

Cayuga County

Procurement and Claims Audit

APRIL 2019



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

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Report Highlights

Cayuga County

Audit Objective

Determine whether County officials procured goods and services in accordance with the procurement policy and statutory requirements.

Determine whether claims were adequately supported and properly audited before payment.

Key Findings

County officials:

- Did not seek competition for aggregate purchases from nine vendors totaling approximately \$746,000 or from 14 professional service providers totaling \$2.7 million.
- Allowed the credit card company to directly withdraw 25 payments totaling \$77,615 from the bank account.

The Clerk of the Legislature did not:

- Audit 26 claims totaling \$76,804 before payment and approved 25 claims totaling \$50,439 that were not adequately supported.

Key Recommendations

- Consider the aggregate amount to be expended for the same or similar type of goods or services when determining whether competitive bidding is required and develop procedures for procuring professional services.
- Ensure all claims are adequately supported and audited before payment.
- Discontinue allowing third-party access to directly withdraw funds from County bank accounts.

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

Background

Cayuga County (County) is located in the central part of New York State. The County encompasses 23 towns, eight villages and one city. The County is governed by the County Legislature (Legislature), which is composed of 15 elected members, one of whom serves as the Chairman. The Legislature is responsible for the general oversight of financial affairs and safeguarding resources. The Chairman is the chief executive officer and the elected County Treasurer (Treasurer) is the chief fiscal officer.

The County Administrator (Administrator) is appointed by the Legislature as the County's chief administrative officer and is charged with overall administrative operation under the Legislature's direct supervision. The Administrator oversees and coordinates operations and is responsible for implementing the Legislature's policies and procedures. The Administrator also acts as the purchasing agent.

Quick Facts

Population	80,000
2018 Appropriations	\$146 million
Total Non-payroll Disbursements 1/1/17-7/23/18	\$83.61 million

Audit Period

January 1, 2017 – December 11, 2018

Procurement

How Should a County Procure Goods and Services?

Under New York State General Municipal Law (GML)¹ counties are generally required to advertise for competitive bids when procurements exceed certain dollar thresholds. GML generally requires counties to solicit competitive bids for purchase contracts involving expenditures in excess of \$20,000 and contracts for public works in excess of \$35,000. In determining whether the threshold will be exceeded, the county must consider the aggregate amount reasonably expected to be expended for all purchases of the same or similar commodities to be made within the twelve-month period commencing on the date of purchase, whether from a single vendor or multiple vendors.²

GML requires the governing board to adopt written procurement policies and procedures for procuring goods and services not required by law to be competitively bid, such as professional services.³ GML states that goods and services must be procured in a manner that ensures the prudent and economical use of public funds, in the best interest of taxpayers, and is not influenced by favoritism, extravagance, fraud or corruption.⁴ Using request for proposals (RFPs)⁵ or obtaining written or verbal quotes is an effective way to ensure that the county receives the desired services for the best price.⁶

A county's procurement policy may set forth circumstances when, or types of procurements for which, in the sole discretion of county officials, the solicitation of alternative proposals or quotations will not be in the county's best interest. The policy should require adequate documentation of all actions taken with each method of procurement and require justification and documentation of any contract awarded to other than the lowest responsible dollar offeror.

Additionally, although an exception to the competitive bidding requirements, seeking competition for professional services helps ensure the prudent use of taxpayer money. One way to promote competition in professional services is to issue an RFP because it helps ensure that the county obtains needed services under the most advantageous terms and conditions as well as helps to avoid

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

2 Ibid.

3 GML, Section 104-B. Professional services generally include services provided by attorneys, engineers and certain other services requiring specialized or technical skills, expertise or knowledge; the exercise of professional judgment; or a high degree of creativity.

4 GML, Section 104-B

5 An RFP is generally a document that provides detailed information concerning the type of service to be provided including minimum requirements and, where applicable, the evaluation criteria that will govern the contract award. Evaluation criteria can include factors in addition to price (e.g., experience, work plans and methodology to achieve desired results and estimated completion times).

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

any potential appearance of partiality when awarding such contracts. Further, a written agreement is essential for establishing the services to be provided, the timeframes for those services, the basis for compensation, and other terms and conditions.

