

TOWN OF WESTPORT
OFFICE OF THE INTERNAL AUDITOR



INTERNAL AUDIT REPORT

PROCUREMENT, TOWN OF WESTPORT AND WESTPORT PUBLIC SCHOOLS

IA 10-01

JULY 19, 2010

LETTER OF TRANSMITTAL

JULY 19, 2010

CHAIRMAN GARTEN AND MEMBERS OF THE TOWN OF WESTPORT'S BOARD OF FINANCE:

I respectfully submit the enclosed internal audit report entitled Procurement, Town of Westport and Westport Public Schools. This project took approximately six months to complete and I greatly appreciate the time, patience and cooperation of all parties involved in this audit.

Included in this report are a number of findings and recommendations that are intended to assist Town and Westport Public Schools administrators in identifying opportunities for strengthened controls and efficiencies. Several of the recommendations included in this report will require worthwhile commitments of time and effort to implement and are intended to result in a stronger control environment.

Thank you for the opportunity to provide this information to the Board of Finance.

Very Truly Yours,

Lynn Scully
Internal Auditor, Town of Westport

CC: GORDON JOSELOFF, FIRST SELECTMAN
JOHN KONDUB, DIRECTOR OF FINANCE
ELLIOT LANDON, SUPERINTENDENT OF SCHOOLS
NANCY HARRIS, ASSISTANT SUPERINTENDENT FOR BUSINESS
DONALD O'DAY, CHAIRMAN, BOARD OF EDUCATION
MICHAEL REA, CHAIRMAN, RTM FINANCE COMMITTEE

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A. INTRODUCTION

AUDIT OBJECTIVES, SCOPE AND METHODOLOGY

OBJECTIVES:

The objectives of this audit were to:

1. Obtain an understanding of all existing federal, state and local requirements as they relate to municipal procurement of goods and services.
2. Obtain an understanding of and document the various procurement processes for the Town of Westport, including Westport Public Schools.
3. Determine all key controls in these processes, developing and conducting analytical procedures to determine the adequacy of these controls.
4. Identify opportunities to improve efficiencies and controls in procurement processes.
5. Prepare a draft report of all findings and recommendations to review with department heads, appropriate administrators and the Board of Finance Audit Subcommittee.
6. Edit and finalize audit report for presentation to the Board of Finance.

SCOPE:

This audit was largely operational in scope, with particular emphasis upon understanding and documenting key procurement procedures at the Town of Westport (Town), including those procedures employed by Westport Public Schools (WPS). An overview of Westport's key procurement processes is presented in Section B. of this report.

Key procurement procedures under review included:

- Professional Service Contracts (PSCs);
- Bids, Quotes and Requests For Proposals (RFPs);
- Fixed Assets/Inventory;
- Credit Cards/Reimbursements;
- Agency (Special Revenue/Student Activity) Funds; and
- Utilities

METHODOLOGY:

This audit began in October, 2009 with a series of interviews involving the Town's Finance Department personnel and representatives of the WPS Business Office. Also interviewed for the purpose of their various roles in the procurement processes were the Town's Attorney's Office, the Town Clerk, the Public Works Director; and representatives of the Information Technology Department. Key processes were documented and analytical procedures were conducted with respect to bids, vendor activity and certain supporting documentation.

A great deal of information was also obtained from outside sources for this project to determine regulatory requirements, guidelines for best practices and to determine how Westport procurement compares to that of neighboring municipalities.

To ensure compliance with the Town's Charter (Chapter C38-2), Conflict of Interest Statements were obtained from 210 Town (including WPS) employees and elected officials. A copy of the current Conflict of Interest Statement along with related Charter requirements and Representative Town Meeting Rules of Procedures are attached as Appendix A of this report.

PROCUREMENT IN WESTPORT

Procurement is defined for the purposes of this report as *the obtaining, through contractual agreement, of the timely and correct delivery of goods and services at the best value for the money*. Procurement-related expenditures represent approximately 20% of the Town of Westport's operating budget in 2009-2010, calculated as follows:

Exhibit 1

| | | |
|---|-------------------|------------|
| Total Selectman's Budget 09-10 (General Fund) | 58,925,947 | |
| Less Salaries, et al | (26,173,195) | |
| Less Miscellaneous | (13,910,379) | |
| Less Debt Service | (3,050,304) | |
| Less Other Financing Uses | (355,800) | |
| | | |
| Total Other Expenditures Budgeted, Town | 15,436,269 | 26% |
| | | |
| Total Education Operating Budget 09-10 | 94,568,657 | |
| Less Salaries, et al | (76,646,164) | |
| | | |
| Total Other Expenditures Budgeted, WPS | 17,922,493 | 19% |
| | | |
| Total Adopted Budget 2009-2010 | 168,078,989 | |
| | | |
| Town - total budgeted procurement | 15,436,269 | |
| WPS - total budgeted procurement | 17,922,493 | |
| | | |
| 2009-2010 Budgeted Procurement, General Fund | 33,358,762 | 20% |

NOTE: The majority of capital expenditures involve procurement. The Town has budgeted \$467,804 in capital expenses for 2009-2010. Further, the Sewer Fund is not included in this analysis.

KEY PROCUREMENT CONTROLS

FEDERAL REQUIREMENTS

The Internal Revenue Service (IRS) requires that the Town/WPS report amounts paid to vendors who provide services (rather than goods) to the town in excess of \$600 (per calendar year) via form 1099-MISC. Most professional service contracts would fall into this category. For the calendar year 2009, payments to 265 such vendors totaled \$2.7 million, as illustrated in Exhibit 2.

Exhibit 2

| Calendar Yr Ended | Town of Westport | | Westport Public Schools | | Town + WPS | |
|----------------------|------------------|--------------|-------------------------|------------|------------|--------------|
| | # 1099s | Total | # 1099s | Total | # 1099s | Total |
| 12/31/2007 | 162 | \$ 1,063,816 | 131 | \$ 962,819 | 293 | \$ 2,026,635 |
| 12/31/2008 | 164 | 1,013,250 | 168 | 1,285,206 | 332 | 2,298,456 |
| 12/31/2009 | 110 | 1,382,012 | 155 | 1,340,279 | 265 | 2,722,291 |

STATE REQUIREMENTS

FINANCIAL REPORTING

Copies of the 1099-MISC forms sent to the IRS (referenced above) are also required to be sent to the State of Connecticut's Department of Revenue Services.

State law (General Statutes of Connecticut, Title 7, Chapter 111, Section 7-392) requires that all general purpose local governments publish at the end of each fiscal year a complete set of audited financial statements. The Town of Westport's Comprehensive Annual Financial Report (CAFR) fulfills this reporting requirement. The CAFR is usually filed with the State of Connecticut's Office of Policy and Management within 6 months of the fiscal year ending June 30. It is a valuable resource for information regarding Town of Westport procurement.

State law (General Statutes of Connecticut, Title 10, Chapter 170, Section 10-227) also requires that all local educational agencies submit an annual "certified" (by an independent public accountant) financial report/grant application to the State of Connecticut's Commissioner of Education. Certain expenditure detail and statistics are included in this report (ED001), which is due on or before September 1 for the prior fiscal year ending June 30.

