

Elmira City School District

Capital Projects

2025M-21 | October 2025

Contents

Audit Results 1

 Audit Summary 1

Capital Projects: Findings and Recommendations 3

 Finding 1 – District officials complied with competitive bidding requirements and
 the District’s procurement policies.. . . . 3

 Finding 2 – District officials did not seek competition for professional services. 3

 Recommendations 4

Appendix A: Profile, Criteria and Resources. 5

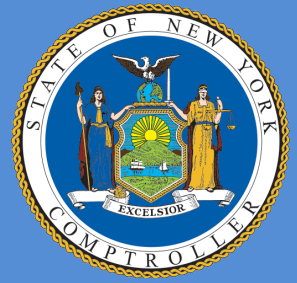
Appendix B: Response From District Officials. 8

Appendix C: OSC’s Comments on the District’s Response. 9

Appendix D: Audit Methodology and Standards. 10

Audit Results

Elmira City School District



Audit Objective	Audit Period
Did Elmira City School District (District) officials properly procure contracts related to the 2020 Capital and Energy Performance Improvements Project (Project)?	March 19, 2020 – January 31, 2024. We extended the audit period through October 31, 2024 to review approval, expenditure and financing documentation.
Understanding the Audit Area	
Proper procurement of goods and services helps ensure the prudent and economical use of public money and helps guard against favoritism, improvidence, extravagance, fraud and abuse. Whether using formal competitive bids, requests for proposals (RFP) or written and verbal quotes to ensure purchases are made in the most prudent and economical manner, a well-planned solicitation effort is needed to reach as many qualified vendors as possible. District voters approved the ongoing Project, with a budget of \$76.8 million. Although the Project is not complete, we reviewed 72 Project contracts and change orders paid during the audit period that exceeded competitive bidding thresholds or were subject to the District's procurement policies, totaling approximately \$62.9 million, to assess whether goods and services were properly procured and approved.	

Audit Summary

Although District officials complied with competitive bidding requirements and certain aspects of the District's procurement policies, they did not seek competition for two professional service contracts related to the Project.

We reviewed a total of 60 contracts¹ and 12 change orders associated with the contracts that either exceeded the competitive bidding requirements set forth in New York State General Municipal Law (GML) or were subject to the District's procurement policies and procedures. The total cost of the 72 contracts and change orders was approximately \$62.9 million. The District complied with GML with respect to the procurement process for 70 of the contracts and change orders. However, of the \$62.9

¹ These contracts included 58 purchase contracts or contracts for public work and two professional service contracts.

million we reviewed, \$7.3 million was paid to two vendors through contracts for professional services that were not let in accordance with the District's procurement policy, which required the District to use an RFP process to obtain proposals.

When District officials do not solicit competition in accordance with the District's procurement policy, taxpayers are less assured that purchases are made in the most prudent and economical manner, in compliance with statute and without favoritism.

The report includes two recommendations that, if implemented, can improve the District's procurement practices. District officials disagreed with certain aspects of our findings. Appendix C includes our comments on issues raised in the District's response.

We conducted this audit pursuant to Article V, Section 1 of the State Constitution and the Office of the New York State Comptroller's (OSC) authority as set forth in Article 3 of GML. 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 GML, 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.

Capital Projects: Findings and Recommendations

School district officials are responsible for the oversight and management of capital projects, including ensuring that project contracts are properly procured. In accordance with GML Section 103, school districts are required to award purchase contracts in excess of \$20,000 and contracts for public work in excess of \$35,000 to the lowest responsible bidder after public advertisement for sealed bids. GML also sets forth certain exceptions to the competitive bidding process. One exception, often referred to as “piggybacking,” allows school districts to procure certain goods and services by using other governmental contracts, provided prerequisites are met.

When competitive bidding is not required by GML Section 103, for instance, contract awards for professional services, the school district is still subject to its own board-adopted procurement policies and procedures. However, school districts are still required to follow their own procurement policies and procedures before awarding professional service contracts. By complying with appropriate procurement laws and the school district’s procurement policies, school district officials can help ensure that purchases are made in the most prudent and economical manner and without favoritism.

More details on the criteria used in this report, as well as resources we make available to local officials that can help officials improve operations (Figure 1), are included in Appendix A.

