

East Rochester Union Free School District

Procurement

AUGUST 2022



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

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Report Highlights

East Rochester Union Free School District

Audit Objective

Determine whether East Rochester Union Free School District (District) officials procured goods and services in accordance with Board policies and applicable statutory requirements.

Key Findings

District officials did not always procure goods and services in accordance with Board policies and applicable statutory requirements.

- Of the \$1.88 million in purchases tested from 25 vendors, District officials did not adequately document that they properly sought required competition for 18 purchases as follows:
 - Seven purchases totaling \$212,953 subject to competitive bidding requirements.
 - Five purchases totaling \$12,002 requiring quotes in compliance with purchasing policies.
 - From six professional service providers totaling \$130,510.
- The Board and District officials did not develop adequate written purchasing policies and regulations.
- The Board did not annually review the policies as required.

Key Recommendations

- Adequately document compliance with competitive bidding requirements and purchasing policies and regulations.
- Develop adequate written policies and clear and consistent regulations for procurements not subject to competitive bidding, including professional services, and annually review the policies.
- Monitor and enforce compliance with policies and regulations.

District officials generally agreed with our recommendations and plan to initiate corrective action.

Background

The District serves the Town of East Rochester and portions of the Towns of Penfield, Perinton and Pittsford in Monroe County.

The District is governed by an elected five-member Board of Education (Board) that is responsible for the general management and control of the District's educational and financial affairs.

The Superintendent of Schools (Superintendent) is the District's 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 School Business Administrator oversees business operations and purchasing with the assistance of a purchasing agent.

Quick Facts

Procurements Reviewed Subject to Competitive Bidding	\$1.85 million
Payments to Professional Service Providers Reviewed	\$324,650
2020-21 General Fund Non-Payroll Disbursements	\$8.9 million

Audit Period

July 1, 2019 – January 6, 2022

Procurement

How Should District Officials Procure Goods and Services?

A school board is responsible for overseeing financial activities and safeguarding resources. School districts are generally required to solicit competitive bids for purchase contracts more than \$20,000 and contracts for public works in excess of \$35,000. In lieu of soliciting competitive bids, a school district is authorized to make purchases using contracts awarded by the New York State Office of General Services (State contracts) or certain contracts bid by other governments. For this exception to apply, the other government contract must be let in a manner consistent with New York State laws and made available for use by other governmental entities.

Additionally, as an alternative, school districts may award purchase contracts¹ on the basis of best value, as defined in Section 163 of the New York State Finance Law. School district officials are responsible for reviewing each proposed procurement to determine, on advice of the school district's legal counsel as appropriate, whether the procurement falls within the exception. School district officials should maintain appropriate documentation to demonstrate that the prerequisites were satisfied to support the decision to use the exception.

New York State General Municipal Law (GML) Section 104-b requires a school board to adopt and annually review written policies and procedures for procuring goods and services not required by law to be competitively bid, such as professional services, to help ensure the prudent and economical use of public money and help guard against favoritism, improvidence, extravagance, fraud, and abuse. In general, the procurement policy should require that alternative proposals for goods and services be secured through a written request for proposals (RFP), written or verbal quotes or any other appropriate method of procurement that furthers the purposes of the law, such as "piggybacking" on certain other government contracts in accordance with the prerequisites in GML. The procurement policy may set forth circumstances or types of procurement for which solicitation of alternative proposals will not be in a school district's best interest and should describe procedures for maintaining adequate documentation to support and verify the actions taken.

School district officials should monitor and enforce compliance with board-adopted purchasing policies and documentation requirements and must retain purchasing files for at least six years after completion of the purchase or six years after final payment under contract, whichever is later.

...[A]s an alternative, school districts may award purchase contracts on the basis of best value, as defined in Section 163 of the New York State Finance Law.

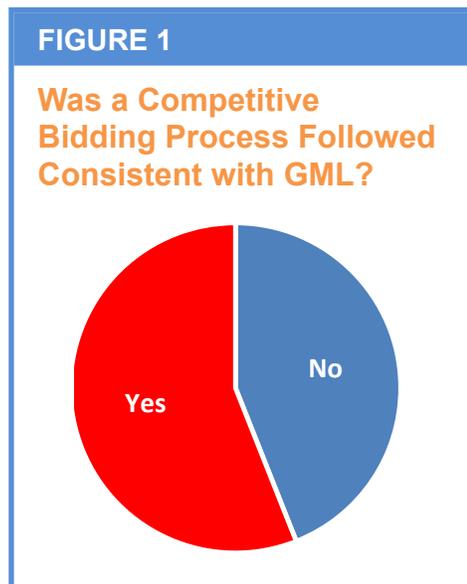
¹ This includes contracts for service work but excludes any purchase contracts that are necessary to complete a public works contract, according to New York State Labor Law, Article 8.

