



Town of Franklinville

Procurement

2024M-56 | July 2024

Contents

- Report Highlights 1**

- Procurement 2**
 - What Are the Requirements of the Town’s Procurement Policy? . . . 2
 - Officials Did Not Always Comply With the Requirements of the
Town’s Procurement Policy 3
 - What Do We Recommend? 5

- Appendix A – Response From Town Officials 7**

- Appendix B – Audit Methodology and Standards 8**

- Appendix C – Resources and Services 10**

Report Highlights

Town of Franklinville

Audit Objective

Determine whether Town of Franklinville (Town) officials complied with the requirements of the Town’s procurement policy.

Key Findings

Town officials did not always comply with the requirements of the Town’s procurement policy because the Town Board (Board) members, Highway Superintendent (Superintendent) and former Town Supervisor (former supervisor), who served as the Town’s chief financial officer, were not familiar with the Town’s procurement policy and its requirements. Further, they did not research publications or attend free trainings that were available to assist them in their procurement responsibilities. As a result, \$827,000 or 41 percent of the \$2 million in procurements we reviewed were made without competitive procurement methods.

In addition, because Board members were not familiar with the Town’s procurement policy, or their procurement and claims audit responsibilities, the Board did not perform adequate claims audits. As a result, Town officials cannot ensure that goods and services were procured in the taxpayers’ best interests and may have missed opportunities to reduce Town costs.

Key Recommendations

- Ensure officials and employees adhere to the procurement policy.
- Familiarize themselves with the requirements of the procurement policy and the available training resources indicated in this report.

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

Audit Period

January 1, 2022 – February 2, 2024

Background

The Town is located in Cattaraugus County (County). The Town is governed by the elected five-member Board, which includes the Town Supervisor (Supervisor).

The Board is responsible for the general management and oversight of the Town’s operations, including overseeing the Town’s finances and the Supervisor is responsible for the Town’s daily operations.

There were two elected supervisors during our audit period. The current Supervisor took office on January 1, 2024. The former supervisor served from January 1, 2020 until December 31, 2023.

The appointed Superintendent is responsible for overseeing all highway department operations, including purchasing goods and services.

Quick Facts

January 1, 2022 – October 31, 2023

Approximate Total of Purchases	\$2.2 million
Purchases Reviewed	\$2.0 million

Procurement

Town officials must comply with New York State General Municipal Law (GML) Section 103 which generally requires competitive bidding for purchase contracts exceeding \$20,000 and public works contracts exceeding \$35,000 and GML Section 104-b which requires a town board to adopt written policies and procedures that provide guidance for obtaining goods and services that are not legally required to be competitively bid. GML states that these goods and services must be procured in a manner that ensures the prudent and economical use of public funds in the best interests of taxpayers, and is not influenced by favoritism, extravagance, fraud, or corruption. In lieu of seeking competition, towns are also authorized to make purchases using other publicly awarded government contracts, such as those of a county or the New York State Office of General Services (OGS).

What Are the Requirements of the Town's Procurement Policy?

The Town's procurement policy, last updated by the Board in 2010, requires that Town officials and employees analyze each potential purchase to determine whether a competitive bidding process must be utilized. According to the Town's policy, this is any purchase of supplies or equipment that either exceeds, or is expected to exceed in aggregate for the same commodity or service, \$10,000¹ within the fiscal year, and public works contracts exceeding \$35,000. The policy further states that:

- All estimated purchases for supplies and/or equipment less than \$10,000 but greater than \$3,000 require written quotes from a minimum of three vendors,
- Purchases less than \$3,000 but greater than \$1,000 require written quotes from a minimum of two vendors,
- Purchases less than \$1,000 but greater than \$500 require a minimum of two verbal quotes, and
- Purchases less than \$500 are left to the discretion of the purchaser.

The procurement policy also requires that professional services (i.e., attorneys, engineers, and other specialized services), insurance coverage, and sole-source purchases be procured utilizing an RFP process. As part of the Board's claims audit process, the Board should monitor and enforce compliance with GML and the Town's procurement policies and procedures and ensure officials have obtained responses to an RFP or the appropriate number of quotes prior to approving a purchase, as well as maintained adequate documentation to support and verify the action taken.

¹ The Board chose to adopt a competitive bidding threshold for public works contracts that is lower than what is required by GML.

Town officials and employees should be familiar with their procurement responsibilities and the Town's procurement policy. When they are not, or they deviate from established procurement guidelines, they cannot provide assurance that purchases are a prudent and economical use of public funds and in the best interests of taxpayers, and that purchases are not influenced by favoritism or extravagance and are subject to possible waste, corruption or fraud.

