



Avoca Central School District

Procurement

2025M-29 | June 2025

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Audit Results

Avoca Central School District



Audit Objective

Audit Period

Did Avoca Central School District (District) officials make procurements in accordance with statutory requirements and District policies?

July 1, 2022 – February 20, 2025

Understanding the Program

Generally, school district (district) purchases should be made in the best interest of the taxpayers. One method for ensuring that goods and services are acquired in a cost-effective manner is to create as much competition as possible. Whether using formal competitive bids in accordance with New York State General Municipal Law (GML), requests for proposals (RFPs) or written and verbal quotes, a well-planned solicitation effort is important to reach as many qualified vendors as possible.

The District made purchases from 31 vendors, totaling \$3.5 million, subject to the competitive bidding requirements set forth in GML. Additionally, the District made purchases from 608 vendors, totaling \$1.2 million, which were not subject to the competitive bidding requirements and purchases from 10 vendors, totaling \$965,535, for professional services.

Audit Summary

District officials did not always procure goods and services in accordance with the statutory requirements set forth in GML or with the District's procurement policies and procedures. When officials do not solicit competition during the procurement of goods and services, taxpayers have less assurance that purchases are made in the most prudent and economical manner and without favoritism.

District officials also did not develop procedures governing the procurement of goods and services not subject to New York State competitive bidding laws as required by the District's procurement policy that was last approved by the Board in 2017. In addition, District officials did not aggregate purchases to determine whether certain procurements were subject to the competitive bidding set forth in GML. As a result, District officials did not always seek competition and:

- Issue RFPs for payments to seven of the 10 professional service providers totaling \$362,740 (38 percent) of the \$965,535 reviewed,

-
- Competitively bid, in accordance with GML for cleaning supplies which, when aggregated, totaled \$22,930, and
 - Ensure that 42 of 54 purchases, totaling \$38,446 (59 percent) of \$65,287 reviewed, which were not subject to the competitive bidding requirements of GML, were still properly procured in a competitive manner.

Furthermore, officials did not ensure that purchases made using the “piggybacking”¹ exception totaling \$817,099 adhered to the competitive bidding exception set forth in GML Section 103(16).

The report includes five recommendations that, if implemented, will improve the District’s procurement function. District officials generally agreed with our findings and indicated they plan to initiate corrective action. Appendix C includes our comment on an issue raised in the District’s response.

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. Our methodology and standards are included in Appendix D.

The Board of Education (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 the New York State General Municipal Law, Section 2116-a (3)(c) of the 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.

¹ The piggybacking exception allows a district to benefit from the competitive process already undertaken by other local governments (see Appendix A for further details).

Procurement Findings and Recommendations

GML Section 103 requires districts to competitively bid for purchase contracts in excess of \$20,000 and public works contracts in excess of \$35,000. To determine whether competitive bidding is necessary, district officials must consider whether the aggregate cost of a good or service within a 12-month period will exceed the competitive bidding dollar thresholds. GML, however, outlines certain exceptions to the competitive bidding requirements, such as allowing districts to “piggyback” on other governmental contracts to procure certain goods and services. Furthermore, districts must develop and adopt written policies and procedures to help ensure that purchases, not subject to the competitive bidding requirements set forth in GML, are procured in a prudent and economical manner.

More details on the criteria used in this report, as well as resources we make available to District officials that can help officials improve the District’s procurement practices are included in Appendix A.

Finding 1 – District officials did not always solicit competition when procuring goods and services.

We reviewed purchases of goods and services from 73 vendors, totaling approximately \$4.6 million, from June 1, 2022 through October 10, 2024, and determined that District officials did not always solicit competition in accordance with statutory requirements set forth in Section 103 of GML or the District’s procurement policies. Specifically, we determined that officials did not:

- Issue RFPs as required by the District’s procurement policy for seven of the 10 professional service providers totaling \$362,740 (38 percent) (see Figure 1) of the \$965,535 reviewed. As a result, officials did not determine whether the rates paid to professional service providers were necessarily in the best interest of the taxpayers. District officials could not provide an explanation as to why competition was not sought, other than the District had historically used these vendors for many years.

Figure 1: Professional Services Procured Without Seeking Competition

Professional Service Type (Total Providers)	Total Paid
Insurance (2)	\$271,610
Consulting (1)	47,222
Financial Planning (1)	30,908
Benefits (1)	10,850
Therapy (2)	2,150
Total (7)	\$362,740

- Competitively bid for cleaning supplies totaling \$22,930. This occurred as District officials did not implement procedures to accurately track aggregate purchases that may have resulted in the purchase being subject to GML bidding requirements.

