

# Town of Boylston

## Procurement

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NOVEMBER 2021

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

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# Report Highlights

## Town of Boylston

### Audit Objective

Determine whether Town of Boylston (Town) officials used competitive methods when procuring applicable goods and services.

### Key Findings

Town officials did not always seek competition when procuring goods and services.

- Town officials did not use competitive methods, or maintain supporting documentation to show they used competitive methods, to obtain purchases totaling \$154,248.
- While the Board is required by New York State General Municipal Law (GML) to review the Town's procurement policy annually, the last time the Board reviewed the policy was in 2012.
- The procurement policy does not require Town officials to use competitive methods to procure professional services.
- Officials were unfamiliar with the Town's procurement policy's documentation requirements.

### Key Recommendations

- Use competitive methods to procure goods and services, including professional services.
- Review and update the procurement policy, and consider using competitive methods to procure professional services.
- Maintain appropriate supporting documentation to show information gathered and conclusions reached to support purchasing activity.

Town officials acknowledged our findings and recommendations and indicated they have initiated corrective action. Appendix B includes our comments on issues raised in the Town's response letter.

### Background

The Town is located in Oswego County (County). It is governed by an elected Town Board (Board), which includes the Town Supervisor (Supervisor) and four Board members.

The Board is responsible for the general management and control of the Town's financial operations.

The Supervisor serves as the chief executive and chief fiscal officer.

The Town has an elected Highway Superintendent (Superintendent) who is responsible for overseeing all highway department operations.

#### Quick Facts

<b>Non-Payroll Expenditures for the Audit Period</b>	\$685,650
<b>2020 Budgeted Appropriations</b>	\$787,060
<b>Population</b>	549

### Audit Period

January 1, 2019 – September 30, 2020.

# Procurement

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## Why Should the Board Review and Update the Town's Procurement Policy?

According to New York State GML, town boards must annually review their towns' procurement policy. This helps the boards ensure their towns' policy complies with GML and other applicable laws. The annual review also helps the boards ensure that purchasing staff have adequate guidance when drafting contracts and making purchases for their towns.

Since 2010, GML Section 103 generally requires towns to advertise for competitive bids for purchase contracts exceeding \$20,000 and public works contracts exceeding \$35,000.<sup>1</sup> Previously, the competitive bidding thresholds were \$10,000 for purchase contracts and \$20,000 for public works contracts.

While town boards may choose to require competitive bidding for procurements whose total cost falls below GML thresholds, the boards should update their towns' procurement policy to clarify the dollar thresholds that require competitive bidding and provide clear guidelines to those who are responsible for purchasing. In addition, town procurement policies must identify the individuals, by title, who are responsible for purchasing.

The Town's procurement policy requires the Board to review the policy annually. Also, the Town's procurement policy requires officials to use competitive bidding for purchase contracts exceeding \$10,000 and public works contracts exceeding \$20,000.

In addition, the policy requires officials to consolidate repetitive purchases (e.g., copy paper, asphalt, stone) made to each vendor for purchase and public works contracts and purchase them using a competitive method, depending on the amount needed and dollar amount expended. For cumulative annual purchases for purchase contracts, the policy requires two written quotes for contracts from \$1,500 to \$2,999 and three written quotes for contracts from \$3,000 to \$9,999.

For cumulative annual purchases for public works contracts, the policy requires two written proposals for contracts from \$500 to \$4,999 and three written proposals for contracts from \$5,000 to \$19,000. The policy also requires the purchaser to document the information gathered and conclusions reached supporting the purchasing activity, which should be kept on file.

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The Town's procurement policy requires the Board to review the policy annually.

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<sup>1</sup> Refer to our publication *Seeking Competition in Procurement* available on our website at [www.osc.state.ny.us/localgov/pubs/lgmg/seekingcompetition.pdf](http://www.osc.state.ny.us/localgov/pubs/lgmg/seekingcompetition.pdf)

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## The Procurement Policy Was Inadequate and Outdated

The Board has not updated or revised the Town's procurement policy since 2012. The Supervisor and other Board members told us they were unaware that the Board is required to annually review the procurement policy. As a result, the policy is outdated because it references previous GML bidding thresholds for purchase contracts in excess of \$10,000 and public works contracts in excess of \$20,000, rather than the current GML thresholds of \$20,000 and \$35,000, respectively.

In addition, the policy is inadequate because it does not do the following:

- Provide direction for purchasing personnel when obtaining public work contracts of more than \$19,000 and below the \$20,000 competitive bidding limit set in the policy.
- Identify the individuals (by title) who are responsible for procuring goods and services.

