

Ontario County Four Seasons Development Corporation

Procurement

APRIL 2022



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

Contents

- Report Highlights 1**

- Procurement 2**
 - How Should Corporation Officials Ensure Goods and Services
Are Competitively Procured? 2

 - Corporation Officials Did Not Always Seek Competition or
Maintain Adequate Documentation of Procurement Processes 2

 - What Do We Recommend? 3

- Appendix A – Response From Corporation Officials 4**

- Appendix B – Audit Methodology and Standards 6**

- Appendix C – Resources and Services. 8**

Report Highlights

Ontario County Four Seasons Development Corporation

Audit Objective

Determine whether Ontario County Four Seasons Development Corporation (Corporation) officials used a competitive process to procure goods and services.

Key Findings

Corporation officials did not always seek competition or maintain adequate documentation of purchasing processes when procuring goods and services.

- The Corporation's procurement policy (Policy) lacks a provision for sole source purchases and guidance for maintaining documentation to support that the purchasing process is followed.
- We reviewed payments totaling \$305,033 to nine vendors with aggregate purchases of \$5,000 or more in either the 2019-20 or 2020-21 fiscal year and found officials made purchases from two vendors totaling \$58,375 without seeking competition.
- We reviewed payments totaling \$298,044 to 13 professional services vendors and found officials did not follow a competitive process when selecting two professional service providers paid a total of \$40,253 and did not document the rationale for the process that was followed.

Key Recommendations

- Adopt a more comprehensive written procurement policy which includes the requirements for adequate documentation to be maintained to support purchasing processes, and ensure the policy is consistently followed.

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

Background

The Corporation was established as a local development corporation in Ontario County (County) in 1984 by the County Board of Supervisors and operates under the DBA¹ Finger Lakes Visitors Connection (FLVC). The mission of FLVC is to curate, distinguish and develop the County's destination brand to inspire travel, create economic vitality and provide quality of life benefits for residents.

The Corporation is governed by a 17-member Board of Directors (Board), appointed by the County Board of Supervisors. The Board is responsible for the general management and control of the Corporation's financial and operational affairs. The Board-appointed President is responsible for the Corporation's day-to-day operations. In addition, the Executive Assistant to the President (Executive Assistant) assists with daily business functions, including purchasing.

Quick Facts

Payments Made 10/1/19 – 9/30/21

Non-Payroll Disbursements	\$1.2 million
---------------------------	---------------

13 Professional Service Providers	\$298,044
-----------------------------------	-----------

2021-22 Budget	\$1.2 million
----------------	---------------

Audit Period

October 1, 2019 – November 19, 2021

¹ Doing Business As

Procurement

How Should Corporation Officials Ensure Goods and Services Are Competitively Procured?

Soliciting competition is an effective way to obtain the desired quality of goods and/or services at the best price. Officials should develop and adopt a comprehensive written procurement policy and ensure compliance with the procurement policy. The policy should have detailed procedures that include:

- A description of the available procurement methods,
- The procurement authorization and approval process,
- Thresholds for when competitive bidding, request for proposals (RFP) and written or verbal quotes will be required, and
- Documentation requirements for when other methods of procurement will be used.

The Board adopted the Policy which requires any procurement of goods and services to be made by the appropriate official(s), in the best interest of the agency, upon considering the totality of the circumstances surrounding the purchase, which may include but not be limited to: price, quality, availability, timeliness, reputation and prior dealings. The Policy requires purchases of goods or services greater than \$10,000 to be made via sealed bids or other competitive proposal process, as appropriate and necessary for the conditions, while purchases costing in aggregate of not more than \$10,000 shall follow informal procurement methods, as appropriate.

Corporation Officials Did Not Always Seek Competition or Maintain Adequate Documentation of Procurement Processes

While the Policy includes criteria for making purchases, the Policy is not comprehensive. The Policy does not include a provision for sole source purchases² or the requirements for the type of documentation to maintain to support:

- A competitive process was followed,
- Departure from the Policy in seeking competition, and
- When written or verbal quotes are appropriate or necessary.

Additionally, the President requires her prior approval of goods or services costing \$500 or more. While there was evidence of the President's approval for these transactions, the Policy does not require this approval.

While the Policy includes criteria for making purchases, the Policy is not comprehensive.

² This exception is generally applicable only in limited circumstances when a municipality requires a particular good or service for which there is no substantial equivalent, and which are only available from a single source. As a result, there is no possibility of competition.

To determine if goods and services were procured with competition and in compliance with the Policy, we reviewed payments totaling \$305,033 to nine vendors with aggregate purchases of \$5,000 or more in either the 2019-20 or 2020-21 fiscal year and we examined all professional service payments totaling \$298,044 that were made to 13 professional service providers during the audit.

We found that contracts with two vendors totaling \$58,375 were awarded for legitimate business purposes but were not awarded through a competitive process. The President explained that a contract for prospecting and telemarketing lead generation was considered as a sole source scenario, and that officials procured the videography services from another vendor based on recommendations from similar entities in the region. However, although these explanations do support officials' actions to not follow the Policy, both contracts should have been awarded through a competitive process.

In addition, officials also did not seek competition, or document their selection process, for the services provided by two professional service providers who were paid a total of \$40,253 during the period October 1, 2019 through September 30, 2021. While the professional services were for legitimate and appropriate purposes and Corporation officials provided explanations as to why they chose these service providers (e.g., specialized service/sole source), officials did not document why they did not seek competition or comply with Policy.

