



Westchester Library System Procurement

Report of Examination

Period Covered:

January 1, 2014 – June 23, 2015

2015M-199



Thomas P. DiNapoli

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State of New York Office of the State Comptroller

Division of Local Government and School Accountability

October 2015

Dear Library System Officials:

A top priority of the Office of the State Comptroller is to help local government officials manage government resources efficiently and effectively and, by so doing, provide accountability for tax dollars spent to support government operations. The Comptroller oversees the fiscal affairs of local governments statewide, as well as compliance with relevant statutes and observance of good business practices. This fiscal oversight is accomplished, in part, through our audits, which identify opportunities for improving operations and Board governance. Audits also can identify strategies to reduce costs and to strengthen controls intended to safeguard local government assets.

Following is a report of our audit of the Westchester Library System, entitled Procurement. This audit was conducted 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.

This audit's results and recommendation are resources for local government officials to use in effectively managing operations and in meeting the expectations of their constituents. If you have questions about this report, please feel free to contact the local regional office for your county, as listed at the end of this report.

Respectfully submitted,

*Office of the State Comptroller
Division of Local Government
and School Accountability*

Introduction

Background

The Westchester Library System (Library System) is a nonprofit, cooperative public library system, which was chartered in 1959 by the New York State Board of Regents, located in the Village of Tarrytown in Westchester County. The Library System collaborates with 38 libraries in Westchester County to provide access to resources and services and enhance and support library services for approximately 940,000 residents.

Each member library has its own board of trustees and director. The Library System works cooperatively with its member libraries to provide coordinated services to make their operations more efficient. The Library System is governed by a 15-member Board of Trustees (Board), with each Trustee being elected for a five-year term by the member libraries' board members. The Board is responsible for the general management and control of Library System financial affairs. The Board-appointed Executive Director (Director) is responsible for day-to-day operations.

The Library System works to reduce costs for the member libraries by providing programs that manage circulation; providing an online library and Internet access system; providing an online catalog of library holdings, reference databases, and downloadable audio books; and a centralized purchasing system for procuring electronic equipment and programs and library materials. The Library System also provides guidance, training and support to member library trustees and staff and operates a delivery service that transports library materials among member libraries.

The Library System's primary sources of income include State aid, fees paid by member libraries and grants to fund special projects for new and existing library services. The 2015 total budget was approximately \$6.4 million.

Objective

The objective of our audit was to evaluate the Library System's procurement processes. Our audit addressed the following related question:

- Did Library System officials ensure that all goods and services are purchased according to established laws?

Scope and Methodology

We examined the Library System's internal controls over procurement for the period January 1, 2014 through June 23, 2015.

We conducted our audit in accordance with generally accepted government auditing standards (GAGAS). More information on such standards and the methodology used in performing this audit are included in Appendix B of this report. Unless otherwise indicated in this report, samples for testing were selected based on professional judgment, as it was not the intent to project the results onto the entire population. Where applicable, information is presented concerning the value and/or size of the relevant population and the sample selected for examination.

**Comments of Library
System Officials and
Corrective Action**

The results of our audit and recommendation have been discussed with Library System officials, and their comments, which appear in Appendix A, have been considered in preparing this report. Library System officials generally agreed with our recommendation and plan to initiate corrective action.

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 forwarded 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 this plan available for public review in the Library System office.

Procurement

General Municipal Law (GML) generally requires “political subdivisions” and agencies thereof to award purchase contracts in excess of \$20,000 to the lowest responsible bidder or, in certain circumstances, on the basis of “best value.”¹ Procurements exempt from competitive bidding include purchases made from State and county contracts, emergency purchases, sole-source purchases and professional services. The New York State Comptroller has expressed the view that cooperative library systems do not fall within the definition of a political subdivision for purposes of GML’s procurement requirements and, therefore, are not subject to GML’s bidding or best value requirements when procuring goods and services for the use and benefit of the library system itself. However, because the member public libraries are subject to those requirements, the purchase of items by a library system for or on behalf of member public libraries are subject to the bidding or best value requirements, if the purchase would have been subject to bidding if it were made directly by the public library.² It is important that Library System officials adopt an adequate procurement policy to provide guidance to Library System personnel when making purchases.

We examined all purchases totaling approximately \$1.5 million made by the Library System on behalf of or for the use by member libraries during our audit period and found that officials either used a competitive method or made purchases using State or Westchester County contracts. The purchases included telecommunication services for \$346,000 purchased from a Westchester County contract, network hardware totaling \$294,000 that was competitively bid and personal computers and monitors totaling \$257,000 purchased from State contracts. In addition, the Library System purchased databases totaling \$591,000 using a request for proposals process.

