



East Aurora Union Free School District

Procurement

2023M-125 | January 2024

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Report Highlights

East Aurora Union Free School District

Audit Objective

Determine whether the East Aurora Union Free School District (District) officials procured goods and services in a competitive manner.

Key Findings

The Board of Education (Board) and District officials did not always procure goods and services in a competitive manner. Officials did not update the procurement policy or ensure that employees followed New York State General Municipal Law (GML) when procuring goods and services. As a result, goods and services were purchased without the benefit of competition, resulting in the increased risk that taxpayer dollars were not expended in the most prudent and economical manner.

The Board and District officials:

- Did not request proposals within the last five years for 43 professional service contracts (91 percent of tested contracts) totaling \$1.8 million.
- Did not obtain competitive pricing or retain documentation to demonstrate quotes were obtained for 48 purchase and public works contracts (100 percent of tested contracts) totaling \$443,734.
- Procured two separate purchases (12 percent of tested purchases) totaling \$63,433 without obtaining competitive bids as required by GML.

Key Recommendations

- Ensure all purchase contracts over \$20,000 are competitively bid as required by GML.
- Periodically review and update the procurement policy and procedures as required by GML Section 104-b.

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

Background

The District is located in the Towns of Aurora, Colden and Elma in Erie County. The District is governed by the elected seven-member Board, which 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 Business Administrator oversees the District's business office 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.

Quick Facts

2022-23 Enrollment	1,703
Purchases Selected from July 1, 2021 through April 14, 2023	
Total Purchases Tested	112
Total Dollar Amount of Purchases Tested	\$7.4 million
Total Population of Purchases	\$10.5 million

Audit Period

July 1, 2021 – July 11, 2023

We reviewed certain documentation regarding professional service contracts from prior fiscal years, back to 2016.

Procurement

Each department in the District initiated the procurement of its own goods and services as needed. As part of this process, the department sought out competition for goods and services, determined which vendor to use, and retained any records if competition was sought. The department's requisitioner input purchase requisitions in the financial system to be approved by the Business Administrator, as the purchasing agent, before the goods or services on the requisition could be ordered.

How Should School District Officials Procure Goods and Services?

School district (district) officials must comply with GML Section 103 that generally requires 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, officials must consider the aggregate amount reasonably expected to be spent on "all purchases of the same¹ 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.

In lieu of seeking competitive bids, a district is authorized to "piggyback," which allows the district to procure certain goods and services through the use of other governmental contracts. In some cases, group purchasing organizations (GPOs) may advertise the use of such governmental contracts to other local governments. This "piggybacking" exception allows 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; (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 Section 103. Although not required under the District's policy, officials should perform a cost-benefit analysis before using the exception. This will help ensure that the District is furthering the underlying purposes of the exception, and that the procurement is consistent with the purposes of competitive bidding.

District officials may also choose to purchase goods and services off New York State contracts (State contracts) instead of competitively bidding. This exception to bid requirements allows a district to benefit from the competitive process already undertaken by the State without the cost-benefit analysis and steps required for "piggybacking." However, when procuring goods and services through State contracts, officials are responsible for ensuring that the prices paid are in accordance with those contracts.

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

...[W]hen procuring goods and services through State contracts, officials are responsible for ensuring that the prices paid are in accordance with those contracts.

A district's board must comply with GML Section 104-b that requires the board to adopt written policies 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. 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. These policies and procedures should indicate when officials must seek competition and outline procedures for determining the competitive method that will be used by the district. For example, competitive methods could include issuing a request for proposal (RFP) or obtaining written or verbal quotes. The procurement policy may also set forth circumstances when or types of procurement for which, in the sole discretion of district officials, the solicitation of alternative proposals or quotes will not be in the best interest of the district.

The purchasing agent should establish procedures for monitoring purchasing and 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. This includes 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 actions taken.

Officials Did Not Always Comply with Competitive Bidding Requirements

We reviewed 17 purchases totaling approximately \$4.9 million that were subject to the competitive bidding requirements of GML Section 103. We determined that 13 purchases totaling \$4.7 million were properly procured. However, two purchases totaling \$90,718 were obtained through a GPO but officials did not perform a cost-benefit analysis to determine whether procuring the goods and services through a GPO was cost effective and for two purchases totaling \$63,433 officials did not comply with competitive bidding statutes. These purchases included 2,000 laptop cases totaling \$35,780 and copy paper totaling \$27,653.

The Director of Informational and Instructional Technology, who approved the order for the laptop cases, stated that because they were purchased using federal grant funding, she did not consider that the purchase should have been competitively bid. However, that is not an exception for competitively bidding the purchase. The Assistant Director of the Buildings and Grounds Department (Assistant Director), who ordered the copy paper, stated that the paper was needed quickly, and because the purchase was made through three separate orders, department officials did not realize that the aggregate amount would be over \$20,000 and required competitive bids. However, had officials considered

the amount of paper purchased in prior years, they would have realized that the District spent more than \$20,000 a year on copy paper. The Assistant Director told us that due to prior shipping and handling concerns with the State contract vendor, they did not want to buy from the State contract vendor. However, District officials did not comply with GML Section 103 because this purchase was required to be competitively bid and officials did not use the vendor awarded the State contract.

