



Otselic Valley Central School District Capital Project

Report of Examination

Period Covered:

June 1, 2011 – September 10, 2015

2015M-263



Thomas P. DiNapoli

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State of New York Office of the State Comptroller

Division of Local Government and School Accountability

January 2016

Dear School District Officials:

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

Following is a report of our audit of the Otselic Valley Central School District, entitled Capital Project. 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 district 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 Otselic Valley Central School District (District) is located in ten towns in Chenango and Madison Counties.¹ The District is governed by the Board of Education (Board), which comprises five elected members. The Board is responsible for the general management and control of the District's financial and educational affairs, including capital projects. The Superintendent of Schools (Superintendent)² is the chief executive officer and is responsible, along with other administrative staff, for the District's day-to-day management under the Board's direction.

The District operates one school with approximately 360 students and 70 employees. The District's budgeted expenditures for the 2015-16 school year are approximately \$10.2 million, funded primarily with State aid, real property taxes and grants.

In 2011, District voters approved a \$17 million capital project that included renovations and additional classroom space in one District school building, conversion of the former elementary building into a bus garage and the addition of two new buildings for storage, technology and agriculture.

Objective

The objective of our audit was to assess the Board's involvement in the District's \$17 million capital project. Our audit addressed the following related question:

- Did the Board properly oversee the District's \$17 million capital project?

Scope and Methodology

We examined various documents and records concerning the District's \$17 million capital project for the period June 1, 2011 through September 10, 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

¹ Otselic, Lincklaen, Pitcher, Nelson, Lebanon, Georgetown, Pharsalia, Smyrna, Plymouth and Eaton

² The current Superintendent began his tenure as Superintendent for the District on July 1, 2015.

population. Where applicable, information is presented concerning the value and/or size of the relevant population and the sample selected for examination.

**Comments of
District Officials and
Corrective Action**

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

The Board has the responsibility to initiate corrective action. Pursuant to Section 35 of General Municipal Law, Section 2116-a (3)(c) of New York State Education 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 must 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 District Clerk's office.

Capital Project

The Board is responsible for managing and overseeing capital projects approved by the voters to ensure that each project stays within its budget and scope. To effectively monitor projects, the Board should ensure that all procurements made are in compliance with established policies and laws, budget-to-actual financial reports are reviewed and change orders are reviewed and approved.³ Unless an exception applies, General Municipal Law (GML) provides that the Board require in its policies and procedures that District officials competitively bid purchase contracts exceeding \$20,000 and public works contracts involving expenditures exceeding \$35,000.

GML also stipulates that goods and services which are not required by law to be procured pursuant to competitive bidding, such as professional services, must be procured in a manner to assure the prudent and economical use of public money, in the best interest of the taxpayers, to facilitate the acquisition of goods and services of maximum quality at the lowest possible cost under the circumstances and to guard against favoritism, improvidence, extravagance, fraud and abuse.

The Board did not properly oversee the District's \$17 million capital project. While the completed project costs were below the amounts budgeted, the Board did not ensure goods and services were procured in compliance with GML or the District's procurement policy. In addition, the Board did not periodically obtain and review budget-to-actual financial reports or review and approve change orders. Without proper monitoring, the project could have experienced large cost overruns or work could have been performed that was outside the voter-approved project scope. Furthermore, the Board has little assurance that project goods and services were acquired in the most prudent and economical manner and without favoritism.

Procurement

When planning for capital projects, estimates should be made so that if procurements are expected to exceed the legal dollar thresholds the Board can publicly advertise the need for the procurement and award it competitively. GML further provides that, with certain exceptions, District officials secure goods and services, including professional services, through alternative means by obtaining written proposals or quotes. Using a competitive process, such as requests for proposals,

³ A change order may be needed to accommodate a discovered job condition, to add or delete portions of work or to otherwise change a condition or the amount of a contract.

helps ensure that the District obtains needed qualified services with the most favorable terms and conditions and in the taxpayers' best interest.

Our review of all expenditures made for a \$17 million capital project disclosed that District officials obtained almost \$14 million of project goods and services from 12 vendors that should have been competitively bid in accordance with GML. District officials obtained goods and services totaling approximately \$13.2 million from five of these vendors using a competitive bidding process. However, officials obtained goods and services totaling more than \$520,000 from the other seven vendors without soliciting competition as required.

Although proposals were obtained for professional services, we found no indication that the Board was involved in the proposal selection process before services were obtained. For example, a project architect was paid almost \$1.2 million, but the Board was not involved in the decision making process to determine if acquiring these services was in the best interest of the taxpayers.

Officials present during the construction of the project told us the Board relied heavily on the former Superintendent to take care of these matters. However, without seeking competition, the Board cannot be sure it expended District resources in the most cost effective manner.

Project Monitoring

The Board should review the budget-to-actual financial reports and change orders to ensure capital projects are staying within the project's budget and scope. With any construction undertaking, a certain number of changes or amendments are expected because a number of variables are unknown at the start of a project. The New York State Education Department (SED) requires change orders to be used when making official changes to a signed contract for capital construction, and that they must be signed by the Board President.

While the project remained about \$500,000 below budget, we found one instance where work was performed that was outside the original project plans.⁴ However, this work was within the spirit of performing renovations and, therefore, not misleading to taxpayers. We also found that the Board did not receive, request or review any budget-to-actual financial reports to monitor the project's costs and review and approve change orders to ensure project changes were properly authorized.

