

Manchester-Shortsville Central School District

Instructional Complex Capital Improvement Project

OCTOBER 2021



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

Contents

- Report Highlights 1**

- Instructional Complex Capital Project 2**
 - How Should Officials Oversee and Manage Capital Projects? 2
 - Officials Did Not Properly and Transparently Use Capital Project Resources 3
 - The Board Did Not Properly Approve or Seek Competition for Change Orders. 4
 - How Should a District Procure Professional Services? 5
 - Officials Did Not Always Seek Competition for Capital Project Professional Services 6
 - What Do We Recommend? 6

- Appendix A – Response From District Officials 7**

- Appendix B – Audit Methodology and Standards 8**

- Appendix C – Resources and Services 10**

Report Highlights

Manchester-Shortsville Central School District

Audit Objective

Determine whether the Manchester-Shortsville Central School District (District) officials properly and transparently used capital project resources.

Key Findings

Officials did not properly or transparently use capital project resources. As a result, voters were not afforded the opportunity to ratify or reject the Board's decisions or have assurance that officials obtained services at the best cost.

- Officials added another project phase totaling approximately \$1.2 million and completed \$149,000 in additional work that were not presented to and approved by the voters.
- The Board did not competitively bid four change orders totaling \$244,000, as required.
- Officials did not follow their procurement policy and seek competition for project related professional services totaling more than \$1 million.

Key Recommendations

- Present future capital project plans transparently to voters.
- Competitively bid change orders exceeding the statutory bid limit.
- Procure professional services in accordance with District policy.

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

Background

The District serves the Towns of Farmington, Hopewell and Manchester in Ontario County.

The District is governed by an elected seven-member Board of Education (Board). The Superintendent of Schools (Superintendent) is the chief executive officer responsible for the day-to-day management. The Business Administrator is responsible for the administration and supervision of financial activities.

The District contracted with a construction manager to help oversee a District-wide capital project, which involved renovating and improving various instructional and non-instructional spaces on the District's centralized campus. The project was completed in 2021.

Quick Facts

| | |
|---------------------------------------|----------------|
| Enrollment | 785 |
| Employees | 172 |
| 2020-21 General Fund Budget | \$18.9 million |
| Instructional Complex Capital Project | \$12.2 million |

Audit Period

July 1, 2016 – May 24, 2021

Instructional Complex Capital Project

In 2016, District voters were presented and subsequently approved a proposition for a capital improvement project with a total estimated cost of \$12 million. The approved proposition described a project that consisted of constructing, equipping and furnishing alterations, renovations and improvements to the District's instructional complex. Improvements were for various school purposes and included supplemental related improvements and other incidental services.

The newsletter presented to voters provided the proposition details for the intended project that focused on three areas. The first focus would be to protect the building by replacing windows, repairing roof leaks and correcting the underlying drainage issues.

The second focus related to safety concerns by addressing code compliance issues including those for locker rooms, securing the middle school entrance, relocating the District administration's office to the elementary office and replacing exterior doors.

The third focus entailed updating the 1969 elementary classrooms, middle school/high school kitchen and health/family consumer science classroom, while recapturing underused space for usable instructional space by renovating the elementary school gym and locker room. Also, the newsletter stated that if the capital project came in under budget, the capital project committee agreed auditorium seating would be added to the project scope.

How Should Officials Oversee and Manage Capital Projects?

Capital projects are generally long-term projects that require large sums of money to acquire, develop and improve various facilities. The board is ultimately responsible for oversight and management of the district's capital projects. Officials should monitor progress and implement necessary changes to ensure the project is completed in a cost-effective manner.¹

The board and officials should ensure that proposed capital projects are presented to the public in a transparent manner. To make an informed decision, voters need to be provided with a sufficiently detailed description of the project scope, including a thorough description of the type of work contemplated, where the work will be performed, what furnishings and equipment will be purchased, estimated costs and information regarding how the district will pay for the project.

