



# Village of Tivoli Procurement

## Report of Examination

Period Covered:

June 1, 2013 — July 7, 2014

2015M-79



Thomas P. DiNapoli

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# State of New York Office of the State Comptroller

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## Division of Local Government and School Accountability

July 2015

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 Trustee 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 Tivoli 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 recommendation 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 Tivoli (Village) is located within the Town of Red Hook in Dutchess County and has a population of about 1,100. The Village provides residents with various services, including general administration, building code enforcement, fire and rescue, recreation, trash and recycling services and a justice court. Village expenditures for the 2013-14 fiscal year totaled \$786,989 and budgeted appropriations for 2014-15 totaled \$760,691, which were funded primarily with real property taxes and departmental income.

The Village is governed by a Board of Trustees (Board), which is composed of 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 and is responsible for overseeing and managing the Village's daily operations. The Village Clerk-Treasurer (Treasurer), who is appointed by the Board, is the chief fiscal officer.

The Board adopted a procurement policy that includes provisions for procuring goods within the limits outlined in 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:

- Did Village officials ensure that goods and services were purchased competitively?

## **Scope and Methodology**

We examined the Village's purchasing process for the period June 1, 2013 through July 7, 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 are included in Appendix B of this report.

## **Comments of Village Officials and Corrective Action**

The results of our audit and recommendation 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 findings and indicated they plan 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 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 Secretary's office.

# Procurement

Unless an exception applies, GML requires purchase contracts in excess of \$20,000 to be awarded to the lowest responsible bidder or on the basis of best value (e.g., competitive offering)<sup>1</sup> and contracts for public work in excess of \$35,000 to be publicly advertised and awarded to the lowest responsible bidder.<sup>2</sup> Provided the contract has been extended to the local government, in lieu of advertising for bids, local governments may use, among others, certain contracts awarded by the New York State Office of General Services (OGS) and the county in which the local government exists.<sup>3</sup> GML also requires local governments to adopt written policies and procedures governing all procurements of goods and services not required by law to be competitively bid, including with certain exceptions, when alternative proposals or quotations for goods and services secured by use of written or verbal proposals or quotes will be required and the documentation of actions taken. Goods and services not required to be competitively bid should be procured in a manner to ensure that public funds are being used in the best interest of the taxpayers and to guard against favoritism, fraud and corruption.

Village officials did not always use competitive methods for purchasing goods and consumable products. As a result, the Village paid \$4,126, or approximately 11 percent, more for fuel than necessary. The Board has adopted a procurement policy that provides

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<sup>1</sup> A village may elect to award “purchase contracts” which exceed the statutory threshold (i.e., \$20,000) to a responsive and responsible offeror on the basis of “best value” (“competitive offering”) as an alternative to an award to the lowest responsible bidder. The village, however, must first authorize the use of best value by local law. For this purpose, “best value” is defined, in part, as a basis for awarding contracts “to the offeror which optimizes quality, cost and efficiency, among responsive and responsible offerers.” Therefore, in assessing best value, non-price factors may be considered when awarding the purchase contract. The basis for a best value award, however, must reflect, whenever possible, objective and quantifiable analysis.

<sup>2</sup> Prior to November 12, 2009, the purchase contract threshold was \$10,000 and the contract for public work threshold was \$20,000. Effective November 12, 2009, the threshold for contracts for public work increased to \$35,000. Effective June 22, 2010, the purchase contract threshold was increased to \$20,000. For purposes of GML, local governments are to aggregate purchase of the same commodities, services or technology made within the twelve-month period commencing on the date of the purchase to determine if the purchase contract exceeds the statutory dollar threshold (i.e., \$20,000 for purchase contracts). These same principles should be applied to contracts for public work. Purchase contracts and contract for public work that do not aggregate to the dollar thresholds and contracts for professional services do not have to be competitively bid.

<sup>3</sup> These contracts are competitively bid and awarded for a specific duration and a specific product or service.

guidance as to when items must be competitively bid and when written or verbal quotes should be obtained for purchases not required to be bid. The Village's purchasing policy required verbal quotations from vendors for purchase contracts between \$250 and \$2,999 and written quotations for purchase contracts between \$3,000 and \$9,999. However, the policy did not address changes in GML, resulting in a lack of guidance during our audit period for certain purchases that were no longer subject to competitive bidding. The Village updated its procurement policy in June 2014 to include more guidance and a specific number of quotes for purchases falling below the competitive bidding thresholds. The policy also requires documentation and an explanation when a contract is not awarded to the lowest bidder or quote. The Board did not ensure that Village officials complied with the procurement policy, and, as a result, goods and services were not always procured in the most prudent and economical manner.

We reviewed 17 purchases<sup>4</sup> totaling \$210,149 made during our audit period that were subject to either statutory bidding requirements or requirements established in the Village's procurement policy. We also reviewed supporting documents to verify that purchases were for proper Village purposes and were supported by contracts or Board resolutions when applicable. All 17 purchases were for valid Village purposes and 11 of the purchases totaling \$158,825 were made using competitive methods. The remaining six purchases, totaling \$51,324, which fell below the competitive bidding thresholds, were not made in accordance with the Village's procurement policy. Specifically, Village officials did not obtain any quotes for three purchases totaling \$1,125 and did not select the lowest quotes for three purchases totaling \$50,199. These purchases were for fuel (\$48,651),<sup>5</sup> supplies (\$1,973), and landscaping and cleaning services (\$700). Village officials did not provide a written explanation for why they did not select the lowest quotes.

