

Spackenkill Union Free School District

Professional Services

OCTOBER 2021



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

Contents

- Report Highlights 1**

- Procurement of Professional Services 2**
 - How Should a School District Procure Professional Services? 2

 - The District Did Not Seek Competition for All Professional Services and Did Not Enter Into A Written Agreement With One Provider 2

 - What Do We Recommend? 4

- Appendix A – Response From District Officials 5**

- Appendix B – Audit Methodology and Standards 7**

- Appendix C – Resources and Services. 9**

Report Highlights

Spackenkill Union Free School District

Audit Objective

Determine whether Spackenkill Union Free School District (District) officials sought competition for the procurement of professional services and entered into written agreements with service providers.

Key Findings

District officials did not always seek competition or comply with the District's procurement policy when procuring professional services. As a result, taxpayers have little assurance that procurements are made in the most prudent and economical manner.

District officials:

- Paid six professional service providers \$987,305 without seeking competition. This represents at least 60 percent of the total paid to professional service providers during the audit period.
- Paid a professional service provider \$273,551 without a written service agreement.
- Last sought competition for District insurance policies in 2012, more than nine years ago. However, the insurance should have been competitively bid every three years.

Key Recommendations

The Board of Education (Board) should ensure professional services are completely procured and in compliance with District policy, and that written agreements are entered into.

District officials generally agreed with our findings and indicated they plan to initiate corrective action.

Background

The District is located in the Town of Poughkeepsie in Dutchess County.

The District is governed by the Board, which is composed of five elected members. The Board is responsible for the general management and control of the District's financial and educational affairs. The Superintendent of Schools (Superintendent) is the District's chief executive officer and is responsible, along with other administrative staff, for the day-to-day management under the Board's direction.

The Board appointed the School Business Manager as the purchasing agent, who is responsible for overseeing the procurement process.

Quick Facts

2020-21 Appropriations	\$48 million
# of Professional Service Providers	27
Amount Paid to Professional Service Providers	\$1.7 million
Enrollment	1,475

Audit Period

July 1, 2019 – November 30, 2020. We extended our scope back to April 2012 to review certain RFPs and January 2018 to review certain contracts' terms.

Procurement of Professional Services

How Should a School District Procure Professional Services?

Professional services are generally those services that require specialized skills, training, professional judgment, expertise and creativity such as architects, attorneys and engineers. Local governments and school districts must adopt written policies and procedures for the procurement of goods and services, such as professional services, that are not subject to competitive bidding requirements. These policies should include some type of competitive method, such as a request for proposal (RFP), to obtain these services with the most favorable terms and conditions. An RFP generally is a document that provides detailed information concerning the type of service to be provided including minimum requirements and, where applicable, the evaluation criteria that will govern the contract award. Proposals can be solicited via public advertisement, or a comprehensive list of potential vendors can be compiled with vendors contacted directly and provided with the RFP. Furthermore, provisions should be made for periodic solicitations at reasonable intervals.

The significant dollar amounts and complexities of professional service contracts increase the need to obtain quality services at competitive prices and to enter into written contracts with professionals to establish the services to be provided and the basis for compensation.

The District Did Not Seek Competition for All Professional Services and Did Not Enter Into A Written Agreement With One Provider

The Board-adopted purchasing policy generally states the District should use RFPs as a method of competitive bidding to contract for services from various professionals (e.g., architects, engineers, accountants, lawyers, underwriters, fiscal consultants, etc.) by contacting a number of professionals and request that they submit written proposals. The policy also states that the Board is not required to solicit RFPs from existing professional service contractors. Furthermore, although the policy states insurance should be competitively quoted every three years, it does not include provisions ensuring periodic solicitations of other professional services at reasonable intervals.

The District made payments totaling approximately \$1.7 million to 27 professional service providers during the audit period. We reviewed the procedures that officials used to select seven professional service providers, who were paid approximately \$1.3 million (Figure 1). District officials did not seek competition for six professional service providers who were paid \$987,305. This represents at least 60 percent of the total officials paid to professional service providers during the audit period. They also sought limited competition for a construction management services provider who was paid \$195,903, and then paid this same provider \$273,551 after the contract expired without further soliciting competition

District officials did not seek competition from six professional service providers who were paid \$987,305.

and entering into a written agreement. District officials properly sought competition for an attorney who was paid \$81,352.

