

Eugenio Maria de Hostos Charter School

Procurement and Dignity for All Students Act

APRIL 2019



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

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Report Highlights

Eugenio Maria de Hostos Charter School

Audit Objectives

Determine whether School officials:

- Used a competitive process to procure goods and services.
- Ensured compliance with the Dignity for All Students Act (DASA).

Key Findings

School officials did not:

- Establish adequate policies and procedures for credit cards resulting in the circumvention of purchasing policies and unnecessary waste.
- Save approximately \$4,700 by purchasing items from government contracts and using the School's tax exempt status.
- Fully comply with DASA requirements. While a code of conduct is posted on the School website, the code is not distributed annually and does not include provisions prohibiting discrimination, procedures for reporting violations or the Dignity Act Coordinator's contact information.

Key Recommendations

- Promote the proper use of credit cards by developing adequate policies and procedures.
- Monitor purchases for cost savings opportunities through the use of State contracts and price comparisons.
- Ensure compliance with all DASA requirements.

School officials generally agreed with our recommendations and indicated they planned to initiate corrective action.

Background

Eugenio Maria de Hostos Charter School (School) is located in the City of Rochester. A Board of Trustees (Board) is responsible for the general management and control of financial and educational affairs.

The Board hired an Executive Director (Director) responsible, along with the Chief Finance Officer (CFO) and other administrative staff, for day-to-day management under the Board's direction. The individual who served as Director resigned in May 2018, and this position was vacant for the remainder of our audit period.

Quick Facts

Employees	150
2017-18 Enrollment	800
2017-18 Operating Expenses	\$10.6 million

Audit Period

July 1, 2016 – August 16, 2018

Procurement

What is an Effective Procurement Process?

The New York State Department of Education's (NYSED) Charter School Office provides fiscal operation guidance to charter schools including recommended purchasing practices.¹ The board should establish a purchasing policy that clearly identifies purchasing responsibilities, functions and promotes the use of quotes, bids and State contracts to achieve savings.

A comprehensive purchasing policy should include detailed procedures that include the procurement authorization and approval process and thresholds for when competitive bidding, RFPs and written or verbal quotes will be obtained, and procedures to verify the condition, quantity and quality of the goods before paying vendors.

The written policies and procedures should also describe the procurement methods to use when competitive bidding is not required, including how these purchases and price quotations are documented, for all forms of payment. Soliciting competition is an effective way to obtain the desired quality of goods and/or services at the lowest cost.

The Board's Procurement Guidance Is Not Comprehensive

The School's financial and fiscal policies and procedures manual (manual) includes limited guidance on purchasing goods and services. While the manual includes a procurement policy that identifies certain responsibilities² and functions of School officials involved with the procurement process and specifies that the contract be approved by the Board, it does not identify who is responsible to review and award procurement selection from competitive bids, RFPs or written/verbal quotes.

Further, the policy requires a "reasonable effort" to obtain three written quotes when the purchase of goods or services costs more than \$20,000. This language can be interpreted in many ways because reasonable effort is subjective. Additionally, the use of a single high threshold does not foster a competitive process for goods and services costing less than the \$20,000 threshold. Moreover, the policy does not identify the use of competitive bidding or RFPs.

¹ Refer to the New York State Education Department's Fiscal Oversight Guidebook www.p12.nysed.gov/psc/documents/NYSEDFiscalOversightGuidebook_FINAL.pdf

² The Director or designated purchasing agent will make every reasonable effort to secure prices, rate quotes and product specifications from more than one qualified source.

School Officials Did Not Always Seek Competition

While School officials generally sought competition for purchases of goods and services that exceeded the \$20,000 threshold, they did not regularly seek competition for purchases costing less than \$20,000. The CFO told us that the School does not have enough staff available to monitor for the best prices and that on occasion an employee may seek quotes on their own but that this is not required.

We reviewed school purchases that could have been made from a State contract vendor or may have benefitted from seeking other competition. While officials purchased books from the State contract vendor, our review of office supplies purchased from two vendors disclosed that the School was not using a State contract vendor for these purchases.

