



# Town of Oxford

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## Procurement

**2024M-88 | November 2024**

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# Report Highlights

## Audit Objective

Determine whether the Town of Oxford (Town) officials used a competitive process to procure goods and services.

## Key Findings

Town officials did not always use a competitive process when purchasing goods or services, as required by New York State General Municipal Law (GML) Section 103 or the Town’s procurement policy (Policy).

Of the purchases totaling \$1.7 million that we reviewed, Town officials did not seek competition for purchases totaling \$848,783. In addition, the Town may have saved \$44,828 if officials had alternative procurement procedures in place. Specifically, competition was not sought for:

- 52 purchases subject to competitive bidding requirements totaling \$463,310.
- 31 purchases totaling \$165,747, which were subject to the Policy.
- Four contracts for public works purchases totaling \$31,689.
- Insurance coverage and engineering services totaling \$188,037.

Because officials did not seek competition, the Town Board (Board) did not ensure that the Town obtained the most favorable terms and conditions in the best interests of its taxpayers.

## Recommendations

The audit report includes seven recommendations to help the Board and Town officials improve their procurement practices.

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

## Audit Period

January 1, 2020 – December 31, 2023

## Background

The Town is located in Chenango County (County) and is governed by the elected five-member Board, which includes the Town Supervisor (Supervisor). The Board is responsible for managing and controlling the Town’s financial operations, which includes establishing financial policies. The Supervisor is the Town’s chief fiscal officer.

The Town’s appointed Highway Superintendent (Superintendent) is responsible for overseeing all highway department operations, which includes maintaining and improving roads, removing snow and purchasing highway department-related goods and services.

### Quick Facts

Purchases	
Total Number	3,113
Total Dollar Amount	\$6.5 million
Total Purchases Reviewed	\$1.7 million

# Procurement

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## When Should Town Officials Seek Competition for Procurement?

Town officials must comply with GML Section 103, which generally requires towns to advertise for competitive bids for purchase contracts exceeding \$20,000 and public works contracts exceeding \$35,000. However, there are several exceptions to competitive bidding requirements, including, but not limited to, purchases made during emergencies,<sup>1</sup> for insurance coverage and professional services, and from legitimate sole-source providers.

In lieu of seeking competition, towns also are 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). To obtain contract pricing offered through OGS, town officials must submit the town's necessary fuel requirements to OGS for the upcoming contract period, before OGS awards the contracts, or reach an agreement with the OGS contract vendor. To determine whether competitive bidding is necessary, town officials must consider whether the aggregate cost of a good or service, purchased within a 12-month period, will exceed competitive bidding thresholds.

GML Section 104(b) requires towns to adopt and annually review written policies and procedures for purchasing goods and services that are not subject to competitive bidding requirements. Town officials must procure goods and services in a manner that:

- Helps ensure the prudent and economical use of public funds.
- Is in the taxpayers' best interest.
- Facilitates the acquisition of goods and services of maximum quality at the lowest possible cost or best value basis.

Although not required by law, town officials should award contracts for insurance coverage and professional services only after soliciting competition. Using a request for proposals (RFP) process is an effective way to help ensure a town receives the desired goods or services at the best price. Using an RFP process generally requires detailed documentation of the service to be provided (including minimum requirements) and the evaluation criteria that will govern the contract award.

Generally, there are no set rules regarding the frequency of using an RFP process. However, a town's procurement policy should establish reasonable intervals for using the process, such as every three to five years, to help ensure services are procured at favorable rates. Exceptions to seeking competition for insurance coverage and professional services should be limited and used only when properly justified in the public's best interests.<sup>2</sup>

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<sup>1</sup> An emergency purchase is a purchase that fulfills an urgent need that affects the health and safety of citizens. Because the occurrence or condition is unforeseen and requires immediate action, the purchase cannot be delayed to complete competitive bidding requirements.

<sup>2</sup> Examples of when it may be prudent to not seek competition include emergencies, procurements for which there is no possibility of competition, and very small procurements for which solicitations of competition would not be cost-effective.

