

Selkirk Fire District

Procurement of Professional Services

JULY 2021



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

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Report Highlights

Selkirk Fire District

Audit Objective

Determine whether Selkirk Fire District (District) officials solicited competition for professional services.

Key Findings

District officials did not solicit competition for professional services.

During our audit period, District officials:

- Paid 12 professional service providers \$759,029 without soliciting competition.
- Did not issue a request for proposals (RFP) for audit services totaling \$25,200, although required by policy.
- Could not provide documentation that they used other methods to assess the accountability, reliability, responsibility, skill, education and training, judgment, integrity and moral worth of the professional service providers as required by the District's procurement policy.

Key Recommendations

- Require soliciting competition before awarding professional service contracts.
- Secure audit services through an RFP process, as required by policy.

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

Background

The District is a district corporation of the State, distinct and separate from the Town of Bethlehem in Albany County.

The District is governed by an elected five-member Board of Fire Commissioners (Board). The Board is responsible for the overall financial management of the District.

A Board-appointed Treasurer acts as the chief fiscal officer and is responsible for receiving and maintaining custody of funds, disbursing and accounting for those funds, preparing monthly and annual financial reports and meeting any other reporting requirements.

The Board is responsible for approving purchases, including professional services.

Quick Facts

2020 Expenditures	\$1,767,989
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2020 Revenues	\$1,757,433
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Annual Average Paid to Professional Service Providers During the Audit Period	\$151,806
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Audit Period

January 1, 2016 – October 31, 2020

Procurement of Professional Services

How Should Professional Services Be Procured?

New York State General Municipal Law (GML) Section 104-b requires a board to adopt written policies and procedures for the procurement of goods and services, such as professional services, that are not subject to competitive bidding requirements. GML states that goods and services that are not required by law to be bid must be procured in a manner to assure the prudent and economical use of public funds in the best interests of residents.

Professional services can involve significant expenditures. Best practices indicate that issuing an RFP for professional services helps ensure a district obtains needed services from qualified professionals at a reasonable price, and in the residents' best interest without partiality. A procurement policy may establish circumstances when, or types of procurements for which, at a board's discretion, soliciting competition through alternative proposals, quotations or competitive bidding will not be in a district's best interest. However, these exceptions should be limited and properly justified in the public interest to avoid diminishing the effectiveness of the policy.

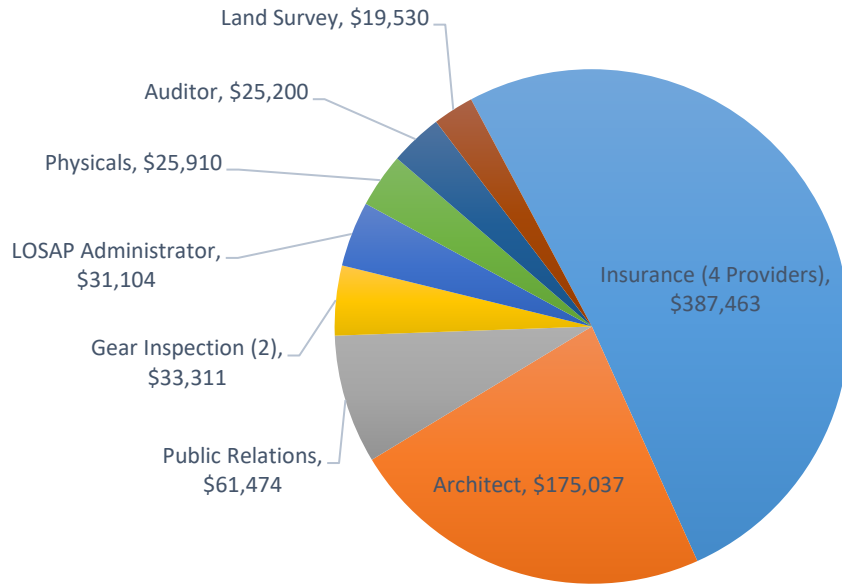
District Officials Did Not Solicit Competition for Professional Services

According to the District's procurement policy, the Board is not required to solicit multiple quotations when procuring professional services. However, professional service providers must be chosen based on accountability, reliability, responsibility, skill, education and training, judgment, integrity and moral worth. The policy also requires the Board to be guided by the best interests of the District and its taxpayers in this process.

