

Town of Harford

Highway Asset Accountability and Procurement

DECEMBER 2019



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

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Report Highlights

Town of Harford

Audit Objectives

Determine whether Town officials adequately safeguarded Highway Department (Department) assets.

Determine whether Town officials used a competitive process to procure highway goods and services and complied with statutes related to conflicts of interest.

Key Findings

- The Highway Superintendent did not maintain a complete inventory of Department assets and the Board did not adequately safeguard those assets.
- A Board member had a prohibited conflict of interest totaling \$4,400.
- The Town overpaid for fuel by \$5,600.

Key Recommendations

- Create an inventory list of Department assets and annually review the list to ensure asset accountability.
- Ensure fuel purchases are verified to the State contract price.
- Ensure elected and appointed officials and employees do not have a prohibitive conflict of interest in Town contracts.

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

Background

The Town of Harford (Town) is located in Cortland County (County). The Town is governed by an elected Board composed of a Supervisor and four Board members. The Board is responsible for the general management and control of financial operations. The Supervisor serves as the chief executive and chief fiscal officers.

The Town has a separately elected Highway Superintendent (Superintendent), who is responsible for overseeing all Department operations, which includes purchasing highway related goods and services, providing road maintenance and maintaining an inventory of assets.

Quick Facts

2019 Highway Budget	\$392,800
Road Miles	22.79
Highway Employees	3 Full-time, 1 Part-time

Audit Period

January 1, 2018 – May 31, 2019

Highway Asset Accountability

How Do Officials Adequately Safeguard Highway Department Assets?

Town officials are obligated to act in a fiscally responsible manner and in the best interest of taxpayers. The highway superintendent is required to annually submit a written inventory report of all machinery, tools, implements and equipment to the board before September 30 each year.¹ The report should include a written recommendation as to what machinery, tools implements and equipment should be purchased, together with the probable cost of each.

The superintendent should ensure that highway department assets are secured and seek board approval before disposing of assets that are no longer needed. The board should approve the sale or disposal of these assets. Planning for future needs and replacements is enhanced if disposals are made pursuant to a board approved asset disposition policy.

Officials Did Not Always Adequately Safeguard Department Assets

The Superintendent purchases, safeguards and disposes of highway assets with minimal Board oversight. The Superintendent maintained an inventory list for some Department assets. However, he did not maintain an inventory for small equipment, implements and tools and did not annually submit an inventory report to the Board, as required. Furthermore, although officials discussed selling equipment at Board meetings, the Superintendent did not always report to the Board when equipment was sold and the Board did not formally approve all asset sales.

We attempted to locate the seven assets on the inventory list (three trailers, three dump trucks and a pick-up truck) at the highway facility and existing jobsites and found one asset, a trailer, was erroneously still being insured because it was no longer in the Town's possession and sold before our audit period.

Our review of seven purchases totaling \$25,975 for equipment, tools and supplies made during the audit period disclosed that all these items were located at the highway facility and the amount of supplies used was reasonable.² However, we found that 32 items in the highway garage should have been listed on the Superintendent's inventory report, such as, a pressure washer, air compressor, floor and hydraulic jacks and stands, various wrenches and sockets.

While the sales of three surplus Department assets totaling \$28,100 (a tractor, a rake and a pick-up truck) were documented in the Board minutes and the proceeds for these sales were reasonable and deposited into the Town's bank account, the Board only approved two of these sales. The Superintendent sold the pickup truck for \$23,000 without approval. We were unable to determine

1 New York State Highway Law, Section 142

2 Refer to Appendix B for information on our sampling methodology.

whether there were other asset sales during our audit period because the Supervisor did not maintain a complete inventory list.

These discrepancies occurred because the Superintendent and the Board were unaware of the statutory requirements for maintaining a written inventory. Also, the Board was unaware it needed to periodically verify accountability over Department assets. Further, the Board did not establish adequate policies and procedures to oversee these assets, such as procedures for disposing of unneeded assets through an asset disposition policy. Although we did not find any indication of missing assets, due to the lack controls over Department assets, there is a significantly increased risk that assets could be lost, stolen or sold without detection.

What Do We Recommend?

The Superintendent should:

1. Complete and maintain an inventory of Department assets, including all machinery, tools implements and equipment, and annually submit this list to the Board before September 30 each year.
2. Periodically reconcile the asset lists to physical inventories and provide the reconciliations to the Board.
3. Receive prior Board approval to sell assets and report to the Board when property is sold.

