



Town of Gorham

Procurement

2024M-7 | June 2024

Contents

- Report Highlights 1**

- Procurement 2**
 - How Should Town Officials Procure Goods and Services? 2

 - Officials Did Not Always Acquire Goods and Services in Accordance with GML and Town Policy 4

 - Town Officials Did Not Solicit Competition for Professional Services 5

 - Credit Card or Account Purchases Were Not Adequately Supported or Approved, or Were Potentially Inappropriate 6

 - What Do We Recommend? 8

- Appendix A – Response From Town Officials 9**

- Appendix B – Audit Methodology and Standards 10**

- Appendix C – Resources and Services 12**

Report Highlights

Audit Objective

Determine whether Town of Gorham (Town) officials made procurements in accordance with Town policy, statutory requirements and good business practices.

Key Findings

Town officials did not always procure goods and services in accordance with Town policy, statutory requirements and good business practices. As a result, there is an increased risk that the Town paid more than necessary for goods and services or made purchases that were not for Town purposes.

For example, we reviewed:

- 65 individual and aggregate purchases totaling \$2.5 million and determined 16 purchases totaling \$468,738 were not competitively bid. Officials also did not comply with purchasing policy requirements for 41 purchases totaling \$1.4 million.
- All nine professional services vendors totaling \$1.1 million and determined officials did not seek competition when procuring any of these vendors. Two of these vendors lacked written agreements detailing the services to be provided and their cost.
- All 116 credit card purchases totaling \$29,562 and determined 12 purchases totaling \$3,736 did not have adequate supporting documentation to indicate they were appropriate Town purchases.

Key Recommendations

- Comply with competitive bidding laws and the Town’s purchasing policy requirements when making purchases.
- Develop written procedures that address situations, such as professional services, where the use of a request for proposals process may be appropriate.
- Ensure credit card purchases are supported and made in accordance with Town policies.

Town officials agreed with our findings and indicated they plan to initiate corrective action.

Audit Period

January 1, 2022 – December 6, 2023

Background

The Town is located in Ontario County (County). The Town provides services including street maintenance, water, sewer and general government support.

The Town is governed by an elected five-member Town Board (Board), which comprises four Board members and the Town Supervisor (Supervisor).

The Board is responsible for general oversight of the Town’s operations and finances.

The Supervisor is the chief executive and financial officer and is responsible for day-to-day financial operations.

Quick Facts

Total 2023 Appropriations	\$5.3 million
Purchases Reviewed	\$3.6 million

Procurement

How Should Town Officials Procure Goods and Services?

In accordance with New York State General Municipal Law (GML) Section 103, towns are generally required to advertise for competitive bids for purchase contracts exceeding \$20,000 and public works contracts exceeding \$35,000. A board is also required to adopt and annually review written policies and procedures for procuring goods and services not subject to competitive bidding requirements; this helps ensure a prudent and economical use of public funds in the town's best interest. In lieu of soliciting competitive bids, towns may use other publicly awarded government contracts, such as those of a county or of the New York State Office of General Services (State contract). To determine whether competitive bidding is necessary, town officials must consider whether the aggregate cost of a good or service within a 12-month period will exceed competitive bidding thresholds. The timeline for the aggregate cost determination should start from the first purchase date of the good or service. Towns can use the prior year's expenditures as a good way to estimate whether purchases of a commodity or service will exceed the bid limit for the current year.

GML Section 104-b requires the board to adopt written policies and procedures for procuring goods and services that are not required to be competitively bid, including professional services. GML also states that goods and services must be procured prudently, economically and in a manner that is in the taxpayers' best interests and is not influenced by favoritism, extravagance, fraud or corruption. In addition, if a town utilizes credit cards for purchasing, the board should adopt appropriate written policies and procedures governing these types of transactions.

Using a request for proposals (RFP) or obtaining written or verbal quotes are effective ways to help ensure that towns receive professional services at the best price. An RFP provides detailed information on the type of service needed and the evaluation criteria used to award the contract. Evaluation criteria can include experience, work plans and the methodology used to achieve desired results and estimated completion times. Obtaining professional services through an RFP process helps town officials procure needed services at, and with, the most advantageous terms and conditions. It also helps officials avoid any potential appearance of partiality when awarding these contracts. In addition, towns should enter into a written agreement with professional service providers that defines the services to be provided, timeframes for when the services will be provided, the basis of compensation, and other terms and conditions.