We reviewed all 12 professional service providers paid more than \$5,000 in a year during our audit period. We found that District officials did not solicit competition for all 12 professional services provided, totaling \$759,029 (Figure 1). This includes accounting services for the annual external audit, for which the procurement policy specifically requires that officials issue an RFP. However, the District paid one audit services provider \$25,200 during our audit period without issuing an RFP or otherwise soliciting competition.

FIGURE 1

Professional Services Reviewed



The Chairman of the Board told us that the Board interpreted the policy to mean they were not required to solicit competition for professional services. However, the Board could not provide documentation that they used other methods to assess the accountability, reliability, responsibility, skill, education and training, judgment, integrity and moral worth of the professional service providers as required by the procurement policy.

Although we found the services procured were for legitimate and appropriate purposes, without using competitive methods, District officials are not assured that professional services are being procured in the most economical way and in the District's best interest.

What Do We Recommend?

The Board should:

1. Require soliciting competition before awarding professional service contracts or document why competition was not in the District's best interest for each such procurement.
2. Secure annual external audit services through an RFP process as required by the procurement policy.

Appendix A: Response From District Officials

The audit report number referenced in the District's response below has been updated to 2021M-55.



SELKIRK FIRE DISTRICT
BOARD OF FIRE COMMISSIONERS
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Charles Wickham, Chairman of the Board

Walter "Ed" Ward, Commissioner
Mitchell Lake, Commissioner
Stephanie L. Krause District Secretary

Stewart Burnham, Commissioner
Bill Asprion, Commissioner
Doug Ophardt, District Treasurer

June 21, 2021

VIA EMAIL AND REGULAR MAIL

Local Government and School Accountability
Office of the New York State Comptroller
Glens Falls Regional Office
One Broad Street Plaza
Glens Falls, NY 12801-4396

Dear Comptroller DiNapoli:

Thank you for providing your office's draft findings of Audit 2021M-51 (the "Report"). The Report has been reviewed and discussed by the Board of Fire Commissioners ("Board") of the Selkirk Fire District ("Fire District").

We appreciate the professionalism shown by OSC staff during its review of the nearly five-year time period for which your office performed the audit of Fire District operations and records. In particular, we are sincerely appreciative and proud of the confirmation in the Report that the professional services reviewed by the audit were found to be legitimate and appropriate for Fire District purposes. The thoroughness of your office's review of Fire District records should provide assurance to fire district residents that the Board scrupulously insures that taxpayer dollars are spent properly and in the best interests of the public.

While the Board regrets that your office determined that there was an insufficiency of documentation to satisfy your audit metrics, please be assured that the Board always scrutinizes the accountability, reliability, responsibility, skill, education, training judgment, integrity, and moral worth (among other attributes) of professional service providers that the Board considers retaining. We, as both taxpayers and Fire District officials, can assure your office and the Fire District's residents that the Board has in the past and continues to utilize evaluation procedures for the selection of professional vendors that assures both the retention of qualified professionals and the economical use of public funds to pay for the services.

We note that the focus of the Report was the Board's practice in retaining licensed and other qualified professionals to provide "professional services" to the Fire District. The Report acknowledges that the Fire District's Procurement Policy addresses the retaining of professionals as an exception from statutory competitive bidding procedures. The Board will continue to follow its Procurement Policy and update it as necessary. The Board will endeavor to better document the evaluation process the Fire District uses when evaluating and retaining professionals so as to assure continued compliance with the Procurement Policy and addition, to satisfy the requisites of your office.

The Board has no quarrel with the Report's finding that the Board did not issue an RFP for mandated annual audits over the years covered by the audit. However, based upon the information we reviewed from similarly situated fire districts in this area, our understanding is that the charges incurred by the Fire District for audit services were customary, reasonable, and on the lower end of the cost scale for such professional auditing services.

