REPORT OF EXAMINATION | 2020M-86

Mount Pleasant Cottage Union Free School District

Procurement

NOVEMBER 2020

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

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Report Highlights

Mount Pleasant Cottage Union Free School District

Audit Objective

Determine whether Mount Pleasant Cottage Union Free School District (District) officials used a competitive process to procure goods and services and whether purchases were for appropriate District purposes.

Key Findings

While all purchases reviewed were for appropriate District purposes, District officials did not use a competitive process to procure goods and services. The District:

- Paid a vendor $238,465 as a sole source without documentation justifying this was a valid exception to competitive bidding.
- Did not issue requests for proposals for six of 10 professional services providers paid $416,367.
- Did not obtain quotes for 20 purchases totaling $150,293 out of 30 reviewed.

Key Recommendations

- Develop written procedures for procuring professional services and goods and services below bidding thresholds and communicate them to the appropriate personnel.
- Ensure officials comply with the purchasing policy and General Municipal Law when procuring goods and services.
- Ensure purchases are made using a competitive process in accordance with the policy and procedures and adequate supporting documentation is maintained.

District officials disagreed with certain findings in our report. Appendix B includes our comments on issues officials raised in their response.

Background

The District, located in Westchester County, was created as a Special Act public school by the New York State Legislature to provide education to students with special education needs. The District collaborates with the Jewish Child Care Association's residential treatment center to provide educational services to students in residential programs and to day students.

The District is governed by a nine-member Board of Education (Board) appointed by the Jewish Child Care Association and the New York State Commissioner of Education. The Board generally manages and controls District financial and educational affairs. The Superintendent of Schools (Superintendent) is the chief executive officer responsible, along with other administrative staff, for the District's day to-day management under the Board's direction. The Assistant Superintendent for Business, Finance and Facilities (Assistant Superintendent) is the Board-designated purchasing agent.

Quick Facts	
Enrollment	251
Number of Schools	2
Employees	174
2018-19 Appropriations	$16.9 Million

Audit Period

July 1, 2018 –November 30, 2019. We extended our scope period to June 22, 2018 to review the purchase of smart boards.

Procurement of Goods and Services

How Should District Officials Procure Goods and Services?

New York State General Municipal Law (GML)[1] generally requires competitive bidding for purchase contracts of $20,000 or more and public works contracts of $35,000 or more, with certain exceptions. A school district is authorized to make purchases using contracts awarded by the New York State Office of General Services (State contracts) or cooperative bids by other governments, school districts and boards of cooperative educational services (BOCES).

GML states that goods and services not required by law to be competitively bid must be procured in a manner to ensure the prudent and economical use of public funds in the taxpayers' best interest and to facilitate the acquisition of goods and services of maximum quality at the lowest possible cost or best value basis.[2] Advertising requests for proposals (RFPs) or obtaining written or verbal quotes are effective ways to ensure that a district receives the needed goods and services for the best price.

Furthermore, GML requires the board to adopt written policies and procedures for procuring goods and services that are not subject to competitive bidding. For example, sole source procurement is a noncompetitive procurement process accomplished through the use of only one source and may be used as an exception to competitive bidding. However, when a sole source is used, the basis for determination that there is no substantial equivalent or competition should be justified and properly documented.

The Board is responsible for ensuring purchasing policies and procedures are developed and should annually review them. The District's procurement policy requires the development of procedures for the procurement of goods and services not required by law to be competitively bid. These procedures should:

- Define the methods to be used for procuring goods and services, and specify when each method should be used,
- Require adequate documentation of all actions taken with each method,
- Identify circumstances when the defined methods will not be in the District's best interest,
- Require justification and documentation for any purchase contracts awarded to other than the lowest responsible bidder, and
- Identify the individuals responsible for purchasing.

District officials should also ensure all employees involved in the purchasing process are aware of the procurement policy and procedure requirements.

