



# **Tonawanda City School District**

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Procurement

**2023M-108 | December 2023**

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# Report Highlights

## Tonawanda City School District

### Audit Objective

Determine whether Tonawanda City School District (District) officials used a competitive process to procure goods and services.

### Key Findings

The Board of Education (Board) and District officials did not always use a competitive process to procure goods and services. As a result, they did not comply with District policies or New York State General Municipal Law (GML) Section 103 and may have paid more than necessary for goods and services. The Board and District officials:

- Procured 167 interactive panels for \$684,132 without obtaining competitive bids as required by GML Section 103 and the District's procurement policy and procedures.
- Did not obtain quotes or request proposals in accordance with District policies for 23 purchases totaling \$102,378.

### Key Recommendations

- Ensure purchases comply with the District's procurement policy and GML Section 103.
- Annually review and update the procurement policy and procedures and educate employees on their requirements.

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

### Background

The District serves the City of Tonawanda in Erie County. The District is governed by a seven-member Board that is responsible for managing the District's financial and educational affairs. The Superintendent of Schools (Superintendent) along with other administrative staff, is responsible for the District's day-to-day management under the Board's direction.

The Director of Business and Finance (Director) is responsible for financial services and is also the Board-appointed purchasing agent. As purchasing agent, she is responsible for ensuring all goods and services are procured in the most prudent and economical manner possible and in compliance with statutes and established policies and procedures. The current Director was appointed in September 2022 and resigned in August 2023.

#### Quick Facts

Initial sample selected from payments in July 1, 2022 – March 9, 2023

Population of purchase contracts subject to the procurement policy: \$2.3 million

Procurements tested from initial sample above: \$974,700

Additional procurements tested from 2021: \$314,400

Total procurements tested: \$1,289,100

### Audit Period

July 1, 2022 – April 28, 2023

We extended our audit period back to January 1, 2021 to review an Information Technology (IT) Department procurement.

# Procurement

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## How Should School District Officials Procure Goods and Services Using a Competitive Process?

Officials must comply with GML Section 103, which generally requires school districts to solicit competitive bids for purchase contracts that exceed \$20,000 and contracts for public work that exceed \$35,000. In determining whether the dollar threshold will be exceeded, a school district must consider the aggregate amount reasonably expected to be spent on all purchases of the same<sup>1</sup> commodities, services or technology to be made within the 12-month period commencing on the date of the purchase, whether from a single vendor or multiple vendors.

GML Section 103 sets forth certain exceptions to competitive bidding such as purchases made from a legitimate sole source. This exception is generally applicable only in limited circumstances when a school district requires particular goods or services that uniquely serve the public interest, for which there is no substantial equivalent and that are available from only one source. In determining whether an item is sole source, school district officials should show that no other product provides substantially equivalent or similar benefits. Additionally, in lieu of obtaining bids, school district officials may purchase goods and services off New York State contracts. This allows the school district to benefit from the competitive process already undertaken by the State.

A board must comply with GML Section 104-b that requires a board to adopt a written policy and procedures governing the procurement of goods and services that are not subject to statutory bidding requirements, such as professional services. Such policies and procedures help ensure the prudent and economical use of public money and guard against favoritism, extravagance, waste, fraud and abuse.

Officials should also comply with the District's procurement policy (adopted in 2018) and procedures (which were not dated) that require District officials to obtain verbal and/or written quotes and issue a request for proposals (RFP) to acquire goods and services not subject to competitive bidding requirements. Among other requirements, the District's procurement policy and procedures require that officials:

- Obtain three verbal quotes for purchases between \$100 and \$500, more than three verbal quotes for purchases between \$500 and \$1,000, and three written quotes for purchases between \$5,000 and \$9,999. The policy and procedures did not address purchases between \$1,001 and \$4,999.
- Obtain three verbal quotes for public works contracts between \$1,000 and \$5,000, three written quotes for contracts between \$5,000 and \$10,000 and more than three written quotes for contracts between \$10,000 and \$19,999.