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## Officials Did Not Always Seek Competition When Procuring Goods and Services

We reviewed purchases totaling \$1.7 million that were subject to competitive bidding, under the competitive bidding thresholds and for insurance coverage and professional services. We determined that Town officials did not always seek competition for these purchases.

Competitive Bidding – We reviewed 59 purchases totaling \$1,074,140 to determine whether the Board helped ensure, through the claims audit process, that purchases subject to competitive bidding requirements were competitively bid. We determined that officials did not obtain competitive bids as required by GML Section 103 – or use other competitive methods, such as OGS, County or other government contracts – for 52 purchases totaling \$463,310. These purchases included the following:

- Three purchases totaling \$181,308 for liquid bituminous materials, such as asphalt and tar.
- 45 purchases totaling \$175,902 for diesel fuel.
- Three purchases totaling \$67,517 for aggregate materials, such as stone and processed millings.
- One purchase totaling \$38,583 for a pickup truck.

We determined that the Town may have realized cost savings totaling \$27,514 when obtaining the purchases that we reviewed. Although two aggregate material purchases and one liquid bituminous materials purchase totaling \$122,039 were not purchased through competitive bidding requirements, the Town paid \$29,662 less than the price available through the County bid. Conversely, the Town paid \$12,419 more than the County bid price for two other purchases of liquid bituminous materials totaling \$104,663. The Superintendent told us that he used County bid results to negotiate with vendors for lower prices. In addition, sometimes the lowest bidder on the County bid did not have the commodities available and, therefore, he purchased the materials with other vendors. However, purchase contracts exceeding \$20,000 and public works contracts exceeding \$35,000 must comply with GML Section 103, regardless of any informal negotiations.

Furthermore, the Superintendent purchased additional liquid bituminous material totaling \$60,004 from the County contract, upon which the vendor applied an incorrect price escalation rate. Had the correct price escalation rate been applied, the Town would have paid \$6,750 less. The Superintendent told us that he was unfamiliar with how price escalations were calculated. After we explained the price escalation variance to the Superintendent, he contacted the vendor, and the Town received a \$4,000 vendor credit.

We also compared prices that the Town paid for diesel fuel to prices that were available from an OGS contract. If Town officials had used the OGS contract pricing option, the Town may have saved \$8,345 (5 percent) on diesel fuel purchases. The Superintendent told us that he contacted three vendors and received quotes before making diesel fuel purchases, as he was trained to do by the former Superintendent.<sup>3</sup> After we explained the OGS contract pricing option to the Superintendent, he said that

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<sup>3</sup> The former Superintendent left Town employment in 2018.

he contacted the OGS contract vendor and was accepted into the OGS contract pricing option from February 2024 through August 2024.

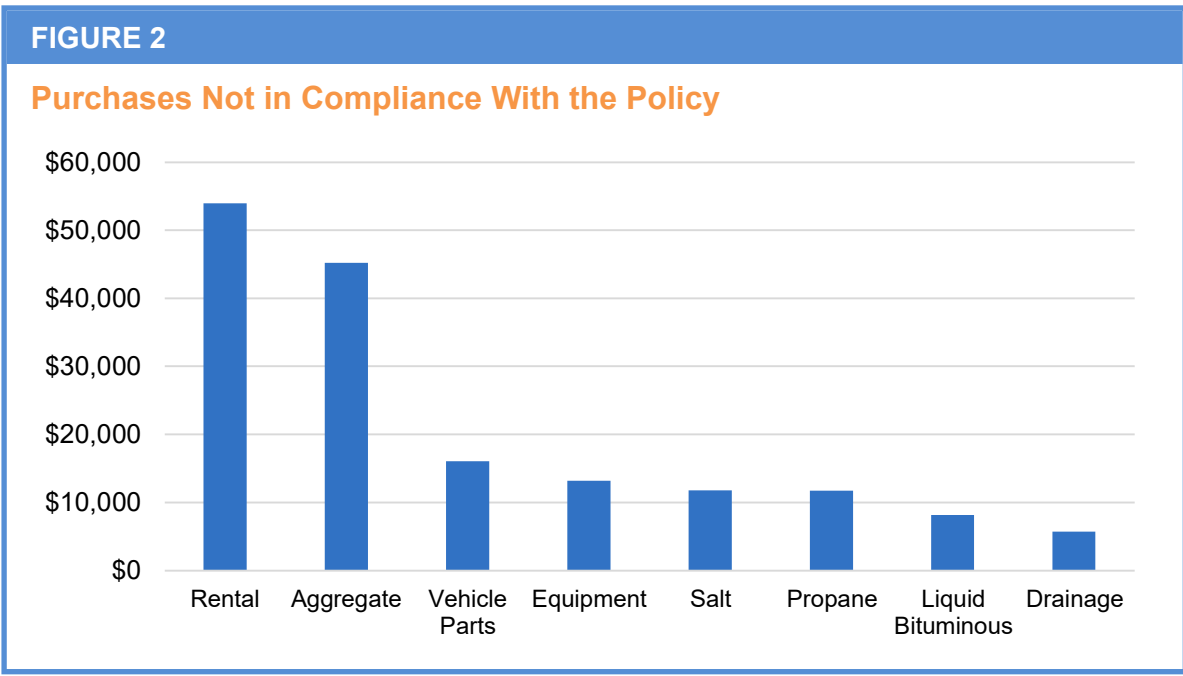
Purchases Under Competitive Bidding Thresholds – The Board adopted a Policy for purchasing goods and services that were not subject to competitive bidding requirements. According to the Policy, all actions taken for these purchases must be documented and any quotes obtained by Town officials should be retained. Also, any rationale or reasons for not obtaining competition should be documented and retained.