Towns should also limit and only use exceptions to the purchasing policy, such as emergency purchases, when properly justified in the taxpayers' interest. Otherwise, the effectiveness of the purchasing policy and its procedures will be diminished.

Town officials should develop detailed procedures that require officials to maintain adequate documentation of the procurement methods they followed.

Officials should adhere to the Town’s purchasing policy that requires all purchases of equipment over \$1,000 in value, with a useful life of over two years, to be approved by the Board in advance with varying competition requirements (Figure 1). The policy also requires the Supervisor to approve all purchases prior to ordering and indicates exceptions to the policy can be made for purchases using petty cash, or within limits established for the Highway Superintendent (Superintendent) and Chief Water/Wastewater Plant Operator (Chief Operator) of \$6,000 at the Board’s organizational meeting. The purchasing policy exempts soliciting written proposals or quotations when acquiring professional services not greater than \$5,000 and emergency purchases.

Figure 1: Town Purchasing Policy Requirements

Purchase Contracts	
Dollar Range	Competition Required
\$1,000-\$2,999	Oral request and oral/fax quotes from two vendors
\$3,000-\$9,999	Written RFP and written/fax quotes from three vendors
\$10,000-\$19,999	Written RFP, three written quotes and prior Board approval
>\$20,000	Competitive bidding
Public Works Contracts	
Dollar Range	Competition Required
\$5,000-\$19,999	Written RFP and fax proposals from two contractors
\$20,000-\$34,999	Written RFP and fax proposals from three contractors
>\$35,000	Competitive bidding

Officials should also comply with the Town’s credit card policy that requires all credit card users to submit receipts for all purchases and that the purchases be matched to the credit card statement, vouchered and audited by the Board. The policy also states that the Town is tax-exempt, and it is the card user’s responsibility to ensure that sales tax is not charged. Furthermore, it states that any purchases made with a credit card must also be made in accordance with the purchasing policy.

Generally, a town board must audit all claims against a town before payment is made.¹ Auditing and approving claims is an important part of a town board’s responsibility to help ensure that tax dollars are spent efficiently and that all purchases are authorized, adequately supported and are actual and necessary

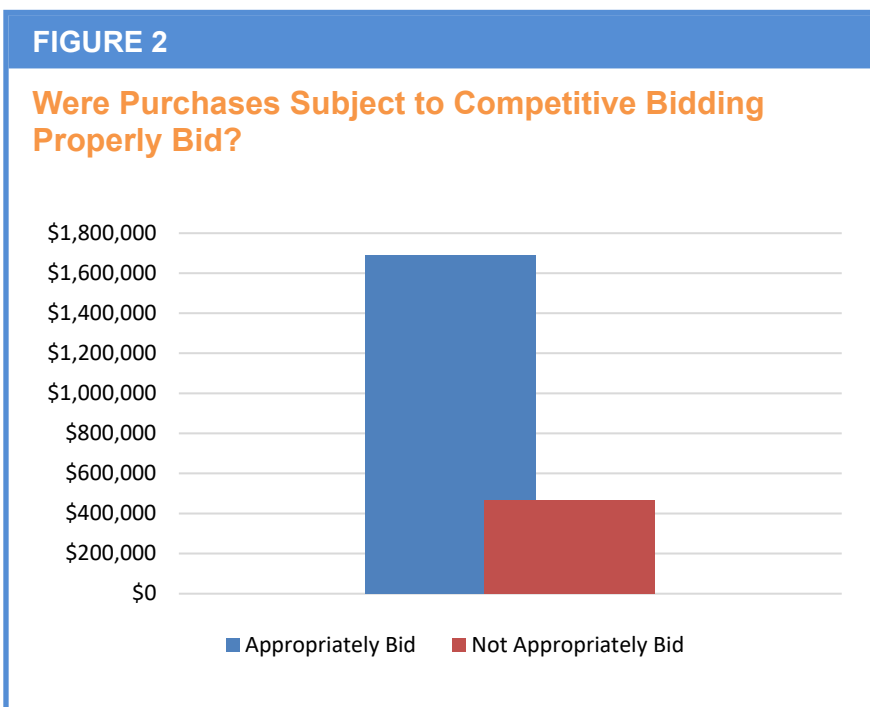
¹ A board may, by resolution, authorize payment for public utility services, postage, freight and express charges in advance of audit. The claims for such advance payments must be presented at the next regular board meeting for audit.