Our testing of these payments revealed that officials could have saved more than \$1,400 in savings as follows:

- One vendor was paid \$6,560. However, officials could have saved about \$900 by purchasing identical items from the State contract vendor, resulting in a 14 percent savings.
- The other vendor was paid a total of \$1,918, we identified cost savings totaling \$507 or 26 percent had officials made these purchases from the State contract vendor.

Further, we found that officials were paying banking fees. The School paid \$148 in bank fees during the one month reviewed. The CFO told us that everyone pays bank fees. After we encouraged him to seek competition for the School's banking he notified us that the bank was eliminating all but one fee.

How Should School Officials Properly Control Credit and Purchase Card Use?

Because credit cards can be used almost as easily as cash, it is critical that school officials establish effective policies and procedures governing cards so they are not used to circumvent purchasing policies and procedures. A sound credit card policy requires officials to implement effective credit card procedures before making cards available to employees.

The policy should identify individuals authorized to open accounts and the approved credit card users, define credit limits, describe the types of purchases allowed and specify the prior approval and documentation required to support each purchase. The policy should also address the methods to recover money in the event of improper card use and include procedures over card custody and use to ensure accountability and responsibility.

School Officials Did Not Properly Control Credit and Purchase Card Use

School officials did not ensure that credit card use was properly controlled. We found that officials included limited credit card policies and procedures in their manual but the policies and procedures were not comprehensive and not followed. For example, the manual required that a credit card request form be completed for each purchase.

However, School officials did not have a credit card request form available for card users. Additionally, officials lacked guidance on receiving goods and completing price comparisons for purchases made with purchase cards.

We tested six payments³ made to the credit card vendor totaling \$84,776 and eight purchase card payments totaling \$7,136 and identified the following savings:

Figure 1: Cost Savings Identified

Transactions	Savings
Purchases from NYS Contract Vendors in Excess of the State Rate	\$1,534
NYS Sales Taxes Paid	\$1,216
Paid for a Cancelled One-night Hotel Stay	\$134
Overpaid Because Quotes Were Not Obtained	\$325
Purchase From a Company Operating a Scam^a	\$130
Total	\$3,339

^a Subsequently reimbursed by the bank.

School officials purchased items that were available on State contract including office supplies and car rentals. However, officials did not use State contracts when making these purchases resulting in higher costs. The CFO told us that the School does not have the staff available to shop around for the best prices.

Additionally, School officials did not have adequate procedures to ensure that staff using the credit or purchase cards did not pay sales tax for purchases. As a result, the School paid sales tax on a variety of purchases when using both the regular credit card and purchase cards.

After we notified officials that they were unnecessarily paying these taxes (most notably \$385 to a gas and electric vendor), they reviewed their bills from this vendor and filed a request with NYS Department of Tax and Finance for a refund of sales tax paid totaling \$1,980.

While the manual indicated that reasonable effort should be used to secure price, rate quotes from more than one qualified source and that this information will be

³ Refer to Appendix B for information on our sampling methodology.

documented, we did not find any price quotes documented during our credit card testing. We reviewed two items purchased online (i.e., big wheel carts) and found that officials could have saved \$325 by ordering from a different vendor (one the School regularly used).

The School's credit card guidance did not require that employees request the established government per diem rate for hotel stays when traveling, which can save money. We tested the School's hotel expenditures for 24 nights and found that they could have saved \$526. The guidance also did not include procedures for instances when employees are personally responsible for travel expenses. For example, when an employee decided not to attend a training requiring overnight travel, officials paid \$134 for a one-night hotel stay and did not require the employee to reimburse the School for this expense.

We also found that many credit card purchases did not have adequate supporting documentation. We observed officials contacting vendors for copies of receipts before providing us with the credit card statements and supporting documentation. Furthermore, officials did not have adequate procedures when goods were received. As a result, officials paid for publications they did not order and returned to the company.⁴ After we identified this scam, officials called their credit card company and disputed the \$130 charge. The credit card company refunded the charge and issued the School a new card with a new account number.

What Do We Recommend?

School officials should ensure:

1. State contracts are used, when available and offer a cost savings, and price comparisons are completed as appropriate.
2. Staff using the credit card are aware of the School's tax-exempt status and review all such purchases to ensure that sales tax was not paid.
3. The credit card is not used to circumvent procurement policies and procedures.

