

Mount Pleasant Blythedale Union Free School District

Procurement

OCTOBER 2022



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

Contents

- Report Highlights 1**

- Procurement 2**
 - How Should District Officials Procure Goods and Services? 2

 - The Board and District Officials Did Not Develop Adequate Purchasing Policies and Guidelines 3

 - Officials Did Not Comply with Competitive Bidding Requirements and District Policies and Guidelines 4

 - Officials Did Not Periodically Seek Competition When Procuring Professional Services 5

 - What Do We Recommend? 6

- Appendix A – Response From District Officials 7**

- Appendix B – OSC Comments on the District’s Response 9**

- Appendix C – Audit Methodology and Standards 10**

- Appendix D – Resources and Services 12**

Report Highlights

Mount Pleasant Blythedale Union Free School District

Audit Objective

Determine whether Mount Pleasant Blythedale School District (District) officials procured goods and services in accordance with the Board of Education's (Board) policies and applicable statutory requirements.

Key Findings

District officials did not always procure goods and services in accordance with Board policies and applicable statutory requirements. We examined purchases totaling \$556,813 and found District officials could not support that they periodically sought competition for purchases totaling \$478,613. In particular, officials did not:

- Revise the purchasing policies to include sufficient guidelines for the procurement of professional services.
- Periodically use competition to procure services from professional service providers. The District used the same vendor for liability insurance for 18 years, heating, ventilation and air conditioning (HVAC) system maintenance for 12 years and payroll services for 9 years without seeking competition.

When officials do not seek competition, there is less assurance to taxpayers that procurements were made in the most prudent and economical manner.

Key Recommendations

- Revise the District's purchasing policies to include seeking competition at reasonable intervals for the procurement of professional services.
- Seek competition in accordance with policies and statutory requirements.

District officials disagreed with certain aspects of our findings and recommendations, but indicated they have initiated corrective action. Appendix B includes our comments on issues raised in the District's response letter.

Background

The District is located in Westchester County and is responsible for educating patients of Blythedale Children's Hospital (Hospital). The District was created as a special act school district by the New York State Legislature in 1971, and is the only public school district in New York that educates a hospital population.

The District is governed by a nine-member Board appointed by the Hospital and the New York State Commissioner of Education. The Board is responsible for the District's educational and financial affairs. The Superintendent of Schools (Superintendent), along with other administrative personnel, is responsible for the District's day-to-day operations.

The Board-appointed purchasing agent is responsible for overseeing the purchasing process and ensuring that procurements are made in compliance with established policies and regulations. The School Business Official is responsible for maintaining documentation for purchases.

Quick Facts

Total Purchases	\$707,762
Total Payments for Professional Services	\$427,284
Total Purchases Subject to Competitive Bidding	\$ 25,611

Audit Period

July 1, 2020 – October 20, 2021

Procurement

How Should District Officials Procure Goods and Services?

School district boards are responsible for overseeing financial activities and safeguarding resources. According to the District's policies, the Board has the powers and duties set forth in New York State Education Law and other applicable federal and state laws and regulations. Under New York State General Municipal Law (GML) Section 103, school districts are generally required to solicit competitive bids for purchase contracts exceeding \$20,000 and contracts for public works exceeding \$35,000. In lieu of soliciting competitive bids, a school district can make purchases using certain other publicly awarded government contracts, such as contracts awarded by the New York State Office of General Services (State contracts) or contracts bid by other governments, school districts and boards of cooperative educational services.

GML Section 104-b requires boards to adopt written policies and guidelines governing the procurement of goods and services, such as professional services, that are not subject to competitive bidding requirements. Goods and services not required to be competitively bid must be procured in a manner that ensures the prudent and economical use of public funds in the taxpayers' best interest and facilitates the acquisition of goods and services of maximum quality at the lowest possible cost or best value.

Using a request for proposal (RFP) process or obtaining written quotes are effective ways to solicit competition and ensure goods and services are obtained with the most favorable terms and best value. RFPs provide detailed information concerning the type of service to be provided, including minimum requirements and, if applicable, the evaluation criteria that will govern the contract award. Generally, there are no set rules regarding the frequency of issuing RFPs or obtaining written quotes. However, a school district policy should establish reasonable intervals to issue RFPs or obtain written quotes (e.g., every three to five years) to ensure services are being procured at a favorable rate. Under certain circumstances, school district officials may determine that seeking competition would not be in their best interest. School district boards should define these exceptions in their policies and guidelines and ensure that they are justified in the public interest.

District officials should monitor compliance with competitive bidding requirements and the Board-adopted purchasing policies and guidelines. Procurement files should be maintained for at least six years after completion of a purchase or six years after the final payment is made under a contract, whichever is later.