New York State Education Department (SED) allows districts to prepare a list of desired items in the original plans and specifications as added alternatives, in the

¹ Refer to our publication *Capital Projects Fund* available on our website at www.osc.state.ny.us/localgov/pubs/lgmg/capital-projects-fund.pdf.

event unused appropriations remain at the end of a project. However, alternative items should be included in propositions submitted for voter approval.

With any construction undertaking, changes or amendments are expected because many variables are unknown at the start of a project. A change order is a formal construction contract modification, agreed upon by both officials and the contractor, to authorize a change in the work, an adjustment in the project cost or a change in the contract time.

Because the board authorizes construction contracts, it should also review proposed changes to these agreements. The Board delegated review and approval of change orders under \$35,000 to the Superintendent. Change orders for public works projects exceeding \$35,000 are required to be competitively bid.

Officials Did Not Properly and Transparently Use Capital Project Resources

We identified instances where the Board and officials could have been more transparent when presenting the project's scope to the public. Officials had an opportunity to complete the proposed \$12 million capital project for \$1.3 million (11 percent) less but instead chose to adjust the project's scope and complete additional work. Further, officials did not provide the voters with sufficient detail to enable them to be fully informed regarding the changes in the project scope.

Some of the additional work completed totaling approximately \$149,000 was included in the original project bids as alternate items because officials anticipated that actual bids could be less than estimated. However, officials did not include these items in the project proposition presented to voters or in the newsletter.

Because the project bids received were significantly less than officials anticipated, they adjusted the original project scope and spent the remaining authorized appropriations. As a result, officials were able to add another phase to the project totaling approximately \$1.2 million. However, these changes to the original project scope were not presented to or approved by District voters. Further, officials submitted a separate application to SED for the additional phase in 2019, more than two years after the original project applications were submitted. The additional work included the following:

- Renovations to the press box.
- Floor replacement in hallways and corridors.
- Reconstruction of the elementary stage into a new instructional space.
- Renovations to the technology room including purchasing and installing a new laser precision cutting machine.

Officials had an opportunity to complete the proposed \$12 million capital project for \$1.3 million (11 percent) less but instead chose to adjust the project's scope and complete additional work.

Officials told us that they believed that the original proposition was vague enough to add these items to the project without getting additional voter approval. Ultimately, because only one of the alternatives was included in the original proposition, the voters were not afforded the opportunity to ratify or reject the Board's decision to adjust the project scope.

Further, officials improperly recorded certain capital project related expenditures in the general fund instead of the capital project fund, effectively making total project costs appear lower. We reviewed all general fund expenditures from July 1, 2019 to March 30, 2021 and found nine purchases totaling \$147,129 that should have been recorded in the capital project fund. Purchases included change order work performed by contractors and purchases of furniture, appliances, and equipment for newly renovated instructional and non-instructional spaces.

Recording capital project expenditures in the general fund diminished transparency as the true cost of the project would not be accurately reflected. Officials told us they recorded purchases in the general fund because those items did not qualify for State aid.

Not only were voters denied the opportunity to decide if saving \$1.3 million or increasing the scope of the project met their needs, the total cost of the project was approximately \$170,000 more than the voter approved \$12 million capital project.

The Board Did Not Properly Approve or Seek Competition for Change Orders

Officials could have been more transparent with their approval of change orders. We reviewed all 72 change orders submitted to SED totaling \$887,136 to determine whether they were properly approved by the Board and complied with applicable bidding requirements.

We found that the Superintendent properly reviewed and approved 68 change orders totaling \$643,136. However, these change orders were not presented to the Board for review and the Board did not document its review in the Board minutes. Therefore, the public was unaware of these change orders, and all Board members may not have been aware of them.

We found four change orders totaling \$244,000 that exceeded the statutory bidding threshold of \$35,000 for public works contracts. While the Board reviewed and approved these change orders, officials did not competitively bid the change orders, as required.

Officials said it was more cost effective to have contractors complete the additional work while on-site instead of going out for bid again. However, officials did not provide us with documentation to support their rationale for this decision and the Board did not have the authority to choose not to comply with competitive bidding requirements.

