

Marion Central School District

Procurement

JUNE 2022



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

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Report Highlights

Marion Central School District

Audit Objective

Determine whether Marion Central School District (District) officials procured goods and services in accordance with the procurement policies and procedures and applicable statutes.

Key Findings

The Board did not always ensure that competition was sought in accordance with the procurement policies and procedures and competitive purchasing requirements. We examined purchases totaling \$2.1 million, more than \$586,000 was not competitively procured.

- District officials could not support they sought competition for purchases totaling:
 - \$103,687 for goods and public works that were subject to competitive bidding,
 - \$104,430 for items below the competitive bidding requirements but subject to alternative quote thresholds, and
 - \$377,979 paid to four professional service providers.
- The Board and officials also did not develop adequate purchasing policies and procedures.

As a result, officials cannot assure taxpayers that purchases were made in the most prudent and economical manner.

Key Recommendations

- Ensure goods and services are competitively procured, when required.
- Establish adequate purchasing policies and procedures.

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

Background

The District serves the Towns of Arcadia, Marion, Ontario, Palmyra, Sodus, Walworth and Williamson in Wayne County. The District is governed by an elected five-member Board of Education (Board) responsible for the general management and control of educational and financial affairs.

The Superintendent of Schools is the chief executive officer and is responsible, along with other administrative personnel, for the District's day-to-day management under the Board's direction.

The Director of Finance and Operations (Director of Finance) is the Board-appointed purchasing agent, responsible for overseeing the purchasing process and ensuring procurements are made in compliance with applicable statutes and established policies and procedures.

Quick Facts

July 1, 2019 – April 8, 2021

Non-Payroll Disbursements	\$19.7 million
Payments for Professional Services	\$791,888
Purchases Reviewed	\$2.1 million

Audit Period

July 1, 2019 – October 26, 2021

Procurement of Goods and Services

How Should School 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 that exceed \$20,000 or more and public works contracts that exceed \$35,000 or more, with certain exceptions.

School boards are required to adopt written policies and procedures for procuring goods and services not required to be competitively bid. Goods and services in excess of competitive bid limits that are not required to be competitively bid or acquired through an exception to that requirement, must be procured in a manner to assure the prudent and economical use of public money in the taxpayers' best interests and is not influenced by favoritism, extravagance, fraud or corruption. In general, the procurement policy should require that alternative proposals for goods and services be secured through a written request for proposals (RFP) process, written or verbal quotes or any other appropriate method of competitive procurement. The procurement policy may set forth circumstances or types of procurement for which solicitation of alternative proposals will not be in the school district's best interest and should describe procedures for maintaining adequate documentation to support and verify the actions taken.

An exception to the competitive bidding requirements allows school districts to make purchases by piggybacking on contracts awarded by the New York State Office of General Services (State contracts) or cooperative bids by other governments, school districts, boards of cooperative educational services (BOCES) or group purchasing organizations (GPOs). School district officials should review these contracts to ensure that they are in compliance with applicable statutes and are in the best interest of the school district. School district officials should also monitor compliance with purchasing policies and procedures and documentation requirements.

Officials Did Not Always Seek Required Competition

District officials were unable to support required competition or that the District acquired the desired quality of goods and services at the lowest available cost. Officials did not have sufficient documentation to verify that they properly sought competition for purchases from 15 vendors totaling \$208,117.

Competitive Bidding – We reviewed purchases from 14 vendors totaling nearly \$1.4 million.¹ We found District officials could not support they complied with competitive bidding requirements for purchases from two vendors (14 percent) totaling \$103,687. These included payments for:

¹ See Appendix B Audit Methodology and Standards for details on sample selection.

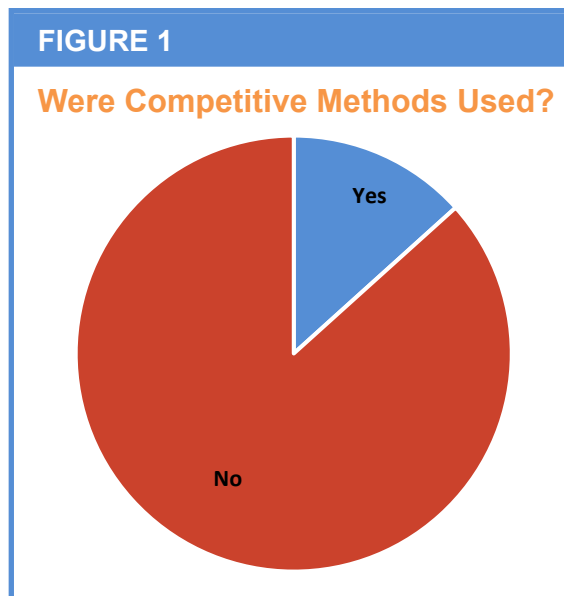
School boards are required to adopt written policies and procedures for procuring goods and services not required to be competitively bid.

Officials did not have sufficient documentation to verify that they properly sought competition for purchases from 15 vendors totaling \$208,117.