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

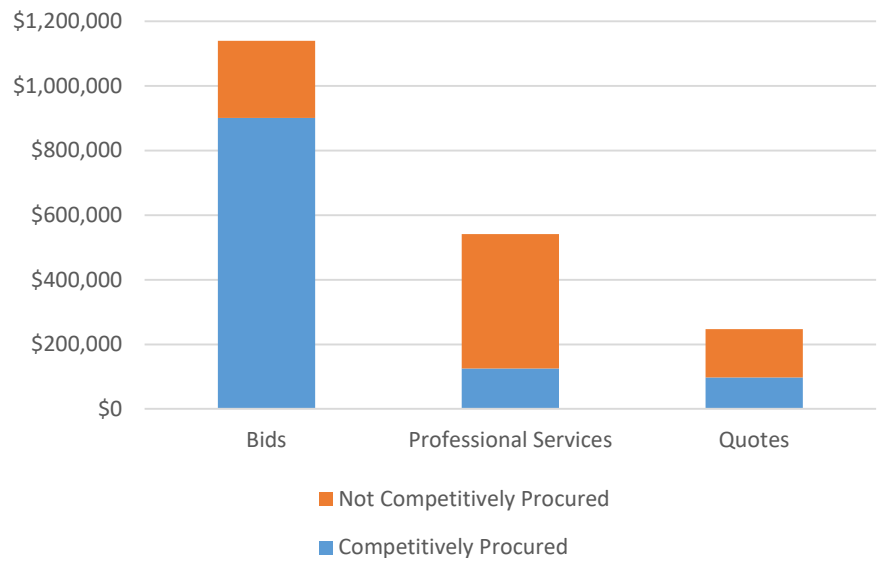
2 GML Section 104-b

Officials Did Not Always Seek Competition When Procuring Goods and Services

We reviewed 50 purchases[3] made during our audit period totaling $1,929,613 to determine whether District officials sought competition and whether they were for appropriate District purposes. We found that all were for appropriate District purposes. However, we also found that District officials did not always seek competition when procuring goods and services. Of the 50 purchases reviewed, a competitive process for 27 purchases (54 percent) totaling $805,124 was not used. For example, the District did not issue RFPs for the procurement of professional services totaling $416,367 (77 percent) out of $541,859 paid to professional service providers in our sample. In addition, the District did not seek competition for the procurement of $150,293 (61 percent) out of $247,694 paid for goods and services below the competitive bidding thresholds (Figure 1).

FIGURE 1

Competitively Procured vs. Not Competitively Procured



Competitive Bidding – We reviewed 10 purchases totaling $1,140,061 subject to competitive bidding during our audit period and found that nine purchases totaling $901,596 were properly purchased using State and other cooperative bids. However, District officials paid one vendor $238,465 without seeking competition as required by GML. District officials told us that they did not competitively bid for this purchase because it was a sole source. Because District officials did

3 See Appendix C for information about sampling methodology.

not sufficiently justify and document the vendor as a sole source, we could not determine whether the procurement was a valid exception to competitive bidding.

Professional Services – District officials did not seek competition by issuing RFPs for the services of six out of 10 professional service providers reviewed. These providers were paid $416,367 during the audit period. The payments comprised:

- $254,401 for occupational therapists,
- $83,967 for legal services,
- $33,999 for payroll services,
- $32,000 for architectural services, and
- $12,000 for insurance broker fees.

The money paid for legal services was paid to one firm that has provided services to the District for over 20 years without District officials seeking any competition to confirm the rates paid were reasonable.

Purchases Below Bidding Threshold – District officials did not obtain quotes for purchases totaling $150,293 for 20 out of 30 vendors reviewed totaling $247,694 during the audit period. For example, the District paid a total of $61,554 for educational materials and services to nine vendors without quotes, including a purchase of smart boards totaling $17,948. We found that the District had purchased smart boards totaling $119,305 in the previous school year from the same vendor, which exceeded the bidding threshold, but did not bid them. The District also paid $68,171 for facilities repairs and maintenance to eight vendors, and paid $12,830 for restaurant supplies and equipment to a vendor without obtaining quotes.

These deficiencies occurred because the Board did not fulfill its responsibility to ensure that District officials competitively procured District purchases. Although the Board adopted a procurement policy in April 2013, it did not ensure that the policy adequately addressed the procurement of professional services and goods and services below the competitive bidding thresholds, including setting thresholds for written and verbal quotes. The policy states that the Board is responsible for ensuring procedures for the procurement of goods or services not subject to competitive bidding thresholds are developed. However, District officials did not establish and were unable to provide documentation of such procedures. Furthermore, District officials did not review the policy annually and update as needed to keep the policy current.

The Board did not fulfill its responsibility to ensure that District officials competitively procured District purchases.

The Assistant Superintendent told us that officials review service provider contracts annually to extend, modify or create new contracts. However, the District does not have a process to annually review the services of professionals to determine when a RFP should be advertised. He also stated that he requests

quotes for payments over $3,000 but did not provide evidence for the quotes. Without adequate written guidance, the purchasing agent was unable to ensure that purchases were made using a competitive process.