The Village purchased \$48,651 of diesel fuel, heating fuel and propane gas during the audit period. These fuel purchases were not made from the vendor with the lowest quote or from the OGS contract. Village officials obtained three quotes as required but did not select the vendor with the lowest price. According to the Mayor, the vendor was selected based on the Village's familiarity with the company. Even though the vendor was selected at a Village Board meeting, there was no documentation to support the rationale behind the selection. As a result, the Village incurred higher costs than necessary.

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<sup>4</sup> See Appendix B, Audit Methodology and Standards, for details on our sample selection.

<sup>5</sup> This included the aggregate amount paid to one vendor for three different types of fuels.

We compared the vendor fuel prices per gallon at the time of delivery to OGS contract prices to determine if the Village purchased its fuel at the best price. We reviewed \$37,949 of the \$48,651, or 78 percent of the fuel purchases. The Village could have saved \$4,126, or 11 percent, if it had used vendors on the OGS contract (See Figure 1). The Village spent approximately 33, 15 and 57 cents more per gallon than necessary for diesel, propane and heating fuel, respectively.

Type of Fuel	Vendor Cost	State Contract Cost	Cost Savings
Heating	\$17,752	\$15,225	\$2,527
Diesel	\$10,998	\$9,977	\$1,021
Propane	\$9,199	\$8,621	\$578
<b>Totals</b>	<b>\$37,949</b>	<b>\$33,823</b>	<b>\$4,126</b>

Village officials did not ensure that competitive procurement procedures were followed to obtain goods and services at the lowest possible price. Without obtaining competition in accordance with GML, Village officials may not be able to ensure they are receiving goods and services of the desired quality at the lowest cost.

**Recommendation**

1. The Board should ensure that Village officials use competitive methods when procuring goods and services in accordance with GML and the Village’s procurement policy.

## **APPENDIX A**

### **RESPONSE FROM VILLAGE OFFICIALS**

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

June 24, 2015

Tenneh Blamah, Chief Examiner  
Office of the State Comptroller  
Newburgh Regional Office  
33 Airport Center Drive, Suite 103  
New Windsor, NY 12553

Re: Village of Tivoli Procurement- (Draft) Report Examination  
Period Covered: June 1, 2013 to July 7, 2014  
2015M-079



Dear Ms. Blamah:

The Village of Tivoli is in agreement with the findings of the audit. We appreciate the opportunity to respond. We would like to thank the team of auditors sent to the Village of Tivoli for their courteous and professional manner. The audit will be a valuable tool that will be used to help the Village Board to ensure that goods and services are purchased competitively.

Village of Tivoli  
Founded 1795

Outlined below is the Corrective Action Plan in response to the Office of the State Comptroller's audit of the Village of Tivoli's procurement practices for the period of June 1, 2013 to July 7, 2014.

Joel R. Griffith  
Mayor

Recommendations:

Robin L. Bruno  
Deputy Mayor

1. The Board should ensure that Village officials use competitive methods when procuring goods and services in accordance with GML and its procurement policy.

Susan G. Ezrati  
Trustee

Corrective Action Plan to use competitive methods when procuring goods and services in accordance with GML and its procurement policy.

Jeanann M. Schneider  
Trustee

The Village of Tivoli's continued goal is to be a stable and efficient organization through controlled spending and fiscal responsibility.

Emily M. Majer  
Trustee

- The Mayor will conduct training sessions for the Village Board and Department Heads in regards to the procurement policy.
- The Village Board will seek competitive bids as part of compliance with the procurement policy.
- Future purchases of diesel fuel, heating fuel and propane gas will be obtained from three quotes with the lowest price or the OGS contract.

Linda Gonnella  
Village Clerk & Treasurer

Claire Roff  
Deputy Village Clerk

It is our intention to put this Corrective Action Plan into place for immediate and continuing compliance with our procurement policy.

storic Watts de Peyster Hall  
86 Broadway  
PO Box 397  
ivoli, New York 12583-0397

Sincerely,

Joel R. Griffith  
Mayor

Phone: 845-757-2021  
Fax: 845-757-5416  
www.tivoliny.org

## APPENDIX B

### AUDIT METHODOLOGY AND STANDARDS

Our overall goal was to determine whether the Village used competitive methods 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, 2013 through July 7, 2014. Our testing included the following procedures:

- We reviewed the Board's minutes and interviewed Village officials to gain an understanding of the Village's internal controls over the procurement process.
- We reviewed the Village's procurement policy to determine if it complies with GML Section 104b and fosters a competitive process.
- We developed a sample of nine vendors with 86 payments of \$20,000 or more, totaling \$433,001. We randomly selected three purchases whose payments totaled \$20,000 or more to determine if the Village had solicited vendors for competitive bids.
- We developed a sample population of 109 vendors with 495 payments of \$19,999 or less, totaling \$310,904. We randomly selected 14 purchases whose total payments were \$19,999 or less to determine if vendors were selected via a competitive process as stated in the Village's procurement policy.
- We reviewed 56 fuel invoices totaling \$37,949 and compared the prices per gallon to OGS contracted prices.

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.

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