District officials should monitor compliance with competitive bidding requirements and the Board-adopted purchasing policies and guidelines.

The Board and District Officials Did Not Develop Adequate Purchasing Policies and Guidelines

The Board has adopted purchasing policies and guidelines that outline the District's procedures for purchasing goods and services not required by law to be competitively bid. Specifically, these guidelines require that purchases of supplies and equipment that cost:

- Less than \$1,000 should have at least two catalog or price comparisons indicated on the purchase orders;
- Between \$1,001 and \$5,000 and public works projects between \$2,001 and \$10,000 should have three written informal quotes documented on the purchase order; and
- Between \$5,001 and \$20,000 and public works projects between \$10,001 and \$35,000 should have three formal requests for proposals or quotations issued by the District and kept by the School Business Official.

The District's policies and guidelines were not adequate because they did not sufficiently address the guidelines for the procurement of professional services. According to the District's procurement policy, the District is to use an RFP process as set forth in GML in order to protect the District's interests and to avoid the appearance of favoritism and impropriety. However, the policy does not provide sufficient detail on how RFPs will be evaluated or the documentation required, such as justification when not selecting the highest-scored proposal. Additionally, the policies do not have a threshold above which the District should use the RFP process. The policies also do not require officials to periodically issue RFPs for professional services that are continuously provided to the District, such as HVAC maintenance and insurance services.

The Superintendent said that she will provide more oversight over the procurement process; this will include reviewing, updating and revising procurement policies, guidelines and forms, as well as periodically reviewing RFPs for existing contracts.

The lack of clarity and consistency in the purchasing policies and guidelines allows for various interpretations by District officials and employees and decreases the assurance the District is purchasing goods and services at the best value.

Officials Did Not Comply with Competitive Bidding Requirements and District Policies and Guidelines

Officials did not seek competition and maintain adequate supporting documentation demonstrating that purchases were made in compliance with all requirements. Although the District's purchasing policies and guidelines require documenting and justifying all purchases and contract awards, District officials did not provide supporting documentation indicating that they properly sought competition for 39 purchases totaling \$129,529.

Competitive Bidding – The District made one purchase above the threshold for competitive bidding during our audit period. We found no indication that District officials sought competitive bids prior to purchasing automatic doors costing \$25,611. According to the Superintendent, the District did not seek competitive bids because the purchase was covered under the “Special Circumstance” provision of the District's procurement guidelines.

However, the “Special Circumstance” provision in the District's procurement guidelines applies to procurements of goods and services which are not required to be made pursuant to competitive bidding requirements or any other general, special or local law. In this case, the dollar threshold for the purchase of the automatic doors (\$25,611) would have required competitive bidding and we are not aware of any exception to this requirement.

Quotes – We reviewed 38 purchases totaling \$103,918 that required the District to obtain quotes in accordance with the purchasing guidelines. We found that officials could not demonstrate they sought competition for these purchases. Examples include:

- Two purchases for individualized education plan (IEP) services totaling \$27,953,
- One purchase for landscaping services totaling \$8,768,
- Two purchases for classroom furniture totaling \$7,003, and
- One purchase for audio services totaling \$6,000.

While the Superintendent said that the purchase for landscaping services was made using the “Special Circumstance” provision in the District's procurement guidelines, because the purchase was made directly from the vendor, it did not qualify under this provision. The accounts payable clerk said that the purchases of IEP services were from a vendor that was a sole source provider, however, District officials did not document what made this vendor a sole source provider. The School Business Official was responsible for maintaining records for quotes. The School Business Official that was in place during our audit period no longer works for the District and other District officials were not able to find any documentation on file the former School Business Official may have maintained.

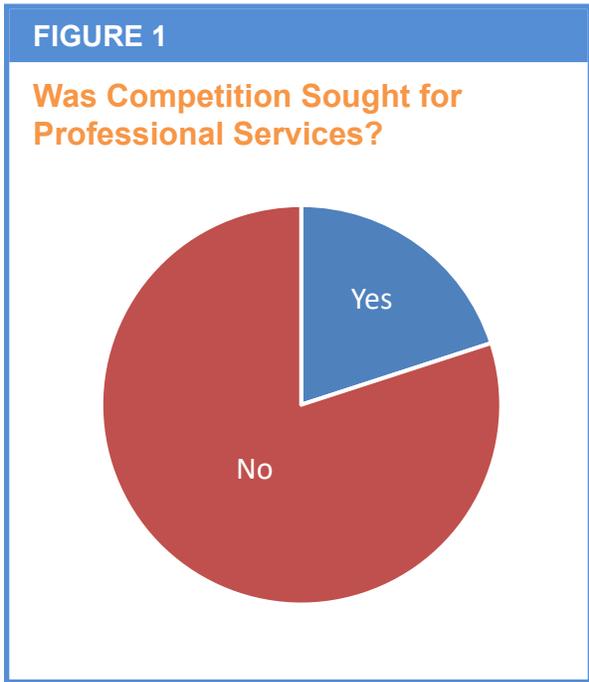
When District officials do not seek competition and comply with the District’s purchasing policies, they cannot assure taxpayers that purchases were made in the most prudent and economical manner.

