

# Town of Rushford

## Procurement

JUNE 2020



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

# Contents

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- Report Highlights . . . . . 1**
  
- Procurement . . . . . 2**
  - How Should a Town Procure Goods and Services? . . . . . 2
  - Officials Did Not Always Obtain Competitive Pricing for Goods and Services . . . . . 3
  - The Town Policy Is Not Adequate for Professional Services. . . . . 4
  - What Do We Recommend? . . . . . 4
  
- Appendix A – Response From Town Officials . . . . . 6**
  
- Appendix B – Audit Methodology and Standards . . . . . 7**
  
- Appendix C – Resources and Services. . . . . 9**

# Report Highlights

## Town of Rushford

### Audit Objective

Determine whether goods and services were procured in accordance with the Town's procurement policy and applicable statutes.

### Key Findings

- Of 59 payments totaling \$632,000, two purchases totaling \$175,000 were not competitively bid as required.
- Of 55 purchases totaling \$189,000, 17 purchases totaling \$56,000 did not have the required request for proposals (RFP) and/or the required number of quotes prior to being made.
- The Town's procurement policy does not require the solicitation of competition, such as written proposals or quotes, for the procurement of professional services.

### Key Recommendations

- Follow competitive bidding statutes and policy requirements.
- Revise the procurement policy or adopt written procedures to specify documentation requirements, including the rationale for cases when the selected vendor is not the lowest priced.
- Develop procedures for the competitive procurement of professional services.

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

### Background

The Town of Rushford (Town) is located in Allegany County (County). The Town is governed by an elected Town Board (Board) composed of five members including the Town Supervisor (Supervisor).

The Board is responsible for the general oversight and control of the Town's finances. The Supervisor serves as the chief fiscal officer and is responsible for the Town's day-to-day operations.

The Supervisor, Board and Town officials are responsible for ensuring purchases comply with competitive bidding requirements and the Town's procurement policy.

#### Quick Facts

Population	1,150
2020 Budgeted Appropriations	\$1.2 million
2018 and 2019 Purchases	\$1.4 million

### Audit Period

January 1, 2018 – February 6, 2020

# Procurement

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## How Should a Town Procure Goods and Services?

New York State General Municipal Law (GML)<sup>1</sup> requires a board to adopt written policies and procedures for the procurement of goods and services not subject to competitive bidding requirements, to ensure the prudent and economical use of public money in a town's best interests. A board must ensure that the policies and procedures clearly provide that alternative proposals or quotes be obtained by a request for proposals (RFP) or written or verbal quotes.

Policies and procedures should describe the methods and procedures for promoting competition for purchases not subject to competitive bidding, require documentation of actions taken with each procurement method and identify the individuals responsible and their titles. This should include purchases under the bidding thresholds as well as the procurement of professional services. In determining the necessity for competitive bidding, officials should consider the aggregate amount to be expended for the same commodity or service within the 12-month period from the purchase date.

The Town's procurement policy states that all purchases of supplies or equipment over \$20,000 in the fiscal year or public works contracts over \$35,000 shall be formally bid pursuant to GML.<sup>2</sup> The policy further states that all estimated purchases less than \$20,000 but greater than \$3,000 require a written request for proposals (RFP) and written quotes from three vendors. Purchases less than \$3,000 but greater than \$1,000 require an oral request for proposals and oral or written quotes from two vendors.

Prior to January 2020,<sup>3</sup> the Town's procurement policy granted purchasing authority to certain Town officers and department heads. The Town Clerk told us that department heads within the Town acted as "purchasing agents" for their respective departments and were able to authorize purchases without prior Board approval within the thresholds established by the adopted policy. The policy provides that the purchaser issue an RFP and obtain verbal or written quotes for certain purchases. The policy also generally requires sufficient detail or support for purchases to be maintained.

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1 GML Section 104-b

2 GML Section 103

3 The Supervisor (whose term began in January 2020) proposed changes to update the procurement policy in January 2020, which were adopted by the Board. The changes further defined the roles of the purchasing agent and the different levels of approvals needed prior to purchasing.