Figure 1: Professional Services Procured

Type of Service ^a	Payments	Competition Sought	Written Agreement
Construction Management (initial contract period)	\$195,903	Yes	Yes
Construction Management^b (after contract expiration)	273,551	No	No
Insurance Broker	323,418	No	Yes
Occupational Therapists (2)	182,798	No	Yes
Architect	122,000	No	Yes
Special Education	85,538	No	Yes
Attorney	81,352	Yes	Yes
Total	\$1,264,560		

a Number of service providers in each category is shown in parentheses

b Payments made, during the audit period, to the same construction management service provider after the contract end date.

The former Superintendent solicited two written quotes for overseeing a capital project for the period January 2018 through October 2019. The Board awarded the contract to the firm with the lowest quote and paid the firm \$195,903 during the contract term. However, the District continued to pay the construction management firm after the contract ended – a total of \$273,551 – without soliciting competition for these services or entering into a written agreement. The invoices for these services were vague; they stated the billing period month(s) and ‘Construction Management Services’ as the description. Based on the invoices, we could not determine what services the District was paying for or if payments were from a contract extension. According to the purchasing agent, this was a contract extension; however, she could not provide documentation to support her assertion. Soliciting proposals helps ensure that all vendors have the opportunity to apply for the work. Without written agreements, there is an increased risk that the District will pay for services it has not received or pay inflated rates.

Although the procurement policy requires obtaining competitive quotes every three years for insurance policies, the purchasing agent told us she relies on the insurance broker to ensure the District is getting favorable insurance costs. The District last sought competition for insurance policies in April 2012.

The purchasing agent, along with the Assistant Superintendent of Curriculum, Instruction, and Pupil Personnel Services requesting the services, both told us they thought that the occupational therapists and the special educational service

providers were included on the New York State Education Department's (SED) approved list of special program providers and, therefore, the District did not need to solicit competition. We determined the vendors are not on the SED approved list of special program providers.

The Board President and the purchasing agent stated the District has used the same architectural firm for several projects and continued using the same firm because the architect is familiar with the District's buildings and operations. The architect was responsible for schematic design, design development, construction documents, bidding and construction administration of the capital improvement project previously discussed. According to the purchasing agent, she believes the last time the District bid for architect services was for a building conditions survey during the 2010-11 school year. The Board annually appoints this same firm as the District's architect.

The Board President told us the Board relied on the purchasing agent to ensure all services are competitively procured. When District officials do not seek competition, taxpayers have little assurance that procurements are made in the most prudent and economical manner, without favoritism, extravagance, fraud or corruption.

What Do We Recommend?

The Board should:

1. Ensure that the purchasing agent seeks competition when procuring professional services.
2. Ensure written agreements are entered into establishing the services to be provided and the basis for compensation.
3. Modify the purchasing policy to include provisions ensuring periodic solicitations of professional services at reasonable intervals.

The purchasing agent should:

4. Ensure professional services are procured in a competitive manner and in accordance with District policy.

Appendix A: Response From District Officials



Spackenkill Union Free School District
District Office
15 Croft Road, Poughkeepsie, NY 12603

Phone: 845-463-7800 / Fax: 845-463-7804

www.spackenkillschools.org

August 17, 2021

Julie Landcastle, Chief Examiner
Statewide Audit
State Office Building, Suite 1702
44 Hawley Street
Binghamton, NY 13901-4417

Dear Ms. Landcastle:

On July 26, 2021, the Superintendent and the Board of Education of the Spackenkill Union Free School District received the preliminary draft report of the recent audit by the Office of the State Comptroller that occurred between December 2020 and May 2021. We had the opportunity to discuss the draft with your [REDACTED], via phone conference on July 27, 2021.

We appreciate the opportunity to respond to the Professional Services Report of Examination for our district that was conducted by your office. The purpose of this letter is to address the draft results and recommendations contained in the report.