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<sup>1</sup> For this purpose, commodities, services or technology that are similar or essentially interchangeable should be considered the same.

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... GML  
Section 103  
... generally  
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public work  
that exceed  
\$35,000.

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- Use an RFP to procure professional services.
  - Adequately document actions taken with each method of procurement.

The purchasing agent should ensure the District's procurement policy and procedures are complied with, such as ensuring officials have obtained responses to an RFP or the appropriate number of quotes prior to approving a purchase, as well as maintaining adequate documentation to support and verify the action taken.

### **Officials Did Not Obtain Competitive Bids When Procuring Technology Equipment**

We reviewed technology equipment purchases totaling \$984,132 that were subject to GML Section 103 competitive bidding requirements.<sup>2</sup> While District officials properly procured personal computers with a total cost of \$300,000 through a New York State contract, they did not advertise or obtain competitive bids when procuring 167 interactive panels totaling \$684,132, as required by GML Section 103.

District officials provided us with multiple and varying explanations for purchasing the interactive panels without advertising for and obtaining competitive bids as required by GML Section 103 and the District's procurement policy and procedures. For example, the IT Director, who initiated the purchase, told us that she was not aware of the requirement to competitively bid purchase contracts over \$20,000 or the District's procurement procedures. The Superintendent told us that several vendors were invited to present to the Technology Committee (Committee), and the Committee then selected the brand of interactive panels purchased. However, two Committee members told us that the Committee's role was to determine how best to allocate and use grant funds for technology improvements and that they had no knowledge about the process for obtaining quotes.

The Superintendent and Director, who was also the Board-appointed purchasing agent, told us they purchased the panels from a sole source vendor and, therefore, did not have to use competitive methods. They provided a letter, dated April 2023 or at least two years after the first purchase was initiated, which they obtained from the panels' manufacturer that stated they are the sole manufacturer of this brand of interactive panels. District officials were unable to explain why this particular brand was the only interactive panel that would meet their needs. Furthermore, the District may have obtained even more favorable pricing by advertising for bids and could have benefited from large quantity purchase discounts.

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<sup>2</sup> See Appendix B for details of our sampling methodology.

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Because the Board, Superintendent and Director have not educated District employees, specifically the IT Director, on the requirements for using a competitive procurement process, staff purchased the interactive panels without the benefit of competition. This increases the risk that taxpayer dollars were not expended in the most efficient manner. Furthermore, the former Director, as purchasing agent, did not fulfill her duties for ensuring District purchases were made in compliance with GML Section 103 and the District's procurement policy and procedures. Had District officials sought competition, it would have helped to ensure the panels were procured at the most favorable terms or best value.

### **Officials Did Not Seek Competition for Purchases Not Subject to Competitive Bidding Requirements**

District officials did not always obtain the number of written quotes required by the District's procurement policy, and the purchasing agent did not ensure officials complied with the policy. We reviewed 27 purchases totaling \$305,030 that were below the competitive bidding thresholds and subject to the District's procurement policy and determined District officials did not use a competitive process or obtain the required number of quotes prior to making 23 purchases totaling \$102,378.

Purchase Contracts – District officials procured two purchases totaling \$34,795 through a New York State contract. We searched online for comparative pricing for goods from the 22 purchase contracts and determined that District officials could have procured some of these goods for lower prices if they had sought quotes. For example:

- Sports Uniforms – District officials purchased 174 soccer and cross-country uniforms totaling \$12,990. If officials obtained quotes, the District may have been able to realize a \$4,770 cost savings. For example, in June 2022, District officials purchased 48 soccer uniforms at \$85 each, totaling \$4,080. As of March 4, 2023, other retailers were selling similar soccer uniforms for \$43 each, or \$42 less per uniform, and \$2,016 in total, less than the District paid.
- Sports Equipment – The District paid a total of \$11,137 for 11 sport equipment items. We compared prices for three of these items and determined that there were similar items selling for less than the District paid. A sports time clock District officials purchased for \$2,086 was available online from another vendor for \$1,767, or \$319 less. Soccer socks District officials purchased for \$1,400 were available online from another vendor for \$849, or \$551 less. Golf balls District officials purchased for \$480 were available for \$360, or \$120 less.