-
- Ensure that 42 of 54 purchases, totaling \$38,446 (59 percent) of \$65,287 reviewed, were procured in a prudent and economical manner as required by the District's procurement policy. Although we determined that the purchases fell below the statutory dollar thresholds for purposes of competitive bidding, District officials did not develop procedures, as required by the Board-adopted procurement policy, governing the procurement of goods and services not subject to competitive bidding. For example, we determined that \$11,737 was paid for classroom furniture and \$11,051 was paid for various materials and supplies, without seeking some type of competition. Therefore, there was less assurance that these purchases were made in a prudent and economical manner.
 - Provide records to support that goods (e.g., athletic equipment) and construction services totaling \$817,099 were properly procured through the use of the piggybacking exception. Prior to being purchased, these proposed procurements were not reviewed by District officials on the advice of the District's legal counsel, as appropriate, and determined to satisfy each of the prerequisites for use of the exception set forth in GML Section 103(16). District officials did not have any explanations for why this was not done.

When District officials do not seek or properly document competition, taxpayers have less assurance that purchases are made in the most prudent and economical manner, without favoritism and in compliance with the competitive bidding statute.

Recommendations

The Board should:

1. Revise the procurement policy to require that officials review each contract to help ensure the contract was properly bid and awarded in a manner consistent with GML.
2. Ensure District officials follow the procurement policy's requirement to procure professional services through formal RFPs.

District officials should:

3. Develop and implement procedures to solicit competition when procuring goods and services not subject to competitive bidding.
4. Develop and implement procedures to accurately track aggregate purchases of goods or services that may be subject to GML bidding requirements.
5. When procuring goods and services through the use of the piggybacking exception to competitive bidding, review the proposed procurement to determine, on the advice of the District's legal counsel as appropriate, whether the procurement satisfies the prerequisites for use of the exception set forth in GML Section 103(16).

Appendix A: Profile, Criteria and Resources

Profile

The District's boundaries include parts of the Towns of Avoca, Bath, Cohocton, Fremont, Howard, Prattsburgh and Wheeler in Steuben County. The District is governed by a five-member Board responsible for managing the District's educational and financial affairs. The former Superintendent, currently under contract as the Interim Superintendent through June 30, 2025, is the chief executive officer responsible for the day-to-day management of the District under the Board's direction, and the purchasing agent who approves all purchases.

Criteria – Procurement

In accordance with GML Section 103, districts are generally required to advertise for competitive bids for purchase contracts exceeding \$20,000 and public works contracts exceeding \$35,000. In determining whether a purchase exceeds the statutory dollar thresholds of GML, the district must consider the aggregate amount reasonably expected to be expended for "all purchases of the same commodities, services or technology to be made within the twelve-month period commencing on the date of the purchase," whether from a single vendor or multiple vendors. The timeline for the aggregate cost determination should start from the first purchase date of the good or service. To help ensure districts are properly aggregating, the district can use the prior year's expenditures as a good way to estimate whether purchases of a commodity or service will exceed the statutory bidding limit for the current year.

Furthermore, GML sets forth certain exceptions to the competitive bidding requirements. One exception, often referred to as "piggybacking," allows districts to procure certain goods and services through the use of other governmental contracts. The District's procurement policy permits the use of contracts let by other governmental agencies to purchase goods and services, provided such contracts are awarded in accordance with GML Section 103. For the exception to apply, certain prerequisites must be met, including the contract must have been:

- Let by the United States or any agency thereof, any state, or any other political subdivision or district therein;
- Made available for use by the other governmental entity; and
- Let to the lowest responsible bidder or on the basis of best value as defined in Section 163 of New York State Finance Law.²

Use of the piggybacking exception allows districts to benefit from the competitive process already undertaken by other local governments. However, when procuring goods and services through the use