Furthermore, Town officials were unfamiliar with the procurement policy requirements for documenting the information gathered and conclusions reached to support purchasing activities.<sup>2</sup> The Supervisor and Superintendent told us they were unaware that staff should maintain all supporting documentation for purchases (e.g., bid results, quotes, requests for proposals (RFPs) and/or State and county contract information) on file after using competitive methods to obtain the purchases.

The Town's policy does not provide clear guidelines for all procurements, and officials responsible for purchasing are unfamiliar with certain policy requirements. As a result, the Board cannot ensure that officials procured goods and services in the most economical manner.

## How Should a Town Procure Goods and Services?

Towns should use competitive methods to obtain goods and services. This can help towns obtain services, supplies and equipment from the best-qualified and lowest-priced sources. It also helps towns use their resources efficiently and helps guard against favoritism, extravagance and fraud.

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 (State contracts).

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<sup>2</sup> Refer to the Officials Did Not Always Competitively Procure Goods and Services section for further information.

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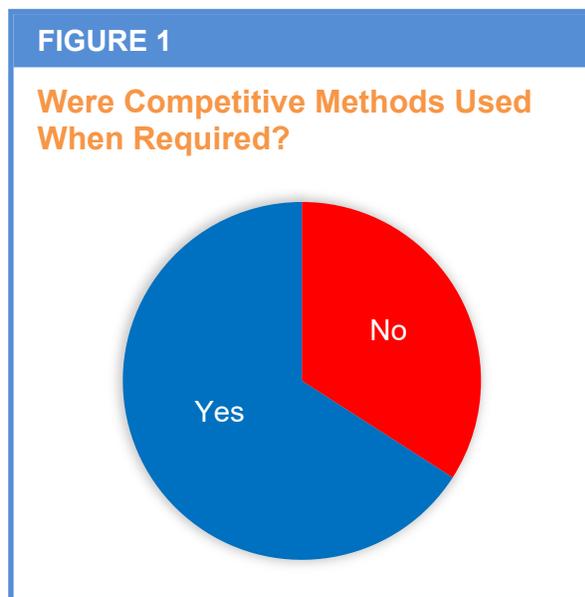
According to the Town’s procurement policy, when initiating purchase and public works contracts, officials must obtain bids or quotes, or use any other purchasing methods that help ensure goods will be purchased at the lowest price and that favoritism will be avoided.

In addition, the policy defines certain exceptions to using a competitive method and describes circumstances when, or types of procurements for which, the Town has determined that obtaining competitive bids or quotes is not required. For example, the policy states that when purchasing goods or services under a State contract, officials are not required to use competitive methods, such as requesting bids or written quotes.

### Officials Did Not Always Competitively Procure Goods and Services

We reviewed disbursement data for purchases totaling \$685,650 made during our audit period and selected 19 vendors who were paid for purchases totaling \$356,535.<sup>3</sup> We reviewed these purchases to determine whether Town officials solicited competitive bids or obtained written quotes and found that officials did not seek competition, or maintain supporting documentation to show they sought competition, for purchases totaling \$121,528 (Figure 1).

Competitive Bids – Of the 19 vendors, we identified six vendors that were paid a total of \$287,469 for seven purchases that were subject to bidding requirements. We determined whether the Town solicited bids or used other competitive methods to select the vendors. We also determined whether the Town maintained supporting documentation to document the information gathered and conclusions reached supporting the purchasing activity (i.e., using or not using a competitive method for the procurements).



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<sup>3</sup> Refer to Appendix C for further information on our sample selection.

Town officials provided us with documentation showing they made four purchases totaling \$216,999 for materials and equipment from State and county contracts and surplus equipment from another local government that did not have to be competitively bid (Figure 2). All of these purchases had adequate documentation on file to document the information gathered and conclusions reached supporting the purchasing activity.

**Figure 2: Purchases Not Subject to Bidding Requirements (Competitive Bids)**

	State Contract	County Contract	Designated as Surplus	Cost
<b>Asphalt</b>	X			\$126,630
<b>Pick-Up Truck</b>		X		30,749
<b>Dump Truck</b>			X	31,460
<b>Plow Truck</b>			X	28,160
<b>Total</b>				<b>\$216,999</b>

However, we found that the Town did not competitively bid for purchases totaling \$70,469 from three other vendors, which were required to have been procured using a competitive method, according to the procurement policy. The three purchases were for diesel fuel (\$33,830), bridge repairs (\$23,985) and crushed stone (\$12,654).