The Business Administrator, who was also the Board-appointed purchasing agent, agreed that both purchases should have been advertised and competitively bid, but she did not confirm that purchases were in compliance with GML. Instead, the Business Administrator relied on officials in each department to ensure purchases complied with GML. Although the District's procurement process is decentralized, with many officials seeking competition and making their own purchases, these officials may not be aware of the aggregate amount of goods being purchased across the District or have sufficient knowledge of the laws or policies governing purchasing. Ultimately, the Board is responsible for ensuring that officials comply with GML competitive bidding requirements. As such, it is essential that the Board, or the Board-appointed purchasing agent, monitor purchases to ensure they are in compliance with GML.

Officials Did Not Procure Goods and Services in a Competitive Manner

We reviewed 48 purchase and public works contracts totaling \$443,734 that were not subject to statutory bid requirements to determine whether District officials procured them in a competitive manner. The District's procurement policy did not outline the specific methods of procurement to be used, such as quotes or RFPs, or the dollar thresholds for when quotes will be obtained or RFPs will be issued. In addition, the procurement policy did not outline any specific situations in which District officials will not seek competition for procuring goods and services under certain circumstances, as well as any instances where officials could choose a vendor that did not submit the lowest bid or dollar value. As such, District officials either chose not to obtain competitive pricing prior to purchasing goods and services, or they did not retain documentation to demonstrate that quotes were obtained. Examples include:²

- Seven purchases of various printing and graphic services, including school flyers, calendars, newsletters and other items totaling \$54,413. The respective department heads told us they did not obtain quotes because these vendors were local and purchasing from them was convenient.

The District's procurement policy did not outline the specific methods of procurement to be used, such as quotes or RFPs, or the dollar thresholds for when quotes will be obtained or RFPs will be issued.

² Totals represent the combined total of like purchases made during both the 2021-22 and 2022-23 fiscal years.

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- Two purchases of fuel from a local gas station totaling \$30,977. The department head told us they did not obtain quotes because these vendors were local and purchasing from them was convenient.
 - Two purchases totaling \$24,193 for flooring installation. The department head told us they obtained written or verbal quotes but did not retain any documentation or support.
 - Two purchases totaling \$18,700 for cleaning and resurfacing the gymnasium, cafeteria, and multi-purpose room floors at the three District schools. The department head told us they obtained written or verbal quotes but did not retain any documentation or support.
 - One purchase totaling \$15,430 for striping and re-sealing the District's parking lots. The department head told us they obtained written or verbal quotes but did not retain any documentation or support.

Without a comprehensive procurement policy, department officials did not have uniform procedures to follow to ensure goods and services were always procured in a competitive manner. When officials do not seek competition to procure goods and services, there is an increased risk that goods and services may not have been obtained for the best value to ensure the most prudent and economical use of public money.

Officials Did Not Always Procure Professional Services in a Competitive Manner

We reviewed 47 professional service procurements from 28 vendors totaling \$2.1 million to determine whether they were procured in a competitive manner. With the exception of four professional service contracts with architects and physicians that were procured using proposals, District officials did not request proposals for the remaining 43 professional services totaling approximately \$1.8 million within the last five years. Some of these services that were procured in 2021-22 and/or 2022-23 included:³

- Student services, including different types of therapy and special education services, totaling approximately \$1.4 million,
- Attorney services totaling \$289,438,
- Substitute nursing services totaling \$13,843, and
- Two engineering firm services, one for a lead water sample test and one for a soil sample test totaling \$24,538.

³ Totals represent the combined total of similar services procured during both the 2021-22 and 2022-23 fiscal years.

The Board and District officials did not outline in the procurement policy or develop procedures indicating how they would procure professional services, including whether they would request proposals or the timeline for how often competition would be solicited. Although professional services are an exception for competitive bidding, seeking competition may be an opportunity to generate cost savings and ensure that the professional services meet the District's needs.

The Business Administrator and Director of Pupil Services, who is responsible for procuring student services, told us that some vendors used for student services had to be used by the District because they were the only vendors available in the area or that had availability for student placement. However, the Board did not outline instances or situations, in the procurement policy or by resolution, indicating when they would not use a competitive process to obtain professional services.

When officials do not seek competition for professional services in a timely manner, they lack assurance that services are procured in the most economical way, in the best interest of taxpayers and without favoritism.

What Do We Recommend?