Various grants administered by the State of Connecticut are associated with additional reporting requirements. The Town has budgeted for approximately \$1.4 million in State of Connecticut revenues for 2009-2010.

LOCAL REQUIREMENTS

TOWN OF WESTPORT CHARTER

As described in § C12-4 and § C7-3 below, the Town's Finance Director is the purchasing authority of the Town, including WPS. The Board of Education (BOE) designates one person to work with the Town's Finance Director with respect to procurement. Standards for purchasing are to be presented annually to the Town's Board of Selectmen and Board of Education for approval.

In practice, the Town's Finance Department employs a full time Purchasing Officer and the BOE employee designated to work with the Town in the area of procurement is the Assistant Superintendent for Business.

§ C12-4. Purchasing.

The Finance Director shall be the purchasing authority of the Town and shall supervise the manner of purchasing. No officer or employee of the Town shall make any purchase or any contract for service until the Controller has certified that there is a sufficient unexpended and unencumbered balance of the appropriation and appropriation item against which the expense is to be charged and that the purchase is consistent with the standards of purchasing provided in Section C7-3.

§ C7-3. Purchasing.

The Board of Education shall designate 1 employee to act with the Finance Director of the Town to maximize economies of purchasing in all areas practicable. The Finance Director, as Purchasing Authority, shall establish standards for purchasing, subject to approval of the Board of Selectmen and the Board of Education on an annual basis, which shall provide in part for sharing of purchases between the Town and the Board of Education and shall provide a policy of competitive bidding where appropriate.

Further, all Town contracts are subject to the approval of the Town's Board of Selectmen. The following is excerpted from § C4-2 of the Town of Westport Charter, with pertinent language in **bold type**:

§ C4-2. Powers and Meetings of Board.

A. *Powers.* The executive authority of the Town shall be vested in a Board of Selectmen, except to the extent that such authority is herein expressly granted to the First Selectman. The Selectmen shall have the powers and duties vested in them by the General Statutes, except those herein expressly vested in the First Selectman. **All contracts and any renewals, extensions, amendments or modifications of any such contract to which the Town shall be party, including grant-eligible school building projects, shall be subjected to approval by the Board of Selectmen, except contracts authorized by the General Statutes to be made by the Board of Education and contracts which any other agency of the Town may be authorized to make.** The Selectmen shall serve in an advisory capacity to the First Selectman.

The Town of Westport Charter also addresses the issue of potential conflicts of interest in § C38-2. **Conflict of Interest** below, which requires disclosure of any potential conflict to the Town Clerk's Office.

§ C38-2. Conflict of Interest.

No Town employee or any member, whether elected or appointed, of any Board, Commission, Agency, Committee, Department or of the Representative Town Meeting of the Town shall participate in any official capacity in the hearing or decision upon any matter in which such person has, directly or indirectly, a personal or financial interest. In the event of such disqualification, such fact shall be entered on the records of the commission or board.

Any Town employee or any member, whether elected or appointed, of any Board, Commission, Agency, Committee, Department or of the Representative Town Meeting of the Town shall disclose any financial interest or any personal beneficial interest, either directly or indirectly, in any contract or purchase order for supplies, materials, equipment or services furnished to or used by the Town. Such disclosure shall be immediate and thereafter shall be made annually to the Office of the Town Clerk of the Town of Westport. This disclosure shall not apply to the mere ownership of up to 5% of the outstanding shares of publicly traded companies.

No Town employee or any member, whether elected or appointed, of any Board, Commission, Agency, Committee, Department or of the Representative Town Meeting of the Town shall accept or receive, directly or indirectly, from any person, firm or corporation to which any contract or purchase order has been awarded by the Town, any money, or anything of value whatsoever, or any promise for future reward. This prohibition shall not apply to political contributions made in accordance with applicable laws and regulations, nor to items of de minimus value.

REPRESENTATIVE TOWN MEETING RULES OF PROCEDURE

The Town of Westport's Municipal Code includes a set of Representative Town Meeting (RTM) Rules of Procedure. § A162-20. **Conflicts of interest for Town Meeting members** below also addresses the issue of potential conflicts of interest.

§ A162-20. Conflicts of interest for Town Meeting members.

The Town Charter provides that no member shall, in his or her official capacity, participate in the hearing or decision upon any matter in which he or she has a financial interest. All members should be most sensitive to permitting any appearance of such a conflict to exist, even though a complete disclosure of all circumstances would show that an actual conflict did not exist in a particular case. The individual member shall decide in any given situation whether he or she is faced with such conflict. Such decision shall not preclude the Representative Town Meeting from determining that a conflict of interest does, in fact, exist; but the determination of the Representative Town Meeting shall not prevent the member from voting or participating.

NOTE: As part of this audit, signed conflict of interest statements were obtained by the Internal Auditor from 210 Town of Westport employees and elected officials. These statements are on file with the Town Clerk.

BUDGETARY CONTROLS

Most procurement activity is anticipated and budgeted for annually. Town Department Heads must carefully monitor budgetary line items and cannot exceed budgetary amounts without an approved transfer or supplemental appropriation from the Town’s general fund.

TRANSFERS

Transfers must be from and to funds within a respective department’s budget (they cannot cross over other budgets) and are subject to the following approvals:

Exhibit 3

| Transfer Amount | Approval Required |
|------------------------|---|
| Under \$3,000 | First Selectman and Finance Director (submitted to Board of Finance at next regularly scheduled meeting) |
| Over \$3,000 | Board of Finance |

The Board of Education (BOE) of WPS has authority by State Statute (General Statutes of Connecticut, Title 10, Chapter 170, Section 10-222) to transfer between accounts throughout the fiscal year. These fund transfers, therefore, are not subject to Board of Finance approval.

SUPPLEMENTAL APPROPRIATIONS

All requests for additional funds during the fiscal year are subject to Board of Finance approval. Supplemental requests in excess of \$20,000 are further subject to RTM approval.

Exhibit 4

| Supplemental Amount | Approval Required |
|----------------------------|--------------------------|
| Under \$20,000 | Board of Finance |
| Over \$20,000 | RTM |

PROCEDURAL CONTROLS

In a review of the current documented policies and procedures of the Town and WPS regarding procurement, there are certain thresholds set for purchasing goods and services which require different procedures. Exhibit 5 summarizes these thresholds.

Exhibit 5

| Current Purchasing Policies/Procedures | Town Requirements | WPS Requirements |
|---|--------------------------|-------------------------|
| Verbal Price Quotations Requisitioner must provide evidence that at least 2 (WPS requires 3) vendors were contacted and prices obtained | \$500 - 1,500 | \$3,000 - 5,000 |
| Written Price Quotations Requisitioner must provide written price quotations from at least 3 vendors | \$1,500 - 5,000 | \$5,000 - 10,000 |
| Formal Bid/Request for Proposal (RFP)/Request for Qualifications (RFQ) Bid/RFP/RFQ is advertised, specifications for purchase are provided to prospective vendors, sealed responses are obtained with opening at a specific date and time | Over \$5,000 | Over \$10,000 |

BIDS, RFPs & RFQs

In the fiscal year ending June 30, 2009, the Town of Westport (including WPS) awarded contracts for goods and/or services through a sealed bid process 64 times, as illustrated in Exhibit 6 below.