Finding 1 – District officials complied with competitive bidding requirements and the District’s procurement policies.

We reviewed 70 Project contracts (58 contracts and 12 change orders) totaling approximately \$55.6 million to assess whether the contracts, or the change orders associated with the contracts, were properly procured and approved. We determined that the contracts complied with both GML and the District’s procurement policies, such as by using a competitive bidding process or “piggybacking” using contracts extended by the New York State Office of General Services and contracts awarded through a group purchasing organization (GPO).² The District also obtained the necessary approvals from the District and/or the New York State Education Department (NYSED) for each of the contracts and change orders. In addition, the work associated with the change orders was properly procured and aligned with the original contract scope.

Finding 2 – District officials did not seek competition for professional services.

We reviewed two of the 10 professional service contracts – for the project manager and architect/engineer – to assess compliance with the District’s procurement policies. Although, as of October 31,

² Subsequent to our fieldwork and after repeated requests during our audit, District officials provided evidence to demonstrate that they independently reviewed the proposed procurements to ensure that all necessary prerequisites for use of the “piggybacking” exception set forth in GML Section 103(16) were met prior to awarding the contracts through a GPO

2024, officials have paid the two vendors approximately \$7.3 million and the District's procurement policy required the use of an RFP process to obtain proposals for contracts valued at \$50,000 or more, officials did not use a competitive procurement method before awarding either of the two professional service contracts.

The School Business Official told us that District officials were advised by the District's bond counsel that issuing RFPs for professional services was not required. However, according to the District's procurement policy, the District should have issued RFPs before awarding the professional service contracts.

The School Business Official and Superintendent of Schools (Superintendent) told us the District had used an RFP process for previous projects, but did not issue RFPs for every project. They also stated that they have a good working relationship with these professional service vendors.

By not seeking competition prior to awarding professional services, District officials and taxpayers have less assurance that the services were procured in an economical way, without favoritism, in the District's best interest and through a transparent process.

Recommendations

1. The Board and District officials should oversee the procurement process and ensure purchases are made in compliance with the District's procurement policy.
2. District officials should use an RFP process to obtain proposals when procuring professional services, as required by the District's procurement policy.

Appendix A: Profile, Criteria and Resources

Profile

The District's boundaries include the City of Elmira and the Towns of Ashland, Baldwin, Big Flats, Chemung, Elmira, Erin, Horseheads and Southport in Chemung County and the Town of Caton in Steuben County. The District is governed by the elected nine-member Board which is responsible for the general management and control of financial and educational affairs.

The Superintendent is the District's chief executive officer and is responsible, along with the School Business Official, for the District's day-to-day management.

Criteria – Procurements for Capital Projects

GML Section 103 generally requires school districts to solicit competitive bids for purchase contracts in excess of \$20,000 and contracts for public work in excess of \$35,000. However, GML sets forth certain exceptions to the competitive bidding requirements. One exception, often referred to as “piggybacking”, allows school districts to procure certain goods and services³ using other government contracts. In some cases, GPOs may advertise the use of such governmental contracts to other local governments, providing the opportunity for school districts to benefit from the competitive process already undertaken by other local governments. However, when procuring goods and services in this manner, officials must review the contract to determine that:

- (1) The contract was awarded by another governmental entity (i.e., the United States or any agency thereof, any state or any other political subdivision or district therein);
- (2) The contract was made available for use by the other governmental entity; and
- (3) The contract was originally awarded to the lowest responsible bidder or on the basis of best value in a manner consistent with GML.

As such, school 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.

Furthermore, prior to awarding a good or service through the use of a GPO contract, school district officials should evaluate whether the selected good or service is the most practical and economical choice, as well as in the school district's best interest. Performing such an evaluation, which should include whether the selection of the good or service through the use of a GPO contract will result in cost savings to the school district, helps ensure that the school district is furthering the underlying purpose

³ A recent State supreme court decision holds that the use of the “piggybacking” exception set forth in GML Section 103(16) is not available for public works, public works contracts, and public works projects (see, *Matter of Daniel J. Lynch v Board of Education of the Maine-Endwell Central School District*, 2025 NY Misc. LEXIS 711 (Broome Co. Sup. Ct. 2025)).