¹ Entities governed by GML Section 103 may elect to award “purchase contracts” that exceed the statutory threshold (i.e., \$20,000) to a responsive and responsible offerer on the basis of best value as an alternative to an award to the lowest responsible bidder. However, the entity must first authorize the use of best value by adopting a local law, rule, regulation or resolution, as the case may be, at a public meeting. For this purpose, best value is defined, in part, as a basis for awarding contracts to the offerer that “optimizes quality, cost and efficiency, among responsive and responsible offerers.” In assessing best value, nonprice factors may be considered when awarding the purchase contract. However, when possible, the basis for a best value award must reflect objective and quantifiable analysis.

² For example, refer to the Office of the State Comptroller’s Opinions Numbers 80-35 and 77-634.

However, the Library System's purchasing policy needs to be improved because it does not address purchases made on behalf of member libraries. The policy addresses purchases made by the Library System for itself by indicating that staff must use competition when making purchases of \$100,000 or more and must obtain quotes when making purchases of lesser amounts. It does not address GML's bidding or best value requirements when procuring goods and services for the use and benefit of the member public libraries. As a result, Library System personnel do not have adequate guidance when making these purchases.

Recommendation

The Board should:

1. Modify the Library System's procurement policy to include provisions for purchases made for or on behalf of the member public libraries to ensure that staff adheres to competitive bidding laws when necessary.

APPENDIX A

RESPONSE FROM LIBRARY SYSTEM OFFICIALS

The Library System officials' response to this audit can be found on the following pages.

September 28, 2015

Ms. Tenneh Blamah, Chief Examiner
State of New York
Office of the State Comptroller
33 Airport Center Drive, Suite 301
New Windsor, NY 12553-4725

Dear Ms. Blamah:

The Westchester Library System ("WLS" or "the System") has received the Office of the State Comptroller's draft Report of Examination ("the Report") for the period January 1, 2014 – June 23, 2015. Please accept this submission as the System's response to the Report, as well as its Corrective Action Plan.

We have reviewed the findings made by the Office of the State Comptroller ("OSC") and we agree with and accept the recommendation made. As the Report notes, the existing WLS purchasing policy needs to be improved because it does not address purchases made on behalf of member libraries.

To improve the System's purchasing policy, immediate action has been taken in response to the OSC recommendation. Attachment A outlines the System's Correction Action Plan.

WLS appreciates the guidance and information provided by OSC during the audit process. We have strived to use public funds in a prudent and cost-effective manner for WLS and our member libraries. The recommended procurement policy improvements will support our ongoing efforts to provide the best possible service at the lowest cost.

Sincerely,

Terry L. Kirchner
Executive Director

Enclosure
cc: Mamadou Barry – sent via email: MDBarry@osc.state.ny.us

Attachment A

Unit Name: Westchester Library System Procurement
Audit Report Title: Report of Examination
Period Covered: January 1, 2014 – June 23, 2015
Audit Report Number: 2015M-199

For each recommendation included in the audit report, the following is our corrective action(s) taken or proposed. For recommendations where corrective action has not been taken or proposed, we have included the following explanations.

Audit Recommendation 1: Modify the Library System’s procurement policy to include provisions for purchases made for or on behalf of the member public libraries to ensure that staff adheres to competitive bidding laws when necessary.

Implementation Plan of Action: Westchester Library System (WLS) has prepared a revised Purchasing Policy to be considered by the WLS Board of Trustees at the next regularly scheduled Board of Trustees meeting. The proposed revisions to the Purchasing Policy include the addition of a competitive process for cooperative purchases made for or on behalf of WLS member public libraries when such purchases exceed the bidding threshold.

Implementation Date: The WLS Board of Trustees plans to review the proposed revised Purchasing Policy at its regularly scheduled meeting on September 29, 2015. Implementation of the revised Purchasing Policy will commence immediately upon its adoption by the Board of Trustees. WLS does not intend to make cooperative purchases on behalf of its member libraries until after adoption of the revised Purchasing Policy.

Person Responsible for Implementation: The WLS Board of Trustees, the Executive Director and Staff will be responsible for implementing this plan of action.

Name: Terry L. Kirchner
Title: Executive Director

September 28, 2015

Date

APPENDIX B

AUDIT METHODOLOGY AND STANDARDS

The objective of our audit was to examine the Library System's internal controls over procurement for the period January 1, 2014 through June 23, 2015.

To achieve our audit objective and obtain valid evidence, we performed the following procedures:

- We interviewed Library System officials to gain an understanding of the purchasing process.
- We reviewed Library System policies and procedures related to procurement.
- We reviewed the vendor history payments for 2014 and 2015 concerning purchases made on behalf of or for the use by member libraries. We reviewed these payments for purchases that, in the aggregate, exceeded the \$20,000 bidding threshold. We then reviewed all purchases that exceeded the \$20,000 bidding threshold during our audit period to determine if competitive bidding was used for the purchases.

We conducted this performance audit in accordance with GAGAS. 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.

APPENDIX C

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Andrew A. SanFilippo, Executive Deputy Comptroller
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