expenditures before approving them for payment. Each claim must contain enough supporting documentation to determine whether it complies with statutory requirements and town policies (e.g., purchasing policy) and that the amounts claimed represent actual and necessary town expenditures.

Officials Did Not Always Acquire Goods and Services in Accordance with GML and Town Policy

The Board-adopted purchasing policy did not provide guidance for staff to follow when making aggregate purchases, such as defining when staff should use competitive bidding for these purchases. Additionally, certain Board-approved updates to the policy were not reflected in the policy document, and it was unclear whether officials responsible and authorized to make purchases had a clear understanding of the Board’s purchasing policy and its requirements. Two Board members and the Highway Superintendent told us they were not familiar with the requirements of each threshold within the purchasing policy, including documentation requirements, and they did not understand what appropriate bidding requirements were.

We reviewed 65 individual and aggregate purchases totaling \$2.5 million for the period January 1, 2022 through October 11, 2023, of which 42 purchases totaling \$2.3 million exceeded the \$20,000 competitive bidding threshold. Town officials made 16 purchases totaling \$468,738 (22 percent) without competitive bidding (Figure 2), and did not follow the purchasing policy requirements for 41 purchases totaling \$1.4 million.



For example,

- The Town paid a builder for a construction project at Easton Park Lodge totaling \$76,500. The Supervisor explained that he received two quotes, but did not formally bid the project and did not maintain adequate supporting documentation with the voucher.
- The Town purchased two trucks for the code enforcement/planning department totaling \$62,211 without following an appropriate competitive process.
- The Town purchased a new boiler for the highway barn totaling \$59,904, which the Supervisor and Superintendent stated was an emergency purchase. However, they did not maintain documentation to support the emergency purchase and could not provide evidence of Board approval.

In addition, through our review of the overall purchases, we determined the following:

- 40 purchases totaling \$1.6 million were not properly approved by the Board. Officials could not provide proof of Board approval for 39 of these purchases and a \$31,317 purchase was made before the Board approval date.
- 17 payments totaling \$548,742 were made to vendors before they were approved by department heads.
- 11 payments totaling \$410,901 were paid to vendors before the abstract² approval date.
- 22 purchases totaling \$163,366 that were not subject to competitive bidding were made without seeking adequate competition as outlined in the purchasing policy.

The Board did not ensure officials were procuring goods and services in the most prudent and economical manner because officials did not always follow competitive bidding requirements and the purchasing policy when procuring goods and services. As a result, the Town may have acquired goods and services at higher costs than necessary, and is at greater risk of favoritism, improvidence, extravagance, fraud and abuse.

Town Officials Did Not Solicit Competition for Professional Services

The Board and officials did not solicit competition by issuing RFPs or obtaining quotes when procuring professional services. The Town's purchasing policy requires soliciting competition, such as issuing written RFPs or obtaining quotes,

² An abstract is a listing of all claims audited and approved for payment.

for professional services over \$5,000. However, the policy does not identify what documentation to maintain to support decisions when procuring professional services.

The Town obtained professional services from nine vendors totaling \$1.1 million from January 1, 2022 through May 31, 2023. Officials did not seek competition for any professional services during this period (Figure 3).