The Board and School officials should:

4. Adopt comprehensive procurement policies and procedures to provide detailed guidance to employees with clear language, which address procurement of goods and services including how competition should be sought for purchases below the \$20,000 threshold, the documentation to be retained and the proper use of credit cards.

⁴ This vendor is known for scamming businesses in this manner.

Dignity for All Students Act (DASA)

What is DASA⁵ and Its Requirements?

DASA seeks to provide students with a safe and supportive environment free from discrimination, harassment and bullying. Its initial provisions, which took effect July 1, 2012, included curriculum and annual reporting requirements and required schools to designate a trained Dignity Act Coordinator (DAC) at each school building. The DACs contact information is required to be widely accessible by including it in the school code of conduct and postings throughout the school and on the school website.

An amendment effective July 1, 2013 defined cyberbullying and added requirements for investigating and reporting alleged incidents. NYSED provides guidance to assist school districts in complying with DASA requirements, and makes school incident data available to the public on its website.

DASA requires a school to develop policies and procedures and implement a program that creates an environment that supports the development of a school free of harassment, discrimination, and bullying and that attempts to raise awareness and sensitivity about different types of discrimination. As part of this program, schools are required to develop a code of conduct that prohibits discrimination and harassment against students and includes provisions for responding to acts of discrimination. Additionally, the code of conduct should address how violations are reported and investigated and be annually distributed to all students.

DASA also requires schools to implement an annual training program to promote a discrimination-free school environment. The program must include school administrators and instructional and non-instructional staff, such as lunchroom and maintenance personnel. All individuals who have a role in DASA implementation must be adequately informed about their obligations to report incidents they witness or are told about.

School Officials Have Not Fully Implemented DASA Requirements

We discussed the implementation of DASA with the School Principal. We also reviewed the School website for DASA information and observed relevant DASA information posted in one School building.

We found that School officials have not fully implemented DASA requirements and developed documented policies and procedures to address implementation. The Principal told us that a team of employees is currently working on developing these procedures.

⁵ Refer to the New York State Education Department website relating to DASA at <http://www.p12.nysed.gov/dignityact/>

We reviewed the code of conduct (code) and found that it is posted on the School website. However, the code does not include provisions prohibiting discrimination, procedures for reporting violations, DACs contact information and is not distributed annually to all students.

The Principal told us that instructional staff received some DASA training at the beginning of 2017-18 and would receive additional training at the beginning of 2018-19. She told us that only instructional personnel receive training, not all staff as required by DASA.

Furthermore, we found that School officials did not have a DAC assigned to both School buildings for 2017-18 and that as of August 16, 2018, DACs have not been assigned for 2018-19. However, the Principal told us that two or three employees will be designated for the 2018-19 school year.

Failure to comply with DASA increases the risk that incidents of harassment, bullying and discrimination may not be appropriately addressed, if at all.

What Do We Recommend?

School officials should:

5. Develop appropriate DASA policies and procedures to foster a school environment free from harassment, bullying and discrimination.
6. Update the code of conduct to include provisions prohibiting discrimination and harassment against students, procedures for reporting violations, and the DACs information.
7. Annually distribute the code of conduct to all students.
8. Conduct DASA training for administrators, and both instructional and non-instructional staff.
9. Designate DACs in each school building and communicate their identity to all students.

The Board should:

10. Adopt DASA policies and procedures.
11. Review and approve the code of conduct.

Appendix A: Response From School Officials

Belleve, Achieve, Succeed

Magaly Rosario, Executive Director
Todd Garnier, Chief Financial Officer



Sherley Flores, Elementary School Principal
Carol Jones, High School Principal

March 14, 2019

Edward V. Grant Jr., Chief Examiner
Office of The New York State Comptroller
Division of Local Government & School Accountability
110 State Street, 12th Floor
Albany, NY 12236

Re: Written Response to Draft Audit Findings

Dear Mr. Edward V. Grant Jr.:

Administrative staff and the Board of Trustees of Eugenio Maria de Hostos Charter School have provided a coordinated response for each key finding. We prepared this document in response to the draft audit delivered on March 13, 2019.

We agree with each of the three key findings and are working to address these concerns.

Key Finding 1: School officials did not establish adequate policies and procedures for credit cards resulting in the circumvention of purchasing policies and unnecessary waste.