The County's procurement policy (policy) is set forth in its purchasing manual and requires that the Administrator administer and oversee all purchasing functions. Each procurement request is to be examined by the Administrator's office and processed according to the guidelines set forth in the manual. The Administrator's office is required to maintain adequate documentation of all actions taken in connection with each method of procurement, which shall include but not be limited to, resolutions, quotes, bids and contracts.

Officials Did Not Procure Goods and Services in Accordance With GML Requirements and County Policy

The County uses a requisition and purchase order system, in which individual departments submit purchase requisition requests that are subsequently approved by the purchasing department within the Administrator's office.

We reviewed all 26 purchases totaling \$2.6 million made during the audit period that were subject to competitive bidding requirements. We found that adequate evidence of bids or other relevant support for a purchase⁷ was generally available. While most bids were received by the Administrator's office, bids for highway projects were received directly by the Highway Department (department).

We did not identify any specific issues with highway project bid documents or contract awards. However, because the department seeks bids and also receives and maintains these documents, the process could be more transparent if there was better segregation of duties, such as someone other than the requesting department receiving and opening the sealed bids, and/or the supporting documentation being maintained by the Administrator's office. We also found that 12 department purchases (totaling \$1.71 million) reviewed, of which most were for paving materials, did not have an associated requisition and purchase order number noted in the financial system, and this information was not included with the supporting documentation.

We also reviewed payments to 17 vendors (totaling \$1.5 million) whose payments, when aggregated, exceeded the competitive bidding thresholds set forth in GML over a 12-month period. County officials paid nine vendors a combined total of \$746,568 without soliciting bids. These payments were for goods purchased or services rendered, which we believe, were similar in nature, and if aggregated would have exceeded thresholds set forth in GML for seeking

⁷ Such as State or other municipal contract information

competition. Therefore, we question whether officials considered the aggregate amount of the purchases from each vendor in determining whether bidding was required. For example, vendors were paid the following:

- \$483,968 for senior nutrition and meals. County officials told us that competition was not sought in recent years, but there was discussion to seek competition for these services in 2019.
- \$69,360 for inmate clothing and supplies from two different vendors.⁸ Employees told us that price comparisons were informally done between the two vendors before making any purchases.
- \$47,973 for correctional facility kitchen equipment. County officials told us that this equipment was available from only one source. However, no documentation was maintained to support this decision, as required by County policy.

Seeking competition in accordance with statutes and County policy helps facilitate the acquisition of goods and services of maximum quality at the lowest possible cost and guards against favoritism, improvidence, extravagance, fraud and abuse.

Officials Did Not Always Solicit Competition for Professional Services

The policy requires that County officials solicit competition for the procurement of professional services. However, written procedures for seeking competition when procuring these services have not been developed, including the specific documentation required to be maintained to support the decisions made. Officials often did not solicit competition for certain professional services. As a result, officials cannot be certain that these services were obtained at the most favorable terms and conditions in the best interest of taxpayers.

County officials obtained professional services from 63 providers who were paid approximately \$7.97 million from January 1, 2017 through July 23, 2018. We reviewed payments to all these providers and found that payments to 26 providers were for assigned counsel⁹ services and payments to 13 providers were for early intervention therapy. These services did not require competition because the rates paid are established by law and/or the State. Of the remaining 24 professional service providers, officials did not seek competition from 14 providers (58 percent) who were paid a total of \$2.7 million during this period.

⁸ Amounts paid to these vendors totaled \$25,490 and \$43,870.

⁹ Private attorneys appointed by the Court to represent indigent persons.

Figure 1: Professional Services Procured Without Competition

Professional Service Type	Number of Vendors	Total Paid
Insurance	1	\$1,046,535
Legal	6	\$680,106
Information Technology	1	\$448,466
Psych/Counseling	2	\$325,320
Engineering	1	\$118,698
Financial	1	\$44,820
Consulting/Research	1	\$22,942
Language Interpretation	1	\$16,090
Total	14	\$2,702,977

County officials told us that certain service providers were chosen because they were available from only one source or selected based on past experience and specialized services. However, officials did not maintain adequate documentation of their decisions, the rationale for selection and a detailed explanation of how they complied with the spirit of GML and their policy.

In addition, we found that 27 professional service providers, who were paid a total of \$1.25 million or 43 percent, did not have written agreements with the County. The majority of these providers (26 providers or 96 percent) were attorneys who provided assigned counsel services and a language interpreter who provided services on an as-needed basis.