- A building energy management system costing \$62,459 that officials claimed was purchased using a State contract. However, we reviewed the State contract, vendor quote and invoice and found that the purchase included parts totaling \$8,821 that were not on the State contract. In addition, the quote and invoice were not sufficiently itemized to determine whether labor costs were paid in accordance with the contract terms.
- Aggregate purchases of school supplies totaling \$41,228 from one vendor that were purchased through a GPO contract. The Director of Finance told us that he did not ensure the contract was consistent with competitive bidding requirements because he erroneously believed it was the responsibility of the GPO to ensure that a bid process was used. However, District officials have a responsibility to review these contracts to ensure that the purchases were made in accordance with competitive bidding requirements.

Quotes – We reviewed 15 purchases totaling \$128,499 that required District officials to seek quotes for the purchases. Officials could not support that they properly sought competition for 13 purchases (87 percent) totaling \$104,430 (Figure 1). This included:

- Six purchases totaling \$33,905 where officials did not solicit any competition. District officials indicated that two purchases were sole source and one purchase was an emergency purchase. However, officials could not support they were either a sole source or emergency purchase. Although the Director of Finance provided varying reasons for not obtaining quotes for the remaining three purchases, quotes were required.
- Two purchases totaling \$31,504 where officials did not obtain the required number of quotes. For example, officials only obtained two of the three required quotes for a public works purchase totaling \$20,505. The Director of Finance told us that he was unable to find a third contractor to provide a quote, but he was unable to support he made an attempt to obtain a third quote.
- Three purchases totaling \$20,612 purchased through GPOs without obtaining related quotes or documenting efforts to ensure that the processes used for awarding those contracts were consistent with applicable statutes and District policy requirements. We



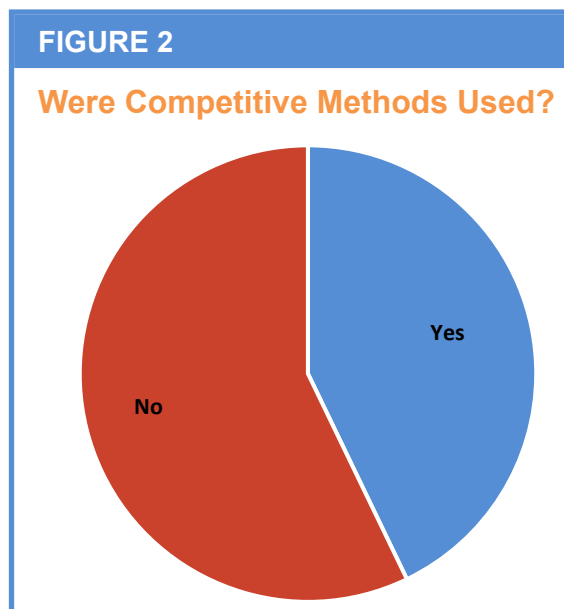
obtained the procurement documentation for a furniture purchase costing \$10,906 through a GPO and found that the GPO's method for awarding contracts was not consistent with the District's procurement policy.

- Two purchases totaling \$18,409 purportedly made using State or BOCES contracts, but contained items that were either not included in the contract and/or the District paid more than the contract price. For example, the District purchased seven items totaling \$11,587, but five items totaling \$7,597 were not on State contract and the District overpaid \$662 for the two items that were on State contract. After informing the Director of Finance that the District overpaid for some items, he reviewed other recent purchases from the vendor and was able to attain a credit from the vendor of approximately \$2,500 and the vendor indicated it would give the District an additional discount on purchases included in a future capital project.

Officials Did Not Always Seek or Document Competition When Procuring Professional Services

We reviewed available documentation for seven professional service providers² paid \$595,309. District officials could not support they sought competition and complied with related purchasing policies and procedures for services costing \$377,979 (Figure 2). The services included:

- One financial management services provider was paid \$76,705 for which officials did not use an RFP process to seek the required competition.
- Three providers (construction management, architect, and legal services) were paid \$301,274 for which officials used an RFP process to seek competition but officials did not document the required review and evaluation of the received proposals. While the Director of Finance provided varying reasons for why he did not have documented evaluations of the proposals, the evaluations should have been documented.



² See Appendix B Audit Methodology and Standards for details on sample selection.

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. In addition, they may be unaware of other vendors that could offer similar services at a more favorable rate.

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

The Board adopted purchasing policies and District officials developed supplemental purchasing regulations, which included requirements for three informal written quotes for purchases between \$1,001 and \$5,000 and three formal proposals or quotes for purchases between \$5,001 and \$20,000. Public works contracts in excess of \$10,000 require three formal proposals or quotes. However, the policies and regulations were not adequate because they did not sufficiently address purchases not subject to competitive bidding requirements including professional services, emergency purchases, sole source purchases and purchases piggybacking on contracts awarded by other governments, school districts, BOCES or GPOs.