Officials Did Not Periodically Seek Competition When Procuring Professional Services

We reviewed the available documentation for the procurement of professional services provided by five vendors totaling \$427,284 during our audit period to determine whether the services were procured using RFPs as set forth in the District procurement guidelines. We found that District officials could not provide written documentation to support that they sought competition for four professional service providers totaling \$349,084 (Figure 1). These payments included:

- \$128,743 for the HVAC system maintenance service agreement,
- \$97,706 for dental insurance,
- \$95,438 for liability insurance, and
- \$27,197 for various payroll services.

The District has used the same vendors for payroll services, liability insurance and HVAC system maintenance for more than nine years without seeking competition. For example, the District has used the same liability insurance company for 18 years without seeking competition. Additionally, the Superintendent was unsure how long the District has used the dental insurance provider. The Superintendent said that the HVAC provider has been maintaining their system for over 12 years. She also said it was efficient for the District to use these service providers without seeking competition because they were satisfied with the services provided and believes that continuity is important.



When officials do not periodically seek competition for professional services, there is an increased risk of overpaying for the services and the appearance of favoritism or impropriety. Further, there is less assurance to taxpayers that procurements were made in the most prudent and economical manner.

What Do We Recommend?

The Board should:

1. Revise the purchasing policies to include:
 - A threshold requiring the use of RFPs when procuring professional services,
 - How RFPs will be evaluated,
 - Procedures for when the lowest bidder or proposal is not selected, and
 - The periodic review of current professional service providers.
2. Ensure District officials seek competition for purchases above the bidding threshold.
3. Ensure District officials seek competition for professional services and maintain the necessary supporting documentation.

District officials should:

4. Seek competition for purchases above the bidding threshold and for professional service providers.

The School Business Official should:

5. Maintain all documentation for purchases.

The purchasing agent should:

6. Ensure all purchases are made in compliance with the District's procurement policies and guidelines, and any other applicable requirements.

Appendix A: Response From District Officials



MT. PLEASANT BLYTHEDALE U.F.S.D.

95 Bradhurst Ave., Valhalla, N. Y. 10595-1637

(914) 347-1800 Fax: (914) 592-5484

ehersh@mpbschools.org

BOARD OF EDUCATION

Peter Rittmaster, President
Owen Gutfreund, Ph.D. Vice President
Judith Wiener Goodhue
Micheline Malow, Ph.D.
Cindy Musoff
Leslie C. Soodak, Ph.D.
Virginia Furth Weisman
Lesley Yeary

Emily Herzb, Ed.D. Superintendent
Andrea Aitken, Clerk of the Board

September 28, 2022

Mrs. Dara Disko-McCagg
Chief Examiner
Newburgh Regional Office
33 Airport Center Drive
New Windsor, New York 12553

Dear Mrs. Disko-McCagg:

This letter serves as a combined response and an outline of the corrective action plan pursuant to Examination Report #2022M-086 – Procurement.

In drafting the District's response to the Comptroller's recommendations, there were specific findings throughout the Report that the District disputes. The Comptroller determined that of, \$556,813 in total purchases, District Officials could not provide supporting documentation that competition was sought for \$478,613 in such purchases. Most of this amount, \$427,284, was for continuing professional services for service providers that the District has used with satisfaction for several years.

The District did provide evidence to the Comptroller's audit team of compliance with current district policy when procuring professional services. The report, at page 5 entitled "The Board and District Officials did not Develop Adequate Purchasing Policies and Guidelines" could easily be misconstrued by the public that there was no competitive process nor adherence to a district procurement policy when obtaining professional services. That was not the case, albeit that the competitive process was performed a while ago and the district has a procurement policy. (Note: To our knowledge, the only legally mandated RFP process for professional services has been established for the External [Independent] Auditor, in accordance with the fiscal accountability laws and regulations that were enacted following the Roslyn CSD financial scandal and the District is in compliance with that requirement.) The procurement of professional services is addressed in General Municipal Law §104-b that sets forth criteria for selection, not necessarily based upon the lowest fee structure of potential service providers. That law is not specific regarding what is required to be included in policy, including how often an RFP for professional services must be issued.

See
Note 1
Page 9

See
Note 2
Page 9

It is important to note that the employee who was responsible for compliance with purchasing and procurement during most of the audit period no longer works for the District. The District is currently seeking a replacement in order to ensure future compliance.