Officials Could Not Always Demonstrate Compliance With Competitive Bidding Requirements and Their Purchasing Policy Requirements

District officials did not ensure that purchases had adequate supporting documentation demonstrating that they were made in compliance with applicable statutes and District policies and that the District acquired the desired quality of goods and services at the lowest available cost. Officials did not retain sufficient documentation to properly show that they sought competition for purchases made from 12 of the 25 vendors we tested totaling \$1.88 million. Our sample included payments to 16 vendors that exceeded the competitive bidding thresholds and purchases from nine vendors that required officials to seek quotes.

Competitive Bidding – We reviewed a sample of 16 vendors with payments totaling about \$1.85 million that were above competitive bidding thresholds. We found that District officials did not maintain sufficient documentation demonstrating that they complied with competitive bidding requirements for seven vendors (44 percent) totaling \$212,953 (See Figure 1). These included purchases from:

- Four vendors totaling \$94,125 for auditorium equipment, turf field, doors and camera equipment that were not bid as required.
- Two vendors totaling \$77,405 for sports equipment and furniture made through a group purchasing organization (GPO) without obtaining related bids and contracts or documenting efforts to ensure that the bid processes used for those contracts were consistent with bidding requirements.
- One vendor totaling \$41,423 for mechanical services.



Quotes – We reviewed nine purchases from nine vendors with disbursements totaling \$28,527 that fell within the District’s purchasing policy and related regulation requiring quotes. We found that District officials did not maintain sufficient documentation demonstrating that they properly sought competition for five purchases (56 percent) from five vendors totaling \$12,002 in accordance with the District’s purchasing regulation. These included purchases from:

- One vendor totaling \$4,833, for the purchase of a refrigerator, through a GPO. However, District officials did not verify that the process used for this contract was consistent with the District’s purchasing policies and regulations. Therefore, District officials should have obtained two additional quotes.
- Two vendors totaling \$3,152 for cap and gown rentals and ice melt. District officials told us they regularly use these vendors and did not obtain quotes.
- One food service vendor totaling \$2,063. District officials thought the previous Director of Food Service completed a bid² for this vendor, but they did not have the bid documentation.
- One vendor for a computer application for the music department totaling \$1,954. District officials stated that the program was vetted but they did not have any documentation to show which other applications were reviewed.

When District officials do not seek or document competition, they cannot assure taxpayers that purchases are made in the most prudent and economical manner, without favoritism.

Officials Did Not Always Document Competition When Procuring Professional Services

We reviewed available documentation for 11 professional service providers paid \$324,650. We found that District officials did not have adequate documentation showing that they properly sought competition for services from six providers totaling \$130,510 (40 percent). The District did not have adequate documentation for the following providers:

- Five providers paid \$110,617 (see Figure 2) for which District officials did not seek competition using RFPs in the last five years for certain insurance, legal, financial and medical services.

Figure 2: Professional Services Without An RFP in the Last Five Years

Type of Service	Year of Last RFP	Amount Paid
Medical	2012	\$31,896
Legal	Unknown	23,436
Financial Advisory	Unknown	23,379
Legal	2014	16,906
Insurance Brokerage	Unknown	15,000
Total		\$110,617

² The purchase order was for \$30,000. However, the District’s aggregate purchases from this vendor were under \$20,000.

-
- One accounting firm that was paid \$19,893 for the District's external financial audit. The firm was selected from the respondents to the 2016 RFP. However, the firm was not the lowest priced offeror and District officials could not provide any documentation illustrating how the firms were rated and why this one was selected. The District selected the same accounting firm that was selected in the previous RFP for external auditing services.

When competitive methods are not used to procure professional services, there is an increased risk of overpaying for those services, creating the appearance of favoritism or impropriety and limiting officials' ability to assure taxpayers that the services were procured in the most prudent and economical manner.

The Board and District Officials Did Not Develop Adequate Purchasing Policies and Procedures

The Board adopted purchasing policies in August 2015 and District officials developed a purchasing regulation in 2004 and added additional language in 2008. However, the regulation and purchasing policies lacked consistency, contained conflicting provisions and did not sufficiently address the procurement of professional services. For example, the first page of the regulation requires sealed bids for purchase contracts over \$20,000 and public works contracts over \$35,000 but the third page requires public works contracts be bid for estimated purchases of more than \$20,000.