The Superintendent told us that the bridge repairs were procured as part of a county contract. However, the Superintendent did not maintain supporting documentation to show that the purchase was made through a county contract.

He also told us that the vendor that supplied the diesel fuel offered the State contract price, and the vendor that supplied the crushed stone offered a lower price than the county contract price. However, these vendors did not have State or county contracts. In addition, the Superintendent could not support his statements because he did not maintain any documentation to show the price comparisons between the prices offered by these vendors and the State and county contract prices.

Written Quotes – Of the 19 vendors, we identified 14 vendors that were paid a total of \$69,066. We reviewed the Town’s purchases from these vendors to determine whether Town officials requested written quotes to select the vendors, as required by the procurement policy.

Town officials provided us with documentation showing they made purchases totaling \$18,008 from five vendors under a county or State contract or that the purchases were exempt from being procured through a competitive method, as defined by the procurement policy (Figure 3).

**Figure 3: Purchases Not Subject to Bidding Requirements (Written Quotes)**

	State Contract	County Contract	Designated as Surplus	Cost
<b>Road Salt</b>		X		\$10,434
<b>Paving Stone</b>		X		3,331
<b>Tractor Rental</b>	X			2,400
<b>Force Feed Loader</b>			X	1,843
<b>Total</b>				<b>\$18,008</b>

However, officials were unable to provide documentation to show they obtained written quotes for purchases totaling \$51,059 from nine other vendors. The nine purchases included \$12,431 paid to two vendors for plow equipment, \$6,900 paid to one vendor for power generators and \$5,125 paid to another vendor for truck bed repair services.

The Supervisor provided us with a memo from one of the two plow equipment vendors indicating that the equipment was purchased under two county contracts. However, this documentation was inadequate because it did not include any pricing agreements or contract specifics to support the amounts paid for the equipment.

The Supervisor also told us that the funds used to purchase the generators originated from a grant. But, the Supervisor was unaware that the Town needed to use a competitive method when procuring goods and services purchased with grant funds.

Because officials did not always comply with the Town’s procurement policy and use a competitive method to obtain goods and services when appropriate, the Board cannot ensure officials are procuring goods and services in the most prudent and economical manner and that procurements are free from favoritism. As a result, the Town risks acquiring goods and services at higher costs than necessary.

### **How Should the Town Obtain Professional Services?**

Governing boards must adopt written policies and procedures for procuring goods and services that are not required by law to be competitively bid, such as purchases of professional services that require specialized skill, training and expertise or the use of professional judgment or discretion. These goods and services must be procured in a manner to ensure the prudent and economical use of public funds in the best interests of the taxpayers.

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As a good business practice, town officials should solicit quotes or use an RFP process to obtain professional services and insurance coverage where price should not necessarily be the sole criterion for awarding a contract. This competitive process helps ensure they obtain needed, qualified services with the most favorable terms and conditions. In addition, seeking competition for professional services and insurance coverage at reasonable intervals, such as every five years, may identify opportunities to generate cost savings for the Town.

### **The Town Did Not Issue RFPs or Seek Quotes to Obtain Professional Services**

The Town's procurement policy states that officials do not need to use a competitive method, such as issuing RFPs or obtaining quotes, when procuring professional services. As a result, officials did not issue RFPs or obtain quotes when selecting five professional service providers and an insurance broker who were paid a total of \$32,720 during our audit period. The professional services provided included legal, accounting, insurance brokerage services and health insurance coverage.

Town officials may identify opportunities to generate cost savings by seeking competition for professional services and insurance coverage at reasonable intervals.

In addition, officials cannot ensure that the Town received the needed services at the best price, that favoritism was avoided and that the procurements were made in the most prudently economical manner.

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

The Board should:

1. Ensure that Town officials comply with statutes and the Town's procurement policy when making purchases.
2. Review the procurement policy annually and update it as needed.
3. Update the procurement policy to ensure that it:
  - References the current GML bidding thresholds.
  - Identifies the individuals responsible for purchasing and their titles.
  - Identifies the dollar thresholds for obtaining written proposals for public works contracts.
4. Consider amending the procurement policy to require officials to procure professional services by issuing RFPs or obtaining quotes at reasonable intervals.

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Town officials may identify opportunities to generate cost savings by seeking competition for professional services and insurance coverage at reasonable intervals.

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5. Ensure that Town officials become familiar with the procurement policy's requirements for documenting the information gathered and conclusions reached to support purchasing activities.

Town officials should:

6. Maintain appropriate supporting documentation to show information gathered and conclusions reached to support purchasing activity.
7. Comply with statutes and the Town's procurement policy when making purchases.