The Supervisor said that Town officials selected most of these professional service vendors based on past experience, historical relationships, reputation and/or sparsity of vendors in the region offering a specialized service. However, officials did not maintain documentation for these explanations and their rationale for using the vendors, and did not define how the Town ensured that these procurements were made

Figure 3: Professional Services Procured Without Competition

Professional Service Type (Total Providers)	Total Paid
Engineering (2)	\$573,942
Insurance (2)	447,521
Legal (2)	37,071
Accounting (1)	36,259
Financial Planning (1)	24,816
Information Technology (1)	13,794
Total (9)	\$1,133,403

with the most favorable terms and conditions. In addition, Town officials could not provide written agreements with two of the professional service providers paid a total of \$44,926, who provided information technology and legal services.

We determined that the professional services procured were for legitimate and appropriate Town purposes. However, when a competitive process is not used, the Board cannot ensure that services are procured economically, without favoritism and in the taxpayers' best interest. In addition, without written agreements, Town officials cannot ensure the Town receives adequate professional services at agreed upon rates and may have limited recourse if inadequate services are provided.

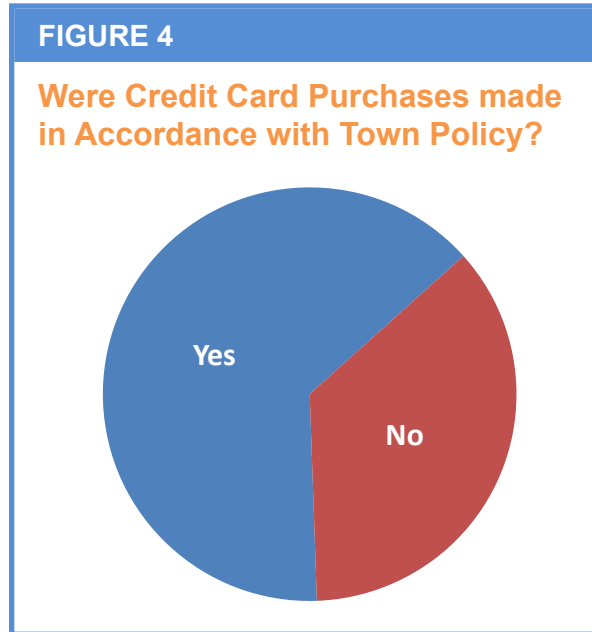
Credit Card or Account Purchases Were Not Adequately Supported or Approved, or Were Potentially Inappropriate

The Town issued credit cards to the Supervisor, Superintendent and Chief Operator. The Town also maintains two store credit accounts with a hardware vendor and two store credit accounts with an office supply vendor.

We reviewed all 85 credit card statements and voucher³ packets from January 2022 through May 2023, which included a total of 116 purchases totaling \$29,562

³ A voucher or claim (terms often used interchangeably) is a demand presented for the payment of money due for goods that have been delivered or services that have been provided.

made by credit card or on credit account. We determined that \$10,670 (36 percent) were not made in accordance with Town policy (Figure 4).



We identified the following discrepancies (some purchases contained more than one discrepancy):

- 24 statements totaling \$10,141 were paid before the abstract approval date. The payment of credit cards is not a legally authorized prepaid expenditure. Therefore, this was inappropriate.
- 19 vouchers totaling \$7,503 were paid before they were approved by department heads.
- 12 purchases totaling \$3,736 were not adequately supported with documentation (such as invoice or receipt) to indicate they were appropriate purchases.
- 15 purchases for food and beverages totaling \$687 were potentially inappropriate given the lack of guidance or authorization in the credit card or procurement policies.
- 14 purchases contained \$343 of sales tax paid.
- None of the vouchers reviewed included proof of advance approval, confirmation of receipt of goods/services or Board claims approval.

Three Board members stated that they did not thoroughly audit claims before approving them for payment. The Board's approval for payment was based solely on the abstract prepared by the Town Clerk; Board members did not review the

vouchers and supporting documentation. Without a thorough review of all claims to be paid, the Board's ability to effectively monitor Town financial operations is diminished, and errors can occur and remain undetected and uncorrected.

Furthermore, due to the lack of policies and procedures regarding the purchase of food items, it could not be determined whether certain purchases were appropriate for Town business purposes. Because officials did not follow procedures outlined in the credit card and purchasing policies, there was no assurance that credit card purchases were appropriate. In addition, because the Board was unaware of payments made on credit cards due to an inadequate claims audit process, there is an increased risk of abuse or misappropriation of Town resources without detection.

