



# Monroe 1 Board of Cooperative Educational Services Procurement of Professional Services

## Report of Examination

Period Covered:

July 1, 2014 – April 26, 2016

2016M-176



Thomas P. DiNapoli

# Table of Contents

	<b>Page</b>
<b>AUTHORITY LETTER</b>	1
<b>INTRODUCTION</b>	2
Background	2
Objective	2
Scope and Methodology	2
Comments of BOCES Officials and Corrective Action	3
<b>PROCUREMENT OF PROFESSIONAL SERVICES</b>	4
Recommendations	6
<b>APPENDIX A</b> Response From BOCES Officials	8
<b>APPENDIX B</b> Audit Methodology and Standards	10
<b>APPENDIX C</b> How to Obtain Additional Copies of the Report	11
<b>APPENDIX D</b> Local Regional Office Listing	12

# State of New York Office of the State Comptroller

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## **Division of Local Government and School Accountability**

July 2016

Dear Board of Cooperative Educational Services (BOCES) Officials:

A top priority of the Office of the State Comptroller is to help BOCES officials manage BOCES resources efficiently and effectively and, by so doing, provide accountability for tax dollars spent to support BOCES operations. The Comptroller oversees the fiscal affairs of BOCES statewide, as well as BOCES' compliance with relevant statutes and observance of good business practices. This fiscal oversight is accomplished, in part, through our audits, which identify opportunities for improving BOCES operations and Board of Education governance. Audits also can identify strategies to reduce BOCES costs and to strengthen controls intended to safeguard BOCES assets.

Following is a report of our audit of the Monroe 1 BOCES, entitled Procurement of Professional Services. This audit was conducted 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.

This audit's results and recommendations are resources for BOCES officials to use in effectively managing operations and in meeting the expectations of their constituents. If you have questions about this report, please feel free to contact the local regional office for your county, as listed at the end of this report.

Respectfully submitted,

*Office of the State Comptroller  
Division of Local Government  
and School Accountability*

# Introduction

## Background

The Monroe 1 BOCES is an association of 10 component school districts. BOCES is governed by a 10-member Board of Education (Board) elected by the boards of the component districts. The Board is responsible for the general management and control of BOCES' financial and educational affairs. The District Superintendent (Superintendent) is BOCES' chief executive officer and is responsible, along with other administrative staff, for BOCES' day-to-day management and for regional educational planning and coordination.

According to statute, the Superintendent is an employee of both the appointing BOCES and the New York State Education Department. As such, the Superintendent also serves as a representative for the New York State Commissioner of Education. BOCES houses its administrative offices and many of its instructional programs at its main campus in the Town of Perinton in Monroe County and at satellite campuses located throughout Monroe County.

Combined, the component districts educate approximately 46,000 students in Monroe County. BOCES delivers more than 80 education and administrative services to its component and participating school districts and employs approximately 1,590 staff members. BOCES' 2015-16 budget of approximately \$129.26 million is funded primarily with charges to school districts for services and State and federal aid.

The Assistant Superintendent for Finance and Operations oversees the business office's operations. The business office manager is also the purchasing agent and is responsible for overseeing the purchasing department.

## Objective

The objective of our audit was to review the procurement of professional services. Our audit addressed the following related question:

- Does the Board ensure that professional services are procured in a manner to ensure the prudent and economical use of public moneys in the best interests of residents?

## Scope and Methodology

We examined BOCES' procurement of professional services for the period July 1, 2014 through April 26, 2016.

We conducted our audit in accordance with generally accepted government auditing standards (GAGAS). More information on such standards and the methodology used in performing this audit are

included in Appendix B of this report. 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.

**Comments of BOCES  
Officials and Corrective  
Action**

The results of our audit and recommendations have been discussed with BOCES officials, and their comments, which appear in Appendix A, have been considered in preparing this report. BOCES officials generally agreed with our report and indicated they plan to initiate corrective action.

The Board has the responsibility to initiate corrective action. Pursuant to Section 35 of General Municipal Law and Section 170.12 of the Regulations of the Commissioner of Education, a written corrective action plan (CAP) that addresses the recommendations in this report must be prepared and provided to our office within 90 days, with a copy forwarded to the Commissioner of Education. To the extent practicable, implementation of the CAP should 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 Board should make the CAP available for public review in the BOCES Administration office.