Eugenio Maria de Hostos Charter School Response:

We agree that our financial and fiscal policies and procedures manual include limited guidance on purchasing goods and services.

We are working on updating our financial policies and procedures to ensure proper guidance on purchasing goods and services, to include when and how competition should be sought, documentation retainage, and the proper use of credit cards. The Board will adopt the comprehensive procurement policies and procedures.

We will establish and implement a purchase order approval process to ensure the credit card is not used to circumvent procurement policies and procedures.

The changes in policy and procedure for credit cards will be presented to the board for approval during the May board meeting.

Key Finding 2: Save Approximately \$4,800 by purchasing items from New York State contracts and using the School's tax-exempt status.

Eugenio Maria de Hostos Charter School Response:

We will use state contracts, when available and when they offer cost savings, as well as ensure that price comparisons are completed as appropriate.

We will ensure that staff using the credit card are aware of our tax-exempt status and we will review all such purchases to ensure that sales tax was not paid.

www.emhcharter.org
585-544-6170

Believe, Achieve, Succeed

Magaly Rosario, Executive Director
Todd Garnier, Chief Financial Officer



Sherley Flores, Elementary School Principal
Carol Jones, High School Principal

The changes in policy and procedure for purchasing and use of tax-exempt status will be presented to the board for approval during the May board meeting.

Key Finding 3: Fully comply with DASA requirements. While a code of conduct is posted on the School website, the code is not distributed annually and does not include provisions prohibiting discrimination, procedures for reporting violations or the Dignity Act Coordinator's contact information.

Eugenio Maria de Hostos Charter School Response:

We will fully comply with the DASA requirements. We have a committee that is updating the DASA procedures for prohibiting discrimination and reporting violations, including assigning the Dignity Act Coordinator's contact information.

We will review, establish, and implement through the end of the summer to distribute annually and ensure compliance with all DASA requirements with the start of the 2019-2020 school year.

The changes in policy and procedure for DASA compliance will be presented to the board for approval during the May board meeting.

We look forward to further addressing these findings and corrective actions at our meeting on April 5, 2019, at 3 p.m.

Sincerely,

Magaly Rosario
Executive Director

Julio Vazquez
CEO/Board Chairman

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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 Section 2854 of the New York State Education Law, as amended by Chapter 56 of the Laws of 2014. To achieve the audit objective and obtain valid audit evidence, our audit procedures included the following:

- We interviewed School officials and reviewed School policies and procedures to gain an understanding of the School's credit card and procurement procedures.
- We selected a judgmental sample of three credit card payments totaling \$42,790. We also selected a random sample of three payments totaling \$41,986, based on the higher amount of the payments.
- We reviewed the judgmentally selected credit card claims to determine whether the required documentation (i.e., vendor invoices or receipts) were included with the credit card statement, goods were identified as received, a credit card request form or purchase order was completed, claims were properly approved, extraneous taxes and fees were not paid, reasonable prices were paid, and purchases were for legitimate purposes.
- We judgmentally selected six vendors to test for cost savings. We selected these vendors because they were either State contract vendors or the School made large payments to these vendors.
- We compared the School's purchases to the same or like items available from State contracts to determine whether officials could have saved money.
- We interviewed the Principal and reviewed the School's code of conduct and parent handbook to gain an understanding of the implementation of DASA.

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

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

The Board has the responsibility to initiate corrective action. We encourage the Board to prepare a plan of action that addresses the recommendations in this report and forward the plan to our office within 90 days.

Appendix C: Resources and Services

Regional Office Directory

www.osc.state.ny.us/localgov/regional_directory.pdf

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

www.osc.state.ny.us/localgov/costsavings/index.htm

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

www.osc.state.ny.us/localgov/fiscalmonitoring/index.htm

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

www.osc.state.ny.us/localgov/pubs/listacctg.htm#lmgm

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

www.osc.state.ny.us/localgov/planbudget/index.htm

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

www.osc.state.ny.us/localgov/pubs/cyber-security-guide.pdf

Required Reporting – Information and resources for reports and forms that are filed with the Office of the State Comptroller

www.osc.state.ny.us/localgov/finreporting/index.htm

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

www.osc.state.ny.us/localgov/researchpubs/index.htm

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

www.osc.state.ny.us/localgov/academy/index.htm

Contact

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