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## Officials Did Not Always Obtain Competitive Pricing for Goods and Services

We reviewed 59 payments totaling \$632,000 that, either in total or in aggregate, were subject to statutory competitive bidding requirements. Two purchases totaling \$175,000 were not competitively bid as required. The first was for the purchase of a tractor,<sup>4</sup> totaling \$114,000, for use by the Highway Department. The Highway Superintendent (Superintendent) told us that when he spoke with the vendor prior to purchase he was assured the equipment was being purchased from a New York State (State) contract bid authorized retailer. During our audit, the Superintendent requested written verification but the vendor could not provide any evidence the tractor was purchased under State contract.

Using information obtained from the tractor manufacturer's website and information from a neighboring state's award for tractor equipment, we estimated that a purchase of the 2020 model year of this tractor, similarly equipped, would be about \$107,000. Therefore, had the Town competitively bid this purchase, it may have saved at least \$7,000.

The second purchase was for a public works project to rebuild a Town road, totaling \$61,000. While the Superintendent obtained two written quotes, he did not publicly advertise for bids as required, which he told us was because he personally contacted the only two vendors in the area he thought could do the work. However, advertising for bids helps ensure that all vendors have the opportunity to bid on the work.

We also reviewed 55 payments totaling \$189,000 that, either in total or in aggregate, were subject to the requirements of the Town's procurement policy. Seventeen purchases totaling \$56,000 did not have the required RFP issuance and/or quotes documented as required prior to purchase being made. All but two of these, totaling \$16,000, were for Highway Department purchases, which included equipment repairs (\$8,900), tires (\$7,900), plow equipment (\$6,100), drainage pipe (\$6,000), road repair materials (\$5,700), catch basins (\$2,800), equipment parts (\$1,700) and radios (\$1,300). The Superintendent told us he did not use the required RFP process or obtain the required number of quotes because he had previously done business with these vendors and could rely on them for providing the goods or services.

We reviewed each of these purchases and determined they were for appropriate Town purposes. However, without seeking competition in accordance with statute and Town policy, Town officials have limited assurance that these goods and services were acquired at the best price and without favoritism, extravagance or fraud.

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<sup>4</sup> A 2016 model was purchased in January 2018.

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## The Town Policy Is Not Adequate for Professional Services

The Town's procurement policy states that the procurement of professional services is exempt from the solicitation of competition, such as written proposals or quotes. In addition, the Board and Town officials have not developed written procedures for seeking competition when procuring professional services, including what documentation should be maintained to support procurement decisions. As a result, the Board and department heads did not solicit competition (for example, by issuing an RFP) when procuring professional services. Therefore, the Board has limited assurance that the Town obtained the most favorable terms and conditions in the best interest of the taxpayers.

From January 1, 2018 through December 31, 2019, the Town procured professional services from 10 vendors totaling approximately \$92,000. These included legal services (\$63,000), bookkeeping and payroll services (\$25,000), land surveying services (\$3,000) and appraisal and engineering services (\$1,000). Town officials could not provide any documentation of seeking competition for these services. While Town officials told us why they chose some of the vendors (e.g., past experience, specialized service), written documentation of these explanations and the rationale was either not available or not maintained. Additionally, while Town officials provided written agreements for two vendors, paid a total of \$57,000, detailing the specifics of the services that would be provided, officials did not have written agreements for the remaining vendors<sup>5</sup> with total expenditures of \$35,000.

We found that the professional services procured were generally for legitimate and appropriate Town purposes. However, when a competitive process is not used, the Board has limited assurance that professional services are being procured at the best terms and in the best interest of the taxpayers.

## What Do We Recommend?

The Board and Town officials should:

1. Ensure officials and employees follow competitive bidding statutes and policy requirements.
2. Update the procurement policy or develop and adopt written procedures to specify documentation requirements, including the rationale for decisions made.

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<sup>5</sup> Including legal services, payroll and bookkeeping services, land surveying, property appraisals, engineering and building inspections.

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3. Develop procedures for procuring professional services to award contracts after soliciting competition, and provide guidance on how competition should be solicited, including the issuance of a written RFP and obtaining written or verbal quotes.
  4. Ensure the Town has written agreements with all professional service providers that detail the types and delivery timeframes of services and the compensation to be paid.