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- Educational Supplies (Science) – The District paid \$545 for five electronic circuits kits in July 2022. We determined that similar kits may have cost the District \$400. If officials obtained quotes, the District may have been able to realize a \$145 savings.

Professional Services and Public Works – District officials requested proposals for services rendered by two professional service contractors totaling \$167,857. However, District officials did not use RFPs or any other type of competitive process when procuring two professional service contracts totaling \$6,322 and one public works service contract totaling \$12,209. The Director indicated that the purchases were for smaller amounts, and the District was not required to request proposals. However, the policy requires using an RFP for any professional service and three quotes for public works over \$10,000.

While the District’s procurement policy’s thresholds for competitive bidding were updated to align with current GML Section 103 bidding thresholds, they had not been updated in the procedures. As such, the District’s procurement procedures included the lower bidding thresholds of \$9,999 for purchase contracts and \$19,999 for public works contracts, which were the GML Section 103 thresholds prior to 2010. The District’s written procurement procedures included other errors, inconsistencies and omissions which also need to be updated. Although the Director, as the purchasing agent, was responsible for ensuring that all purchase requisitions had adequate supporting documentation or that the purchaser had complied with the District’s written procurement procedures prior to approving the purchase, she was not aware the District had written procurement procedures.

Because the Board and District officials have not periodically reviewed and updated the District’s procurement policy or procedures, District officials and employees were not provided proper guidance regarding what was expected of them when procuring goods and services. As a result, goods and services were purchased without the benefit of competition, and there is an increased risk that taxpayer dollars were not expended in the most prudent and economical manner in the best interest of taxpayers.

## What Do We Recommend?

The Board and Superintendent should:

1. Require the Director, as purchasing agent, to monitor and ensure purchase contracts over \$20,000 are procured in compliance with GML Section 103.
2. Require the Director to become familiar with and ensure officials and employees comply with the procurement policy.

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... District officials did not use RFPs or any other type of competitive process when procuring two professional service contracts totaling \$6,322 and one public works service contract totaling \$12,209.

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3. Ensure the procurement policy and procedures are annually reviewed and updated as required per GML Section 104-b and update the current procedures to align with GML Section 103 and the procurement policy.
  4. Ensure the procurement policy and procedures are amended to address purchases between \$1,001 and \$4,999.

The Superintendent and Director should ensure that:

5. All District employees and officials authorized to make purchases are aware of the procurement policy and procedures.

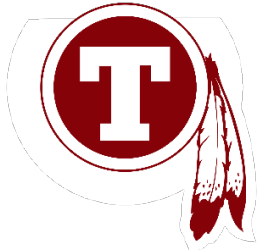
The Director should:

6. Ensure all purchase contracts over \$20,000 are competitively bid as required by GML Section 103.
7. Become familiar with the procurement policy and procedures and ensure all employees obtain, document and retain the required number of quotes or other method of obtaining competitive pricing, as required by the procurement policy, for all goods and services purchased below the bidding threshold.



# Appendix A: Response From District Officials

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## TONAWANDA CITY SCHOOL DISTRICT

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**TIMOTHY A. OLDENBURG, Ed.D.**  
**SUPERINTENDENT OF SCHOOLS**

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November 21, 2023

To the Office of the State Comptroller:

Thank you for the opportunity to respond to the report and findings of the recent Office of the State Comptroller Audit.