## Procurement of Professional Services

Seeking competition in the procurement of professional services is not just a matter of ensuring compliance with laws and local policy. The people who are directly responsible for making procurement decisions should create a cost-conscious and thrifty procurement environment in which seeking competition becomes intuitive and “second nature” for the organization.

General Municipal Law (GML) stipulates that goods and services that are not required by law to be procured pursuant to competitive bidding, such as professional services, must be procured in a manner to ensure the prudent and economical use of public moneys, in the best interest of residents. Therefore, BOCES officials must facilitate the acquisition of goods and services of maximum quality at the lowest possible cost under the circumstances and guard against favoritism, improvidence, extravagance, fraud and abuse.

The Board is responsible for ensuring the development of policies and procedures that clearly provide that alternative proposals or quotes for goods and services be secured by the use of competition, such as written requests for proposals (RFPs), written quotes, verbal quotes or any other method of procurement that furthers the purposes of GML. The procedures should also require adequate documentation of actions taken with each method of procurement, require justification and documentation of any contract awarded to other than the lowest responsible dollar offerer, and set forth circumstances when, or the types of procurement for which, the solicitation of alternative proposals or quotes will not be in BOCES’ best interest.

In addition, the Board and each professional service provider should enter into a written agreement indicating the contract period, the services to be provided, the timetable for completion and the basis for compensation. A proper agreement provides a clearly defined and mutually agreed-upon basis for the services to be provided and entitlement to payment.

Although the Board has developed a purchasing policy and BOCES officials have developed corresponding regulations, they do not require competition when procuring professional services. Therefore, the policy and regulations do not indicate when or at what monetary threshold it is appropriate to use written RFPs or written or verbal quotes. Instead, the regulations state that these are not required, but may be used at the business office’s discretion. Additionally, although the policy and regulations require adequate documentation

be maintained, they do not outline the specific documentation requirements to be used during the solicitation process, including documentation for the decisions made. BOCES officials also told us that they do not have informal guidelines to ensure competition is sought for professional services.

During the period July 1, 2014 through March 3, 2016, BOCES paid 181 professional service providers \$10.75 million. There were 119 providers who were paid more than \$1,000 for services in at least one of these years. BOCES paid these 119 providers \$10.73 million (99.8 percent) during the test period.<sup>1</sup> BOCES sought competition for 16 service providers that were paid \$6.77 million. However, BOCES did not seek competition for 103 providers that were paid \$3.96 million (37 percent), as shown in Figure 1.

<b>Figure 1: Professional Services Without Competition</b>	
<b>Professional Service</b>	<b>Expenditure</b>
Special Services for Students (13)	\$2,467,372
Medical Services (11)	\$447,169
Professional Development (29)	\$332,362
Construction and Facilities Management (3)	\$181,870
Legal (2)	\$155,021
Insurance and Employee Assistance Program (EAP) (4)	\$87,646
Engineering (2)	\$67,519
Translators <sup>a</sup> (25)	\$52,301
Business Consulting (6)	\$48,883
Architect (1)	\$33,169
IT Consulting (2)	\$32,572
Environmental Remediation & Inspections (2)	\$28,494
Other (2)	\$15,919
Staffing (1)	\$11,520
<b>Total</b>	<b>\$3,961,817</b>
<p><sup>a</sup> Compensation for these translators is not determined by the providers. BOCES sets a standard hourly rate for the Board approved translators. Although an official told us that she believed it was a lower rate than they might otherwise pay, BOCES did not solicit competition to determine if providers would offer the service for a lower cost.</p>	

<sup>1</sup> We reviewed all providers paid more than \$1,000 in a fiscal year. See Appendix B – Audit Methodology and Standards for further details.

BOCES officials told us that they did not seek competition for certain providers because it was not required by their policy. Although BOCES officials verbally provided us with reasonable explanations for not seeking competition for some of the professional services procured (such as sole source providers), they did not document their method or reason for selecting the providers.