of the “piggybacking” exception (i.e., benefiting from the competitive process already undertaken by another governmental entity), as well as helping ensure that the procurement is consistent with the purposes generally set forth in GML Section 103.⁴

GML Section 104-b further requires a school district board to adopt written policies and procedures governing the procurement of goods and services, including professional services, that are not subject to the competitive bidding requirements set forth in GML Section 103. Such policies and procedures help ensure the prudent and economical use of public money, as well as help 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. GML permits school districts to set forth in their policies the circumstances when, or the types of procurements for which, the school district has determined solicitation of alternative proposals or quotations will not be in the school district’s best interest. Nonetheless, using a competitive method, such as an RFP process to obtain proposals, can help ensure that the school district obtains needed qualified services upon the most favorable terms and conditions, and in the best interest of the taxpayers. Although not required by law, the school district’s procurement policy should also establish a reasonable interval when RFPs should be reissued to obtain proposals, such as for professional services, to increase competition and create potential cost savings.

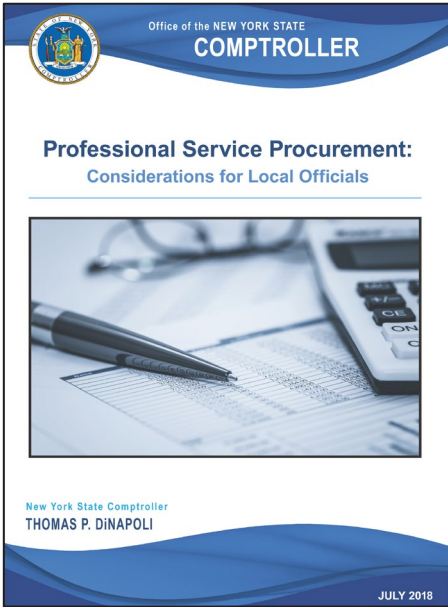
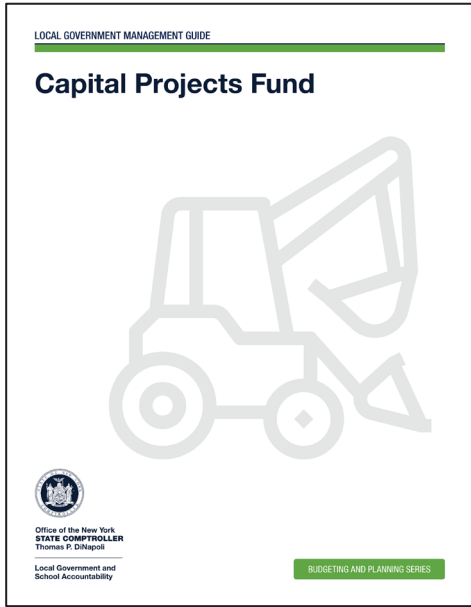
The District’s procurement policy provides guidelines for the procurement of professional services and requires the Superintendent (or their designee) to obtain proposals by issuing an RFP for purchases of \$50,000 or more. In addition, the District’s policy requires RFPs to outline the services sought and any other criteria to be used in choosing the contractor and/or evaluating the work, and RFPs must be distributed in such a way that no less than three potential proposers are made aware of the RFP.

⁴ In general, the purposes of competitive bidding are to guard against favoritism, improvidence, extravagance, fraud and corruption, while fostering honest competition in order that the school district obtain the best goods and services at the lowest possible price.

Additional Procurement and Capital Projects Resources

Figure 1: OSC Publications

OSC *Local Government Management Guides* and other informational resources are available on our website to help officials understand and perform their responsibilities and implement effective internal controls.