# Appendix A: Response From Town Officials

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supervisor.boylston@frontier.com**

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333 E. Washington Street #409  
Syracuse, NY 13202

RE: Audit Response Letter

To whom it may concern:

While we appreciate that time and effort put into the audit of our town, we would like to elaborate on the "Key Findings" of the audit.

- 1. Town officials did not use competitive methods or maintain supporting documentation to show they used competitive methods, to obtain purchases totaling \$154,248.**

While all purchases used competitive methods when required by our procurement policy and all purchases were addressed and approved by the Town Board, our paper documentation was lacking as some of the bids that were not accepted were not maintained. We have implemented changes to address this issue.

See  
Note 1  
Page 11

- 2. While the Board is required by New York State General Municipal Law (GML) to review the Town's procurement policy annually, the last time the Board reviewed this policy was 2012.**

While this policy was reviewed by this administration annually, it didn't seem to be documented in the Organizational Board minutes. We have always left the policy as it was currently stated. We have implemented changes to address this issue.

- 3. The procurement policy does not require Town officials to use competitive methods to procure professional services.**

We are currently revising our procurement policy to reflect New York State's official procurement policy. This should rectify this issue.

See  
Note 2  
Page 11

- 4. Officials were unfamiliar with the Town's purchasing policy's documentation requirements.**

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Again, we are currently revising our procurement policy to reflect New York State's official procurement policy. This should help to correct this issue.

See Note 2 Page 11
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We appreciate the opportunity to give an additional explanation to the State Comptrollers Audit Findings.

Thank you.

Ann M. Stacy  
Supervisor

## Appendix B: OSC's Comments on the Town's Response

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### Note 1

Officials did not always comply with the Town's purchasing policy nor did the policy require professional services to be competitively procured.

### Note 2

While the State has procurement guidelines that apply to State agencies, the guidelines are not intended for local governments. As officials update the Town's procurement policy, we encourage them to refer to our publication *Local Government Management Guide: Seeking Competition in Procurement*. This publication is available on our website at: [www.osc.state.ny.us/localgov/pubs/lmgmg/seekingcompetition.pdf](http://www.osc.state.ny.us/localgov/pubs/lmgmg/seekingcompetition.pdf)

## Appendix C: 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 Board members and other Town officials, and reviewed relevant laws and the Town's procurement policy and procedures, to gain an understanding of the procurement process.
- We reviewed disbursement data to identify purchases that were subject to being procured by obtaining competitive bids or quotes or by issuing RFPs. We analyzed the disbursement data based on vendor name, amount and invoice description to identify which, if any, method of seeking competition would be appropriate. We excluded certain costs and payments from our test, such as payroll costs, payments to other governments and annual payments to vendors that did not meet the policy's thresholds for obtaining written quotes. We identified 83 disbursements totaling \$389,255 that, in our professional judgment and according to the Town's policy and good business practice, would require officials to obtain competitive bids or quotes or to issue RFPs to obtain the purchases.
- We reviewed all seven purchase and public works contracts (32 disbursements) totaling \$287,469 that the Town entered into during our audit period that exceeded the procurement policy bidding threshold of \$10,000. We reviewed documents to assess whether the procurements were properly bid or made using State or county contracts.
- We identified 18 purchases totaling \$69,066 that should have been procured by obtaining written quotes, according to the procurement policy. We reviewed claims and related documentation to determine whether officials obtained and documented quotes as required.
- We reviewed 33 disbursements to five professional service and insurance providers totaling \$32,720. We interviewed officials and reviewed available documentation to determine whether they issued RFPs or obtained quotes to procure these services.
- We obtained written representations from Board members and the Superintendent that disclosed their outside employment and business interests, and those of their spouses. We compared the disclosures to cash disbursement records generated during the audit period to determine whether the Town entered into any financial transactions that could conflict with key decision-makers' outside business interests.

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

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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 D: Resources and Services

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### **Regional Office Directory**

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

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

[www.osc.state.ny.us/local-government/publications](http://www.osc.state.ny.us/local-government/publications)

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

[www.osc.state.ny.us/local-government/fiscal-monitoring](http://www.osc.state.ny.us/local-government/fiscal-monitoring)

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

[www.osc.state.ny.us/local-government/publications](http://www.osc.state.ny.us/local-government/publications)

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

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

[www.osc.state.ny.us/files/local-government/publications/pdf/cyber-security-guide.pdf](http://www.osc.state.ny.us/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.state.ny.us/local-government/required-reporting](http://www.osc.state.ny.us/local-government/required-reporting)

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