

Kings Park Central School District

Procurement of Professional Services

MARCH 2020



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

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Report Highlights

Kings Park Central School District

Audit Objective

Determine whether the Board and District officials adhered to the law and District policy when procuring professional services.

Key Finding

- District officials did not periodically seek competition for services from five professional service providers who were paid a total of \$911,795 during our audit period.

Key Recommendations

- Comply with the District's procurement of goods and services policy (procurement policy) when procuring professional services.
- Consider updating the procurement policy to establish a reasonable interval for how frequently proposals should be solicited when procuring professional services.

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

Background

The Kings Park Central School District (District) is located in the Town of Smithtown in Suffolk County.

The five-member Board of Education (Board) is responsible for managing the District's financial and educational affairs. The School Superintendent is responsible for the District's day-to-day management and administration under the Board's direction. The Assistant Superintendent for Business is the Board-appointed purchasing agent, responsible for overseeing the procurement process.

Quick Facts

2019-20 General Fund Appropriations	\$93.9 million
Enrollment	2,883
Employees	738
Professional Service Providers During our Audit Period	29
Professional Services During our Audit Period	\$3.1 million

Audit Period

July 1, 2018 – September 30, 2019

Procurement of Professional Services

How Should a School District Procure Professional Services?

New York State General Municipal Law¹ requires that school districts adopt written policies and procedures governing the purchase of goods and services when competitive bidding is not required. Using a request for proposal (RFP) process² is an effective way to ensure that the district receives needed services on the most favorable terms or for the best value.³ Generally, there are no set rules regarding the frequency of RFPs; however, district policy should establish a reasonable interval, such as every three to five years, for how frequently proposals should be solicited. Potential service providers typically are supplied with copies of the RFP specifications and are requested to submit proposals by a specified date.

The district may solicit proposals either via public advertisement or from a comprehensive compiled list of potential service providers who are contacted directly and provided with an RFP. An RFP can provide a mechanism for fostering increased competition for professional services and help ensure that contracts are awarded in the best interest of the taxpayers.

The District's procurement policy requires that District officials procure professional services using RFPs to protect the District's interests and to avoid the appearance of favoritism or impropriety.⁴

Officials Did Not Always Seek Competition for Professional Services

District officials did not always comply with the procurement policy by using RFPs when procuring professional services. During the audit period, officials paid approximately \$3.14 million to 29 professional service providers.

We reviewed the procedures that officials used to select 23 professional service providers, paid approximately \$3.09 million during our audit period, who provided accounting, special education and legal services, among others. Our review showed that officials appropriately used RFPs to select two accounting firms paid approximately \$87,000, including requesting proposals and adequately

1 New York State General Municipal Law Section 104-b

2 An RFP 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.

3 Refer to our publication Seeking Competition in Procurement available on our website at www.osc.state.ny.us/localgov/pubs/lmgmg/seekingcompetition.pdf. Acceptable exceptions to competitive procurement include participating in cooperative bids and New York State contracts, purchasing from a sole source vendor and emergency purchases (determination of sole source or declaration of and emergency must be documented).

4 Further, although not necessarily bound to select the lowest bidder in response to its RFP, the procurement policy requires that the District adequately document its selection process to demonstrate the economical and prudent use of public money and to ensure fair competition.

documenting the proposals received from these providers. District officials also used acceptable exceptions to competitive procurement, such as participating in cooperative bids, to select 15 special education and related services providers who were paid nearly \$2.1 million and an environmental testing firm paid approximately \$38,000.

However, District officials did not use RFPs to select five professional service providers who were paid a total of \$911,795, including \$641,271 for architectural and construction management services, \$230,295 for legal services and \$40,229 for financial advisor services.

The District's procurement policy is silent on how frequently proposals should be solicited. District officials stated that they were unaware if RFPs were used to select the District's attorney, bond counsel, architect or financial advisor because they were selected many years ago, prior to the current administration's tenure, and the Board has also not solicited RFPs for construction management services since 2004. The Board has been reappointing the same firms for these services each year without periodically soliciting proposals.

