

Cayuga-Onondaga Board of Cooperative Educational Services

Procurement of Professional Services

MARCH 2019



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

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Report Highlights

Cayuga-Onondaga Board of Cooperative Educational Services

Audit Objective

Determine whether professional services were procured in a manner to ensure the prudent and economical use of public money in the best interests of taxpayers.

Key Findings

BOCES officials did not:

- Develop policies and procedures regarding the procurement of professional services.
- Seek competition for 28 professional service contracts totaling \$1.85 million.
- Have written agreements in place for professional services provided from 17 vendors totaling \$1.2 million.

Key Recommendations

- Develop policies and procedures for procuring and awarding professional service contracts above a reasonable dollar threshold only after soliciting some form of competition, and provide guidance as to how competition should be solicited.
- Ensure that BOCES has written agreements with all professional service providers detailing the types and timeframes of the services to be provided and compensation to be paid.

BOCES officials agreed with our findings and indicated they plan to initiate corrective action.

Background

The Cayuga-Onondaga Board of Cooperative Educational Services (BOCES) is located in the central New York region, and is composed of nine component school districts. BOCES is governed by a nine-member Board of Education (Board), with a member elected by each of the component districts. The Board is responsible for the general management and oversight of BOCES' financial and educational affairs. The District Superintendent (Superintendent) is the chief executive officer and is responsible, along with other administrative staff, for the day-to-day management under the Board's direction.

The Board also appointed an Assistant Superintendent for Management, Regional Services and Finance (Assistant Superintendent) to oversee BOCES' financial operations. As part of his duties, the Assistant Superintendent is responsible for purchasing, and acts as BOCES' purchasing agent.

Quick Facts

Total Active Cooperative Service Agreements	53
Employees	402
Total Professional Service Providers	49
Total Paid for Professional Services	\$1.9 million
Total Appropriations for fiscal year 2018-19	\$39.78 million

Audit Period

July 1, 2017 – December 12, 2018

Professional Services Procurement

How Should a BOCES Procure Professional Services?

New York State General Municipal Law (GML)¹ requires a board to adopt written policies and procedures for the procurement of goods and services, such as professional services, that are not subject to competitive bidding requirements. GML states that goods and services that are not required by law to be bid must be procured in a manner to ensure the prudent and economical use of public money in the taxpayers' best interests. It further provides that the board require in its policies and procedures that, with certain exceptions, BOCES secure alternative proposals through a request for proposals (RFP) process or quotations for such goods and services, including professional services. One exception is for circumstances when, or types of procurement for which, the board has determined alternative proposals or quotations will not be in BOCES' best interest.

While GML permits local governments and school districts to set forth in their policies the circumstances when or the types of procurements for which the local government or school district has determined RFPs will not be in its best interests, using a competitive method such as an RFP process would help ensure that the board obtains needed qualified services upon the most favorable terms and conditions.

An RFP is generally 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. Evaluation criteria can include factors in addition to price (e.g., experience, work plans and methodology to achieve desired results and estimated completion times). Furthermore, a written agreement is essential for establishing the professional services to be provided, the timeframes for those services, the basis for compensation and other terms and conditions.

BOCES Did Not Always Solicit Competition for Professional Services

The Board has adopted a procurement policy. However, BOCES policy does not require soliciting competition, such as written proposals or quotations, when procuring professional services. In addition, officials have not developed formal procedures for seeking competition when procuring professional services, including what documentation should be maintained to support decisions.

As a result, employees did not always use competition when procuring professional services or document sufficient evidence to demonstrate whether the vendor selected was a prudent and economical use of public funds. In addition,

¹ NYS General Municipal Law (GML) Section 104-b

employees did not always retain adequate documentation of their process for evaluating, selecting and awarding contracts or any competitive process utilized. Employees informed us that they were told documentation could be discarded after contracts were awarded, when requested.

BOCES procured professional services from 49 providers totaling approximately \$1.9 million. We reviewed all providers, who were each paid \$1,000 or more in either year of our audit period, for a total of 29 providers paid approximately \$1.89 million. We found that BOCES sought competition for its external auditor services, as required by law.² However, BOCES officials procured the services provided by the remaining 28 providers (totaling approximately \$1.85 million) without any evidence that they sought competition (Figure 1).

