



# Genesee Valley Board of Cooperative Educational Services Purchasing

## Report of Examination

Period Covered:

July 1, 2014 – May 19, 2016

2016M-259



Thomas P. DiNapoli

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# State of New York Office of the State Comptroller

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## **Division of Local Government and School Accountability**

October 2016

Dear Board of Cooperative Educational Services (BOCES) Officials:

A top priority of the Office of the State Comptroller is to help BOCES officials manage BOCES resources efficiently and effectively and, by so doing, provide accountability for tax dollars spent to support BOCES operations. The Comptroller oversees the fiscal affairs of BOCES statewide, as well as BOCES' 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 BOCES operations and Board of Education governance. Audits also can identify strategies to reduce BOCES costs and to strengthen controls intended to safeguard BOCES assets.

Following is a report of our audit of the Genesee Valley BOCES, entitled Purchasing. 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 recommendations are resources for BOCES 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 Genesee Valley Board of Cooperative Educational Services (BOCES) is a public entity serving 22 component school districts in Genesee, Livingston, Steuben and Wyoming Counties. BOCES is governed by an 11-member Board of Education (Board) elected by the boards of the component districts. The Board is responsible for the general management and control of BOCES' financial and educational affairs. The District Superintendent is BOCES' chief executive officer and serves dual roles. The District Superintendent is responsible, along with other administrative staff, for the day-to-day management of BOCES and for regional educational planning and coordination. The District Superintendent also serves the State as a representative for the New York State Commissioner of Education.

The District Superintendent and the Chief Financial Officer are responsible for administering the budget and managing finances. The Board annually appoints the purchasing agent who is responsible for supervising daily purchasing activities and ensuring that the adopted purchasing policy is followed.

Combined, the component districts educate approximately 22,200 students. BOCES provides shared services in which component districts participate to enhance their individual educational programs. BOCES delivers more than 65 educational programs and administrative services to its component and participating districts. BOCES has no taxing authority and derives its financial support from the districts, as well as State and federal aid. The general fund's budgeted appropriations for the 2015-16 fiscal year totaled approximately \$56 million.

## Objective

The objective of our audit was to evaluate BOCES' purchasing practices. Our audit addressed the following related question:

- Is BOCES procuring goods and services in accordance with its purchasing policy?

## Scope and Methodology

We examined BOCES' purchasing practices for the period July 1, 2014 through May 19, 2016.

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 BOCES  
Officials and Corrective  
Action**

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

The Board has the responsibility to initiate corrective action. Pursuant to Section 35 of General Municipal Law and Section 170.12 of the Regulations of the Commissioner of Education, a written corrective action plan (CAP) that addresses the findings and recommendations in this report must be prepared and provided to our office within 90 days, with a copy forwarded to the Commissioner of Education. To the extent practicable, implementation of the CAP should begin by the end of the next fiscal year. 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. The Board should make the CAP available for public review in the Board Clerk's office.

# Purchasing

BOCES adopted a purchasing policy which provides guidance for purchasing supplies, materials, equipment and services. The policy generally indicates when BOCES officials must obtain competition, outlines procedures for determining the competitive method that will be used and describes the documentation requirements and responsibilities. Competitive methods can include publicly soliciting bids, sending out requests for proposals and obtaining written and verbal quotes. An effective purchasing policy helps ensure that BOCES officials acquire quality goods and services at the lowest possible costs and guards against favoritism, improvidence, extravagance, fraud and corruption.

We judgmentally selected and reviewed 38 paid claims totaling \$1.1 million<sup>1</sup> to determine whether BOCES complied with its adopted purchasing policy. We found that BOCES generally procured goods and services in accordance with its purchasing policy. However, the policy does not clearly describe if there are any conditions or circumstances when soliciting proposals or quotes for professional services is required. Furthermore, the bid specifications for equipment costing \$170,470 may have been too restrictive to foster competition.

## Competitive Bidding

BOCES' purchasing policy requires competitive bidding for public works contracts over \$35,000 and purchase contracts over \$20,000.<sup>2</sup> As an alternative to publicly soliciting bids, BOCES can make purchases from contracts that have been extended to local governments, school districts and BOCES by the New York State Office of General Services. Use of these contracts constitutes an exception to the competitive bidding requirements.

Bid specifications must be specific enough so that vendors have enough information to formulate sound bids but not so restrictive that they stifle fair and open competition among qualified vendors. Specifications may not contain conditions or restrictions which tend to limit the list of otherwise qualified bidders. Also, when a brand name product represents an industry-wide standard, the brand name product may be specified as a standard of supply in lieu of drafting

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<sup>1</sup> \$395,063 was paid to 11 vendors for contracts with expenditures of more than \$20,000, \$374,335 was paid to two vendors for public works contracts involving expenditures of more than \$35,000, \$270,547 was paid to 14 vendors who provided professional services and \$77,580 was paid to seven vendors for goods and services that required BOCES officials to obtain three written quotes prior to purchase.

<sup>2</sup> This provision restates the bidding requirements set forth in General Municipal Law.

specifications containing a detailed product description, provided a statement is included in the specifications indicating that products which are reasonably equivalent to the standard are acceptable. When a product is determined to be reasonably equivalent to the brand name, BOCES must accept that product as being in compliance with the specifications. Alternatively, the Board may adopt a standardization resolution that includes a full explanation as to why there is a need for standardization.<sup>3</sup> After doing so, BOCES may provide for a particular make or brand in its specifications and exclude other competitors.

We tested 13 claims totaling \$769,398 that were subject to competitive bidding. All but one purchase was properly bid or purchased using a State contract.