The Board has carefully considered the entirety of the Report as well as the two key recommendations and believes it is in the best interest of the Fire District to combine this response with its Correction Action Plan. Accordingly, this audit response is also serving as the Fire District's Correction Action Plan.

Audit Recommendation #1: Require soliciting competition before awarding professional service contracts or document or document why (soliciting) competition was not in the District's best interest for each such procurement.

Response and Implementation of Plan of Action:

The Fire District follows a Procurement Policy that specifically exempts professional services from competitive bidding as authorized by law. The Fire District will continue to follow its Procurement Policy. The Fire District will endeavor to better document the evaluation process the Fire District uses when evaluation and retaining professionals so as to assure continued compliance with the Policy and prepare and maintain qualitative or quantifiable documentation to satisfy the audit scrutiny.

Implementation Date:

Immediately

Persons Responsible for Implementation:

Board of Fire Commissioners, Fire District Treasurer, and Fire District Secretary

Audit Recommendation #2: Secure audit services through RFP process, as required by policy.

Response and Implementation of Plan of Action:

The Fire District will issue an RFP for annual audit services consistent with its Procurement Policy and Town Law §181-b following completion of the current audit contract.

Implementation Date:

July 1, 2021

Persons Responsible for Implementation:

Board of Fire Commissioners, Fire District Treasurer, and Fire District Secretary

In conclusion, the Board is pleased with the thoroughness in the OSC review of almost five years of district records, and pleased with the professionalism shown by your auditor. District

residents can be confident that the Board will insure that taxpayer dollars are always spent properly and in the best interests of the public.

Sincerely,

Charles A. Wickham Jr.
Chairman of the Board of Fire
Commissioners

Appendix B: Audit Methodology and Standards

We conducted this audit pursuant to Article V, Section 1 of the State Constitution and the State Comptroller's authority as set forth in Article 3 of the New York State General Municipal Law. To achieve the audit objective and obtain valid audit evidence, our audit procedures included the following:

- We interviewed District officials and reviewed the District's procurement policy to gain an understanding of the District's procurement practices and assess whether professional services were procured through a competitive process.
- Our audit period was determined based on time periods for planned projects and other professional services provided over multiple years. We selected our sample by reviewing cash disbursement schedules for the audit period totaling \$6,948,367 and identified all individual and aggregate payments made to professional service providers that exceeded \$5,000. Our sample consisted of \$759,029 paid to 12 professional service providers.
- We requested purchase and RFP documentation for the selected professional service providers to determine whether professional services were procured competitively.

We conducted this performance audit in accordance with generally accepted government auditing standards (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.

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.

The Board has the responsibility to initiate corrective action. Pursuant to Section 181-b of New York State Town Law, a written corrective action plan (CAP) that addresses the findings and recommendations in this report must be prepared and forwarded to our office within 90 days. 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. We encourage the Board to make the CAP available for public review.

Appendix C: Resources and Services

Regional Office Directory

<https://www.osc.state.ny.us/files/local-government/pdf/regional-directory.pdf>

Cost-Saving Ideas – Resources, advice and assistance on cost-saving ideas

<https://www.osc.state.ny.us/local-government/publications>

Fiscal Stress Monitoring – Resources for local government officials experiencing fiscal problems

www.osc.state.ny.us/local-government/fiscal-monitoring

Local Government Management Guides – Series of publications that include technical information and suggested practices for local government management

<https://www.osc.state.ny.us/local-government/publications>

Planning and Budgeting Guides – Resources for developing multiyear financial, capital, strategic and other plans

www.osc.state.ny.us/local-government/resources/planning-resources

Protecting Sensitive Data and Other Local Government Assets – A non-technical cybersecurity guide for local government leaders

<https://www.osc.state.ny.us/files/local-government/publications/pdf/cyber-security-guide.pdf>

Required Reporting – Information and resources for reports and forms that are filed with the Office of the State Comptroller

www.osc.state.ny.us/local-government/required-reporting

Research Reports/Publications – Reports on major policy issues facing local governments and State policy-makers

<https://www.osc.state.ny.us/local-government/publications>

Training – Resources for local government officials on in-person and online training opportunities on a wide range of topics

www.osc.state.ny.us/local-government/academy

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