Also, we reviewed 41 of the 72 change orders totaling \$357,555 to determine whether the work performed was included in the original project plans. We found that, in an effort to spend the money approved by District voters, officials used these change orders to complete additional work and make modifications to completed work that was not included within the original project scope (Figure 1).

Figure 1: Change Order Work Not Included within the Original Project Scope

| Work Completed | Cost |
|---------------------------------------|------------------|
| Power and Data Upgrades to Classrooms | \$50,463 |
| Chromebook Charging Stations | 36,987 |
| Gymnasium Modifications | 32,164 |
| Technology Room Modifications | 29,288 |
| Science Room Upgrades | 19,818 |
| Total | \$168,720 |

The Business Administrator told us that these change orders were necessary to construct a long-lasting project.

How Should a District Procure Professional Services?

Professional services are generally those services that require specialized skills, training, professional judgment, expertise, and creativity such as architects, attorneys and engineers. Local governments and school districts must adopt written policies and procedures for the procurement of goods and services, such as professional services, that are not subject to competitive bidding requirements. These policies should include some type of competitive method, such as a request for proposal process (RFP), to obtain these services with the most favorable terms and conditions.

An RFP generally is a document that provides detailed information concerning the type of service to be provided including minimum requirements and, where applicable, the evaluation criteria that will govern the contract award. Proposals can be solicited via public advertisement, or a comprehensive list of potential vendors can be compiled with vendors contacted directly and provided with the RFP.

The District’s procurement policy requires officials to solicit competition for professional services by obtaining written quotes from professional service providers for purchases between \$10,000 and \$35,000. For amounts exceeding \$35,000, officials are required to request written proposals from professional service providers.

Any deviations from the procurement policy for unique situations or extenuating circumstances should be approved by the board and documented in the minutes. The significant dollar amount and complexities of professional service contracts increase the need to obtain quality services at competitive prices and to enter into written contracts with professionals to establish the services to be provided and the basis for compensation.

Officials Did Not Always Seek Competition for Capital Project Professional Services

The District made payments totaling approximately \$1.6 million (Figure 2) to five capital project service providers during the audit period but did not use an RFP process or other competitive method to procure the services of four providers totaling approximately \$1.1 million.

Figure 2: Professional Services

| Type of Service | Total Payments |
|--------------------------|--------------------|
| Architectural | \$945,798 |
| Construction Management | 525,036 |
| Environmental Consulting | 77,264 |
| Financial Advisor | 30,023 |
| Insurance | 17,075 |
| Total | \$1,595,196 |

Officials told us they did not complete an RFP for the architect because they decided to use the same architect that completed their building condition survey in 2015, which they acquired through an RFP process in 2011. Officials also did not solicit a proposal for environmental consulting related to asbestos abatement, as required.

In addition, officials did not seek competition as required for the capital project's financial advisor and insurance provider services. Officials told us they have never completed an RFP for financial services. Officials piggybacked on a Wayne-Finger Lakes Board of Cooperative Educational Services proposal from 2017 for insurance but did not seek competition for insurance services related to the capital project.

Officials told us they used the same providers who also provided non-capital project related services to the District because they are happy with the services provided. However, when professional services were procured without seeking competition, officials were not complying with their procurement policy and do not have the assurance that they are obtaining the services at the best cost.

What Do We Recommend?

The Board and District officials should:

1. For future capital projects, present the capital project plans in a more transparent manner and provide voters with detailed descriptions of the improvements to be made and all reasonably planned costs.
2. Properly account for all capital project expenditures in the capital project fund.
3. Ensure that change orders are properly approved and competitively bid change orders that exceed the statutory bid limit.
4. Solicit competition by obtaining RFPs or written quotes for professional services in accordance with its procurement policy.