Exhibit 6

Number of Sealed Bids/RFPs/RFQs

| | 2007-2008 | 2008-2009 |
|------|------------------|------------------|
| Town | 29 | 24 |
| WPS | 36 | 40 |
| | 65 | 64 |

Currently, the bid process is overseen by the Town's Procurement Officer for Town bids only. The Assistant Superintendent for Business oversees all WPS bids and proposals.

It should be noted that there are a few larger contracts that, although not included in this list of sealed bids, have nevertheless been competitively bid through Westport’s participation in purchasing cooperatives. Examples of such contracts would be the Town’s electricity agreement with TransCanada, WPS’s electricity agreement with Constellation New Energy and the Town’s agreement for municipal solid waste services with Connecticut Resources Recovery Authority.

Further, both the Town and WPS procure through the State of Connecticut’s Department of Administrative Services (DAS). By executive order of the Governor, DAS has established and maintains a “State Contracting Portal” of contracting opportunities on the world wide web which is used by all State of CT agencies and is also available to municipalities and certain non-profits. The Town and WPS post bid information on this site and can also procure from vendors who have been awarded competitive bids from the State of CT.

There are certain other key policies and procedures that exist related to procurement, such as:

Exhibit 7

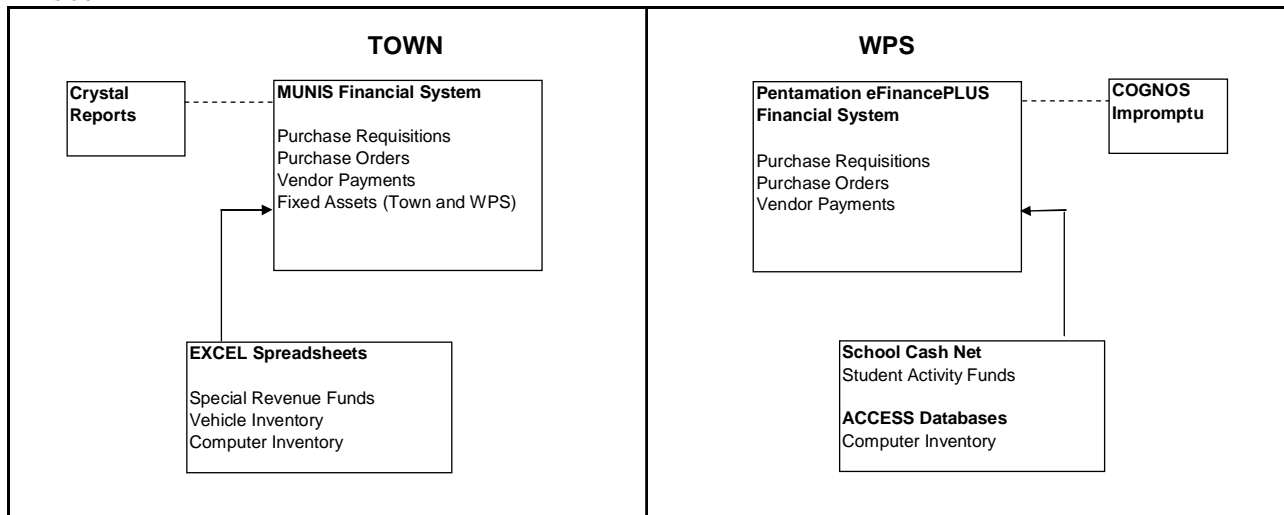
| Current Purchasing Policies/Procedures | Town Requirements | WPS Requirements |
|---|---|---|
| Sole source vendors | Written justification subject to approval by Purchasing Officer and Finance Director. | Written justification subject to approval by Asst. Superintendent for Business. |
| Emergency Purchase Orders | Subject to approval by Purchasing Officer and Finance Director. | Requisition must be faxed to Business Office and is subject to approval by Asst. Superintendent for Business. |
| Policy against “splitting PO’s” (to avoid threshold requirements) | Written policy exists against this practice. | Written policy exists against this practice. Annual report run to check for this practice. |

B. OVERVIEW OF WESTPORT'S PROCUREMENT FUNCTIONS

THE SYSTEMS ENVIRONMENT:

The following is a graphic representation of the current systems environment as it relates to the procurement functions of the Town and Westport Public Schools. A description of each application follows.

Exhibit 8



The following is a brief description of each software application presented in Exhibit 8.

Software Application

MUNIS Financial System Software

Hosted by Tyler Technologies, this financial application allows all Town departments to complete purchase requisitions electronically. Through MUNIS, approvals by department heads, the Purchasing Officer, Finance Director and First Selectman (see Procurement Thresholds on pg 10) are obtained and purchase orders are created. Vendor data is maintained within this application and approximately 10,000 vendor checks are processed through MUNIS annually.

With the exception of fixed assets, no inventory is maintained within MUNIS. Fixed(Capital) Assets (property, plant and equipment valued over \$5,000 and with a useful life in excess of one year) are now being accounted for within MUNIS, effective July 1, 2009. They were previously accounted for within a separate application, AssetMax.

NOTE: Crystal Reports, a report-writing application, is sometimes used to compile reports from MUNIS.

SUNGARD PENTAMATION eFinancePLUS Financial System Software

Hosted by SunGard, this financial application allows WPS department create and print purchase requisitions. Approvals are processed manually and requisitions are converted to purchase orders by the Accountant in the WPS Business Office. Vendor data is maintained within this application and approximately 7,000 vendor checks are processed through eFinancePLUS annually.

Fixed(Capital) Assets are not accounted for within this application.

NOTE: WPS also uses a report-writing application, COGNOS Impromptu.

Microsoft Excel Spreadsheet Software Application

The Town's Finance Department uses Excel to maintain transaction detail for funds that are not accounted for directly within the respective financial system applications. Excel is also an important tool utilized by the Town and WPS financial departments for the purposes of analysis and reconciliation.

School Cash Net – WPS uses this application to track financial activity within Student Activity Funds. WPS Business Office reviews activity within these funds.

