

Herkimer County Community College

Procurement

DECEMBER 2019



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

Contents

- Report Highlights 1**

- Procurement 2**
 - How Should a College Procure Goods and Services?. 2
 - Policies and Procedures Are Inadequate and Inconsistent 2
 - Purchases Did Not Always Comply With Competitive Bidding Statutes 4
 - College Officials Generally Did Not Solicit Competition for Purchases Below Bidding Thresholds 5
 - College Officials Did Not Solicit Competition for Professional Services 6
 - What Do We Recommend? 6

- Appendix A – Response From College Officials 8**

- Appendix B – Audit Methodology and Standards 10**

- Appendix C – Resources and Services 12**

Report Highlights

Herkimer County Community College

Audit Objective

Determine whether College officials use competitive methods when procuring goods and services.

Key Findings

- The purchasing policy is outdated and inconsistent with purchasing procedures and is not communicated to all College staff involved in the purchasing process.
- The purchasing policy and procedures do not address the solicitation of competition for professional services and insurance.
- The College purchased goods and services totaling \$474,514 and professional services totaling \$702,016 without seeking competition.

Key Recommendations

- Review and update the purchasing policy and procedures to ensure they are consistent, and provide detailed guidance for procuring professional services and insurance.
- Ensure the purchasing policies and procedures are distributed to all staff involved in the purchasing process.
- Ensure that College officials and employees use competitive methods when procuring goods and services in accordance with General Municipal Law and the College's purchasing policy and procedures.

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

Background

Herkimer County Community College (College), chartered in 1966, is sponsored by Herkimer County (County) and is part of the State University of New York system. The College campus is located in the Village of Herkimer. The College is governed by a Board of Trustees (Board) composed of nine appointed members and one student trustee.

The College President is the chief executive officer, and the Senior Vice President for Administration and Finance (Vice President) serves as the chief financial officer. The purchasing agent, under the supervision of the Vice President, is responsible for approving purchases. The current purchasing agent was appointed in November 2018.

Quick Facts

Employees	257
Enrollment (Full-time Equivalent Students)	2,050
2017-18 Expenditures	\$31.5 million
Non-payroll Payments 9/1/17-4/30/19	\$18.5 million

Audit Period

September 1, 2017 – April 30, 2019

Procurement

How Should a College Procure Goods and Services?

New York State General Municipal Law (GML)¹ generally requires colleges to solicit competitive bids for purchase contracts that aggregate to more than \$20,000 and public works contracts that aggregate to more than \$35,000 in a 12-month period.² GML³ further requires colleges to adopt policies and procedures for purchasing goods and services that are not required to be competitively bid, such as purchases below the bidding thresholds and purchases of professional services and insurance coverage. A college's purchasing policy should clearly indicate when to obtain competition, outline procedures for determining the competitive method to be used, and describe the documentation requirements and responsibilities. These methods can include competitive bidding, sending out a request for proposal (RFP), and obtaining written and verbal quotes.

Policies and procedures should be consistent and communicated to all officials and employees who are involved in the purchasing process. The purchasing agent is responsible for obtaining goods and services in the specified quantity and quality at the lowest price, and should conduct routine price comparisons prior to procuring goods or services to ensure that the college gets the best value for taxpayer dollars. It is also essential that payments for goods and services are accurate and consistent with contract terms.

Purchases of goods or services should be approved by someone other than the employee requesting the purchase. When these duties are not segregated, there is an increased risk for improper purchases to occur. Additionally, written disclosures of outside business interests of board members and key college officials should be provided to the purchasing agent to prevent the college from making improper purchases that could conflict with key decision makers' outside business interests.

Policies and Procedures Are Inadequate and Inconsistent

The purchasing policy has not been updated since April 2010, does not address all methods of procurement, and has not been consistently communicated to all College staff involved in the purchasing process. The policy states all purchase contracts in excess of \$10,000 and all public work contracts of more than \$20,000 shall be awarded to the lowest bidder as provided by GML. However, in June

1 New York State General Municipal Law (GML) Section 103

2 Exceptions include purchases made through the New York State Office of General Services (OGS), purchases made through certain county and federal contracts, purchases made through the use of certain contracts let by other states or political subdivisions, emergency purchases, professional services and purchases from a legitimate sole source.

3 GML Section 104-b

2010 the GML thresholds changed to \$20,000 and \$35,000, respectively. The policy states that purchases below the bidding thresholds should be procured in accordance with the limits established by Herkimer County in its Purchasing Reference Guide, and that all quotes must be documented regardless of how they are received from a vendor.

