number and dollar amount of these purchases.
- We searched online websites to attempt to find lower prices for the three purchase contracts that exceeded \$5,000.
- We interviewed Department officials to assess whether there were potential conflicts of interest, or disclosure of interest requirements, related to their position within the Department and their private employment or business interests.
- We calculated the total costs the Department paid to officials' private employers or business interests from canceled check images.

We conducted this performance audit in accordance with GAGAS (generally accepted government auditing standards). 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.

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 Secretary's office.

Appendix D: Resources and Services

Regional Office Directory

www.osc.state.ny.us/localgov/regional_directory.pdf

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

www.osc.state.ny.us/localgov/costsavings/index.htm

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

www.osc.state.ny.us/localgov/fiscalmonitoring/index.htm

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

www.osc.state.ny.us/localgov/pubs/listacctg.htm#lmgm

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

www.osc.state.ny.us/localgov/planbudget/index.htm

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

www.osc.state.ny.us/localgov/pubs/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/localgov/finreporting/index.htm

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

www.osc.state.ny.us/localgov/researchpubs/index.htm

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

www.osc.state.ny.us/localgov/academy/index.htm

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