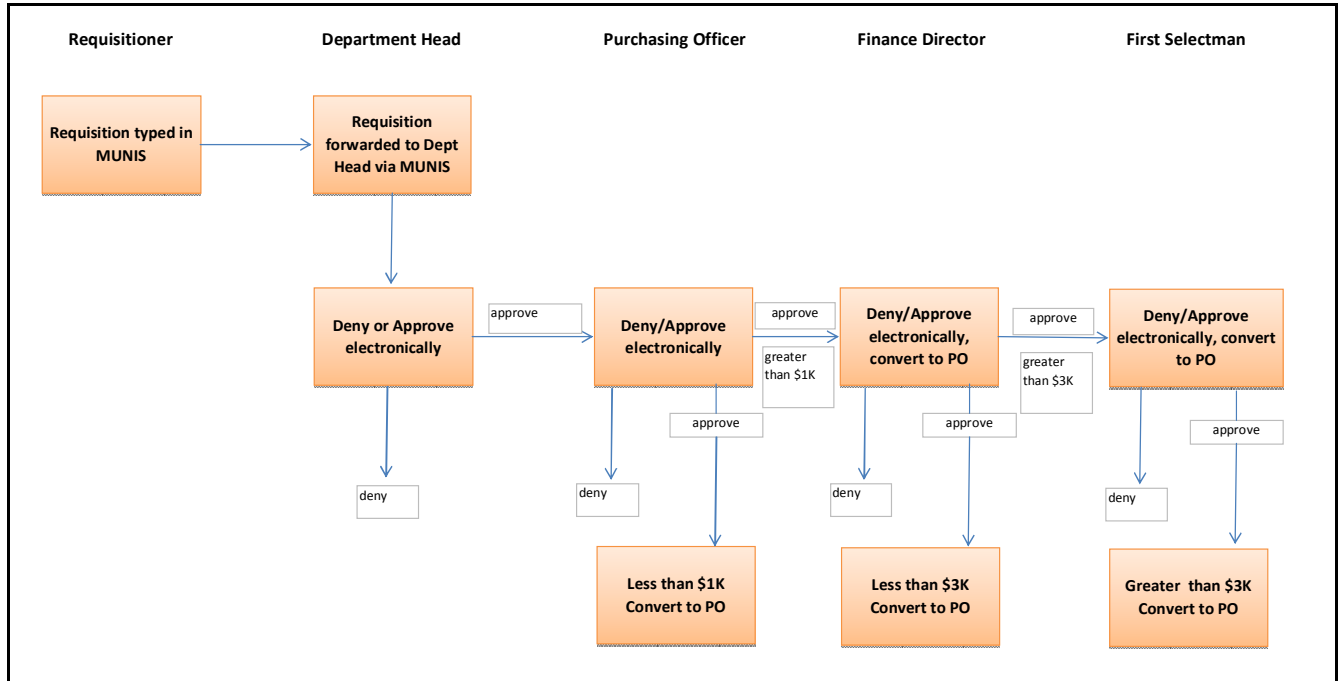
Microsoft Access Database Application

This software is used by WPS to maintain inventory of its computer equipment.

CURRENT PROCUREMENT PROCEDURES:

PROCUREMENT PROCESS – TOWN

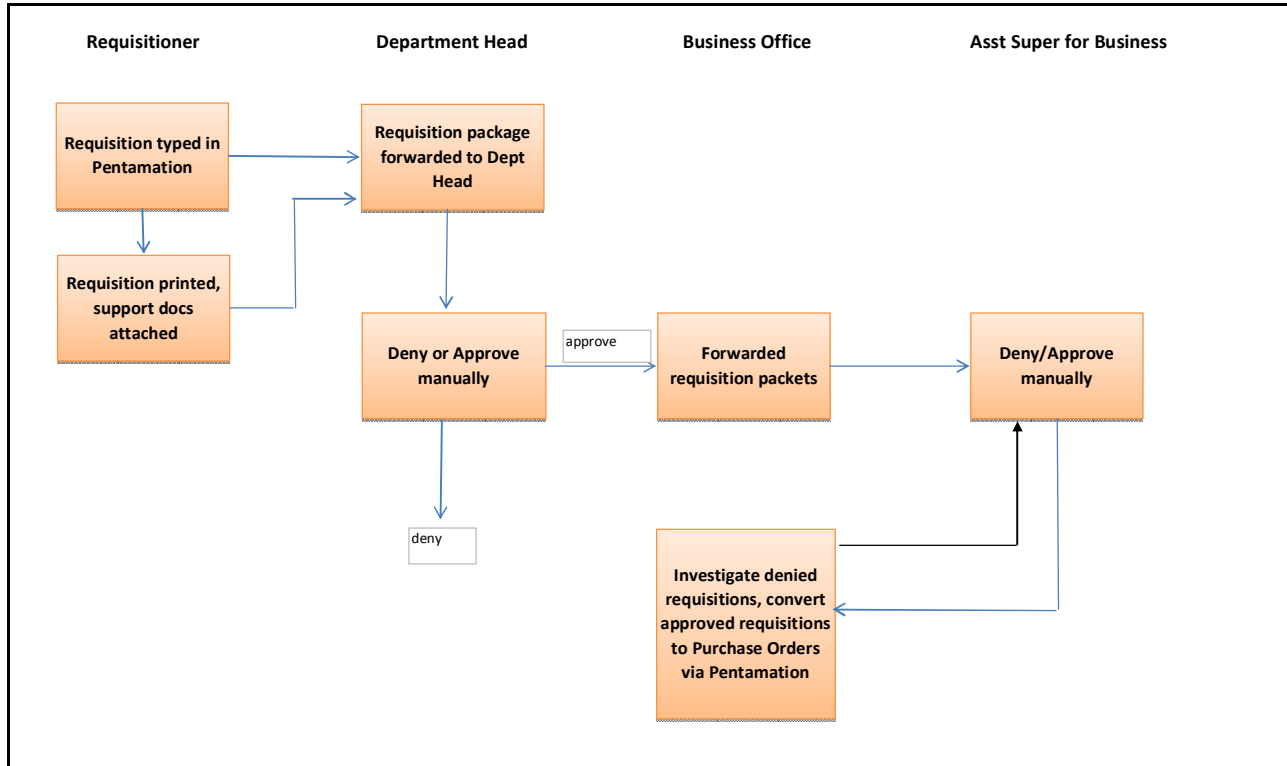
Exhibit 9



1. Requisition typed in MUNIS
2. Requisition is forwarded to Department Head
3. Requisition forwarded to Purchasing Officer
4. If less than \$ 1,000 approved/denied by Purchasing Officer (if approved, P.O. is created)
5. If more than \$1,000 but less than \$ 3,000 requisition is forwarded to Finance Director for approval/denial (if approved, P.O. is created)
6. If more than \$ 3,000, requisition is forwarded to First Selectman for approval/denial (if approved, P.O. is created). NOTE: Contracts are also subject to the approval of the Board of Selectmen.
7. All denied requisitions are returned to department head.

PROCUREMENT PROCESS – WPS

Exhibit 10



1. Requisitions are entered into Pentamation. Requisitions are printed, support documentation attached.
2. Requisitions are signed by “Manager” – Principals/Dept Heads (not approved electronically).
3. Requisition packages are batched with cover summary sheets and sent to WPS Business Office for processing.
4. Assistant Superintendent for Business reviews packages, signs indicating approval or writes notes to WPS Accountant/Office Mgr regarding outstanding questions.
5. WPS Accountant/Office Mgr resolves outstanding questions and obtains approvals/denials. Approves electronically, converting to purchase orders in Pentamation.
6. All denied requisitions are returned to department head.

MAJOR AREAS OF PROCUREMENT:

PROFESSIONAL SERVICE CONTRACTS (PSC's)

The Town and WPS routinely utilize Professional Service Contracts (PSCs) to supplement necessary professional resources. These contracts can be small, such as those the Town has with local videographers, or large, such as legal advisory services. All monies paid (in excess of \$600 annually) for professional services to non-corporate entities are subject to reporting to the IRS and State of CT Department of Revenue Services (see pg 7, FEDERAL REQUIREMENTS).