The Board should:

1. Monitor or require the Business Administrator, as the purchasing agent, to monitor compliance with GML bidding requirements.
2. Update the procurement policy and procedures, as required by GML, to indicate when officials must seek competition and outline procedures for determining the competitive method that must be used for purchases not subject to competitive bidding requirements.
3. Monitor or designate the Business Administrator, as the purchasing agent, to enforce and monitor compliance with the Board-adopted procurement policy.

The Business Administrator should:

4. Ensure all purchase contracts over \$20,000 are competitively bid as required by GML.
5. Become familiar with the updated 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.

Although professional services are an exception for competitive bidding, seeking competition may be an opportunity to generate cost savings and ensure that the professional services meet the District's needs.

Appendix A: Response From District Officials

EAST AURORA UNION FREE SCHOOL DISTRICT

Brian D. Russ
Superintendent of Schools

December 22, 2023

Ms. Melissa A. Myers, Chief of Municipal Audits
Office of the State Comptroller
295 Main Street, Suite 1032
Buffalo NY 14203-2510

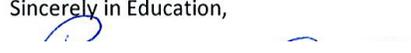
Dear Ms. Myers:

The East Aurora Union Free School District acknowledges receipt of the draft audit report prepared by your office. We extend our gratitude for the professionalism and hard work demonstrated by the auditors in reviewing our Purchasing and Procurement Policies and practices.

We value the recommendations provided and consider it our responsibility to continuously improve our Policies and procedures. During the audit and since the draft report has been reviewed, we are pleased to report we have taken measures to strengthen our internal controls and to ensure supporting documentation is included with purchasing vouchers. While acknowledging that we were not able to produce supporting documentation for certain purchases we are confident that we followed the District Policies that were in place during the State Audit.

The District has thoroughly reviewed the Comptroller's findings and recommendations and will take these recommendations under advisement as we develop our corrective action plan.

Sincerely in Education,


Brian D. Russ
Superintendent

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. 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 reviewed written policies, procedures and Board meeting minutes and interviewed District officials to gain an understanding of the controls in place over the procurement process and to determine whether the procurement policy met the requirements outlined in GML Section 104-b.
- We obtained a listing of all disbursements from July 1, 2021 through April 14, 2023 to determine a population of goods and services subject to competition. We excluded disbursements 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 selected our sample for audit testing from the remaining disbursements totaling approximately \$10.5 million.
- We used our professional judgment to select 17 purchases totaling approximately \$4.9 million that were subject to competitive bidding requirements during our audit period. We reviewed these purchases to determine whether the District advertised for competitive bids. We reviewed 48 purchases totaling \$443,734 that did not exceed bidding requirements, but exceeded \$5,000 each fiscal year, and reviewed to determine whether written quotes or any other competitive method of procurement was used to procure these goods and services.
- We used our professional judgment to select 47 professional service contracts totaling \$2.1 million, each exceeding \$5,000 per fiscal year, to determine whether the District used a competitive method for procurement.

We conducted this performance audit in accordance with generally accepted government auditing standards (GAGAS). Those standards require that we plan and perform the audit to obtain sufficient, appropriate evidence to provide a reasonable basis for our findings and conclusions based on our audit objective. We believe that the evidence obtained provides a reasonable basis for our findings and conclusions based on our audit objective.

Unless otherwise indicated in this report, samples for testing were selected based on professional judgment, as it was not the intent to project the results onto the entire population. Where applicable, information is presented concerning the value and/or size of the relevant population and the sample selected for examination.

The Board has the responsibility to initiate corrective action. A written corrective action plan (CAP) that addresses the findings and recommendations in this report must be prepared and provided to our office within 90 days, pursuant to Section 35 of General Municipal Law, Section 2116-a (3)(c) of New York State Education Law and Section 170.12 of the Regulations of the Commissioner of Education. To the extent practicable, implementation of the CAP must begin by the end of the next fiscal year. For more information on preparing and filing your CAP, please refer to our brochure, *Responding to an OSC Audit Report*, which you received with the draft audit report. The CAP should be posted on the District's website for public review.

Appendix C: Resources and Services

Regional Office Directory

www.osc.ny.gov/files/local-government/pdf/regional-directory.pdf

Cost-Saving Ideas – Resources, advice and assistance on cost-saving ideas

www.osc.ny.gov/local-government/publications

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

www.osc.ny.gov/local-government/fiscal-monitoring

Local Government Management Guides – Series of publications that include technical information and suggested practices for local government management

www.osc.ny.gov/local-government/publications

Planning and Budgeting Guides – Resources for developing multiyear financial, capital, strategic and other plans

www.osc.ny.gov/local-government/resources/planning-resources

Protecting Sensitive Data and Other Local Government Assets – A non-technical cybersecurity guide for local government leaders

www.osc.ny.gov/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.ny.gov/local-government/required-reporting

Research Reports/Publications – Reports on major policy issues facing local governments and State policy-makers

www.osc.ny.gov/local-government/publications

Training – Resources for local government officials on in-person and online training opportunities on a wide range of topics

www.osc.ny.gov/local-government/academy

Contact

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

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