The lack of formal procedures prevented officials and employees from having clear guidance on steps to be taken when acquiring professional services and goods and services not required to be competitively bid. As a result, they cannot ensure purchases were procured in the most economical way and in the best interest of taxpayers.

What Do We Recommend?

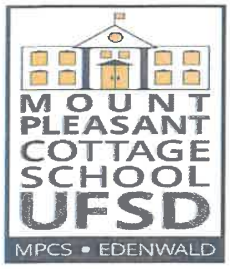
The Board should:

1. Review and revise the written procurement policy and related procedures to ensure they include detailed guidance for procuring professional services and goods and services below the competitive bidding thresholds.
2. Annually review and update the policies and procedures as needed.

District officials should:

3. Develop written procurement procedures that include procurement of professional services and goods and services below the competitive bidding thresholds, and set requirements for documentation of actions taken.
4. Ensure purchases are made using a competitive process in accordance with the written procurement policy and procedures and adequate supporting documentation is maintained.
5. Ensure all employees involved in the purchasing process are aware of the procurement policy and procedure requirements.

Appendix A: Response From District Officials



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September 8, 2020

Ms. Lisa Reynolds, Chief Examiner
Office of the State Comptroller
33 Airport Center Drive, Suite 103
New Windsor, NY 12553

Dear Ms. Reynolds:

This letter serves as a combined response and an outline of the corrective action plan pursuant to Examination Report #2020M-086 – Procurement.

In drafting the District's response to the Comptroller's recommendations, there were specific findings throughout the Report that the District disputes. These include the two largest audit findings, $238,465 as a valid exception to competitive bidding, and that competition was not sought when obtaining $254,401 for occupational therapist services.

- The $238,465 purchase was made after it was first recommended to the District by the New York State Education Department. This product includes patented technology, and the District was unable to locate another product it considered to be comparable for the purposes of choosing among competitors. During the audit process, the District asked the Comptroller's audit team if they could provide the District with one specific product they considered to qualify for competition. As of this date, none have been provided and to our knowledge, none exist. Although the District acknowledges that more sole source documentation should have been secured ahead of the acquisition, it continues to assert that this product was a valid exception to competitive bidding. Thus, there is no reasonable basis for an inference that the procurement process regarding this purchase resulted in a failed opportunity to save the District any money.

See Note 1 Page 9

- The District did provide evidence to the Comptroller's audit team of a competitive process when procuring occupational therapist services, which totaled $254,401. The competitive process included interviews of professional candidates for engagement. We understand that the Comptroller at times references that they were specifically searching to see if the District issued a Request for Proposal (RFP). However, there are other instances where an RFP is not mentioned. Specifically, Figure 1 is titled "Competitively Procured vs. Not Competitively Procured" this could easily mislead the public to believe there was no competitive process whatsoever when obtaining occupational therapist services. [Note: The only legally mandated RFP process for professional services has been established for the External Auditor, in accordance with the fiscal accountability laws that were enacted following the *Roslyn CSD* financial scandal. 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. The Comptroller has approved school district policies with processes inclusive of requests for quotes as well as formal RFP's. Our District is knowledgeable about professional fees through survey resources such as those provided by the Putnam/Northern Westchester

See Note 2 Page 9

BOCES and when interviewing professionals during the hiring process. The rates paid to our professional service providers are highly competitive in our market.]

See Note 3 Page 9

Also, 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:

- Through active budget management, including making real-time adjustments to reflect changes in the census or the certified tuition rate, the district has been able to maintain a positive fund balance. This has been accomplished even while following the strict methodology of the New York State Rate Setting Unit, which does not allow Special Act Districts to retain reserve funds, unlike all other public school districts in the state.
- The District paid off its Revenue Anticipation Note (RAN). This ensures the that the District does not need to use its limited funds to pay interest.
- Outsourcing payroll services has resulted in an approximate $75,000 annual savings and an approximate $450,000 savings since implemented in 2014.

Below is an outline of the District's corrective action plan based on the Audit Report recommendations:

Recommendation #1: The board should review and revise the written procurement policy and related procedures to ensure they include detailed guidance for procuring professional services and goods and services.

- The board completed an initial review and discussed the implementation of purchasing procedures during the public session of the June 15, 2020 board of education meeting and adopted the procedures during the July 7, 2020 board of education meeting.

Recommendation #2: The board should annually review and update the policies and procedures as needed.