The preliminary report addresses the process by which the district selects professional service providers. The report specifically focuses on the use of a competitive selection process for all service providers. Occupational Therapists and Special Education Services were included in the sample of service providers reviewed by the auditors. While the District is mindful of its fiduciary responsibility to the taxpayers, the primary criteria employed to select these providers is their ability to meet the specific need(s) of the individual Special Education student. The District does, however, include the cost of services in the criteria used to make a final selection. The students interact very closely with their providers, and the personal relationships formed are integral to the successful development of the student. An annual competitive selection process, based solely on costs, could force a frequent change of providers. Frequent changes could impede the student's development as they adjust to a new therapist and/or new program.

Insurance Brokers were also included in the auditor's sample of service providers. There are a limited number of insurance companies who will provide comprehensive coverage for school districts and an even smaller number of insurance brokers who serve school districts. The District last sought a competitive bid in 2012. At that time



Mission Statement

Inspired by a tradition of excellence and a spirit of continuous improvement, the Spackenkill School District will provide all of our students with the academic and social skills necessary to pursue their goals and become responsible citizens in an interdependent global community.

only two companies responded. Although the District has not recently sought competitive bids for insurance broker services, there has not been a significant increase in the District's annual premiums for several years. The brokers' fees are paid by the insurance company and not the district. The District will periodically reassess the local insurance broker environment to determine the viability of seeking competitive bids for those services.

The draft report included several recommendations to the District regarding seeking competition and obtaining formal written agreements:

1. Ensure professional services are procured in a competitive manner and in accordance with District policies.

The Purchasing Agent will seek competition for professional services in accordance with the District's established purchasing policy.

2. Ensure written agreements are entered into establishing the services to be provided and the basis for compensation.

The District will obtain and maintain formal written agreements with professional service providers, which will include a description of the services to be provided and the agreed upon compensation. These agreements will be approved by the Board of Education and signed by the President of the Board of Education or his designee.

3. Modify the purchasing policy to include provisions ensuring periodic solicitations of professional services at reasonable intervals.

The Board of Education will review, and modify as needed, District purchasing policies regarding the procurement of professional services, including the frequency for solicitation of quotes/bids for specific services.

The Board of Education and the Purchasing Agent will periodically review District purchasing policies and procedures to ensure they are appropriate and include guidelines for the procurement all goods and services utilized by the District. The Board of Education will review and approve all revisions to the District's purchasing policies.

Very truly yours,

Richard Horvath, Ph.D.

President
Spackenkill Board of Education

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 reviewed the Board's adopted policies and written procedures to determine whether they adequately addressed procuring goods and services that are not subject to competitive bidding requirements.
- We interviewed officials to gain an understanding of the District's procurement practices.
- We reviewed cash disbursement data for our audit period and identified 27 professional service providers by reviewing vendor files, interviewing District officials and reviewing Board minutes. We reviewed our identified population with District officials to determine whether all vendors were professional service providers.
- We selected and reviewed the contracts, if documented, of the seven highest paid professional service providers for our audit period, and reviewed the RFP documentation, if any, to determine whether District officials sought competition for the providers' services. For those services where the District did not seek competition, we asked officials why they did not seek competition.
- We reviewed the highest payment made to the seven selected professional service providers to determine whether compensation was within the terms of the written agreements. We interviewed District officials to determine how compensation was determined for the provider whose written agreement had expired.

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. 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, 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. 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 CAP must be posted on the District's website for public review.

Appendix C: Resources and Services

Regional Office Directory

www.osc.state.ny.us/files/local-government/pdf/regional-directory.pdf

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

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

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

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

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

Contact

Office of the New York State Comptroller
Division of Local Government and School Accountability
110 State Street, 12th Floor, Albany, New York 12236

Tel: (518) 474-4037 • Fax: (518) 486-6479 • Email: localgov@osc.ny.gov

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

Local Government and School Accountability Help Line: (866) 321-8503

STATEWIDE AUDIT – Julie Landcastle, Chief Examiner

Utica State Office Building, Room 604 • 207 Genesee Street • Utica, New York 13501

Tel (315) 793-2484



Like us on Facebook at facebook.com/nyscomptroller

Follow us on Twitter [@nyscomptroller](https://twitter.com/nyscomptroller)