As a result, the District has not sought competition for legal services in 28 years (since 1992), bond counsel for 24 years (since 1996), architectural services in 20 years (since 2000) or construction management services for 16 years (since 2004). In addition, officials could not tell us how long ago their current financial advisor was first appointed.

Because officials did not always use competition to procure professional services, they cannot be sure that professional services are procured in the most prudent and economical manner.

What Do We Recommend?

The Board and Purchasing Agent should:

1. Ensure that officials comply with the District's procurement policy when procuring professional services.

The Board should:

2. Consider updating the procurement policy to establish a reasonable interval for how frequently proposals should be solicited when procuring professional services.

Appendix A: Response From District Officials

**KINGS PARK CENTRAL SCHOOL DISTRICT
ADMINISTRATION BUILDING
180 Lawrence Road, Room 208
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John T. Craig
Assistant Superintendent for
Personnel and Administrative Services

Danielle Colby-Rooney, Ed.D.
Administrator for
Pupil Personnel Services

February 28, 2020

Ira McCracken, Chief Examiner
NYS Office Building, Room 3A10
250 Veterans Memorial Highway
Hauppauge, New York 11788-5533

Dear Mr. McCracken:

The Kings Park Central School District thanks the Office of the State Comptroller for their time and effort in reviewing internal controls over the past four months. The District is pleased that after a comprehensive and thorough review of all district-wide policies and procedures, operations, and finances, the sole area of focus was on the procurement of professional services. We respectfully request that this response also serve as the District's Corrective Action Plan (CAP). The Board will review the CAP after it receives the final report from the OSC. As this is both a response and the CAP, our response to each recommendation is listed below:

Recommendation 1: The Board and Purchasing Agent should ensure that officials comply with the District's procurement policy when procuring professional services.

District Response: The District continuously strives to maintain good stewardship of District funds and taxpayer monies. As such, the District seeks competitive bidding or requests for proposals in accordance with law and policy. There were a few exceptions noted in which the District had not conducted a request for proposal (RFP) in a number of years. These exceptions were professional services where, without cause, the District may not be anticipating the need for a change in vendor due to the value of historical knowledge, expertise, or other situational circumstances. Conducting RFPs incurs a cost for the District in both time and money. As such, in a situation where the District values certain professional services provided for the aforementioned reasons, the District would not want to irresponsibly expend public funds for what might amount to a futile and inevitable outcome. However, the District understands the value of transparency and performing due diligence. As such, the District will conduct RFPs and document selection criteria even when there is no desire and/or intention to change.

Recommendation 2: The Board should consider updating the procurement policy to establish a reasonable interval for how frequently proposals should be solicited when procuring professional services.

District Response: The District will conduct a thorough review of Board of Education policy #5411 and consider including an interval period for seeking proposals in professional service procurement.

Again, the District would like to thank you for your time and attention throughout the audit process.

Sincerely,

Timothy T. Eagen, Ed.D.
Superintendent of Schools
Kings Park CSD

cc: Board of Education

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 reviewed the Board's adopted policies and written procedures to determine whether they sufficiently addressed procuring goods and services that are not subject to competitive bidding, in accordance with statutory requirements.
- We interviewed District officials to gain an understanding of the District's procurement operations and practices.
- We reviewed vendor summary reports and identified 29 professional service providers who were paid a total of \$3.14 million over the audit period.
- We used our professional judgment to select all 23 service providers who were paid over \$15,000, which totaled \$3.09 million. We reviewed payments to them and the related documentation to determine whether the District sought competition when awarding the contracts. If competition was sought, we reviewed documentation to determine whether justification for the award was reasonable. For those services where the District did not seek competition, we asked officials why competition was not sought.

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. 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 2116-1(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.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#lgmg

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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Division of Local Government and School Accountability
110 State Street, 12th Floor, Albany, New York 12236

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

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