Further, BOCES did not have formal written agreements with 29 (24 percent) of the professional service providers that were paid more than \$1,000. BOCES obtained nine providers through another source, such as the County, so it was not directly responsible for entering into a contract for these providers. BOCES provided written agreements for 81 providers. Five of these agreements did not contain sufficient information because they did not include a timeline for the completion of services or the compensation to be paid, and two were not signed by the providers. In addition, not all contracts were maintained in the business office, which decreases the effectiveness of enforcing the agreements and ensuring payments are made in accordance with them.

Although the services procured were for legitimate and appropriate BOCES purposes, when the Board does not require the use of competition for obtaining professional services, the Board and BOCES officials do not have assurance that professional services are procured in the most economical way and in the best interests of residents. 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.

## Recommendations

The Board should:

1. Revise its procurement policy and regulations to:
  - Provide guidance as to how competition should be solicited for professional services, including the appropriate use of written RFPs, written quotes and verbal quotes.
  - Provide guidance for the documentation requirements during the solicitation process, including documentation for the decisions made.
  - Require BOCES officials to award professional service contracts only after soliciting competition.

2. Enter into a written agreement with each professional service provider indicating the contract period, the services to be provided, the timetable for completion and the basis for compensation.

## **APPENDIX A**

### **RESPONSE FROM BOCES OFFICIALS**

The BOCES officials' response to this audit can be found on the following page.

# MONROE #1 BOARD OF COOPERATIVE EDUCATIONAL SERVICES



**Daniel T. White**  
*District Superintendent*

July 21, 2016

Edward V. Grant Jr., Chief Examiner  
Rochester Regional Office  
Office of the State Comptroller  
The Powers Building  
16 West Main Street Suite 522  
Rochester, NY 14614-1608

Dear Mr. Grant:

Monroe#1 BOCES is in receipt of the Office of the State Comptroller's draft audit report of the District's Procurement of Professional Services for the period covering July 1, 2014 – April 26, 2016.

The BOCES appreciates the comment regarding procurement of professional services. The BOCES strongly agrees that seeking competition in procurement should create a cost conscious and thrifty environment. The BOCES works diligently to obtain the best pricing, strives to be fiscally prudent and make the most economical use of public monies at the lowest possible charge to the districts.

We have begun to address the findings of this report that will ensure an improved process in procuring professional services in the future. In addition, our formal corrective action plan will be written upon the acceptance of the final audit report.

We would like to extend our gratitude to the field auditors involved in the comprehensive examination of our financial operations and their professionalism in conducting this audit. We appreciate the feedback received and the comments made by the audit team in support of our continuing efforts.

Sincerely,

 Daniel T. White  
District Superintendent

Robert Dickson  
Board of Education President

41 O'Connor Road Fairport, New York 14450 Ph: 585-383-2220  
www.monroe.edu

## APPENDIX B

### AUDIT METHODOLOGY AND STANDARDS

The objective of our audit was to determine if the Board ensures that professional services are procured in a manner to ensure the prudent and economical use of public moneys in the best interests of residents. To achieve our audit objective and obtain valid evidence, we performed the following procedures:

- We interviewed BOCES officials and employees to gain an understanding of the procurement process for professional services.
- We reviewed Board minutes, BOCES' purchasing policy and regulations, code of ethics and conflict of interest policy.
- We reviewed vendor history reports and inquired with BOCES officials to identify the population of professional service providers the BOCES paid from July 1, 2014 through March 3, 2016. We found the District paid 181 professional service providers \$10.75 million during this period. This includes 119 providers that had annual expenditures at or above \$1,000 totaling \$10.73 million.
- For all professional service providers with expenditures at or above \$1,000, which aligned with BOCES' threshold for written quotes for the purchase of supplies and equipment, we reviewed documentation to determine if BOCES was seeking competition in awarding contracts. We used professional judgment to determine if the services procured were appropriate for a BOCES. For those services where the BOCES did not seek competition, we inquired with BOCES officials for an explanation.
- We reviewed written agreements with professional services providers who received payments in 2014-15 and 2015-16 (year-to-date).

We conducted this performance audit in accordance with 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.

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Andrew A. SanFilippo, Executive Deputy Comptroller  
Gabriel F. Deyo, Deputy Comptroller  
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