We found that the bid specifications for a purchase of education-related equipment may have been too restrictive to foster competition. In August 2015 BOCES solicited bids for and subsequently purchased two lathe<sup>4</sup> and two mini-milling<sup>5</sup> machines totaling \$170,470. The specifications listed the make and brand names of the machines, which matched the product description on the manufacturer's website. However, the specifications did not include a product equivalency clause. Due to these restrictive specifications, there was only one bid for this purchase, as there is only one distributor in the State for this manufacturer. BOCES also did not adopt a standardization resolution for this type of machinery. By having restrictive specifications, BOCES impeded the competitive bidding process. Also, by not adopting a standardization resolution, BOCES did not comply with all competitive bidding procedures. BOCES officials stated these specific brand name machines were purchased to meet the area business community's needs for graduates trained with this manufacturer's brand machines.

## **Professional Services**

Professional services involve specialized skill, expertise and the use of professional judgment or discretion. Therefore, the solicitation of bids or quotes for professional services is not usually required. However, it is unlikely this exception applies to contracts for relatively standardized, routine services which do not involve a degree of expertise generally present in professional service contracts included within the exception.

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<sup>3</sup> The Board may adopt a resolution by a vote of at least three-fifths to "standardize" and award purchase contracts for particular types or kinds of equipment, material, supplies or services. The standardization resolution must state that, for reasons of efficiency or economy, there is a need for standardization, and it must include a full explanation of the reasons for its adoption.

<sup>4</sup> A machine for shaping a piece of material, such as wood or metal, by rotating it rapidly along its axis while pressing a fixed cutting tool against it

<sup>5</sup> A machine tool on which work (usually) of metal secured to a carriage is shaped by rotating milling cutters

BOCES' purchasing policy states that in some circumstances or types of procurement, such as acquisition of professional services, the solicitation of alternatives proposals may not be in BOCES' best interest. However, the policy does not clearly describe if there are any conditions or circumstances where the solicitation of proposals or quotes for professional services is required.

BOCES officials did not solicit competition for any of the services provided by the 14 vendors we tested, who were paid a total of \$270,547. These services, such as a coordinator for creating a healthy schools and communities program (\$93,134) and staff development and training (\$36,000) may be relatively standardized services where BOCES officials could have solicited competition. BOCES officials indicated that some of the vendors are directly requested by school districts because they have long-standing relationships with the school districts for providing satisfactory services and that others provided unique services that could not be obtained from other vendors. However, BOCES officials did not document their rationale for not soliciting any competition, and the matter was not documented in the Board minutes. As a result, BOCES may not have ensured that the services were procured at the most reasonable cost.

### **Purchases Requiring Written Quotes**

The BOCES purchasing policy that guides the procurement of goods and services not subject to competitive bidding requires three written quotes for purchases between \$1,000 and \$19,999.

All eight claims we examined totaling \$77,580 included evidence that the required number of written quotes were obtained by BOCES officials. We noted minor deficiencies that we discussed with BOCES officials.

### **Recommendations**

The Board should:

1. Review and revise its purchasing policy to include specific language for addressing the procurement of professional services.
2. Ensure that bid specifications are written to encourage competition from multiple vendors.
3. Adopt a standardization resolution and document the economic benefits of standardization if there is need for standardization of equipment purchases.



## **APPENDIX A**

### **RESPONSE FROM BOCES OFFICIALS**

The BOCES officials' response to this audit can be found on the following page.



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October 12, 2016

Jeffrey D. Mazula  
Chief Examiner of Local Government and School Accountability  
Buffalo Regional Office of the State Comptroller  
295 Main St.  
Suite 1032  
Buffalo, New York 14203

Dear Mr. Mazula,

The Genesee Valley BOCES is in receipt of the Office of the State Comptroller's draft audit report of the BOCES' Procurement and purchasing procedures for the period covering July 1, 2014 – May 19, 2016.

The BOCES appreciates the comments and feedback within the report. The BOCES strongly agrees that creating an environment of competition in the procurement of goods and services often leads more competitive pricing and ultimately leads to the most economical use of public monies. The BOCES is also pleased that the report confirms that purchasing and procurement policies are largely being followed save for a few exceptional cases in which the report itself explained why those anomalies occurred.

We have begun to address the findings of this report and are certain that our enhanced policies and procedures will result in an improved process of procuring goods and services. In addition, our corrective action plan will be written upon the acceptance of the final audit report.

We would like to extend our gratitude to the field auditor involved in the comprehensive examination of our financial operations and his professionalism in conducting this audit. We appreciate the feedback and comments that were provided in support of our continuing efforts.

Sincerely,

Kevin M. MacDonald  
District Superintendent

Richard Wilcox  
Board of Education President

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## APPENDIX B

### AUDIT METHODOLOGY AND STANDARDS

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

- We reviewed BOCES' purchasing policies and procedures and Board minutes and interviewed BOCES officials to gain an understanding of BOCES' purchasing practices.
- We selected a judgmental sample of 38 paid claims (34 vendors) totaling \$1.1 million. Our sample was selected to cover the procurement of goods and services in the following categories:
  - Goods and services between \$1,000 and \$19,000, subject to BOCES' purchasing policy guidelines requiring three written quotes;
  - Professional services;
  - Contracts for public works involving expenditures of more than \$35,000; and
  - Purchase contracts involving expenditures over \$20,000.
- We reviewed vendor documentation, claims, bids, proposals, quotes and other relevant documentation to determine if goods and services were procured in accordance with BOCES' purchasing policy.
- We conducted an Internet search for the suppliers of the lathe and mini-milling machines to establish whether BOCES paid market rate prices for them and why only one vendor responded to the bid.

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.

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