

Village of Depew

Purchasing

NOVEMBER 2018



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

Contents

- Report Highlights 1**

- Purchasing 2**
 - How Should a Village Purchase Goods and Services? 2
 - Quotes Were Not Always Obtained 2
 - The Village Complied With Competitive Bidding Statutes and Procured Professional Services in a Competitive Manner. 3
 - What Do We Recommend? 4

- Appendix A – Response From Village Officials 5**

- Appendix B – Audit Methodology and Standards 7**

- Appendix C – Resources and Services. 8**

Report Highlights

Village of Depew

Audit Objective

Determine whether the Board ensured that goods and services were procured in the most economical way and in accordance with the Village's purchasing policy.

Key Findings

- We examined 59 purchases totaling approximately \$1.4 million and found 17 purchases totaling approximately \$124,000 showed no evidence quotes were obtained.

Key Recommendations

- Seek the necessary number of quotes as required by the purchasing policy.
- Retain evidence of quotes or Village officials' attempts to obtain quotes with the claim.

Village officials agreed with our recommendations and have initiated, or indicated they planned to initiate, corrective action.

Background

The Village of Depew (Village) is located in the Towns of Lancaster and Cheektowaga in Erie County.

The Village is governed by an elected Board of Trustees (Board) composed of four Trustees and a Mayor. The Board is responsible for the overall management and oversight of Village operations, including the audit of claims.

The Mayor is the Village's chief executive officer and appoints all non-elected officers subject to the Board's approval. The Village Administrator serves as the Village's chief financial officer and oversees the purchasing function.

Quick Facts

Employees	130
Population	15,200
2017-18 General Fund Budgeted Appropriations	\$14 million

Audit Period

June 1, 2015 – May 1, 2018

Purchasing

How Should a Village Purchase Goods and Services?

New York State (NYS) General Municipal Law (GML)¹ generally requires villages to solicit competitive bids for purchase contracts that aggregate to more than \$20,000 and public works contracts that aggregate to more than \$35,000 within a year. GML² also requires boards to adopt written policies and procedures for procuring goods and services not required by law to be competitively bid. These policies and procedures provide guidance to employees involved in the purchasing process and help ensure that competition is sought in a reasonable and cost effective manner. Competition helps ensure that quality goods and services are obtained at a reasonable cost and avoids the appearance of favoritism or impropriety. A board should monitor compliance with its policies and procedures when auditing claims and prior to approving them for payment.

Quotes Were Not Always Obtained

The Board adopted a written policy for the procurement of goods not subject to competitive bidding requirements. The policy requires three price quotes on all materials, supplies or services that are greater than \$1,500 and less than or equal to \$19,999 in value and for public works contracts costing greater than \$2,500 and less than or equal to \$34,999 in value.³ The policy also requires that officials attach adequate documentation to the claim to show the actions taken to comply with the policy and demonstrate the efforts made to analyze the quotes or bids. The purchasing policy includes examples of recommended forms that can be used to document verbal or written quotes.

We reviewed 43 payments totaling approximately \$396,500 that were below the competitive bidding thresholds to determine whether quotes were obtained as required. All purchases were for appropriate Village purposes. However, most of the purchases did not include any documentation demonstrating the purchaser's efforts to obtain the number of verbal or written quotations as required by the purchasing policy. Generally, there were no quotes attached to the claims and officials did not use the recommended forms found in the purchasing policy. Without such documentation, officials cannot demonstrate to us or the Board that they had sought competition prior to purchase as required by the policy or that the lowest cost was obtained.

1 New York State (NYS) General Municipal Law (GML) Section 103

2 NYS GML Section 104(b)

3 Three verbal quotes are required for purchases greater than \$1,500 but less than or equal to \$5,000 and public works projects greater than \$2,500 but less than or equal to \$10,000. Three written quotes are required for purchases greater \$5,000 but less than or equal to \$19,999 and public works projects greater than \$10,000 but less than or equal to \$34,999.

Although at least two Board members audited claims before they are approved for payment, they did not always ensure that purchases were made in compliance with the procurement policy's requirements or that officials sought competition. We spoke with three Board members who told us that while they were familiar with the policy requirements, they did not realize compliance could be monitored through the claims audit process.

To evaluate compliance with the purchasing policy, it was necessary to request additional information. Officials provided evidence of quotes, competitive bidding or to State contract bid for 26 purchases (60 percent) totaling approximately \$272,500 (69 percent). However, there was no evidence quotes were obtained for the remaining 17 purchases (40 percent) totaling approximately \$124,000 (31 percent). For example, there was no evidence officials obtained quotes for trucking services costing \$17,962, the purchase of a loader folding V-plow costing \$19,999 or playground safety materials costing \$4,875.

Because officials did not always follow the procurement policy and solicit competition when procuring goods and services, there is an increased risk that goods and services may not have been obtained for the best value to ensure the most prudent and economical use of public funds or at the lowest possible cost.