We reviewed all 109 project change orders maintained on file at the District, which increased capital project costs by approximately

⁴ Two furnace boilers were purchased and installed.

⁵ There were 93 change orders totaling \$881,165 that increased the project costs and 16 change orders totaling \$111,029 that decreased the project costs.

\$770,000.⁵ Although all of these change orders were approved by the former Superintendent, none were reviewed by the Board or signed by the Board President. In addition, two change orders for the previously mentioned furnace boilers, costing more than \$106,000, were required to be competitively bid, but we found no indication that competition was sought for this purchase.

The Board relied on verbally presented reports from the former Superintendent to provide it with information on the project's status. As a result, the Board failed to effectively monitor the project or ensure that project goods and services were procured in compliance with GML and SED requirements. If these practices continue, there remains a risk that future capital projects could incur cost overruns and not comply with legal and SED requirements.

Recommendations

The Board and District officials should:

1. Ensure that all capital project purchases are competitively bid as required by statute.

The Board should:

2. Obtain and review budget-to-actual financial reports for capital projects throughout the life of the projects.
3. Review and approve all project change orders in accordance with SED requirements.

APPENDIX A

RESPONSE FROM DISTRICT OFFICIALS

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



OTSELIC VALLEY CENTRAL SCHOOL DISTRICT

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Robert Berson, K-12 Principal – rberson@ovcs.org

January 4, 2016

Office of the State Comptroller
Binghamton Regional Office
44 Hawley Street – Suite 1702
Binghamton, NY 13901-4417

RE: Otselic Valley CSD Response to the Capital Project Report of Examination

Ladies and Gentlemen:

The Otselic Valley Central School District thanks the Office of the State Comptroller for their efforts in conducting an examination with professional and courteous execution of their duties during the course of the audit. This letter serves as both the response to the Report of Examination and provides the Corrective Action Plan associated with the recommendations contained therein. Attached is the District's Corrective Action Plan in response to the following audit report issued by your office:

- **Capital Project 2015M-263**

The District understands the findings that indicate the board did not properly oversee the \$17 million capital project. We understand and agree with the recommendations for the Board to adopt formal policies and procedures of competitive bid, budget to actual financial reports, and review and approval of change orders to more appropriately ensure the district and Board monitor future capital costs.

We appreciate your staffs' constructive comments and the opportunity for us to outline our specific plan in response to the recommendations made by your office.

Sincerely,

Mr. Daniel Henner
Superintendent of Schools

Unit Name: OTSELIC VALLEY CENTRAL SCHOOL DISTRICT
Audit Report Title: Office of the State Comptroller Audit:
Capital Project 2015M-263
Audit Period: July 1, 2014 – September 10, 2015

CORRECTIVE ACTION PLAN

Recommendation #1:

Ensure that all capital project purchases are competitively bid as required by statute.

Implementation Plan of Action(s):

The District will, and has fully implemented the process of utilizing competitive methods in accordance with the statute. The District also ensures that every bid is presented to the Board including vendor and bid amounts. The Board reviews the proposed bids, along with the project manager's recommendation during the proposal selection process before services are rendered.

Implementation Date:

November 18, 2015

Person Responsible for Implementation:

Board of Education, Audit Committee, Business Official, Purchasing Agent

Recommendation #2:

The Board should obtain and review budget-to-actual financial reports for capital projects throughout the life of the project

Implementation Plan of Action(s):

The District will implement the process of obtaining and reviewing budget-to-actual financial reports for capital projects throughout the life of the project. Quarterly reports for each open project lacking a substantial completion will be provided to the Board by the Business Official to ensure projects stay within budget.

Implementation Date:

February 17, 2016

Person Responsible for Implementation:

Board of Education, Business Official

Recommendation #3:

The Board should review and approve all project change orders in accordance with SED requirements.

Implementation Plan of Action(s):

Change orders will be presented at monthly Board of Education meetings for Board approval and will receive the Board President's signature. Should a change order approval be required before the monthly Board meeting to avoid costly delays in the project, communication to the Board members will be made via e-mail requesting informal approval until the Board meeting may occur to receive the proper approvals and signature.

Implementation Date:

January 20, 2016

Person Responsible for Implementation:

Board of Education, Business Official, Superintendent of Schools

APPENDIX B

AUDIT METHODOLOGY AND STANDARDS

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

- We conducted interviews with District officials to gain an understanding of the roles and oversight of the \$17 million project. We also reviewed Board minutes and the project brochure created for voters to gain an understanding of the project scope.
- We obtained a report of total expenditures for the project and calculated the total cost of the project to determine if it was within budget.
- We obtained a report of all disbursements made for the capital project by vendor and sorted that report to obtain a list of any supplier where bids or requests for proposals might have been required. We then reviewed Board minutes and vendor folders to determine if bids or proposals were obtained. We reviewed all vendors meeting our threshold.
- We reviewed all change orders maintained on file at the District to determine if the Board President signed them as approved and whether they met bidding threshold requirements. We also reviewed Board minutes to determine if there were any notations of the Board's review and approval of change orders or whether competitive bids were solicited, when applicable.

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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AND SCHOOL ACCOUNTABILITY

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Gabriel F. Deyo, Deputy Comptroller
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