Appendix A: Response From District Officials



Manchester-Shortsville Central School District "Red Jacket Schools"

1506 Route 21, Shortsville, NY 14548-9502
Phone (585) 289-3964 • Fax (585) 289-6660
Web Page: www.redjacket.org

Charlene Dehn, Superintendent
Kristine Guerri, Assistant Superintendent
Timothy Burns, Business Administrator

E-mail: Charlene.Dehn@redjacket.org
E-mail: Kristine.Guerri@redjacket.org
E-mail: Timothy.Burns@redjacket.org

September 12, 2021

Mr. Edward V. Grant, Jr., Chief Examiner
Office of the State Comptroller
Rochester Regional Office
The Powers Building
16 W. Main Street, #522
Rochester, NY 14614

Dear Mr. Grant,

The Manchester-Shortsville School District is in receipt of the Comptroller's draft audit report titled: Instructional Complex Capital Improvement Project, Report of Examination 2021M-103 for the period covering July 1, 2016 through May 24, 2021. The District has reviewed the recommendations made in the report in consultation with the District's fiscal advisors and bond council, and it is a goal of the District to be fiscally responsible and to maximize the use of public monies at lowest possible cost to the District taxpayers for capital improvements. The District is also working to improve transparency with the voters for future capital projects and procure professional services in accordance with District Policies. We appreciate the valuable insight that the audit process provided and were pleased to hear the audit went well.

We would like to extend our appreciation to the field auditor and other staff involved with the examination of our Business Office. The auditors provided positive and constructive feedback to our staff, administration, and to our Board.

We welcome the opportunity to improve our operations related to upcoming capital improvements. We again appreciated the work of the auditors and the opportunity to respond to your report.

Sincerely,

Charlene Dehn
Superintend of Schools

Mission

We will challenge all learners and work in partnership with students, parents and community to achieve high standards.

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. To achieve the audit objective and obtain valid audit evidence, our audit procedures included the following:

- We interviewed officials and reviewed Board minutes, architectural drawings and policies to gain an understanding of the District's management of the 2016 capital project and additional project work and expansions to the original project scope.
- We reviewed original project propositions, capital project applications submitted to SED and project contracts, bids and bid specifications to determine the project scope and whether sufficient information was presented to voters.
- We reviewed bid documents to assess whether the District properly solicited competition and awarded the bids.
- We reviewed all change orders to assess whether the Board properly approved the orders and complied with applicable bidding requirements.
- We used our professional judgment to select a sample of 41 change orders totaling \$357,555 for additional review and testing to determine whether the work performed should have been included in the original project plans. We selected our sample based on a review of change order descriptions that appeared to be part of the project's original scope.
- We reviewed various expenditure reports, including general fund expenditures to determine the total cost of the project.
- We reviewed professional service expenditures to five capital project service providers with payments totaling approximately \$1.6 million related to the project to determine whether RFPs were issued, or written quotes obtained to procure these services in accordance with District policy.

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

<https://www.osc.state.ny.us/files/local-government/pdf/regional-directory.pdf>

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

<https://www.osc.state.ny.us/local-government/publications>

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

www.osc.state.ny.us/local-government/fiscal-monitoring

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

<https://www.osc.state.ny.us/local-government/publications>

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

www.osc.state.ny.us/local-government/resources/planning-resources

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

<https://www.osc.state.ny.us/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.state.ny.us/local-government/required-reporting

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

<https://www.osc.state.ny.us/local-government/publications>

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

www.osc.state.ny.us/local-government/academy

Contact

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

www.osc.state.ny.us/local-government

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

ROCHESTER REGIONAL OFFICE – Edward V. Grant Jr., Chief Examiner

The Powers Building • 16 West Main Street – Suite 522 • Rochester, New York 14614-1608

Tel (585) 454-2460 • Fax (585) 454-3545 • Email: Muni-Rochester@osc.ny.gov

Serving: Cayuga, Chemung, Livingston, Monroe, Ontario, Schuyler, Seneca, Steuben, Wayne, Yates counties



Like us on Facebook at facebook.com/nyscomptroller

Follow us on Twitter [@nyscomptroller](https://twitter.com/nyscomptroller)