Professional Services – The District’s purchasing policies and regulations do not provide adequate guidelines for when officials should seek proposals using an RFP process for the procurement of professional services. While the purchasing regulations require officials seek written proposals for the procurement of professional services, they do not state how often the RFP process is to be completed for any professional services other than independent auditing services, which is required every five years.

Emergency and Sole Source Purchases – While the regulations allow for exceptions to competitive bidding requirements for emergency and sole source purchases, the policies and regulations do not provide any guidelines or documentation requirements for those types of purchases.

Piggyback on Government Contracts – The regulations allow for the District to piggyback on certain government contracts, but the policies and regulations do not provide any guidelines or documentation requirements for these types of purchases, such as documentation of a review that the contracts that officials are using comply with applicable statutes and District policy.

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 for the District.

...[T]he policies and regulations were not adequate because they did not sufficiently address purchases not subject to competitive bidding requirements. ...

What Do We Recommend?

The Board and District officials should:

1. Ensure that officials and staff maintain documentation to demonstrate compliance with competitive bidding requirements and the District's purchasing policies and procedures.
2. Ensure that quotes and invoices are sufficiently itemized and paid according to contract terms.
3. Ensure that competition is sought for professional services and documentation is maintained to support actions taken and determinations made for professional service provider selections.
4. Revise the purchasing policies and regulations to include how often the RFPs process should be used when procuring professional services, procedures for evaluating RFPs and guidelines and documentation requirements for emergency purchases, sole source purchases and purchases using contracts awarded by other governments, school districts, BOCES or GPOs.

District officials should:

5. Obtain, document and retain verbal and written quotes as required by the District's purchasing policy for goods and services below competitive bidding thresholds.
6. Review contracts and price lists to ensure that purchases are made according to the contracts and that all of the items purchased are included in the contract, and retain the contracts and documentation of the review.

Appendix A: Response From District Officials



Marion Central School District Office

Donald Bavis
Superintendent
of Schools

Nikki Miller
Director of
Educational Services

Richard Walker
Director of Finance
and Operations

David Wise
Director of Technology
and Innovative Programs

May 17, 2022

Office of the State Comptroller
Edward V. Grant Jr., Chief Examiner
The Powers Building
16 West Main Street – Suite 522
Rochester, New York 14614-1608

The Marion Central School District is in receipt of the NYS Office of the State Comptroller audit report 2022M-03 with a focus on Procurement. The District thanks the Comptroller's staff for their professionalism and comprehensiveness. We are pleased that there is no evidence of malfeasance or fraud. The District views the audit as an opportunity to review and improve our procurement processes.

The District is in agreement with your findings and is satisfied, given the length and depth of the examination, with the minimal findings and recommendations made. The District takes pride in being fiscally responsible and transparent while balancing the needs of school programs and community needs. The District also recognizes the need for continuous improvement in day to day operations, policies and procedures.

The Board of Education, with the assistance of District Administrators, continuously updates and revises many district procedures, including those related to procurement. The findings and recommendations will assist in the revision of policies and procedures related to procurement. The District will develop a corrective action plan in response to your findings. This plan will be provided to your office at a later date.

Thank you again for your professionalism and valuable feedback.

Sincerely,

Donald Bavis
Superintendent, Marion Central School District

4034 Warner Road, Marion, NY 14505 • Phone: 315-926-2300 • Fax: 315-926-5797

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 policies and supplemental procedures and Board minutes to gain an understanding of the procurement process.
- We used auditor professional judgment to select a sample of purchases from 10 vendors who were paid more than \$1 million during our audit period and received payments that were above competitive bidding thresholds. In addition, we reviewed purchases from vendors with purchases exceeding \$20,000 or more aggregated in a 12-month period, which resulted in four additional vendors with purchases totaling \$349,982 being added to the competitive bidding sample. Using auditor professional judgment, we also selected 15 purchases totaling \$128,499 that fell within the thresholds requiring quotes.
- For the samples selected, we reviewed the related purchase orders, invoices and purchasing documentation to determine whether officials obtained quotes in compliance with the District's procurement policy, made purchases through competitive bidding in compliance with GML Section 103 or used exceptions to competitive procurement (e.g., State contract, GPOs, cooperative contract, emergency purchases and sole source vendors) and documented the purchase decisions as required by District policy and GML. We reviewed the purchases to verify that they were properly approved. 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 the cash disbursements data to identify vendors that provided professional services. Using auditor professional judgment, we selected seven professional service providers with purchases totaling \$595,309 and reviewed all purchases from those vendors to determine whether an RFP process was used to procure these services, and whether the selection process was adequately documented and Board approved. We reviewed the written agreements between the District and the seven professional service providers to determine whether the District had adequate written agreements. 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

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

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

ROCHESTER REGIONAL OFFICE – Edward V. Grant Jr., Chief Examiner

The Powers Building • 16 West Main Street – Suite 522 • Rochester, New York 14614-1608

Tel (585) 454-2460 • Fax (585) 454-3545 • Email: Muni-Rochester@osc.ny.gov

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