Exhibit 11

| Professional Service Contracts Policies/Procedures | Town Requirements | WPS Requirements |
|---|--|---|
| Specifications developed by | Department Head | Cost Center Managers |
| Vendor Selected By | Department Head (If bid, Purchasing Officer oversees selection process) | Department Head (If bid, Assistant Superintendent for Business oversees selection process) |
| Contract Reviewed By | Town Attorney | WPS Attorney |
| Approved By | Board of Selectmen | Superintendent of Schools/Asst Supt. for Business |
| Contract Signed By | First Selectman | Superintendent of Schools/Asst Supt. for Business |

FIXED ASSETS/INVENTORY

The Town has begun accounting for Fixed Assets (also called Capital Assets) within MUNIS since 7/1/2009 (information was previously maintained within AssetMax). While WPS does not account for any Fixed Assets within its accounting application, the WPS Business Office does provide a listing of such assets purchased to the Town's Purchasing Officer for proper recording annually. As

of June 30, 2009, the Town had approximately \$343 million in fixed assets on the balance sheet (net of depreciation).

Computers and computer-related equipment are inventoried by the Town and WPS in spreadsheet and/or database applications. Vehicle inventory for both Town and WPS is maintained by the Town's Purchasing Officer. Vehicle inventory, insofar as it involves the use of municipal license plates, is reported to the State Department of Motor Vehicles annually.

This information is also required to be maintained accurately for insurance purposes.

CREDIT CARDS & REIMBURSEMENTS

The Town has a credit card account with Staples Office Supply. This card is controlled by the Town's Purchasing Officer. WPS does not presently use credit cards.

Both the Town and WPS use the requisition/purchase order process for reimbursements to employees.

Some departments of the Town and WPS use petty cash for smaller purchases. Petty cash is also reimbursed through the requisition/purchase order process.

GRANTS

Procurement related to grants is accounted for within MUNIS and eFinancePLUS and is (at minimum) subject to the same policies and procedures. There are often further restrictions imposed by the particular grant agreements.

SPECIAL REVENUES

Special revenue funds are considered non-major governmental funds that are legally restricted to expenditures for particular purposes. There are 16 different special revenue funds with fund balances at 6/30/2009 totaling \$6.2 million. Although they are consolidated for reporting purposes, the Town and WPS account for these funds individually within their respective financial systems. Expenditures from these funds are subject to the same procurement policies and procedures.

STUDENT ACTIVITY FUNDS

Student activity funds are classified as Fiduciary Funds, which are used to account for assets held in a trustee capacity for others. There are 8 Student Activity Accounts (one in each school) and a main account that is controlled by the WPS Business Office. These funds are not subject to the same procurement policies and procedures, but are instead expended at the direction of an authorized administrator. These funds are accounted for within School Cash Net.

UTILITIES

ELECTRICITY

For the current fiscal year 2009-2010, the Town and WPS have budgeted approximately \$3.2 million in expenditures for electricity, as follows:

Exhibit 12

| 2009-2010 BUDGET | | |
|---------------------------------|-----------|---------------------|
| TOWN | \$ | 1,080,374.02 |
| WPS | \$ | 2,145,630.00 |
| TOTAL ELECTRICITY BUDGET | \$ | 3,226,004.02 |

Electricity procurement involves two major components:

| | |
|---|---|
| Electrical Supply | Provided by competitive suppliers |
| Transmission and Distribution (delivery) | Local distribution company, Connecticut Light & Power |

Both the Town and WPS have opted to purchase electrical power supply through participation in different purchasing consortiums (temporary alliances), as illustrated in Exhibit 13.

Exhibit 13

| | TOWN | WPS |
|---------------------------|--|---|
| VENDOR(S) | TRANSCANADA POWER MARKETING LTD CONNECTICUT LIGHT & POWER CONNECTICUT CONFERENCE OF MUNICIPALITIES | CONSTELLATION NEW ENERGY, INC. CONNECTICUT LIGHT & POWER |
| CONTRACT DATES | 1/1/2007 - 1/1/2012 (5-YR) | 12/1/2009 - 12/1/2012 (3-YR) |
| BUDGETED 2009-2010 | \$ 1,080,374.02 | \$ 2,145,630.00 |

Electricity - Town

The Town has 70 metered electrical accounts. Electrical supply for 56 of these accounts is purchased from TransCanada Power Marketing Ltd. at a contractual base rate of 9.26 cents per kilowatt hour (kWh), which does not include certain other (pass-through) charges. This contract was awarded as a result of the Town's participation in a Connecticut Conference of Municipalities (CCM) - sponsored procurement consortium, which involved a competitive bidding process. The Town's contract with TransCanada commenced in January 1, 2007 and remains in place through January 1, 2012. NOTE: supply for the remaining 14 metered electrical accounts is

provided by Connecticut Light & Power. Electricity is delivered by Connecticut Light & Power (CL&P).

The Town engages Bay State Consultants (out of Boxford, MA) to annually review the Town's pass through electrical charges against prior projections for budgetary purposes. Transmission and distribution costs are regulated by the Connecticut Department of Public Utilities.

These electricity-related costs are accounted for within the Town's 2009-2010 budget as follows:

Exhibit 14

| 2009-2010 | | |
|---|---------------------|----------------|
| Town Dept | Amt | |
| Dog Warden | 4,049.18 | 0.37% |
| Solid Waste Disposal | 14,000.00 | 1.30% |
| Building Maintenance | 374,020.61 | 34.62% |
| Parks & Recreation Property Maintenance | 203,358.86 | 18.82% |
| Railroad Parking | 89,010.99 | 8.24% |
| Sewage Treatment | 218,000.00 | 20.18% |
| Sewage Collection | 177,934.38 | 16.47% |
| | 1,080,374.02 | 100.00% |

Electricity – WPS

WPS has 15 metered electrical accounts. Electrical power is purchased from Constellation New Energy, Inc. at a contractual rate of 9.735 cents per kWh, which includes all pass through charges. This contract was awarded as a result of participation in a procurement consortium of local school districts which was sponsored by its legal counsel, Shipman & Goodwin, LLP.

Electricity is transmitted and delivered by Connecticut Light & Power (CL&P).

These electricity-related costs are accounted for within the WPS's 2009-2010 budget as follows:

Exhibit 15

| 2009-2010 | | |
|------------------------|---------------------|----------------|
| WPS Cost Center | Amt | |
| Coleytown Elementary | 127,050.00 | 5.92% |
| Green's Farms | 186,900.00 | 8.71% |
| King's Highway | 117,600.00 | 5.48% |
| Long Lots | 162,750.00 | 7.59% |
| Saugatuck | 172,200.00 | 8.03% |
| Bedford Middle | 292,950.00 | 13.65% |
| Coleytown Middle | 200,550.00 | 9.35% |
| Staples HS | 830,009.00 | 38.68% |
| Curriculum Center | 5,621.00 | 0.26% |
| Community Use | 50,000.00 | 2.33% |
| | 2,145,630.00 | 100.00% |

Heating Oil/Natural Gas

Both the Town and WPS purchase heating oil and natural gas from Santa Buckley Energy Services. Two Town buildings - the Fire Department and the Senior Center, are heated exclusively with natural gas. The remaining Town buildings exclusively use heating oil. WPS has dual-fuel systems (they have the capacity to be heated with either oil or natural gas) in each of its 8 schools. Given the currently lower cost of natural gas, it is expected that WPS will burn this fuel exclusively throughout the remainder of the heating season. Combined, the Town and WPS have budgeted approximately \$1.6 million for heating oil and natural gas (See finding 3e).