To assist local officials, the Office of the New York State Comptroller provides various publications and training tools for procurement including our Local Government Management Guides entitled *Seeking Competition in Procurement*, and *Improving the Effectiveness of Your Claims Auditing Process* as well as webinars through our office's Academy for New York State's Local Officials (Figure 1).

FIGURE 1

OSC Publications and Webinars



The figure displays two covers of Local Government Management Guides and the logo for The Academy. The first guide, 'Seeking Competition in Procurement', is dated June 2019. The second guide, 'Improving the Effectiveness of Your Claims Auditing Process', is dated December 2020. The Academy logo features a graduation cap inside a shield, flanked by laurel wreaths, with the text 'The Academy' on a banner below.

Seeking Competition in Procurement
<https://www.osc.ny.gov/files/local-government/publications/pdf/seeking-competition-in-procurement.pdf>

Improving the Effectiveness of Your Claims Auditing Process
<https://www.osc.ny.gov/files/local-government/publications/pdf/improving-the-effectiveness-of-claims-auditing-process.pdf>

Webinar: Seeking Competition in Procurement
The Office of the State Comptroller's Legal Division discusses legal requirements for competitive bidding, including statutory amendments to the General Municipal Law 103 and various exceptions to the bidding requirements.
<https://www.osc.ny.gov/local-government/academy/webinars>

Officials Did Not Always Comply With the Requirements of the Town's Procurement Policy

We reviewed purchases totaling approximately \$2 million made during the audit period² and determined that Town officials did not always comply with the requirements of the Town's procurement policy. Of the purchases reviewed, purchases totaling approximately \$1.5 million were either individually or in

² Refer to Appendix B for more information on our sample selection.

aggregate subject to competitive bidding; purchases totaling approximately \$369,000 for the procurement of professional services were subject to the Town's requirements for RFPs; and purchases totaling approximately \$147,000 were subject to the requirements of the Town's procurement policy for quotations. Specifically, Town officials did not:

- Solicit formal bids for purchases totaling approximately \$360,000 that were subject to the competitive bidding requirements of the Town's procurement policy. These included highway department purchases totaling approximately \$138,000 for equipment, \$135,000 for fuel, \$54,000 for gravel, and approximately \$33,000 for non-highway department purchases. The Superintendent told us that while he had received a copy of the Town's procurement policy, he did not read it in its entirety to determine what his responsibilities were when making purchases. He also told us that due to his other responsibilities, he did not have time to attend training on procurement or to ensure purchases complied with the procurement policy. However, we confirmed with the Superintendent that he did not communicate his concerns about lack of time to the Board to determine possible solutions.
- Issue RFPs or utilize any other form of competitive process prior to procuring insurance coverage and professional legal services totaling approximately \$369,000. These included services for health insurance (\$140,000), workers' compensation insurance (\$132,000), property and equipment insurance (\$70,000), and legal services (\$27,000). We spoke with all current Board members and the former supervisor and all of whom told us they did not know they were required to issue RFPs for insurance coverage and professional service contracts, because they had not read the Town's procurement policy, nor did they research publications or attend training designed to assist them in their procurement responsibilities. We provided current Town officials with a copy of our Local Government Management Guide entitled *Seeking Competition in Procurement*, as well as links to our training webinars to assist them in learning their procurement responsibilities.
- Obtain the minimum number of quotes required per the Town's procurement policy for purchases totaling approximately \$98,000. These purchases included various types of goods and services such as building repairs (\$11,000), automotive oil (\$7,000), auto parts (\$6,000), office supplies (\$1,700), and septic services (\$1,300).

Furthermore, although the Board audited claims, Board members did not first familiarize themselves with the requirements of the procurement policy in order to perform an adequate claims audit. As a result, Town officials procured goods and services without seeking competition as required by the Town's procurement policy and missed opportunities to reduce costs or save taxpayers' money.

We reviewed select purchases³ to determine whether officials could have obtained similar goods for less had they sought competition as required. We determined that the Town could have saved approximately \$6,500 on gravel purchases had Town officials utilized the County contract. Similarly, had Town officials worked with OGS for their May 2022 purchase of a new highway department truck totaling approximately \$67,000, they could have potentially saved almost \$10,000 or 15 percent. OGS offers a vehicle “mini-bid” service⁴ whereby once the requested vehicle specifications are determined by town officials and the “mini-bid request form” is completed, the purchase requests are sent to dealers for competitive pricing.

Although we determined that all of the purchases included in our audit sample were for appropriate Town purposes, because Town officials did not first familiarize themselves with their procurement responsibilities and the requirements of the Town’s procurement policy, they may have missed opportunities to save Town taxpayers money.

What Do We Recommend?

The Board should:

1. Monitor compliance with the procurement policy as part of the claims audit process and ensure officials and employees are competitively bidding as required, and obtaining the required number of bids, quotes, and proposals for purchases.