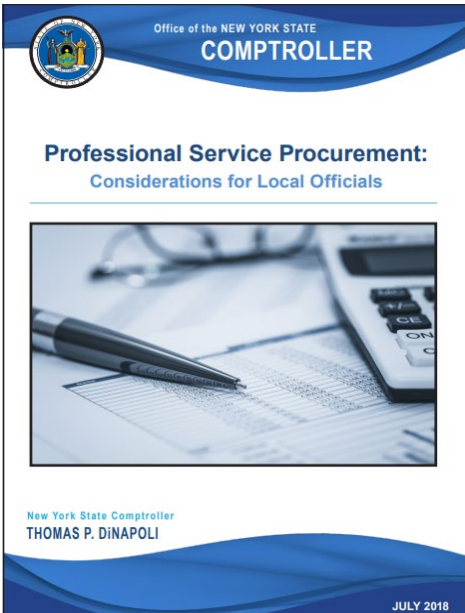

² The NYS Office of the State Comptroller (OSC) has published a bulletin to assist officials with addressing the prerequisites to use the exception set forth in GML Section 103(16) (<https://www.osc.state.ny.us/localgov/pubs/piggybackinglaw.pdf>)

of the piggybacking exception, officials are still responsible for reviewing the proposed procurement to determine, on advice of the district's legal counsel as appropriate, whether the procurement satisfies the prerequisites for use of the exception set forth in GML Section 103(16). In addition, district officials should maintain appropriate documentation to demonstrate that they reviewed each of the prerequisites prior to procuring the good or service. As noted above, documentation may include such items as copies of the contract, as well as an analysis of the contract to help ensure it has met each of the prerequisites set forth in the piggybacking exception.

GML Section 104-b requires a district board to adopt written policies and procedures governing the procurement of goods and services, such as professional services, that are not subject to GML's competitive bidding requirements. Such policies and procedures help ensure a prudent and economical use of public money, as well as guard against favoritism, improvidence, extravagance, fraud and abuse. Written procurement policies and procedures also provide guidance to employees involved in the procurement process and help ensure that competition is sought in a reasonable and cost-effective manner. The District's procurement policy provided guidelines for the development of specific procedures for procuring goods and services not subject to competitive bidding and a requirement to use RFPs for professional services to avoid an appearance of favoritism or impropriety.

Additional Procurement Resources

FIGURE 1: OSC Publications

OSC <i>Local Government Management Guides</i> and other resources available on our website to help officials understand and perform their responsibilities.	
<i>Professional Service Procurement: Considerations for Local Officials</i>	<i>Seeking Competition in Procurement</i>
 <p>https://www.osc.ny.gov/files/local-government/publications/pdf/professional-service-procurement.pdf</p>	 <p>https://www.osc.ny.gov/files/local-government/publications/pdf/seeking-competition-in-procurement.pdf</p>

- “Piggybacking” Law: Exception to Competitive Bidding – <https://www.osc.ny.gov/files/local-government/publications/pdf/piggybacking-law.pdf>
- GML is available on the New York State Senate website³ to help officials understand and perform their responsibilities per the law.

In addition, our website can be used to search for audits, resources, publications and training for officials: <https://www.osc.ny.gov/local-government>.

³ <http://public.leginfo.state.ny.us/lawssrch.cgi?NVLWO:>

Appendix B: Response From District Officials



AVOCA



Central School District



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Stephen Saxton, Superintendent
Cody Delles, Middle/High School Principal
Erica Meyers, Elementary Principal
Phone: 607-566-3000
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May 27, 2025

Office of the State Comptroller
Stephanie Howes, Chief of Municipal Audits
110 State Street
Albany, New York 12236

To: Ms. Howes, Chief of Municipal Audits

We are in receipt of the draft *Report of Examination* of the Avoca Central School District Procurement for the period of July 1, 2022 through February 20, 2025. The report was reviewed with district staff and officials at our exit conference on May 9, 2025. We would like to thank the staff from the Office of the State Comptroller involved with the field work for their professional and courteous execution of their duties during the course of the audit.

We appreciate the opportunity to respond to the draft findings and recommendations. The district acknowledges and agrees, in part, with *Finding 1* and the determination that “District officials did not always solicit competition when procuring goods and services.”

With regards to the determination that the district did not solicit RFPs for a number of professional service providers, the district acknowledges that, in some cases, the same provider has been used for a number of years. This is due, at least in part, to there being a very limited number of providers of a particular professional service (e.g. Insurance and Financial Planning). Despite these limitations, the district will review existing professional service contracts and issue RFPs where warranted and appropriate.

The district also acknowledges the determination that the district did not competitively bid for some cleaning supplies. The purchases in question, however, represent only one of the three primary vendors that the district utilized for the purchase of cleaning supplies over the time period reviewed by OSC. Moving ahead, the district will be sure to competitively bid the questioned purchases or restrict those purchases to the other two primary cleaning supply vendors, both of whom currently hold a state contract.

With regards to the determination that the district did not develop written procedures for purchases falling below the statutory threshold for competitive bidding, the District is in receipt

of the example procedures from OSC. The district will review the model procedures and develop the necessary procedures moving ahead.