The Board should:

4. Ensure that the Superintendent maintains an inventory list, periodically reconciles the lists to physical inventories, make recommendations for assets to be sold and reports when assets are sold.
5. Establish an asset disposition policy and procedures for the sale of unused assets and formally approve the sale or disposal of assets deemed surplus or obsolete.

Procurement

How Should Officials Procure Highway Goods and Services?

The board and superintendent should ensure that highway purchases are appropriate expenditures and comply with New York State General Municipal Law (GML) requirements.³ GML allows the town to procure goods from contracts bid by other governmental entities, such as county or New York State (State contract).

GML requires the board to adopt written procurement policies and procedures for goods and services not required by law to be competitively bid.⁴ GML states that goods and services must be procured in a manner that ensures prudent and economical use of public funds in the best interest of taxpayers, and is not influenced by favoritism, extravagance, fraud or corruption.⁵

A town's procurement policy should outline alternative competitive methods and require adequate documentation of actions taken. Using competitive bidding, sending out requests for proposals or obtaining written and verbal quotes are effective ways to ensure that the town receives the desired goods and services for the best price.⁶ The board should review the policy annually, update it as necessary and ensure that all town officials and employees are familiar with the policy and GML requirements.

The Town's procurement policy requires officials to obtain two written quotes for all purchases between \$5,000 and \$10,000 and requests for proposals and three written quotes for all purchases between \$10,000 and GML competitive bid thresholds.⁷

Officials Need To Improve Procurement Procedures

The Town's procurement policy was last updated in December 2012 and officials were unaware of the requirement to annually review the policy or that the policy existed.

We reviewed all 33 purchases totaling \$55,900 for gasoline, diesel and heating oil that were made during the audit period. In addition, we reviewed four purchases totaling \$24,600 that required competition to determine whether officials followed the procurement policy for these purchases. Although the Town generally purchased from State contract, we found the following:

3 New York State General Municipal Law (GML), Section 103

4 GML, Section 104

5 Ibid.

6 Refer to our publication *Seeking Competition in Procurement* available on our website at www.osc.state.ny.us/localgov/pubs/lgmng/seekingcompetition.pdf.

7 Amounts for goods and services per GML, Section 103 are \$20,000 or more for purchase contracts and \$35,000 or more for public works contracts.

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- While the Town purchased fuel from a State contract vendor for the majority of 2018, the Town did not obtain the required preapproval to receive the State rate. Therefore, the vendor charged the market rate, resulting in the Town overpaying for fuel by at least \$5,600 during our audit period.
 - Officials did not seek competition for two purchases of specialty equipment (a tilting plow hitch and a truck sander conveyor belt) for \$18,000 in accordance with the policy. The Superintendent did not maintain quotes showing that competitive pricing was obtained. We were unable to determine whether the prices paid were reasonable because no comparable pricing was available due to the special nature of the equipment purchased.
 - Officials purchased a new pickup truck totaling \$34,700 that was not competitively bid or purchased from a State contract as required by the policy and GML. We determined the purchase price was reasonable.

These discrepancies occurred because officials were unfamiliar with the policy, they approved invoices for payment without adequate documentation and did not ensure that the fuel vendor supplied fuel at the State contract pricing.

Although we found these purchases to be legitimate expenditures, when the Board does not ensure officials comply with the law and its own policies, it cannot be certain that goods and services are procured in the most economical way and in the best interest of taxpayers.

What Is a Conflict of Interest?

GML limits the ability of municipal officers and employees to enter into contracts in which both their personal financial interests and their public powers and duties conflict.⁸ Unless a statutory exception applies, GML prohibits municipal officers and employees from having an interest in contracts with the municipality for which they serve when they also have the power or duty – either individually or as a board member – to negotiate, prepare, authorize or approve the contract; authorize or approve payment under the contract; audit bills or claims under the contract or appoint an officer or employee with any of those powers or duties. For this purpose, a contract includes any claim, account, demand against or agreement with a municipality.

Municipal officers and employees have an interest in a contract when they receive a direct or indirect monetary or material benefit as a result of a contract. Municipal officers and employees are also deemed to have an interest in the contracts of their spouse, minor children and dependents (except employment contracts with the municipality); a firm, partnership or association of which they are a member or

8 New York State General Municipal Law (GML), article 18

employee and a corporation of which they are an officer, director or employee, or directly or indirectly own or control any stock.

As a rule, interests in actual or proposed contracts on the part of a municipal officer or employee, or his or her spouse, must be publicly disclosed in writing to the municipal officer or employee's immediate supervisor and to the governing board of the municipality and included in the official board minutes.