## Appendix A: Response From Town Officials

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**Supervisor**  
Cal Champlin

**Councilmen**  
Dennis Bliss  
Charles Bliss  
William Tucker  
Ken McElheny

**Town Clerk**  
Tracy Pastorius

# Town of Rushford

~ Est. 1818 ~

PO Box 38 8999 Main Street  
Rushford, NY 14777  
Phone (585) 437-2206 Fax (585) 437-2529

May 19, 2020

Office of the New York State Comptroller  
PSU – CAP Submission  
110 State Street, 12th Floor  
Albany, NY 12236.

Town of Rushford Audit 2020M-43  
Response to Draft Report

Dear Sir/Madam:

This letter is in response to our review and the exit discussion of the draft audit report dated April 22, 2020.

The Town is in agreement with the Comptroller's findings and recommendations.

The Town is in the process of preparing the Corrective Action Plan.

The Town Board had the opportunity to meet individually with the auditor during the audit process. The auditor was very responsive to our questions, explained the law and issues involved clearly, courteously and professionally.

We look forward to working with the Comptroller's Office in improving our procurement policies to benefit our residents and taxpayers.

Very truly yours,

Cal Champlin

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## 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. To achieve the audit objective and obtain valid audit evidence, our audit procedures included the following:

- We interviewed Town officials and employees to gain an understanding of the Town's procurement processes.
- We reviewed and evaluated the Town's procurement policy and procedures to determine whether they were adequate.
- We selected and reviewed all 59 payments (totaling \$632,000) made during the period January 1, 2018 through December 31, 2019 that, when aggregated, exceeded the competitive bidding thresholds.
- We reviewed Board meeting minutes and interviewed Town officials to determine whether the procurement policy was reviewed on an annual basis.
- We reviewed bid documents to determine whether purchases were competitively bid and the lowest responsible bidder was selected. If the Town did not solicit competitive bids, we determined whether purchases were made using another acceptable method.
- Using our professional judgment we selected, from a population of approximately 1,000 payments totaling \$786,000, the largest 45 payments under the bidding thresholds but greater than \$3,000, totaling approximately \$170,000. We excluded payments made to other governments and utilities. We also selected the 10 largest payments between \$1,000 and \$3,000, totaling approximately \$19,000, to determine whether they were made in compliance with the policy.
- We reviewed supporting documentation to determine whether Town officials solicited competition for these purchases. When appropriate documentation was not maintained to support competition, we discussed these purchases with officials or employees to determine the reason.
- We reviewed payments made to all 10 identified professional service vendors in 2018 and 2019 totaling approximately \$92,000. We reviewed documentation to determine whether the Town was seeking competition in awarding contracts, and used professional judgment to determine whether the services procured were appropriate for the Town. For those services where the Town did not seek competition, we asked Town officials and employees for an explanation.
- We determined whether the Town had written agreements with its professional service providers to indicate the type and timeframes of services to be provided and the compensation to be paid.

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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 objectives. 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 must 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.state.ny.us/localgov/regional\\_directory.pdf](http://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](http://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](http://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#lgmg](http://www.osc.state.ny.us/localgov/pubs/listacctg.htm#lgmg)

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

[www.osc.state.ny.us/localgov/planbudget/index.htm](http://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/pubs/cyber-security-guide.pdf](http://www.osc.state.ny.us/localgov/pubs/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.state.ny.us/localgov/finreporting/index.htm](http://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](http://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](http://www.osc.state.ny.us/localgov/academy/index.htm)

## Contact

Office of the New York State Comptroller  
Division of Local Government and School Accountability  
110 State Street, 12th Floor, Albany, New York 12236

Tel: (518) 474-4037 • Fax: (518) 486-6479 • Email: [localgov@osc.ny.gov](mailto:localgov@osc.ny.gov)

[www.osc.state.ny.us/localgov/index.htm](http://www.osc.state.ny.us/localgov/index.htm)

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

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**BUFFALO REGIONAL OFFICE** – Jeffrey D. Mazula, Chief Examiner

295 Main Street, Suite 1032 • Buffalo, New York 14203-2510

Tel (716) 847-3647 • Fax (716) 847-3643 • Email: [Muni-Bufferalo@osc.ny.gov](mailto:Muni-Bufferalo@osc.ny.gov)

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