Town officials should:

2. Familiarize themselves with the requirements of the Town’s procurement policy and the available training resources indicated in this report that focuses on proper procurement practices.
3. Analyze all potential purchases of a particular good or service during the year prior to determining what method of competitive procurement is required.
4. Competitively bid purchases of goods and services which exceed or are expected to exceed in aggregate the thresholds established by the policy.
5. Procure professional services in a competitive manner and issue an RFP for professional services as required by the procurement policy.

³ Refer to Appendix B for more information on our sample selection.

⁴ <https://ogs.ny.gov/nysvehiclemarketplace>

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6. Obtain and document the required number of quotes as required by the procurement policy for all goods and services purchases below the bidding threshold and document and retain appropriate supporting documentation for actions taken.

Appendix A: Response From Town Officials



*Town of Franklinville, New York
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June 28, 2024

Office of the State Comptroller
Attn: Melissa Myers
295 Main Street, Suite 1032
Buffalo, New York 14203-2510

Office of the State Comptroller

On behalf of the Town of Franklinville, we believe that the Audit Report to determine whether the Town officials complied with the Procurement Policy that we had in place, was a fair assessment.

Through this audit process the current Town officials and Superintendent have learned a lot about the procurement policy. Many of the board members did not know that this existed and were never provided with this information upon entrance to the board. The board counted on the fact that the fiscal officer at the time understood the process.

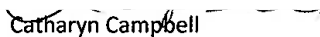
The auditor stated that the highway superintendent stated that he did not have time to attend training on procurement or to ensure purchases complied with the process. The Superintendent explained that he did not know that there was a need for training as he thought he was operating within the town's policies when he took over the responsibility.

While we now understand the importance of the process, the former policy was very difficult to follow due to its very restrictive nature. We do have the best interests of the town and its taxpayers in mind when securing these contracts. However, there are several barriers that we run into. This is a very small area and there are not enough vendors around that are willing to bid on these projects. Sometimes there are emergency situations and the time frame in which some of the vendors can provide the goods will not work for the time we have to work with. We did revert to the best value policy, but after this audit, it does seem that the avenue to use this policy was also misunderstood.

We have received a lot of information during this audit and will be working on a process to make sure that we are in compliance with our own procurement policy, beginning with amending the current policy and familiarizing ourselves with the best value policy.

Thank you for your suggestions to help strengthen our understanding of this process.

Sincerely,


Catharyn Campbell
Supervisor
Town of Franklinville

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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. We obtained an understanding of internal controls that we deemed significant within the context of the audit objective and assessed those controls. Information related to the scope of our work on internal controls, as well as the work performed in our audit procedures to achieve the audit objective and obtain valid audit evidence, included the following:

- We interviewed officials and employees and reviewed Board meeting minutes and policies to gain an understanding of the Town's procurement processes.
- We evaluated whether the adopted and updated procurement policy was adequate.
- We reviewed monthly abstracts (listing of claims), voucher packets, and canceled check images from January 1, 2022 through October 31, 2023 and identified a population of 701 payments for goods and services totaling \$2.2 million. We sorted these purchases by vendor name, date of purchase, and combined like purchases into aggregate totals. From this list, we selected for review all identified purchases subject to competitive bidding totaling approximately \$1.5 million and all professional services totaling approximately \$369,000 which were not subject to competitive bidding. We also used professional judgment to select a sample of purchases not subject to competitive bidding or RFP requirements totaling approximately \$147,000 by selecting the highest procurement of \$1,000 or more from each vendor.
- We reviewed the purchases identified for review against available documentation such as bidding documents, written quotes, and Board meeting minutes to determine compliance with the requirements of the Town's procurement policy.
- From the purchases totaling approximately \$360,000 identified in this report that were subject to the Town's competitive bidding requirements but were not competitively bid, we judgmentally selected for review commodities and equipment purchases that were also included on either the County awarded purchasing contracts or where information was available from OGS to compare against to determine whether the Town could have saved money on these purchases.

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 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.

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

Regional Office Directory

www.osc.ny.gov/files/local-government/pdf/regional-directory.pdf

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

www.osc.ny.gov/local-government/publications

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

www.osc.ny.gov/local-government/fiscal-monitoring

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

www.osc.ny.gov/local-government/publications

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

www.osc.ny.gov/local-government/resources/planning-resources

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

www.osc.ny.gov/files/local-government/publications/pdf/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.ny.gov/local-government/required-reporting

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

www.osc.ny.gov/local-government/publications

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

www.osc.ny.gov/local-government/academy

Contact

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<https://www.osc.ny.gov/local-government>

Local Government and School Accountability Help Line: (866) 321-8503

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