A Board Member Had a Prohibited Interest in a Town Contract

A Board member is the owner of a gravel pit business from which the Town purchased gravel.⁹ During our audit period, Town officials made one purchase from the gravel pit business totaling \$4,400. The purchase of gravel by the Town from the gravel pit business resulted in an "agreement" for the sale of goods at a certain price with the Town and, thus a "contract" for purposes of article 18 of GML.

As an owner of the gravel pit business, it appears that the Board member had an interest in the contract because he received either a direct or indirect monetary or material benefit as a result of the contract.¹⁰ As a member of the Board, the Board member also has one or more of the powers and duties that can give rise to a prohibitive interest, including the ability to authorize or approve contracts, authorize or approve payments under contracts, audit bills or claims under the contract or appoint someone to perform that function.

Accordingly, because we found no indication that any of the statutory exceptions applied to these circumstances, it appears that the Board member had a prohibited interest in the contract between the Town and the gravel pit business.

Although our testing did not reveal any irregularities in pricing, when officials, in their private capacities, conduct business with the Town for which they serve, such transactions may create an actual conflict of interest or, at a minimum, the appearance of impropriety.

What Do We Recommend?

The Board should:

6. Review its procurement policy annually and update where necessary.
7. Ensure goods intended to be purchased from State contracts are properly pre-approved and obtained for the proper rate.

⁹ Based on conversations with the Board member, it is our understanding that this gravel pit business is organized as a sole proprietorship.

¹⁰ Documents showed that Town paid the Board member directly for the purchase of gravel.

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8. Ensure officials comply with policies and statutes requiring competition when procuring goods and services and maintain adequate records of quotes obtained for purchases.
 9. Ensure officials and employees are familiar with and follow the requirements of article 18 of GML as they relate to conflicts of interest.

The Superintendent should:

10. Make purchases in accordance with procedures, policies and the law.
11. Document quotes obtained to ensure purchases are made in the most economical way.

Appendix A: Response From Town Officials

Town of Harford
P.O. Box 120
Harford, N.Y. 13784
607-844-4091

To: Binghamton Regional Office

From: Harford Town Supervisor

Purpose: Response to Audit

The Town of Harford would like to thank [REDACTED] for conducting our audit in a professional and timely manner while providing insight and guidance as needed. .

Your findings determined that the Highway Superintendent did not maintain an adequate inventory of asset and the Town Board did not safeguard the assets. A Board member had a conflict of interest totaling \$4, 400 and the Town overpaid for fuel in the amount of \$5, 600.

With the New Year comes a new Highway Superintendent, he will attend Newly Elected Officials training. Spreadsheets are being created in order to maintain inventory and tools will be provided to him to track fuel prices. Also Town officials will no longer have conflicts of interest regard Town contracts.

The Town Board agrees with your findings and is committed to fixing the issues in a timely fashion.

Thank you!

David Stoner



Harford Town Board

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

- We interviewed Town officials to gain an understanding of the Town's highway operations, internal controls over assets, policies and procedures, purchasing activities and oversight of the highway operations.
- We selected all items from the Town's insurable asset listing to determine whether the equipment was still in the Town's possession.
- We randomly selected and reconciled two months of fuel activity to determine whether accountability existed over fuel use. We also compared 12 months of fuel logs to meter readings to determine whether there were variances between the two and the reasons for the variances.
- We reviewed all fuel purchases made during the audit period and examined the amounts paid per gallon to determine whether the Town paid the proper fuel prices.
- We used our professional judgment to select three commonly purchased bulk road material purchases (salt, sand and gravel). We reviewed our sample to determine whether the vendor was awarded an OGS or County contract and the materials supplied were at the approved contractual prices.
- We judgmentally selected seven purchases that were greater than \$250 to determine whether the purchase price was reasonable, the item was still in the Town's possession, the price paid was reasonable, and if required, the purchase was made in accordance with the Town's procurement policy and GML.
- We requested that all Board members and the Superintendent complete conflict of interest forms to determine whether there were possible prohibited conflicts of interest. We searched the Cortland County Clerk documents for corporation and sole proprietorship filings to determine whether officials were associated with any other businesses receiving payment from the Town.
- We reviewed the only purchase for gravel from the Board member's property totaling \$4,400 to determine whether the price paid was reasonable and whether any prohibited conflict of interest existed.

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 objective. We believe that the evidence obtained provides a reasonable basis for our findings and conclusions based on our audit objectives.

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 the relevant population size 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 Clerk's office.

Appendix C: Resources and Services

Regional Office Directory

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

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

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#lmgm

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

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

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

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

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

Contact

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Division of Local Government and School Accountability
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www.osc.state.ny.us/localgov/index.htm

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

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