The College also maintains a *Purchasing Office Procedures Manual* that provides the procedures to use when procuring goods and services using RFPs, bids or quotes. The bid thresholds in the manual are outdated, and the thresholds for obtaining verbal and written quotes do not agree with the limits established in the County's purchasing guide. In addition, the business office also has written purchasing procedures that differ from both the purchasing office manual and County reference guide. Because of the inconsistencies in the various guidance documents, the expectations for soliciting competition are not clearly defined.

In addition, the College purchasing policy and the purchasing office manual do not provide guidance on how officials and employees should seek competition for professional services and insurance, which are exempt from competitive bidding requirements. The purchasing office manual describes one uniform process for soliciting competitive bids and proposals but does not specify the types of procurements (e.g., professional services) that should be awarded through an RFP process. Also, the manual indicates that contracts will be awarded to the lowest responsible bidder using both procurement methods (competitive bidding and RFPs). However, RFPs are commonly used for seeking competition for professional services (for example, attorneys, engineers, accountants) that involve specialized skill, training and expertise, and use of professional judgment or discretion. For these services, cost is only one element that officials would want to consider when awarding the contract, and the College is not required to award the contract to the lowest responsible bidder who complies with required specifications.

College officials were uncertain what competitive methods are required for various purchases and were not familiar with the County's policy and procedures. The purchasing agent was unsure of quote thresholds during our initial interview with him. The Facilities and Information Technology Department heads did not know the threshold requirements for bids and quotes, and told us they generally rely on the purchasing agent to identify them.

Because of the inconsistencies in the College's policies and procedures, the lack of guidance for certain procurements and the lack of communication of the policy and procedures to employees, College officials cannot be assured that the procurement of goods and services will be made in the most economical manner.

We also found that the purchasing agent initiates purchases for the mail room, copy room and business office, in addition to approving those purchases as

purchasing agent. This lack of segregation of duties increases the risk for inappropriate purchases to occur. We reviewed the descriptions of all mail room, copy room and business office purchases totaling \$417,330 during our audit period. Although our review did not disclose any indication of inappropriate purchases in those departments, when one person can perform both functions of requesting and approving purchases, there is a risk that inappropriate purchases could be made without detection.

Additionally, written disclosures of Board members and key College officials' outside business interests are not provided to the purchasing agent for reference when reviewing and approving purchases.⁴ As a result, the purchasing agent could approve a purchase that could result in a potential conflict of interest if a Board member or key official has an interest in a proposed contract with the College. We obtained written disclosures of Board members' and key officials' outside business interests and compared the disclosures to vendor payments made during our audit period. We did not find any payments to the disclosed outside business interests. However, without the written disclosures available for the purchasing agent's review, there is an increased risk the College could enter into an improper contract with a Board member or key official that could conflict with his/her personal financial interests and powers and duties at the College.

Purchases Did Not Always Comply With Competitive Bidding Statutes

We reviewed 11 purchase and public works contracts totaling \$1,199,537⁵ that the College entered into during our audit period that exceeded the competitive bidding thresholds. One purchase totaling \$47,147 for janitorial services was not competitively bid and two purchases totaling \$223,132 for bookstore renovations and parking lot paving repairs lacked sufficient evidence they were competitively bid.

The purchasing agent provided us with an internal bid tabulation spreadsheet showing the awarded vendor for the bookstore renovations totaling \$167,102, but could not provide any evidence of the required bid specifications, public advertisement or any of the bid responses to indicate the renovations were competitively bid.

The parking lot paving repairs totaling \$56,030 were subject to competitive bid as a public works contract. However, the purchasing agent provided supporting documentation to show three quotes were obtained and the contract was awarded to the vendor with the lowest quote. Because the College did not publicly advertise for sealed bids, other interested vendors did not have a fair and equal

4 Members of the Board submit written disclosures of interest to Herkimer County. The disclosures are on file at the County.

5 See Appendix B for our sampling methodology.

opportunity to compete for the contract. When the purchasing agent does not adhere to the competitive bidding requirements, the College cannot be certain goods and services were obtained at the lowest reasonable price.

Lastly, during our review of purchases, we found the College entered into a State contract for fuel card services totaling \$52,204 during our audit period. Under the State contract, the monthly card and program maintenance charges should be waived, but the College paid these charges each month. Over the audit period, these unnecessary charges amounted to \$1,825.