However, the Policy that was adopted on January 2017 was not annually reviewed by the Board, as was required by GML Section 104(b). In addition, the Policy did not outline procedures for procuring all goods and services that were not subject to competitive bidding – specifically, public works contracts below \$35,000 (Figure 1).

**Figure 1: Policy Criteria**

Contract Type	Dollar Range	Number of Quotes and Types of Competition Required
Purchase Contracts	Less than \$5,000	Left to the discretion of the purchaser
	Less than \$20,000 but greater than \$5,000	Two oral/fax quotes
Public Works Contracts	Less than \$35,000	Left to the discretion of the purchaser

We reviewed 57 purchases totaling \$424,982 that were subject to the Policy. Town officials did not have any documentation indicating that they sought competition for 31 of the 57 purchases totaling \$165,747. These purchases included rental equipment, aggregate stone purchases, vehicle parts, equipment, propane, salt and liquid bituminous and drainage materials (Figure 2).



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We determined that the Town may have realized cost savings totaling \$17,314 when obtaining the purchases that we reviewed. Had officials made two aggregate purchases from the County bid, the Town would have paid \$14,004 less. Also, we compared prices that officials paid for propane fuel to prices available from the OGS contract. Had officials used the OGS contract pricing option, the Town may have saved \$3,310 (28 percent) on propane fuel purchases.

Furthermore, the Town entered into four contracts totaling \$31,689 for public works purchases that were not subject to competitive bidding requirements, and officials did not seek competition for all four purchases. When officials do not seek competition as a part of the purchasing process, they cannot help ensure that public funds are used prudently and economically.

The Superintendent told us that the vendors for these contracts were located a short distance from the Town, had specific items in stock, were sole-source providers, or that he felt the price the vendors were offering was fair. Therefore, he did not always collect or document his procurement efforts. Also, the Superintendent told us he was not given the Policy so that he could understand the documentation requirements. Instead, he generally continued the procurement efforts that were conveyed to him by the former Superintendent.

The Supervisor told us that he did not consider requesting the Board to annually review the Policy and was unaware that the Policy was not shared with the Superintendent. The Supervisor also said that the Board did not include competition requirements for public works purchases under \$35,000 to give purchasers more flexibility. In addition, the Supervisor told us that the Board did not oversee purchases of goods and services in the highway department because the Board members trusted the Superintendent to collect the necessary quotes required. However, the Board is responsible for developing, maintaining, disseminating and overseeing compliance with the Policy.

Insurance Coverage and Professional Services – The Policy states that officials are not required to solicit written proposals or quotations when obtaining professional services, except when directed by the Board. We reviewed purchases totaling \$188,037 for insurance and engineering services and determined that the Board did not direct solicitation for, and officials did not solicit competition when, procuring these services.