Professional Service Procurement: Considerations for Local Officials	Seeking Competition in Procurement	Capital Projects Fund
 https://www.osc.ny.gov/files/local-government/publications/pdf/professional-service-procurement.pdf	 https://www.osc.ny.gov/files/local-government/publications/pdf/seeking-competition-in-procurement.pdf	 https://www.osc.ny.gov/files/local-government/publications/pdf/capital-projects-fund.pdf

“Piggybacking” Law: Exception to Competitive Bidding – <https://www.osc.ny.gov/files/local-government/publications/pdf/piggybacking-law.pdf>

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

Appendix B: Response From District Officials

Elmira City School District



Lindsey Tice
430 W. Washington Avenue
Elmira, NY 14901
Phone: (607) 735-3054
elmiracityschools.com

October 1, 2025

Office of the New York State Comptroller
110 State St.
Albany, NY 12236

Audit Response: 2025M-21

Finding 1 – District officials did not seek competition for professional services

We reviewed two of the 10 professional service contracts – for the project manager and architect/engineer – to assess compliance with the District's procurement policies. Although, as of October 31, 2024, officials have paid the two vendors approximately \$7.3 million and the District's procurement policy required the use of an RFP process to obtain proposals for contracts valued at \$50,000 or more, officials did not use a competitive procurement method before awarding either of the two professional service contracts.

The School Business Official told us that District officials were advised by the District's bond counsel that issuing RFPs for professional services was not required. However, according to the District's procurement policy, the District should have issued RFPs before awarding the professional service contracts.

The School Business Official and Superintendent of Schools (Superintendent) told us the District had used an RFP process for previous projects, but did not issue RFPs for every project. They also stated that they have a good working relationship with these professional service vendors.

By not seeking competition prior to awarding professional services, District officials and taxpayers have less assurance that the services were procured in an economical way, without favoritism, in the District's best interest and through a transparent process.

District Comment – Finding 1

On December 11, 2024, the School Business Official communicated via email the district's justification for not seeking RFPs for Architect and Construction Manager services. This justification is based on the guidance outlined in **Policy 5410** and **Regulation 5410R**.

Please refer to the attached Policy 5410, specifically:

- **Section VI: Administrative Authority for Purchasing** (Page 3 of 5), which directly addresses the authorization and process for procuring professional services, including those of architects and construction managers.

See
Note 1
Page 10

See
Note 1
Page 10

VI. Administrative Authority for Purchasing

A. The Purchasing Manager or Assistant Purchasing Manager each shall have authorization to purchase goods, services and public works not subject to the requirements of Section 103 of the General Municipal Law. When purchases or annual anticipated purchases for items or categories of items reach statute specified amounts, bid specifications shall be developed and bids taken as required by statute. The Board of Education, in its sole discretion recognizes that the solicitation of alternative proposals or quotations may not be in the best interest of the School District as per the Office of the State Comptroller's Financial Management Guide, Issue 1973, Revised 12/93, Subsection 8.3020, page 3; therefore it is deemed that the competitive bidding requirements of General Municipal Law, Section 103 now and hereinafter amended, shall not apply for the purchase of the performance of the following services:

- a. Legal
- b. Independent Auditing
- c. Employee Benefits Administration
- d. Architectural/Engineering/Project Management
- e. Insurance
- f. Data Processing Software
- g. Actuarial
- h. Financial advisory

Additionally, we would like to clarify that while the finding references **Policy 5411**, both Policy 5410 and 5411 cross-reference one another in their respective footnotes. Policy 5410 and Regulation 5410R more explicitly govern the procurement of professional services and allow for such services to be obtained without the formal RFP process under specified conditions. Given this, we believe the district has acted in compliance with our internal procurement policies. We respectfully request that this finding be reconsidered and removed from the draft audit report.

See Note 2 Page 10

Respectfully,

Lindsey Tice
School Business Official

Appendix C: OSC's Comments on the District's Response

Note 1

District officials are referring to Finding 2, not Finding 1, of the audit report.

Note 2

We acknowledge that the District's Policy 5410 (last revised October 2, 2013) and Regulation 5410R.1 (dated 2014) expressly exclude professional service contracts from being subject to the competitive bidding requirements set forth under GML Section 103. Furthermore, we acknowledge that Policy 5410 and 5411 cross reference each other. However, in our view, neither Policy 5410 nor 5410R indicates that Policy 5411 or Regulation 5411R (dated 2017) are not applicable when awarding professional service contracts.

Specifically, Policy 5411 (last revised February 15, 2017) states, in part, that:

"[t]he procurement of professional services falls within an exception to competitive bidding. In order to procure professional services, the District will use the request for proposals (RFP) process as set forth in General Municipal Law when threshold standards developed by the District have been reached in order to protect the District's interests and to avoid the appearance of favoritism or impropriety. Although not necessarily bound to select the lowest bidder in response to its RFP, the District will adequately document its selection process to demonstrate its economical and prudent use of public monies and to ensure fair competition" (emphasis added).