Seeking competition in accordance with Corporation policies and procedures helps facilitate the acquisition of goods and services of maximum quality at the lowest possible cost and guards against favoritism, improvidence, extravagance, fraud and abuse. When a competitive process is not used, or is inadequately documented, officials lack assurance that goods and services are obtained that are most appropriate for the Corporation's needs, are procured in the most economical way and without favoritism.

What Do We Recommend?

The Board should:

1. Adopt a more comprehensive written procurement policy which includes the requirements for adequate documentation to be maintained to support purchasing processes including when a competitive process was not used, and ensure the policy is consistently followed.

Corporation officials should:

2. Ensure a competitive process is followed for purchases in accordance with the procurement policy and the purchasing process is documented.

...[O]fficials also did not seek competition... for the services provided by two professional service providers who were paid a total of \$40,253. ...

Appendix A: Response From Corporation Officials



Ontario County, NY

March 31, 2022

Office of the New York State Comptroller
PSU – CAP Submission
110 State Street, 12th Floor
Albany, NY 12236

Dear Sir or Madam:

Please note that this letter serves as a response to the Office of the State Comptroller dated March 2, 2022. Finger Lakes Visitors Connection president, Valerie Knoblauch and the Board of Directors appreciate and respect the recommendations of the auditors from the NYS Comptroller's office. This letter is our response to the audit and also our corrective action plan review, since all the items have been completed.

The board met on March 30, 2022 in order to review the recommendations and to respond to meet your April 1 publication date. The following overview includes details on specific policy and procedural changes that have been adopted by the board at our meetings on December 8, 2021 and March 30, 2022.

While COVID produced many unique circumstances for the operation of our agency, we believe our refinement of the Procurement Policy (#111), the addition and subsequent clarification of the Procedures (#505), and the related training of the staff members (all of whom are new since 2019 with the exception of the president) will result in a tighter procurement process – and in particular, a process of greater consistency in seeking competitive bids, documentation and maintenance of records.

Additionally, the members of the Board credit our staff for the professionalism, sound business judgements, and operational strengths that were also noted in the interactions of this audit.

Finally, please see corrective actions which have been taken in relation to your recommendations.

- FLVC adopted a procurement policy (Policy #111) in September of 2009. This policy had been reviewed over the years with minor updates made. This procedure was modeled after Ontario County's at that time.
- At the December 8, 2021 meeting the board approved the recommendation of the Governance Committee of the board to add Procurement Procedures #505. Procedures and Documentation to Support Procurement Process, Selection, and Oversight. Includes detail on record keeping (narrative of vendor selection and location of files); sole source bidding documentation, a planning and coversheet checklist, and the importance of seeking competitive bid proposals.
- At the March 30, 2022 meeting, the board edited the policy to include sole source purchases as recommended in the report.
- At the March 30, 2022 meeting, the board adopted a statement about Seeking Competition that will be added to both policy and procedures as a preliminary consideration to purchases.
- At the March 30, 2022 meeting, the board edited the procedures (#505) to replace the phrase, "a

19 Susan B. Anthony Lane

Canandaigua, NY 14424

(585) 394-3915

VisitFingerLakes.com



Ontario County, NY

review process shall be established" with the process requirements for maintaining records to document the bids and to provide for an annual review process.

- At the March 30, 2022 meeting, the board added a paragraph addressing the desire and understanding of the benefit of competitive proposals.

In closing, we agree with the Auditors findings and wanted to reemphasize that the board's attention to continual improvement in processes and policy including, but not limited to, procurement is an ongoing concern of our leadership. We appreciate the feedback and guidance.

If you would like specific copies of any of the policy, procedures, or forms that we are using and have updated, I am pleased to be able to supply them as evidence of completion or for your further input. Additionally, these will be posted as part of our PARIS updates, no later than April 15, 2022.

Sincerely,

Valerie Knoblauch, President and CEO
Finger Lakes Visitors Connection
19 Susan B. Anthony Lane
Canandaigua, NY 14424

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 Corporation officials and employees to gain an understanding of the Corporation's procurement processes.
- We reviewed and evaluated the Corporation's procurement policy and procedures.
- We judgmentally selected and reviewed payments to nine vendors totaling \$305,033 made during the period October 1, 2019 through September 30, 2021 that were over \$5,000 in aggregate for either fiscal year during this period. We obtained and reviewed documentation to support competition being sought for these purchases, including quotes or bids. When appropriate documentation was not maintained to support competition or another acceptable purchase method, we discussed these vendors with Corporation officials or employees to determine the potential reason.
- We judgmentally selected and reviewed payments made to 13 professional service vendors totaling \$298,044 from October 1, 2019 through September 30, 2021. We reviewed documentation to determine whether Corporation officials sought competition before awarding contracts. We used our professional judgment to determine whether the services procured were appropriate. For those services where the Corporation did not seek competition, we asked officials for additional explanation.

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. We encourage the Board to prepare a written corrective action plan (CAP) that addresses the recommendations in this report and forward the plan to our office within 90

days. 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

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

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

Serving: Cayuga, Livingston, Monroe, Ontario, Schuyler, Seneca, Steuben, Wayne, Yates counties



Like us on Facebook at facebook.com/nyscomptroller

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