- The board completed an initial review and discussed the implementation of purchasing procedures during the public session of the June 15, 2020 board of education meeting and adopted the procedures during the July 7, 2020 board of education meeting. There will continue to be an annual review of the policy and the procedures.

Recommendation #3: District officials should develop written procurement procedures that include procurement of professional services and goods and services below the competitive bidding thresholds, and set requirements for documentation of actions taken.

- As noted above, procurement procedures were developed and discussed with the board during the June 15, 2020 board of education meeting and adopted during the July 7, 2020 board of education meeting.

Recommendation #4: Ensure purchases are made using a competitive process in accordance with the written procurement policy and procedures and adequate supporting documentation is maintained.

- The purchasing agent and the treasurer will develop a procedure to ensure that requisitions do not get processed unless documentation consistent with the purchasing procedures are attached. The procedure will be presented at the October 19, 2020 board of education meeting.

Recommendation #5: District officials should ensure all employees involved in the purchasing process are aware of the procurement policy and procedure requirements.

- All employees directly involved in the purchasing process have been notified of the policy and procedures by the purchasing agent. The purchasing agent also reviewed the newly adopted procedure requirements with all employees involved in the purchasing process immediately after their July 7, 2020 adoption.

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

Sincerely,

Stephen Beovich
Superintendent of Schools

Appendix B: OSC Comments on the District's Response

Note 1

District officials and District records did not sufficiently justify and document the vendor as a sole source. District officials gave examiners a letter the vendor provided indicating their product was a sole source. The vendor wrote the letter after examiners asked officials to provide procurement documentation. Due to limited information, we could not determine whether the procurement was a valid exception to competitive bidding or the purchase was a prudent and economical use of public money.

Note 2

Sufficient evidence that an RFP was issued or competition was sought was not provided. Although the District's policy required officials to develop procedures for the procurement of goods and services not required by law to be competitively bid, officials did not develop formal procedures.

Note 3

The audit objective was limited to determine whether a competitive process was used for procuring goods and services; 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 to gain an understanding of the District's procurement practices.
- We reviewed the Board's adopted policies and written procedures to determine whether they addressed procuring goods and services that are not subject to competitive bidding, in accordance with statutory requirements.
- We reviewed cash disbursement data for our audit period and identified 13 purchases totaling $1,503,819 that were subject to competitive bidding requirements. Using our professional judgment, we selected 10 vendors paid a total of $1,140,061 to determine whether District officials solicited bids and whether payments were for proper District purposes. For those services where the District did not solicit bids, we reviewed documentation and determined whether an acceptable alternative purchasing method was used. To verify the sole source exception, we performed an Internet search and used a product review magazine to identify technology companies that provided comparable virtual and augmented reality-enabled interactive learning systems. We then compared system types to identify those providing similar systems to the vendor identified as a sole source.
- We reviewed cash disbursement data for our audit period and identified 16 professional services providers. We reviewed our identified population with District officials to determine whether all vendors were professional services providers. We selected and reviewed the contracts of the highest 10 paid professional service providers during our audit period, and reviewed the RFP documentation, if any, to determine whether District officials sought competition for the services, and whether payments were made per contracts and for proper District purposes. For those services where the District did not seek competition, we asked officials why they did not do so.
- We reviewed cash disbursement data for our audit period and identified 54 vendors who were collectively paid $511,594. To select our sample, we removed vendors who were paid less than $3,000 or more than $20,000, or appeared to be professional service providers. We identified 30 vendors paid a total amount of $247,694 during the audit period. We reviewed documentation for the selected vendors to determine whether District officials obtained quotes or used an acceptable alternative purchasing method and whether payments were for proper District purposes. For those services where the District did not obtain quotes, we asked officials why they did not seek or document quotes.

- We reviewed cash disbursement data for our audit period and identified seven credit card payments that exceeded $2,500. We reviewed monthly statements and claim packages to determine whether District officials were using credit card purchases to circumvent the District's purchasing process and tested for documentation, authorization, purchase order and appropriate District purpose.

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. 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/sites/default/files/local-government/documents/pdf/2018-12/regional_directory.pdf

Cost-Saving Ideas – Resources, advice and assistance on cost-saving ideas
www.osc.state.ny.us/local-government/publications?title=&body_value=&field_topics_target_id=263196&issued=All

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?title=&body_value=&field_topics_target_id=263206&issued=All

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/sites/default/files/local-government/documents/pdf/2020-05/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?title=&body_value=&field_topics_target_id=263211&issued=All

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

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