What Do We Recommend?

The Board should:

1. Ensure that officials comply with GML competitive bidding requirements and Town policies when making purchases.
2. Amend the purchasing policy to include guidance for officials to follow when making aggregate purchases, such as defining when officials should use competitive bidding for these purchases and developing a process to identify when aggregate purchases exceed limits.
3. Develop adequate written procedures that address situations, such as professional services, where the use of an RFP process may be appropriate, and define documentation requirements.
4. Require adequate supporting documentation for all purchases.
5. Ensure the Town has written agreements with all professional service providers that detail the types and time frames of services and the compensation to be paid.
6. Ensure credit card purchases comply with Town policies and procedures.
7. Thoroughly audit and approve all claims before payment.

Appendix A: Response From Town Officials

TOWN OF GORHAM
Dale C. Stell, Supervisor

4736 South St. - PO Box 224 - Gorham, NY 14461
Phone: 585-526-6317 ext. 2 Fax: 585-526-4799
TDD 1-800-662-1220 (For Hearing Impaired)
supervisor@gorham-ny.org

June 13, 2024

Office of the State Comptroller
Division of Local Government and School Accountability
Rochester Region
16 West Main Street Suite 522
Rochester New York 14614
Attn: [REDACTED]

Dear [REDACTED]

Regarding the draft findings of the Town of Gorham Procurement audit, I am in complete agreement with your findings. In fact, we have begun considering the recommended corrective action.

Sincerely,

Dale Stell
Town Supervisor

cc: Susan Cummings, Bookkeeper
Darby Perrotte, Town Clerk

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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 Town officials and employees to gain an understanding of the Town's procurement process.
- We reviewed and evaluated the Town's purchasing and credit card policies and procedures.
- We reviewed Board meeting minutes to identify relevant purchasing decisions, including purchases made using bids or quotes, and to determine whether the Board approved purchases.
- We used our professional judgment to review 51 individual purchases totaling \$1.8 million between January 1, 2022 and October 11, 2023, of 1,532 total purchases (totaling \$5.8 million). We selected purchases based on risk and categories identified in the Town's purchasing policy, which included the following:
 - All 28 individual purchases (totaling \$1.7 million) which were subject to competitive bidding,
 - Eight purchases (totaling \$117,207) between \$10,000-\$19,999,
 - Seven purchases (totaling \$34,501) between \$3,000-\$9,999,
 - Eight purchases (totaling \$18,267) between \$1,000-\$2,999.
- For purchases that exceeded competitive bidding thresholds, we reviewed documentation to determine whether officials sought competition through bids or purchased items through a State or other municipal contract. For other purchase thresholds, we reviewed documentation to determine whether officials sought competition based on the Town's purchasing policy requirements. When appropriate documentation was not maintained to demonstrate competition was sought or another acceptable purchasing method was used, we discussed these purchases and vendors with Town officials to determine why competitive bidding or other acceptable purchase methods were not used.
- We also reviewed aggregate purchases made from 14 vendors (totaling \$646,948) which were over \$20,000 to determine whether competition was appropriately sought.

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- We reviewed payments totaling \$1.1 million made to nine professional service vendors from January 1, 2022 through May 31, 2023. These payments represented all professional service purchases made by the Town within this period. We reviewed documentation to determine whether Town officials sought competition before awarding professional service contracts. We also used our professional judgment to determine whether the services procured were appropriate. For those services where the Town did not seek competition, we asked officials for additional information.
 - We determined whether the Town had written agreements with its professional service providers. We examined the available agreements to determine whether they included the type of services, time frame for when the services would be provided and the compensation to be paid.
 - We reviewed all 85 credit card statement payment vouchers, which included 116 purchases totaling \$29,562, from January 1, 2022 through May 31, 2023. We reviewed each purchase to determine whether it was properly approved and authorized and had adequate supporting documentation before it was paid and whether it was for an appropriate Town purpose. We also determined whether credit card users complied with the Town's credit card and purchasing policies while making credit card 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

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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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