College Officials Generally Did Not Solicit Competition for Purchases Below Bidding Thresholds

The College's policy for purchases below bidding thresholds (based on the County's purchasing guide) requires College officials to obtain three documented verbal quotes for purchases costing between \$2,001 and \$10,000 and three documented written quotes for purchases costing over \$10,000 but below competitive bid thresholds for purchase and public works contracts. The purchasing agent told us that he requires the requesting department to get quotes for purchases that require them, and that he reviews the quotes before approving the purchases.

However, we examined 26 purchases totaling \$257,635 subject to the College's policy for verbal and written quotes and found that the required number of quotes were not obtained for 20 of the purchases totaling \$204,235 (79 percent). Examples include six purchases for repairs totaling \$47,469, four equipment purchases totaling \$44,715 and three purchases for furnishings totaling \$42,958. Although the purchases examined were for appropriate College purposes, the purchasing agent did not adequately review quotes to ensure compliance with the College's purchasing policy. Without adhering to the policy, the College risks acquiring goods and services at higher costs than necessary.

In addition, we could not verify the pricing of a quotable purchase for technology installation services purchased using a State contract. The total invoice for the services equaled \$11,745 and the cost was split between the College and the College Housing Corporation, resulting in \$8,868 paid by the College. The State contract price list indicates a rate of \$1,200 per day for technology installation services. However, the supporting documentation for the purchase does not provide details of the hours worked or services performed to calculate the number of days chargeable for the service. The purchasing agent was unable to provide additional support or explain why he approved the purchase. When the purchasing agent does not compare vendor invoices to contracts and maintain the appropriate documentation for purchases, he cannot be certain goods and services were obtained at the contract awarded price.

College Officials Did Not Solicit Competition for Professional Services

We reviewed the College’s procurement of insurance⁶ and services from five professional service providers totaling \$868,948 to determine whether their services were procured using RFPs. The College did not issue RFPs to procure its general liability, crime and commercial insurance coverage totaling \$333,199 and services provided by all five of the professional service providers totaling \$368,817 (Figure 1).

The purchasing agent provided support that indicated the insurance agency solicits competition for insurance providers every three to four years. However, College officials do not solicit proposals from other insurance agencies to compare services and costs. The purchasing agent could not provide support or explain why officials did not issue RFPs for the professional services. He found a copy of an RFP for the digital marketing services, but told us he was unsure whether the RFP was ever issued and could not provide support of service provider responses to the proposal.

Figure 1: Professional Services Procured Without an RFP

Professional Services ^a	Expenditures
General Liability, Crime and Commercial Insurance (1)	\$333,199
Technology Services and Management (2)	\$151,125
Digital Marketing (1)	\$106,022
Auditing (1)	\$93,170
Architect (1)	\$18,500
Total	\$702,016

^a Total number of service providers in each category shown in parentheses

Although we found the services procured were for legitimate and appropriate College purposes, without obtaining RFPs, the College cannot be assured that professional services are being procured in the most economical way and in the best interests of taxpayers.

What Do We Recommend?

The Board and College officials should:

1. Review and update the purchasing policy and procedures manual to ensure they are consistent and that they contain detailed guidance for procuring professional services and insurance.

⁶ General liability, crime, commercial and health

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2. Ensure the purchasing policy and procedures are distributed to all staff involved in the purchasing process.

College officials should:

3. Segregate purchasing duties so that one individual cannot initiate and approve purchases, or implement review procedures of those purchases when segregating the duties is impractical.
4. Ensure written disclosures of Board members' and key College officials' outside business interests are shared with the purchasing agent.

The purchasing agent should:

5. Ensure College officials and employees use competitive methods when procuring goods and services in accordance with GML and the College's purchasing policy.
6. Ensure amounts paid for procurements match the approved contract price. This requires approved purchase requests to have sufficient documentation, such as details of the price, quantity and unit of measure.
7. Seek reimbursement for any monthly fuel card and program maintenance charges erroneously paid.

Appendix A: Response From College Officials



November 21, 2019

Ms. Rebecca Wilcox
Chief Examiner
Office of the State Comptroller
Syracuse Regional Office
Room 409, State Office Building
333 E. Washington Street
Syracuse, NY 13202-1428

Dear Ms. Wilcox,

This letter is in response to the Office of the State Comptroller's (OSC) examination of the Procurement Processes of Herkimer County Community College (College) for the period September 1, 2017 – April 30, 2019. The audit objective was to "determine whether College officials use competitive methods when procuring goods and services".