Moreover, Regulation 5411R establishes specific guidelines for procuring professional services. For example, when the professional service is estimated to cost \$50,000 or greater, Regulation 5411R requires the District to use an RFP process. Therefore, when reading the District's procurement policies and regulations collectively (i.e., Policy 5410, 5410R, 5411 and 5411R), we acknowledge that the District is not subject to competitive bidding requirements set forth in GML Section 103. However, if the professional service contract is valued at \$50,000 or more, the District is subject to issuing an RFP before awarding the contract.

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 and reviewed policies, regulations and Board meeting minutes to gain an understanding of the District's procurement process.
- From a total population of 64 contracts totaling approximately \$55.2 million (excluding change orders and professional service contracts), we selected all 50 original contract awards and eight of the 14 contracts awarded through GPOs by selecting the highest contract for each vendor selection. We reviewed the documentation for these contracts to determine whether the District complied with competitive bidding requirements and the District's procurement policies.
- We reviewed a sample of 12 change orders totaling approximately \$990,000 to assess whether they were reviewed and approved by the Board and NYSED, properly procured and aligned with the original scope presented to voters. The change orders were selected from a total population of 211 change orders totaling approximately \$2.1 million. Our selection was based on the two highest change orders for each project application. Additionally, we evaluated whether the change orders were foreseeable and should have been included in the original bid.
- We interviewed District officials and discussed the awarding of a sample of two professional services to determine whether professional services were procured in accordance with the District's procurement policies and in a manner that demonstrated the economical and practical use of public money and ensured fair competition. From a total population of 10 professional service vendors with expenditures totaling approximately \$7.8 million, we used a biased judgmental method to select two of the 10 professional service vendors' contracts with the highest expenditures as of October 31, 2024.

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.

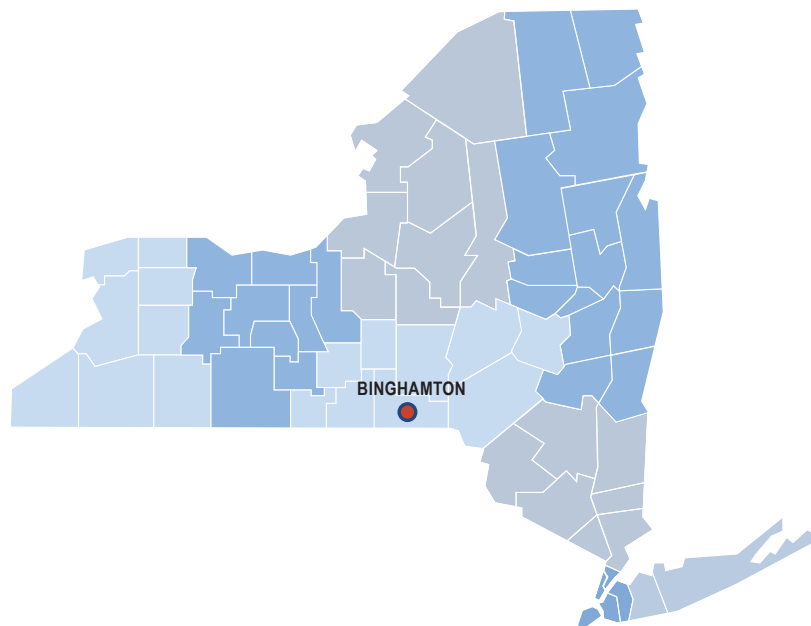
Contact

BINGHAMTON REGIONAL OFFICE – Lucas S. Armstrong, Chief of Municipal Audits

State Office Building, Suite 1702 • 44 Hawley Street • Binghamton, New York 13901-4417

Tel (607) 721-8306 • Fax (607) 721-8313 • Email: Muni-Binghamton@osc.ny.gov

Serving: Serving: Broome, Chemung, Chenango, Cortland, Delaware, Otsego, Schoharie, Tioga, Tompkins counties



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

<https://www.osc.ny.gov/local-government>

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