Water

The Town of Westport (including WPS) receives water from Aquarion Water Company. As there is only one supplier, water cannot be competitively bid. In the current budget, the Town and WPS have budgeted approximately \$1.2 million for water.

C. FINDINGS AND RECOMMENDATIONS

It should be noted that no significant internal control issues were identified as a result of this review. The following findings and recommendations are operational in nature and are intended to assist Town administrators in identifying opportunities for strengthened controls and efficiencies.

1. Information Systems

a. **Finding re: Commodity Pricing:**

MUNIS has considerable capabilities with respect to procurement. The Town has already implemented the electronic approval process (through passwords) of requisitions and conversion to purchase orders. At present, there is no attempt to classify purchases through MUNIS to facilitate interdepartmental procurement or analysis.

Recommendation(s):

MUNIS has the capability to classify purchases through the use of commodity codes. It is recommended that the Town's Finance Department investigate purchasing commodity code data (this should be available for under \$1K) and importing this information into MUNIS.

NOTE: WPS has opted not to utilize commodity code classifications within SunGard Pentamation's eFinancePLUS (WPS financial software).

2. Procedural

a. **Finding re: Inadequate or outdated documentation of policies and procedures (Town):**

The Town's Finance Department is in its second fiscal year of using the MUNIS financial system. Written purchasing policies and procedures have not been substantially updated since 2003, however.

Recommendation:

Up-to-date policies and procedures should be drafted by the Town's Finance Department to properly reflect the changes in information flow resulting from the implementation of the MUNIS financial system. This ensures a more effective internal control structure by properly communicating procedural requirements.

b. **Finding re: Routine reporting to Board of Selectmen and Board of Education:**

The Town of Westport Charter (§ C7-3. Purchasing, see page 8 of this report) requires that the Town's Finance Director provide an annual report of standards for purchasing for Board of Selectman and Board of Education approval. The main purpose of this provision is to ensure that

such standards are annually reviewed for appropriateness and are formally approved.

This provision also requires that the Finance Director include language within such standards related to efforts of shared procurement with WPS. This is to ensure that the Town and WPS are routinely seeking opportunities to procure goods and services together to take advantage of local economies of scale.

It appears that this report has not been provided since May, 2003. Further, while the Town and WPS do purchase together, there does not appear to be any formal effort to routinely meet and discuss joint procurement opportunities.

Recommendation:

It is recommended that the Finance Director, as Purchasing Authority for the Town of Westport, resume providing this report to the Board of Selectmen and Board of Education for approval annually. This reporting/approval requirement is an important element in the overall system of internal control. It establishes, on an annual basis, the “ground rules” for procurement within the Town of Westport (including WPS), ensuring that such standards are routinely analyzed, updated where appropriate and documented.

It is further recommended that meetings between the Town’s Finance Director, Purchasing Officer and WPS Assistant Superintendent for Business be conducted at least quarterly to discuss opportunities for joint procurement during the fiscal year.

c. Finding re: Approval of contracts with vendors:

In its capacity as executive authority for the Town of Westport, the Town’s Board of Selectmen is responsible for approving most of the Town’s contracts with vendors. § C4-2 of the Town of Westport Charter states that:

“...All contracts and any renewals, extensions, amendments or modifications of any such contract to which the Town shall be party, including grant-eligible school building projects, shall be subjected to approval by the Board of Selectmen, except contracts authorized by the General Statutes to be made by the Board of Education and contracts which any other agency of the Town may be authorized to make...”

It appears that the Town’s Board of Education, however, has no similar role in approving contracts between WPS and vendors. These contracts are signed by the Superintendent of Schools or the Assistant Superintendent for Business.

Recommendation:

As the Board of Education (BOE) plays a role in establishing standards for purchasing (see finding 2.b., above), major contracts (above a certain predetermined dollar amount) with vendors should also be subject to its approval. This is especially important when a contract potentially spans multiple fiscal years, in light of the BOE’s budgetary responsibilities. Further, this ensures

greater segregation of duties within the vendor selection and contractual approval processes.

d. Finding re: Insufficient backup supporting compliance with existing procedures:

In reviewing sample supporting documentation for payments to vendors, there was insufficient documentary evidence within payment packages to indicate that the Town's current policies regarding verbal quotes, written quotes, etc. were complied with. With requisitions now being submitted and approved solely through electronic means in MUNIS, there is presently no ability for departments to attach electronic versions of supporting documents to a requisition.

It should be noted that while WPS also has electronic requisitioning as part of its process, requisitions must be printed, signed and submitted through interoffice mail with all necessary supporting documentation attached.

Recommendation:

The Information Technology Director of the Town is in the process of considering electronic document management system options. Ideally, a document management system would work with MUNIS so that images of all vendor-related documents would be accessible directly through the financial system. Implementation of an electronic document management system would greatly increase efficiencies by making supporting documents instantly accessible to all users of this information and would also dramatically reduce the Town's use of paper.

This endeavor is strongly recommended. It is further recommended that WPS investigate whether its information systems can be improved through the use of this emerging technology.

e. Finding re: Professional Service Contracts:

Presently, there appears to be no documentation of procedures in place to track the Town and WPS professional service contracts, which could result in missed opportunities to opt out of automatic renewal clauses, et. al.

Recommendation:

Properly tracked professional service contracts have a tickler system in place to ensure that important deadlines are not missed. It is recommended that this monitoring function be included in the responsibilities of the Town's Purchasing Officer.

f. Finding re: Vendors:

As mentioned earlier in this report (see Key Procurement Controls, pg 7), the Town of Westport is responsible for reporting to the IRS and the State's Department of Revenue Services (DRS) payments to vendors for services provided to the Town that exceed \$600 in a calendar year. In order to meet this requirement, the Town of Westport must request form W-9 from these vendors, which provides the necessary taxpayer identification numbers for reporting purposes.

In a review of sample payment packages from the Town, there were very few W-9 forms on file.

Recommendation:

To avoid the possibility of underreporting this information to the IRS and DRS and potential associated penalties, updated Form W-9s should be required of all active vendors to the Town of Westport. This particular recommendation should be undertaken as soon as possible.

Obtaining form W-9 and properly classifying new vendors should be a first step in setting up a new vendor in the MUNIS system. A policy requiring this information should be included in the Town's documented policies and procedures as they relate to procurement.

Further, this form should ideally be included in the electronic document management system included in recommendation 2.d., above.

3. Bids, Requests for Proposal and Requests for Qualifications:

a. Finding re: Bid Thresholds:

Exhibit 5 of this report (pg 11) of this report details the thresholds required by existing Town and WPS policies. As illustrated in this exhibit, the thresholds for the Town are far lower than those of WPS.

Recommendation:

It is recommended that the Town's Finance Director and the Assistant Superintendent for Business review the current thresholds with the new Purchasing Officer to determine their reasonableness. Any adjustments to the threshold requirements should be documented and provided within updated policies and procedures and also within the annual report to the Board of Selectmen/Board of Education (reference findings 2.a. & 2.b. above).

b. Finding re: Bid complaints:

Neither the Town nor WPS appears to have documentation of policies or procedures in place specific to handling complaints from vendors regarding the bid/RFP process.