In addition, the District's procurement of goods and services policy states that alternative proposals or quotations for goods and services should be secured by using written RFPs and justification is required for any contract awarded to other than the lowest responsible bidder, stating the reasons. However, the policy does not continue to describe when alternative proposals or RFPs should be used and does not describe what documentation should be maintained for contracts awarded to other than the lowest bidder. In addition, the District's regulation is silent in these areas.

Further, the Board did not annually review the purchasing policy as required. Had the Board done so, along with a review of purchasing-related procedures and regulations, it may have identified these inconsistencies and deficiencies. District officials are planning on updating the regulations but have been delayed due to administrative turnover and the COVID-19 pandemic.

The lack of clear and consistent purchasing policies and regulations allows for varying interpretations and results in decreased assurance that goods and services are purchased at the best value to the District.

What Do We Recommend?

The Board and District officials should:

1. Ensure that officials and staff clearly document compliance with competitive bidding requirements and the District's purchasing policies and procedures and retain the documentation for at least six years after completion of the purchase or related contract.
2. Ensure competition is sought for professional services. Revise the purchasing policies to include the documentation required when procuring professional services and procedures for evaluating and approving proposals.
3. Periodically review purchasing policies, procedures and regulations and ensure they are clear, consistent and support competition.

District officials should:

4. Obtain, document and retain verbal and written quotes as required by the District's procurement regulation for goods and services below the competitive bidding thresholds.
5. Review State and other government contracts and price lists to ensure that purchases are made according to the contracts and that all items purchased are included in the contract, and retain the contracts and documentation of the review, confirmation and approval of the vendor selection.

Appendix A: Response From District Officials



East Rochester Schools, District Office

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Website: <http://www.erschools.org>

June 16, 2022

Division of Local Government and School Accountability
110 State Street, 12th Floor
Albany, NY 12236

Attn: Rochester Regional Office

To Whom It May Concern:

This letter serves as East Rochester Union Free School District's official response to the audit findings shared with us on Tuesday, May 24, 2022. Our district is in agreement with the key findings as noted below:

Key Findings:

- District Officials did not always procure goods and services in accordance with Board policies and applicable statutory requirements.
- District Officials did not always adequately document that they properly sought required competition for 18 purchases as follows:
 - Seven purchases totaling \$212,953 subject to competitive bidding requirements
 - Five purchases totaling \$12,002 requiring quotes in compliance with purchasing policies
 - From six professional service providers totaling \$130,510
- The Board of Education and District Officials did not develop adequate written purchasing policies and regulations
- The Board of Education did not annually review the policies as required.

The following key recommendations were made by the Comptroller's auditors:

- Maintain documentation for compliance with competitive bidding requirements and purchasing policies and regulations.
- Update written purchasing policies and regulation subject to competitive bidding and professional services.
- Review purchasing policy and regulations annually.
- Monitor and enforce compliance with purchasing policies and regulations.

The District is in support of these recommendations and has already begun working on updating the purchasing policy and regulations. The District is also working on additional procedures to ensure that proper documentation for competitive bidding requirements and purchases above the quotation threshold are maintained electronically and attached to the purchase requisition for future reference.

We would like to thank the auditors for their work and recommendations. Their collaborative approach during their time in our District was noted and appreciated. Their guidance will assist in improvements in our business processes going forward.

Sincerely,

^

Mr. James Haugh
Superintendent of Schools

Staci R. SanSoucie
School Business Administrator

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 employees and reviewed the purchasing policies and supplemental regulations and Board meeting minutes to gain an understanding of the procurement process.
- We used our professional judgment to select a sample of purchases from 25 vendors who were collectively paid a total of \$1.88 million during our audit period and that received payments above the purchasing policy quote and competitive bidding thresholds. We reviewed related purchase orders, invoices and purchasing documentation to determine whether District officials obtained quotes in compliance with the District's procurement policy established per GML Section 104-b, made purchases through competitive bidding in compliance with New York State GML Section 103 or used exceptions to competitive procurement (e.g., State contract, piggybacking, cooperative contract, sole source vendors) and documented purchase decisions as required by District policy and GML. We followed-up with District officials and employees to discuss purchases that did not have adequate supporting documentation.
- To test the procurement of professional services, we reviewed cash disbursement data to identify vendors that provided professional services. We selected 11 professional service providers who were paid more than \$3,600 during our audit period with purchases totaling \$324,650 and reviewed purchases from those vendors to determine whether RFPs were used to procure these services, and whether the selection process was adequately documented. We followed-up with District officials to discuss professional service purchases that did not have adequate supporting documentation.

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 should 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

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