In both the opening and closing meetings with OSC representatives we mutually recognized that the mission of the OSC audit is to review district practices and to identify areas for improvement. As such, the final report will always contain a remedial recommendation. As we also discussed and understand, reinforcement, or commendation is not part of the charge of the OSC audit process. With that in mind, we would like to first recognize activity within the school district, independent of OSC findings. Activity which, perhaps rendered any further review by OSC unnecessary, as these potential focus areas are being addressed and well managed.

Beginning in early 2022 the district initiated a review of policies and practices to ensure that there was adherence to law, policy and that the activities involving finances were both cost effective and most importantly of benefit to the mission of educating the students in our school district. This activity has taken place amidst significant employee turnover. As such, the project recognizes that not only do we need to ensure that practices are in order, but there also needs to be a sustained procedure to initiate and educate staff.

The district is in the midst of several initiatives and recognizes that these cannot be completed overnight. With this in mind, we do agree that the findings of OSC regarding purchasing and procurement should be addressed and further developed.

Initiatives that are well underway include the following:

**Policy and regulation review:**

The district has initiated a thorough formal review of all policies and regulations. With the help of BOCES Policy Services this project, which will take several months to complete, is well underway. While the vast majority of policies are in good order, they do need to be thoroughly reviewed to ensure they are contemporary and that there is a robust and sustained process where staff are informed.

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### **RFP processes**

The district has initiated several RFPs for professional services. These include architect, construction manager, independent auditor, and health insurance consultant. These actions adhere to OSC recommendations and local policy

### **Investments**

The district has initiated an aggressive investment practice, particularly since interest rates have risen over the past years. These practices have conservatively increased annual interest earnings in the district by more than \$350,000

### **Reserve plans**

The district approved a Fund Balance and Reserve Plan in 2022 which outlines the purpose, balance and targets of each district reserve including initiatives to adhere to the 4% unappropriated fund balance limit.

### **Assertive audit relationships**

The district has embraced the audit process as a method of assisting in the development of sound practices in the district. We encourage auditors to reach out to us with constructive and balanced criticism. These audit practices include those conducted by OSC, independent auditor, internal auditor, claims auditor, and also those conducting specialized audits of food service activity, grant activity, and special education activity (all of which have occurred in the past few months).

### **Regarding the specific findings of the OSC audit:**

The district is in the midst of an internal review to advance the purchasing and procurement policies and practices in the district. The OSC review has pointed out areas of focus including policy and procedure language that needs to be tightened.

Our own internal reflection indicates clearly that all district staff have been acting in good faith, have strived and, we believe, succeeded to procure the best products and materials to further education in the district. That being said, we recognize certain areas need to be adjusted and thank OSC for bringing these items to light.

### **Corrective Action Plan**

The report has seven recommendations. Responses are as follows:

#### **Recommendation 1**

The Board and Superintendent should:

Require the Director, as purchasing agent, to monitor and ensure purchase contracts over \$20,000 are procured in compliance with GML Section 103.

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## **Response**

The Director at the time of the audit is no longer with the district. The current Interim Director is in the process of continuing the work of the former Director to update purchasing procedures and monitor purchases in accordance with GML Section 103. Monitoring the procurement of purchase contracts above \$20,000 is included in that review and will be in compliance with GML. These updates will be completed by early 2024.

## **Recommendation 2**

The Board and Superintendent should:

Require the Director to become familiar with and ensure officials and employees comply with the procurement policy.

## **Response**

The Interim Director is continuing to develop procedures to address the procurement policy. Staff development sessions have already been conducted with administrative and support staff to educate regarding the procurement policy. These sessions will continue and will become part of routine staff development for current staff and part of required training for new staff who are involved in this process.

## **Recommendation 3**

The Board and Superintendent should:

Ensure the procurement policy and procedures are annually reviewed and updated as required per GML Section 104-b and update the current procedures to align with GML Section 103 and the procurement policy.