Recommendation:

Town officials should take seriously any objections or protests received from unsuccessful vendors, or indeed from any potential vendor, at any stage of a particular procurement action. Without unduly delaying the procurement process, officials should make an assessment of the objections, and the extent to which the objections present a risk to the integrity of the procurement action.

A policy and procedure should be developed to handle objections of this nature and the evaluation of the objections should involve the Town's Internal Auditor or another designated

person independent of the procurement function. This procedure should include what actions should be taken by Town of Westport officials in the event that after due process it is determined that the objections are legitimate.

c. Finding re: Bid Waivers:

Both the Town and WPS have policies in place regarding the requirements for sole-source vendors (exhibit 7, pg 5). In these instances, the requirement for formal bidding procedures is waived. Current procedures do not allow for strict control over these exceptions to bidding or proposal requirements.

Recommendation:

Exceptions to the Town's formal bidding requirements should be strictly controlled.

A bid waiver form should be developed which must accompany each purchase considered to be an exception to the Town/WPS normal bidding or proposal requirements. This form should detail the reasons for seeking a waiver of the requirements and should be signed by the associated Department Head, the Purchasing Officer and the Town's Finance Director (as Purchasing Authority). These forms should be logged and filed by the Town's Purchasing Officer.

d. Finding re: Electrical contracts:

As described earlier in this report (pgs 19-20, above), the Town and WPS presently have separate contracts with vendors for the supply of electricity, purchased through participation in different municipal consortiums.

Recommendation:

As the combined funds budgeted for electricity are equal to approximately 10% of the total budgeted procurement for the Town of Westport (including WPS), some consideration should be given to purchasing the supply of electricity jointly. The Town's 5-yr contract with TransCanada expires on 1/1/2012 and the WPS 3-yr contract with Constellation New Energy expires on 12/1/2012.

e. Finding re: Oil and Natural Gas Contracts:

Neither the Town nor WPS have gone to bid for Heating Oil and/or Natural Gas supply and services.

Recommendation:

Since approximately \$1.6 million is budgeted for heating oil and/or natural gas supply in the current fiscal year (09-10), it is recommended that the Town and WPS investigate seeking competitive bids on these contractual items jointly.

f. Finding re: Online Access to Bids:

Bid or proposal information on the Town's website is not easily accessible. A prospective vendor to the Town must submit identifying information to request a copy of specifications. Once a bid is awarded, bid results are also not posted on the Town's website.

Further, information regarding upcoming bid opportunities is maintained within two separate website (Town, and WPS) locations.

Recommendation:

A schedule of upcoming bid openings, the bid specification packets and bid award information for both the Town and WPS should be maintained in one location by the Town's Purchasing Officer.

g. Finding re: Newspaper Advertising of Bids:

Bids for both the Town and WPS are advertised in the local newspapers, despite the fact that most prospective vendors now exclusively rely upon electronic bid resources for upcoming Town of Westport bid opportunities.

Recommendation:

Newspaper advertising of bids may not be considered cost effective and the Town of Westport should consider exclusively advertising bid opportunities through electronic means. The legal ramifications of this recommended change should be further investigated.

4. Ethics

a. Finding re: Code of Ethics/Ethics Commission:

The Ethics Resource Center's 2007 National Government Ethics Survey reported that local governments have the highest incidence of observed ethical misconduct compared to other levels of government. 63% of local government employees surveyed observed incidences of ethical misconduct. By many indications in this research, what seems to matter most is the extent to which ethics is woven into the fabric of everyday work life and decision-making in government.

Of the 23 towns in Fairfield County, Connecticut, 20 (87%) have a Code of Ethics and 19 (83%) have an Ethics Commission, as illustrated in Exhibit 16 below. While there is language contained within the Town's Charter and the RTM Rules of Procedure regarding Conflicts of Interest, Westport currently does not have a Code of Ethics or an Ethics Commission.

Over the years there have been several major attempts to institute a Code of Ethics for the Town of Westport. Most notably, in April of 1985 a "Selectman's Committee on Code of Ethics," comprised of five appointed voting members and three non-voting members, presented a proposed Code of Ethics which was voted down by the RTM. Other attempts to institute a Code

of Ethics have been similarly unsuccessful.

Exhibit 16

| Fairfield County Towns | Ethics Code | Ethics Commission |
|------------------------|-------------|-------------------|
| Bethel | Y | Y |
| Bridgeport | Y | Y |
| Brookfield | Y | Y |
| Danbury | Y | Y |
| Darien | Y | Y |
| Easton | Y | Y |
| Fairfield | Y | Y |
| Greenwich | Y | Y |
| Monroe | Y | Y |
| New Canaan | Y | N |
| New Fairfield | N | N |
| Newtown | Y | Y |
| Norwalk | Y | Y |
| Redding | Y | Y |
| Ridgefield | Y | Y |
| Shelton | Y | Y |
| Sherman | N | N |
| Stamford | Y | Y |
| Stratford | Y | Y |
| Trumbull | Y | Y |
| Weston | Y | Y |
| Westport | N | N |
| Wilton | Y | Y |

Recommendation(s):

A commitment to ethics that engages all Town representatives (officials and employees) at all levels and incorporates ethical considerations into operational decisions is critical to reducing the risk of misconduct and protecting public trust in Town government. It is highly recommended that the Town of Westport consider the adoption of a code of ethics which would set forth standards of ethical conduct for those who serve or conduct business with the Town of Westport. Further, it is recommended that the Town of Westport consider the formation of an Ethics Commission to investigate potential violations and offer advisory opinions on issues pertaining to the code.

Section 7-148 of the Connecticut General Statutes authorizes (but does not mandate) municipalities to adopt a code of ethics and authorizes the creation of an ethics commission. It also creates due process requirements for complaints.

CODE OF ETHICS

There are many examples of code of ethics provisions from neighboring municipalities and from the State of Connecticut Ethics Commission. A committee such as the “Selectman’s Committee

on Code of Ethics” should be re-formed to determine form and content of a new code of ethics for the Town of Westport. At minimum, the Town’s code of ethics should be designed to prevent:

- Self-dealing;
- Undue influence;
- Bias or pre-judgment; and
- Public perception of such conduct.

ETHICS COMMISSION

Further, the Town of Westport should consider the formation of an Ethics Commission, which would serve as:

1. a *judicial* body that reviews complaints of violations of the code of ethics and
2. a *counseling* body which provides confidential advisory opinions to town officials.

The implementation of a Code of Ethics and the establishment of an Ethics Commission will be key initiatives in improving the Town of Westport’s culture of accountability, integrity and transparency.

WHISTLEBLOWER PROGRAM ORDINANCE

It is recommended that provisions for a whistleblower program be included within the proposed code of ethics. A whistleblower program provides for a process of anonymous submission of suspected wrongdoing, typically incorporating a telephone hotline or means of anonymous electronic communication. The American Institute of Certified Public Accountants (AICPA), the organization that sets ethical standards for CPAs, recommends that all organizations establish a whistleblower program designed to uncover fraud and other unethical and/or illegal activities.