Generally, we found that these professional services were for legitimate and appropriate purposes. However, when a competitive process is not used, officials lack assurance that professional services are procured in the most economical way, in the best interest of taxpayers and without favoritism. Further, without adequate written agreements the County cannot ensure that it is receiving the agreed upon services at the agreed upon or established rates, and may have limited recourse in the event that inadequate services are provided.

What Do We Recommend?

The Legislature and County officials should:

1. Consider revising their policy or adopting written procedures to specify documentation requirements for vendor selection, including the rationale for decisions made.

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2. Ensure officials and employees follow competitive bidding statutes and policy requirements, including considering the aggregate amount to be expended for the same or similar type of goods or services when determining whether competitive bidding is required.
 3. Develop procedures to award professional service contracts above a reasonable limit only after soliciting some form of competition, and provide guidance to employees for how competition should be solicited, including the use of RFPs and written or verbal quotes.
 4. Ensure the County has written agreements with all professional service providers that detail the types and timeframes of services and the compensation to be paid.

Claims Audit

How Should a County Process Claims?

The audit and approval of claims is one of the most critical elements of a county's control over expenditures. New York State County Law (County Law)¹⁰ requires the governing board to audit all claims before they are paid. A legislature also may appoint a county auditor¹¹ to assume its powers and duties to examine and approve or disapprove claims.

During the audit of claims, the legislature or county auditor must determine whether the claims are properly itemized and supported and whether the county has actually received the goods or services described in each claim. Credit card claims must be included in this process. County Law allows for the payment of certain items before audit.¹² However, any claims paid before audit should be submitted to the legislature at its next regular meeting, or to the county auditor for subsequent review and approval. Additionally, the custody and disbursement of county funds is the county treasurer's responsibility, and a county cannot delegate this duty or assign this responsibility to its bank.

Claims Were Not Adequately Supported or Audited Prior to Payment and the Bank Could Electronically Withdraw Credit Card Payments

The Legislature delegated its claims auditing responsibilities to the Clerk of the Legislature (Clerk). The County is enrolled in a program through its bank-issued credit card that pays an annual rebate based on the amount of purchases made with the credit card during the year. Because of this program, the County uses its credit card¹³ for purchasing and bill paying.

We reviewed 50 claims totaling \$92,591 paid during our audit period. We found that 25 (50 percent) of these claims totaling \$50,439 were not adequately supported and 26 claims (52 percent) totaling \$76,804 were paid before the Clerk audited and approved them. Further, four claims totaling \$1,466 (8 percent) did not go through the claims auditing process, these were disbursements from the self-insurance fund for related reimbursements or wellness incentives.

The claims we reviewed included 24 credit card claims totaling \$76,224 that were paid before audit and 10 credit card claims (totaling \$47,275) that did not include adequate supporting documentation. For example, food purchases generally did not include detailed receipts or an explanation of who made the purchase and

10 New York State County Law (County Law), Section 369

11 County Law, Section 600

12 Claims authorized to be paid before audit include claims for public utility services, postage, freight and express charges.

13 This includes an automated card integration (ACI) program that is linked to the card, which allows the County to send a payment directly to a vendor.

what the purchase was for. In addition, it was unclear from certain supporting documentation for travel and conference credit card claims who was traveling, especially when one employee booked travel for more than one employee or official, and whether the purchase was appropriate.

While we were able to determine through review of additional documents or discussion with department employees what most of these purchases were for, this was not evident from the claims documentation originally provided and maintained by the purchasing department. In addition, none of the claims we reviewed were assembled in a logical manner, which would allow officials to confirm whether there was an approved requisition and purchase order for the claims.

County officials indicated that the credit card claims were not audited before payment because the credit card account was set up for automatic semi-monthly payments from the County's bank account. After the credit card automatic withdrawals are made, staff in the Treasurer's office prepare a reconciliation of the credit card statement to the warrant (list of paid claims). Additionally, the Clerk generally does not audit these claims until after the withdrawals are made.

While officials told us that the credit card company automatically deducted payments from the general checking account twice each month,¹⁴ such withdrawals were not made pursuant to any written agreement with the bank. Because all expenditures must be initiated by the Treasurer,¹⁵ a third-party should not be allowed to directly access County funds. Further, neither the Treasurer nor any other County official approved these payments before the withdrawals were initiated.