## **Response**

The Interim Director of Business and Finance is reviewing the procurement policy and procedures. Suggestions have already been made regarding adjustments in order to bring these procedures in alignment with GML Section 103. This process will be completed in early 2024. Annual review and update according to GML Section 104-b will become part of the reorganization agenda each July, to be approved by the Board of Education.

## **Recommendation 4**

The Board and Superintendent should:

Ensure the procurement policy and procedures are amended to address purchases between \$1,001 and \$4,999.

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### **Response**

The District recognizes that the existing procurement procedures need to be amended and updated. These procedures will be amended and in place by early 2024 and will include procedures to address purchases between \$1,001 and \$4,999.

### **Recommendation 5**

The Superintendent and Director should ensure that:

All District employees and officials authorized to make purchases are aware of the procurement policy and procedures.

### **Response**

Staff development sessions have already been conducted with administrative and support staff to educate regarding the procurement policy. These sessions will continue and will become part of routine staff development for current staff and part of required training for new staff who are involved in this process.

### **Recommendation 6**

The Director should:

Ensure all purchase contracts over \$20,000 are competitively bid as required by GML Section 103.

### **Response**

The Director will ensure all purchase contracts over \$20,000 are competitively bid as required by GML Section 103.

### **Recommendation 7**

The Director should:

Become familiar with the procurement policy and procedures and ensure all employees obtain, document and retain the required number of quotes or other method of obtaining competitive pricing, as required by the procurement policy, for all goods and services purchased below the bidding threshold.

### **Response**

The Interim Director is aware of the procurement policy and procedures as well as areas in need of adjustment. The process of educating employees regarding purchasing practices, including

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obtaining quotes and obtaining competitive pricing has already begun in the form of one to one meetings and group staff development sessions.

Sincerely,

Timothy A. Oldenburg, Ed.D.  
Superintendent of Schools

## Appendix B: Audit Methodology and Standards

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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 written policies, procedures and interviewed District officials to gain an understanding of the controls in place over the procurement process.
- We obtained a list of all cash disbursements for the procurement of goods and services for the period July 1, 2022 through March 31, 2023, and sorted them by vendor name, number of and total payments, from largest to smallest. We excluded payments for items that would generally not be subject to competition, such as payments to other school districts, payroll-related expenditures, health insurance, utilities, debt service payments, association dues and travel reimbursements. We also excluded payments for goods and services subject to bidding requirements except for the purchase of information technology equipment. We selected our sample for audit testing from the remaining payments to 162 vendors, which totaled \$2.3 million.
- Using our professional judgment, we selected 29 vendors who were paid a total of \$974,724. We selected our sample based on the total amounts the District paid the vendors during our audit period and information obtained during audit survey work. Our sample included two technology purchases totaling \$669,694 subject to bidding requirements and 27 purchases totaling \$305,030 for goods and services not subject to competitive bidding requirements but within the procurement policy thresholds for obtaining quotes. We expanded our sample to add an additional technology purchase made in 2021 totaling \$314,438. Total technology purchases reviewed were \$984,132.
- We reviewed the selected purchases and all available supporting documentation such as purchase orders, claims packets and invoices to determine whether District officials obtained quotes and/or used a competitive process to procure goods and services, and complied with the District's procurement policy and statute, where applicable.
- We conducted online searches to identify similar goods and services as the ones purchased in our sample to determine whether the District could have obtained lower prices had officials obtained quotes as required.

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.

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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

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### **Regional Office Directory**

[www.osc.state.ny.us/files/local-government/pdf/regional-directory.pdf](http://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](http://www.osc.state.ny.us/local-government/publications)

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

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**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](http://www.osc.state.ny.us/local-government/publications)

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**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](http://www.osc.state.ny.us/files/local-government/publications/pdf/cyber-security-guide.pdf)

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[www.osc.state.ny.us/local-government/required-reporting](http://www.osc.state.ny.us/local-government/required-reporting)

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