These programs work best when they are supported by legislation that prohibits retaliation against employees who report potential misconduct in good faith and, to the extent permitted by law, provides for confidentiality with respect to a whistleblower’s identity.

EDUCATION

Once a new code of ethics is in place, it is important that the Town of Westport implement a program for all Town of Westport representatives focused upon ethics awareness and the new legislation.

5. Organizational

a. Finding re: Purchasing Officer:

By Charter, the Finance Director is the purchasing authority for the Town of Westport:

§ C12-4. Purchasing.

The Finance Director shall be the purchasing authority of the Town and shall supervise the manner of purchasing. No officer or employee of the Town shall make any purchase or any contract for service until the Controller has certified that there is a sufficient unexpended and unencumbered balance of the appropriation and appropriation item against which the expense is to be charged and that the purchase is consistent with the standards of purchasing provided in Section C7-3.

In practice, oversight of the procurement function is delegated to a Purchasing Officer who is an employee of the Town's Finance Department. The Purchasing Officer oversees the preparation of all Town (not WPS) bid documents, coordinating advertising and sealed bid (this includes RFPs) openings. By job description, the Purchasing Officer has limited jurisdiction over the procurement activities of WPS. All WPS procurement activity (with the exception of certain capital projects) is supervised by Assistant Superintendent for Business. Contractual agreements are signed by the Superintendent of Schools or the Assistant Superintendent for Business.

Recommendation:

The Town's Purchasing Officer position has just recently become vacant. It is, therefore, an opportune time to seriously consider the consolidation of the procurement functions of the Town and WPS. The new Purchasing Officer could easily work within the two existing financial systems to monitor vendor selection and activity.

Consolidation of the procurement functions between the two Town of Westport entities would ensure greater compliance with § C7-3 of the Town of Westport Charter, which requires identifying opportunities for sharing of purchases between the Town and Board of Education. It would also allow for a more suitable segregation of the finance and procurement functions within the WPS Business Office. Further, since the Town currently has a full time in-house attorney reviewing bid information and contracts, there is potential cost savings to WPS that relies significantly on its outside law firm for these same services.

While such procedural change would need careful consideration and planning, it makes economic and strategic sense to commit to this type of consolidation.

b. Finding re: Vendor lists:

Presently, accounts payable personnel within both the Town's Finance Department and the WPS Business Office are responsible for amendments to the vendor database. Best practices require segregation of responsibilities between procurement and payment processes – usually with procurement function responsible for maintaining the vendor database and the finance function responsible for invoice processing and accounts payable routines.

Recommendation:

The Purchasing Officer should be responsible for the integrity of the Town and WPS lists of vendors. Ideally, the ability to add a new vendor or significantly edit vendor information should be segregated from accounts payable activity. Segregating these duties would significantly decrease the risk of fictitious vendors being created. In practice, however, it is not uncommon for accounting systems allow accounts payable clerks to directly enter vendor information into the system. To mitigate the risk associated with not segregating these duties, a routine report from each financial system of all changes to vendor information should be obtained and reviewed by the Purchasing Officer so that any discrepancies can be investigated in a timely manner.

6. Other

a. Finding re: Agenda Presentation:

Budgetary requests (supplemental and transfers) that come before the Board of Finance and the RTM outside of the regular budget cycle do not presently include account numbers indicating exactly which accounts will be debited or credited. As a result, it is difficult to find an audit trail indicating approval of subsequent transfers in and out of Town accounts.

Recommendation:

If each budgetary request that comes before the Board of Finance and RTM were assigned a tracking number and MUNIS account numbers used to indicate the source and destination of these funds, there would be a clear audit trail for all budgetary adjustments. Exhibit 17 below is for illustrative purposes only.

Exhibit 17

| Agenda Item | | Debit | Credit |
|--------------------|--|--------------|---------------|
| BOF-042010-001 | Supplemental Transfer Request | | |
| | 10100000-100000 - Cash | | 500 |
| | 10101150-551000 - Advertising & Printing | 500 | |
| | unanticipated printing costs | | |
| BOF-042010-002 | Transfer Request | | |
| | 10105530-531000 - Fees & Services | 1,000 | |
| | 10105530-545000 - Facility Maintenance | | 1,000 |
| | to cover budgetary shortfall | | |

Once a transaction is approved, the tracking number (agenda item #) can be entered into the comments line when the accounting entry is made, allowing for a clear indication of where the evidence of approval for the transaction can be found.

APPENDIX A
TOWN OF WESTPORT
CONFLICT OF INTEREST STATEMENT

TOWN OF WESTPORT CONFLICT OF INTEREST STATEMENT

To: Lynn Scully, Town of Westport Internal Auditor

I _____, _____
(name) (Position/Title)
of _____,
(Board, Commission, Committee, Town Department)

acknowledge receipt of Chapter C38-2 of the Westport Town Charter and Section A162-20 of the Representative Town Meeting Rules of Procedure.

I hereby certify that I have read and understand the provisions of Chapter C38-2 and (for RTM members) Section A162-20.

(CHECK ONE)

I have no conflict of interest as that term is described in Chapter C38-2 of the Charter or, as the case may be, Section A162-20.

OR

I hereby disclose that the following may be considered a conflict of interest with my duties as an elected/appointed official/employee of the Town:

- 1.
- 2.
- 3.

Print name

Date

Sign name

§ C38-2. Conflict of Interest.

No Town employee or any member, whether elected or appointed, of any Board, Commission, Agency, Committee, Department or of the Representative Town Meeting of the Town shall participate in any official capacity in the hearing or decision upon any matter in which such person has, directly or indirectly, a personal or financial interest. In the event of such disqualification, such fact shall be entered on the records of the commission or board.

Any Town employee or any member, whether elected or appointed, of any Board, Commission, Agency, Committee, Department or of the Representative Town Meeting of the Town shall disclose any financial interest or any personal beneficial interest, either directly or indirectly, in any contract or purchase order for supplies, materials, equipment or services furnished to or used by the Town. Such disclosure shall be immediate and thereafter shall be made annually to the Office of the Town Clerk of the Town of Westport. This disclosure shall not apply to the mere ownership of up to 5% of the outstanding shares of publicly traded companies.

No Town employee or any member, whether elected or appointed, of any Board, Commission, Agency, Committee, Department or of the Representative Town Meeting of the Town shall accept or receive, directly or indirectly, from any person, firm or corporation to which any contract or purchase order has been awarded by the Town, any money, or anything of value whatsoever, or any promise for future reward. This prohibition shall not apply to political contributions made in accordance with applicable laws and regulations, nor to items of de minimus value.

§ A162-20. Conflicts of interest for Town Meeting members.

The Town Charter provides that no member shall, in his or her official capacity, participate in the hearing or decision upon any matter in which he or she has a financial interest. All members should be most sensitive to permitting any appearance of such a conflict to exist, even though a complete disclosure of all circumstances would show that an actual conflict did not exist in a particular case. The individual member shall decide in any given situation whether he or she is faced with such conflict. Such decision shall not preclude the Representative Town Meeting from determining that a conflict of interest does, in fact, exist; but the determination of the Representative Town Meeting shall not prevent the member from voting or participating.