With regards to the determination that the district procured goods and service through the use of piggybacking without adequate review by district officials, the district acknowledges that the regulations and guidance related to the use of piggybacking have changed dramatically over the period that the OSC audit was being conducted. In light of these developments, the district will be sure to consult with legal counsel before utilizing the piggybacking exception in the future.

See Note 1 Page 10

Respectfully Submitted,

Stephen Saxton
Superintendent of Schools

Appendix C: OSC Comment on the District's Response

Note 1

We advise the District that the “piggybacking exception” referenced in our report is pursuant to statute (see GML Section 103[16]) and not established by regulation. Furthermore, there have been no statutory amendments to this section of law since 2013. We acknowledge that the “*Piggybacking Law: Exception to Competitive Bidding*” guidance document, which was originally released by our Office in October 2021, was updated in March 2025 to advise local governments of a recent Supreme Court decision holding that the use of the piggybacking exception under GML Section 103(16) is not available for public works, public works contracts and public works projects (see Appendix A, Page 7). However, since our initial guidance document was released in 2021, there has been no change to our recommendation that District officials adequately review the prerequisites set forth in GML Section 103(16) before awarding a contract through the use of this exception.

Appendix D: Audit Methodology and Standards

We obtained an understanding of internal controls that we deemed significant within the context of the audit objective and assessed those controls. Information related to the scope of our work on internal controls, as well as the work performed in our audit procedures to achieve the audit objective and obtain valid audit evidence, included the following:

- We interviewed District officials and employees to gain an understanding of the District's procurement process.
- We reviewed and evaluated the adequacy of the Board-adopted procurement policies.
- We reviewed the Board's meeting minutes to identify relevant purchasing decisions, including purchases made using bids or quotes, and to understand the Board's involvement in the procurement process.
- We reviewed purchases totaling approximately \$3.5 million to 31 vendors subject to competitive bidding to determine whether District officials competitively bid for goods and services or made purchases through a State or other municipal contract.
- We reviewed purchases of similar goods and services and took an aggregate of the total amount paid for a one-year period to determine whether District officials should have competitively bid for goods and services that exceeded the bidding threshold amounts. We then discussed these purchases with District officials to determine whether they competitively bid for these goods and services.
- We reviewed payments to 10 professional service providers totaling \$965,535 to determine whether District officials procured professional services in a competitive manner through issuing RFPs.
- We used our professional judgment to select high-risk (e.g., online and credit card purchases) as well as a random sample using a random number generator to select 54 purchases totaling \$65,287 from 30 vendors that were not subject to competitive bidding to determine whether officials made procurements in a prudent and economical manner, including credit card purchases totaling \$10,801.

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 relevant population size and the sample selected for examination.

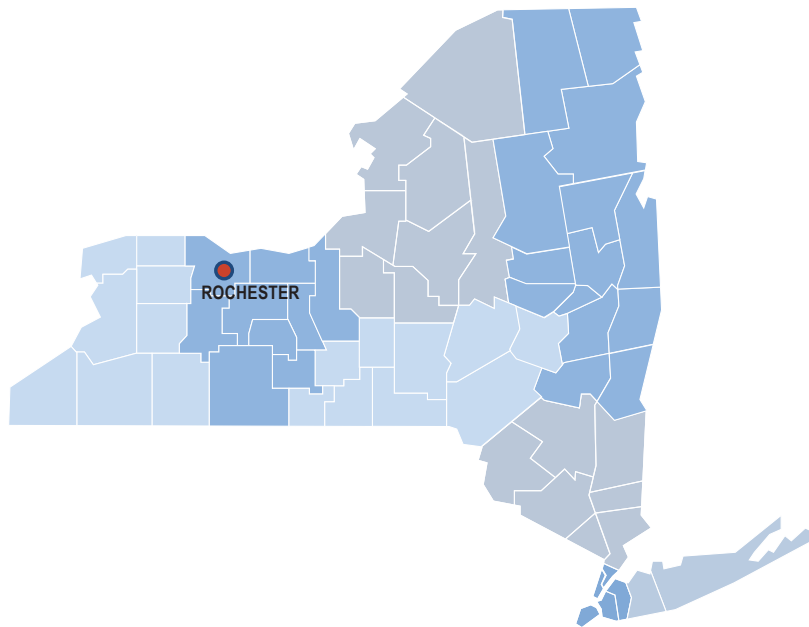
Contact

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