The failure to audit all claims before payment increases the risk that County officials may pay claims that are inadequately supported or for improper purposes. Furthermore, allowing direct access to bank accounts for withdrawal of funds places cash at unnecessary risk for loss or misappropriation.

What Do We Recommend?

County officials and the Clerk of the Legislature should:

5. Ensure all claims are adequately supported and audited before payment.

County officials should:

6. Discontinue allowing the credit card company access to the bank account to withdraw funds.

¹⁴ This included 25 payments totalling \$77.615 in our testing.

¹⁵ County Law, Section 550

Appendix A: Response From County Officials



County of Cayuga

Office of the Chairperson
Hon. Tucker M. Whitman

April 3, 2019

Division of Local Government and School Accountability
Office of the State Comptroller
16 West Main Street
Rochester, New York 14614

RE: Cayuga County Draft Procurement & Claims Audit

Dear Chief Examiner Grant:

This letter is in response to the *Draft Procurement and Claims Audit*, which was reviewed and discussed at the exit conference on March 26, 2019. On behalf of the Cayuga County, we would like to thank the staff at New York State Comptroller's Office for taking the time to review, analyze and suggest ways to improve our procurement and accounts payable processes.

We are constantly looking at ways to develop our policies and procedures and view this report as a tool to help us target areas where we can improve. With recent and planned changes in our staff, we have already begun looking at ways to improve our processes, and have already begun planning and implementing corrective actions related to many of the findings and recommendations. Cayuga County is in agreement with the findings, and we will work towards advancing specific policies and procedures to address the OSC's findings.

We would like to thank the field staff who performed the audit for their insight, professionalism, and courtesy. The suggestions from this audit will help the County maintain stronger fiscal controls in the future.

Respectfully,

A handwritten signature in black ink, appearing to read "Tucker Whitman".

Tucker Whitman
Chair, County Legislature

A handwritten signature in black ink, appearing to read "Justin Woods".

J. Justin Woods, JD, MPA
County Administrator

cc: County Legislature, County Treasurer, County Attorney

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 objective and obtain valid audit evidence, our audit procedures included the following:

- We interviewed officials and employees to gain an understanding of the County's procurement and claims audit processes.
- We reviewed and evaluated the County's procurement, purchasing and credit card policies and procedures.
- We reviewed Legislative minutes for the audit period as they related to the scope of the audit.
- We judgmentally selected and reviewed all 26 purchases (totaling \$2.64 million) made during the period January 1, 2017 through July 23, 2018 that exceeded the competitive bidding thresholds. We reviewed bid documents for evidence that purchases were competitively bid and the lowest responsible bidder was selected, in compliance with GML and County policy. If the County did not solicit competitive bids, we determined whether the purchases were made using another acceptable method (from a State or other municipal contract) and whether the amounts charged agreed with the contract.
- We judgmentally selected and reviewed payments to 17 vendors (totaling \$1.5 million) whose payments, if aggregated, would have exceeded the competitive bidding dollar thresholds set forth in GML for a 12 month period. We reviewed documentation to support competition being sought for these purchases, including quotes and bids for aggregate payments made in excess of the competitive bidding thresholds, in compliance with GML and the procurement policy. When appropriate documentation was not maintained to support competition, we discussed these vendors with officials or employees to determine the potential reason.
- We reviewed all payments made to 63 professional service vendors in 2017 and 2018 totaling \$7.97 million. We reviewed documentation to determine whether County officials sought competition before awarding contracts, and used our professional judgment to determine whether the services procured were appropriate. For those services where the County did not seek competition, we asked officials and employees for an explanation.
- We determined whether the County had written agreements with the professional service providers that indicated the type and timeframes of services to be provided and the compensation to be paid.
- We judgmentally selected 50 claims (including 25 credit card claims) of 28,802 total claims (\$83.6 million) paid during our audit period for review, based on potential risk indicated by the type of purchase (e.g.,

reimbursements to employees, gift cards, food, conferences). We reviewed these claims to determine whether they were properly supported and approved before payment and were for appropriate purposes.

- We reviewed banking policies and procedures with County officials.

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 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 relevant population size and the sample selected for examination.

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 Legislature 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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