In response to some of the language used by the Comptroller in the Audit Report, the District finds it necessary to point out that the Board of Education has displayed strong fiduciary leadership that has resulted in a great improvement in the District's financial status:

- Maintaining a positive balance while managing expenses within the New York State Rate Setting Methodology which does not allow Special Act Districts to keep reserve funds, unlike every other public school district in the state.
- The District annually issues a Revenue Anticipation Note (RAN) to ensure fiscal stability.
- Outsourcing HVAC maintenance services and payroll services has resulted in an annual savings to the District. Historically, this was a full-time position inclusive of benefits.

The following is an outline of the Audit Report Board Recommendations and the District's corrective action plan based on these Recommendations:

- Recommendation #1: Revise the purchasing policies to include: (1) A threshold requiring the use of RFPs when procuring professional services, (2) How RFPs will be evaluated, (3) Procedures for when the lowest bidder or proposal is not selected, and (4) The periodic review of current professional service providers.

Response: The Board is reviewing current purchasing and procurement policies and procedures and considering changes to them based upon your recommendations. The District will provide training to employees directly involved in the purchasing process to ensure compliance with the revised policy and procedures.

- Recommendation #2: Ensure District Officials seek competition for purchases above the bidding threshold and Recommendation #3: Ensure District officials seek competition for professional services and maintain the necessary supporting documentation, and

Response: The Board is in the process of recruiting and hiring of a School Business Official to oversee the procurement process. In addition, the District is reviewing current contracts and adding State Contract Numbers to the current Purchase Orders as the District Policy allows for "use of contracts let by the United States or any agency thereof, any state, and any county, political subdivision or district of any state". State Contract Numbers have been added to the vendor contracts for the HVAC system.

- Recommendation #4: Seek competition for purchases above the bidding threshold and for professional service providers.

Response: The District is reviewing current professional services contracts and will periodically issue RFPs and bids, as necessary, in compliance with the policy, as revised, to ensure compliance. This will include but not be limited to: dental insurance, liability insurance, and payroll services.

We thank you for your professionalism and courtesy during the process.

Sincerely,

Emily Hershey, Ed.D.
Superintendent of Schools

Appendix B: OSC Comments on the District's Response

Note 1

While officials are to use an RFP process to procure professional services, the documentation provided was not specific to the procurement of the professional services. For example, officials provided signed contracts and invoices from the selected vendors but did not provide documentation to support the selection process used.

Note 2

The audit report acknowledged that GML does not specify the frequency of issuing RFPs and recommended that the District's policy establish reasonable intervals for issuing RFPs.

Note 3

The audit objective was limited to determine whether officials procured goods and services in accordance with the Board's policies and applicable statutory requirements; it did not include other financial operations.

Appendix C: 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 District officials and employees involved in the purchasing process and reviewed Board minutes to gain an understanding of the District's procurement practices and controls.
- We reviewed the Board's adopted policies and procurement guidelines and determined whether they addressed procuring goods and services not subject to competitive bidding.
- We reviewed cash disbursement data for our audit period and removed payments designated as payroll and to other municipalities, utilities, professional services and individuals. We filtered the data to identify:
 - Vendors that exceeded the competitive bidding threshold and found one vendor paid \$25,611 for one purchase. We reviewed this purchase to determine whether officials solicited competitive bids. We also reviewed corresponding purchase documentation and determined whether an acceptable alternative purchasing method was used in lieu of competitive bidding.
 - All purchases that required quotes and identified 185 purchases totaling \$249,482. Using our professional judgment, we selected 38 purchases totaling \$103,918 to ensure each threshold range for quotes was included. We selected these purchases based on the amount of the purchase and vendor name. We reviewed the related purchase orders, invoices and purchasing documentation to determine whether officials obtained quotes in compliance with their purchasing guidelines.
- We reviewed the cash disbursement data for our audit period and identified seven professional service providers that received payments totaling \$432,669. We selected all five professional service providers receiving payments greater than \$5,000 and reviewed the documentation provided, if any, to determine whether RFPs were issued, and whether the Board adequately documented and approved the selection process. We followed-up with District officials to discuss the professional services that did not have adequate supporting documentation.

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 D: Resources and Services

Regional Office Directory

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

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

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

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

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

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

NEWBURGH REGIONAL OFFICE – Dara Disko-McCagg, Chief Examiner

33 Airport Center Drive, Suite 103 • New Windsor, New York 12553-4725

Tel (845) 567-0858 • Fax (845) 567-0080 • Email: Muni-Newburgh@osc.ny.gov

Serving: Dutchess, Orange, Putnam, Rockland, Sullivan, Ulster, Westchester counties



Like us on Facebook at facebook.com/nyscomptroller

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