According to the Supervisor, the Town used the same insurance provider for more than five years without seeking competition. The Supervisor told us that officials developed a long-standing relationship with the Town's insurance provider and switching would be very difficult. Also, the Supervisor told us that the former Supervisor<sup>4</sup> obtained the Town's engineering services without seeking competition because the former Supervisor said that purchases made with funds raised through donations were exempt from procurement requirements. However, purchases made with donated funds are not exempt from procurement requirements.

When officials do not use a competitive process to procure goods and services, the Town has an increased risk that goods and services may not be procured in the most cost-effective, prudent or

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<sup>4</sup> The former Supervisor's elected term ended in 2021.

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economical manner. We identified \$44,828 in potential savings that the Town may have realized if the Town had alternative procurement procedures in place. Specifically, the Town could have saved the following:

- \$14,004 by using the County bid for two aggregate stone purchases.
- \$12,419 by using the County bid for purchases requiring competitive bidding.
- \$8,345 by procuring diesel fuel through the OGS contract.
- \$6,750 by receiving the appropriate price escalation.
- \$3,310 by procuring propane through the OGS contract.

By not seeking competition, the Board cannot help ensure that the Town obtained the most favorable terms and conditions for purchased goods and services.

### **What Do We Recommend?**

The Board and Town officials should:

1. Seek competition for purchases according to GML Section 103 and the Policy.

Town officials should:

2. Retain appropriate supporting documentation when procuring goods and services.

The Board should:

3. Ensure officials and employees comply with competitive bidding statutes and Policy requirements.
4. Review the overpayments identified in this report and seek reimbursement, if necessary.
5. Update the Policy to include procedures for purchasing goods and services that are not subject to competitive bidding requirements.
6. Annually review the Policy and update it as necessary.
7. Award contracts for insurance coverage and professional services only after soliciting some form of competition, and periodically seek competition for these services at reasonable intervals, such as every three to five years.



## Appendix A: Response From Town Officials

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This institution is an equal opportunity provider and employer.

October 17, 2024

Ms. Ann C. Singer, Chief of Municipal Audits  
Office of the State Comptroller  
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44 Hawley Street  
Binghamton NY 13901-4417

The Town of Oxford acknowledges the receipt of the draft audit report prepared by your office. We extend our gratitude for the time, help, and attention to the details provided by your auditors.

We value the help and recommendations provided by the auditors and will work to update and improve our procurement procedures and policies. While acknowledging we could not provide supporting documentation, in most cases some form of price checking took place by the Highway Superintendent. The cheaper provider did not always do road work because of scheduling or quality of work concerns but again, it needed to be properly documented.

The Town Board will continue to work to give the taxpayers the best value for their tax dollars.

Sincerely,

Alan Davis  
Supervisor

## Appendix B: Audit Methodology and Standards

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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 reviewed Town policies and procedures and the Board's meeting minutes to gain an understanding of and evaluate the adequacy of the policies and procedures.
- We reviewed all Town bank statements and select claims packets for purchases made during our audit period to identify disbursements subject to competitive bidding and the vendors who provided these goods and services and to identify insurance and professional service providers. We identified 59 purchase contracts totaling \$1,074,140 that were initiated during our audit period and subject to competitive bidding. We also identified all purchases totaling \$188,037 made for the Town's insurance provider and one professional service provider (engineer) during our audit period. We then reviewed available documentation and interviewed Town officials to determine whether they solicited competitive bids for each purchase contract that we reviewed or used an RFP process when selecting insurance coverage or engineering services.
- During our review of all Town bank statements and select claims packets, we also identified disbursements that were not subject to competitive bidding requirements and the vendors who provided these goods and services. We identified 61 purchases totaling \$456,671 that exceeded \$5,000 and were public works purchases or subject to the Policy. We reviewed claims packets and supporting documentation to determine whether officials obtained the appropriate number of quotes, according to the Policy.

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

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### **Regional Office Directory**

[www.osc.ny.gov/files/local-government/pdf/regional-directory.pdf](http://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](http://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](http://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](http://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](http://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](http://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](http://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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