The College does not dispute any of the findings of your office. While the College always attempts to secure the best value in all procurements, it agrees with the findings that in some cases, sufficient documentation was lacking as proof. The Purchasing Agent, under the supervision of the Sr. Vice President, is responsible for ensuring compliance with all competitive purchasing requirements. As of December 2018, the College hired a new Purchasing Agent and your thorough review and subsequent recommendations has provided him with a firm foundation on which to design an updated procurement policy. Such updated policy has been written, following that of the College's sponsor, Herkimer County and was approved by the College's Board of Trustees on November 20, 2019. Going forward, the Purchasing Agent has the recommendations and education provided to him through this audit to rely on to make sound future procurement decisions while maintaining compliance with all documentation requirements.

While the College does not dispute any of the findings of your office, it would be remiss in not providing clarification on a couple of details contained in the Report of Examination. Please see these clarifications below:

Purchases Did Not Always Comply With Competitive Bidding Statutes

- "One purchase totaling \$47,147 for janitorial services was not competitively bid" The College found itself in need of immediate janitorial services to mitigate a severe staff shortage. The amount of time needed to follow a competitive bid process would have had a detrimental impact on the health and safety of the College's students and staff. Due to the immediate need, two vendors were



informally solicited for interest. Only one showed interest with the other declining due to the temporary nature of the project.

- “Two purchases totaling \$223,132 for bookstore renovations and parking lot paving repairs lacked sufficient evidence they were competitively bid” \$167,102 of the \$223,132 was for the bookstore renovations which was funded by a capital project through the State University Construction Fund with matching funds by the private retailer that manages the College’s bookstore. As a condition of its matching funds, the private retailer required sole responsibility for the securing of contractors and other purchases necessary to complete the project. Therefore, the College did not have influence on the methods used by that entity for its procurement.

A Corrective Action Plan that addresses all recommendations of the Report of Examination is being written for review and approval by the College’s Board of Trustees for later submission to the OSC.

The College thanks the Office of the State Comptroller for its thorough review of the College’s procedures and looks forward to improving its procedures to address all of the audit recommendations that will ultimately ensure that the College always gets the best value for taxpayer dollars.

Sincerely,

Cathleen McColgin, PhD.
President

CMcC/jw

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 College officials and employees and reviewed College policies and procedures to gain an understanding of the purchasing process.
- We analyzed check disbursement records to identify 8,022 non-payroll payments totaling \$18.5 million during our audit period. We classified purchases that may require competition according to GML and the College's purchasing policy, for a total of 6,305 non-payroll payments equaling \$8.6 million. Using our professional judgment, we selected a total sample of 45 purchases (as described below) that represent a variety of goods and services that should be procured using competitive purchasing methods.
- We reviewed a sample of 11 purchase and public works contracts totaling \$1,199,537 that the College entered into during our audit period that exceeded the competitive bidding thresholds. We reviewed documents to assess whether purchases were properly bid and whether they were made using methods exempt from competitive bidding requirements (e.g., New York State Office of General Services contract, County contract).
- We reviewed 26 purchases over \$2,500 each that were made by the College during our audit period that did not exceed the GML competitive bidding thresholds to assess whether they were procured in accordance with the College's purchasing policy. This included 13 purchases totaling \$163,762 subject to written quotes and 13 purchases totaling \$93,873 subject to verbal quotes. We selected purchases over \$2,500 because they are just over the lowest quote thresholds for purchase and public works contracts according to the College's purchasing policy.
- We reviewed eight payments for professional services and insurance coverage totaling \$868,948. We reviewed documentation to determine whether RFPs were issued to procure these services.
- We obtained representations from Board members and other key College officials that disclosed their outside employment and business interests, and those of their spouses. We compared these disclosures to check disbursement records during our audit period to determine whether the College entered into any financial transactions that could conflict with key decision makers' outside business interests.
- We reviewed the descriptions of purchases made by the departments managed by the purchasing agent to assess whether those purchases were for appropriate College purposes.

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.

A written corrective action plan (CAP) that addresses the findings and recommendations in this report should be prepared and provided to our office within 90 days, pursuant to Section 35 of General Municipal Law. 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. We encourage the Board to make the CAP available for public review in the Secretary to the President's office.

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

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/localgov/index.htm

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

SYRACUSE REGIONAL OFFICE – Rebecca Wilcox, Chief Examiner

State Office Building, Room 409 • 333 E. Washington Street • Syracuse, New York 13202-1428

Tel (315) 428-4192 • Fax (315) 426-2119 • Email: Muni-Syracuse@osc.ny.gov

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