Figure 1: Professional Services Procured Without Competition

Professional Service Type	Total Paid	Total Vendors
Student Services	\$845,500	1
Medical	\$412,251	2
Architect	\$163,575	2
Insurance	\$143,744	2
Information Technology Consulting	\$134,123	4
Professional Development	\$76,795	9
Business Consulting	\$68,540	6
Legal	\$1,806	2
Total	\$1,846,334	28

While BOCES officials provided explanations as to why they chose some of the service providers (e.g., sole source providers, past experience, specialized service), they did not maintain adequate and written documentation of these explanations and their rationale. Further, there were multiple instances where BOCES officials stated that they did not seek competition because they procured the service for a component district(s). However, the component district(s) also did not provide evidence to justify why the selected vendor was chosen, or did not seek competition themselves prior to providing the request to BOCES. In addition, there were written agreements for 12 providers, with total expenditures of approximately \$690,000, which typically outlined the service terms and compensation schedules. However, officials could not provide written agreements for 17 providers with total expenditures of \$1.2 million.

In general, we found that the professional services procured were for legitimate and appropriate BOCES purposes. However, when a competitive process is not

² Education Law Section 2116-a

used, the Board has less assurance that professional services are being procured with the most advantageous terms and conditions and in the best interest of component districts and their taxpayers. Additionally, without written agreements detailing the type and timeframe of services to be provided and the compensation to be paid, BOCES may not be receiving all of the agreed upon services or could pay more for services than intended.

What Do We Recommend?

The Board should:

1. Develop policies and procedures for procuring and awarding professional service contracts above a reasonable dollar threshold only after soliciting some form of competition, and provide guidance as to how competition should be solicited.
2. Ensure that BOCES has written agreements with all professional service providers detailing the types and timeframes of the services to be provided and compensation to be paid.

Appendix A: Response From BOCES Officials



DISTRICT OFFICE

BRIAN K. HARTWELL, Ed.D., District Superintendent
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March 6, 2019

Edward V. Grant Jr., Chief Examiner
Division of Local Government and School Accountability
Office of the State Comptroller
16 West Main Street
Rochester, New York 14614

Dear Chief Examiner Grant:

This letter is in response to the *Draft Report of Examination: Procurement of Professional Services*, which was reviewed and discussed at the exit conference held on March 1, 2019. In attendance at this conference were members of your staff, a member of the Cayuga-Onondaga BOCES Board of Education, the Assistant Superintendent for Management, Regional Services & Finance and myself. I firmly believe that this process and the subsequent outcomes will have a positive impact on our BOCES.

The BOCES is in agreement with the findings included in the report. As a service provider to nine (9) component school districts, we provide the services they request from vendors they select. In turn, the BOCES contracts with the vendors to provide services to two (2) or more districts. Although the BOCES holds the contract with the vendor, we don't believe it is our place to tell districts they cannot work with a vendor of their choosing. However, in an effort to secure the best possible service and price, we can alert the districts to other available options if there are comparable vendors. The BOCES will work to adopt policies and implement procedures that address procurement of professional services and will detail them in our Corrective Action Plan.

I would like to comment positively on the field staff that performed this audit. I found your staff to be professional, competent and diligent. They deserve to be mentioned for a job well done.

Respectfully,

A handwritten signature in blue ink, appearing to read "Brian K. Hartwell".

Brian K. Hartwell, Ed.D.
District Superintendent/CEO

BKH/lmb

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Appendix B: Audit Methodology and Standards

We conducted this audit pursuant to Article V, Section 1 of the State Constitution and the State Comptroller's authority as set forth in 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 BOCES officials and employees to gain an understanding of the procurement process for professional services.
- We reviewed Board minutes and relevant policies and procedures.
- Out of a total of 49 professional service vendors paid \$1.9 million during the period July 1, 2017 through September 30, 2018, we reviewed payments made to 29 professional service vendors (\$1.89 million) who were paid \$1,000 or more in either fiscal year. We reviewed documentation to determine whether BOCES was seeking competition in awarding contracts, and used professional judgment to determine whether the services procured were appropriate for a BOCES. For those services where BOCES did not seek competition, we asked BOCES officials and employees for additional explanations.
- We determined whether BOCES had written agreements with the professional service providers to indicate the type and timeframes of services to be provided and the compensation to be paid.

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 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 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. We encourage the Board to make the CAP available for public review in the Clerk'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#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

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