The Village Complied With Competitive Bidding Statutes and Procured Professional Services in a Competitive Manner

The Village's purchasing policy requires employees and officials to competitively bid purchases based on established GML thresholds and to use written proposals when acquiring professional services. In lieu of soliciting competitive bids, the Village may use certain contracts awarded by the NYS Office of General Services (OGS), a county or a governmental group purchasing organization (GPO).

We reviewed 12 payments totaling approximately \$938,600 that were subject to competitive bidding requirements and found that all payments complied with competitive bidding statutes and were for appropriate Village purposes. Village officials solicited competitive bids or purchased through county, OGS or GPO contracts. We also reviewed four professional service procurements totaling \$62,000 and found no exceptions.

What Do We Recommend?

The Board should:

1. Monitor compliance with the procurement policy during its claims audit and ensure claims contain sufficient evidence to demonstrate the correct number of quotes were obtained.

Village officials should:

2. Solicit competition through the use of quotes and obtain the appropriate number of quotes for purchases as required by the procurement policy.
3. Ensure that appropriate documentation, such as quotes, are retained and attached to claims.

Appendix A: Response From Village Officials

Mayor

Jesse Nikonowicz
716-681-4396

Trustees

Karl Bukowiecki
Don Jakubowski
Audrey Hamernik
Kevin Peterson

**Village Administrator**

Maureen Jerackas
716-683-7451 x127
716-683-1398 (fax)

Village Attorney

Kathleen McDonald

Village of Depew

Jeffrey D. Mazula
Chief Examiner of Local Government
Office of the State Comptroller
110 State Street
Albany, NY 12236

Re: Village of Depew Response to Audit

Dear Mr. Mazula:

Thank you for the opportunity to respond to the New York State audit preliminary draft for the period June 1, 2015 to May 1, 2018. Please accept this response to the draft and also the submittal of our Corrective Action Plan (CAP). I have reviewed this letter with the Mayor and all Trustees prior to submittal.

1. The Village was pleased to see that the competitive bidding and professional services were fully complied with.
2. The Village Purchasing Policy was seen by the auditors as reasonable and specific.
3. There appeared to be only two issues that require remediation, all related to written and verbal quotes on smaller purchases:
 - A. In 60% of cases that required verbal or written quotes, the information was obtained by the department head, but was not filed in the Village Administrator's office. Our corrective action plan should alleviate this issue.
 - B. In 40% of cases that required a verbal or written quote there was no evidence found of the required quotes. Our corrective action plan should also alleviate this issue.
 - C. However, we would also note that the majority of these undocumented purchases were done by the Superintendent of the Department of Public Works. That employee was deliberately using deceptive means in purchases for fraudulent and self-serving purposes. Due to the diligence of the Village Administrator, his improper actions were spotted within a short period of time. He was then immediately brought up on personnel charges that ultimately led to his resignation. His actions were reported to the District Attorney's office resulting in a conviction.

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www.villageofdepew.org

While the Village will continue to trust that the Department heads are hardworking and honest Village employees, our corrective action plan should lower the possibility of another dishonest employee being able to do such fraudulent and self-serving actions.

The Village fully appreciates the efforts of the State auditors to assist the Village in improving our financial integrity. To that end, a corrective action plan is will be formulated by the Village Board of Trustees within the next 30 days which will include the following:

1. Annually, between the Village reorganization meeting and the adoption of the Village budget, the Administrator will send a notice to the Trustees reviewing and reinforcing their role in auditing the biweekly budgetary items, and include reminding the Board of the purchasing policy requirements that they should be looking for;
2. Annually, between the Village reorganization meeting and the adoption of the Village budget, the Administrator will send a notice to all department heads reviewing and reinforcing the requirements of the purchasing policy;
3. When requesting a voucher for payment of eligible purchases, the department heads shall be required to submit to the Village Administrator, either digitally or in written form, the paperwork that includes the three verbal or written quotes for such purchase, and the Village Administrator shall return the request for voucher to the Department heads if it is lacking the documentation; the department heads shall continue to keep those quotes on file in their departments.
4. When preparing the biweekly budgetary reviews for the Board of Trustees to audit, the Village Administrator shall include the copy of the paperwork with the required quotes for each eligible payment/purchase.

These changes to the Village purchasing policy will be made by resolution of the Board and become part of the official Village Purchasing Policy. Feel free to contact this writer with any questions or concerns regarding this corrective action plan or response.

Sincerely,

Kathleen M. McDonald
kmcdonald@villageofdepew.org

Appendix B: 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 Village officials and employees involved in the purchasing process and reviewed the Village's adopted purchasing policy.
- We judgmentally selected 59 purchases totaling \$1.4 million from the 2015-16 through 2017-18 fiscal years whose amounts were greater individually or in aggregate than \$1,500. We made our selection based on purchases that were for large dollar amounts and vendors that the Village used frequently. Twelve purchases totaling \$938,600 were subject to competitive bidding requirements, 43 purchases totaling \$396,500 were below bidding thresholds and four purchases totaling \$62,000 were professional services.
- We reviewed each claim associated with the 59 purchases and any supporting documents to determine whether officials complied with the purchasing policy and GML.

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.

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.

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 Administrator's office.

Appendix C: 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/lgli/pdf/cybersecurityguide.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

Contact

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