

Buffalo Academy of Science Charter School

Procurement

MARCH 2020



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

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Report Highlights

Buffalo Academy of Science Charter School

Audit Objective

Determine whether a competitive process is used to procure goods and services.

Key Findings

- The School's procurement policy is not comprehensive.
- The Board did not properly approve 18 contracts with cumulative payments totaling \$1.3 million, as required by the School's policy.
- School officials made 26 purchases totaling \$289,500 without using quotes, as recommended by the School's procurement procedures.

Key Recommendations

- Adopt a more comprehensive written procurement policy.
- Approve contracts as required by the School's policy.
- Seek competition and obtain quotes for purchases, as required by the policy and as recommended in the procurement procedures.

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

Background

A charter school is a public school financed by local, State and federal resources that is not under the control of a local school board. Charter schools generally have fewer legal operational requirements than traditional public schools. Most of the regulations for a charter school are contained in Article 56 of the New York State Education Law and its bylaws, charter agreement and fiscal/financial management plans.

The Buffalo Academy of Science Charter School (School) is located in the City of Buffalo. A nine-member Board of Trustees (Board) is responsible for the general management and control of financial and educational affairs. The Board appoints a Director (Director) who is responsible for day-to-day management duties under the Board's direction and who oversees the Chief Financial Officer (CFO). The CFO oversees the Operations Coordinator, who is responsible for purchasing.

Quick Facts

2019-20 Budget (less payroll and debt)	\$3.7 million
Employees	124
2018-19 Enrollment	700

Audit Period

July 1, 2016 – September 18, 2019

Procurement

How Should School Officials Procure Goods and Services?

The New York State Department of Education's (NYSED) Charter School Office provides fiscal operation guidance to charter schools including recommended purchasing practices. NYSED recommends that the board adopt a written procurement policy that clearly identifies purchasing responsibilities and functions, and promotes the use of quotes, bids and State contracts to achieve savings.

A comprehensive procurement policy should have detailed procedures that include the procurement authorization and approval process and thresholds for when competitive bidding, request for proposals (RFP) and written or verbal quotes will be obtained. They should also describe the procurement methods to use when competitive bidding is not required and how these purchases will be documented. Soliciting competition is an effective way to obtain the desired quality of goods and/or services at the best price.

The Board has established a written procurement policy (policy) which requires School officials to obtain three written quotes for purchases over \$20,000 and the Board to approve the contracts for the purchases. The policy indicates that certain factors including price, quality, shipping and handling timelines, and reliability will guide vendor selection and contract approval decisions. The policy further states that "at all times the selection should be made with the intention of maintaining a top-quality school." The policy authorizes the Director to approve these contracts in an emergency, and the contracts should be subsequently presented to the Board for review at the next regular Board meeting. Lastly, the School also has written procurement procedures that recommend that officials obtain three quotes for purchases between \$5,000 and \$20,000.

The Board's Procurement Policy is Not Comprehensive

While the Board's procurement policy identifies certain responsibilities and functions of School officials involved with the procurement process, it does not provide comprehensive guidance on methods of procuring and approving the purchase of goods and services. For example, while the policy indicates that the Board will approve all contracts for purchases over \$20,000, it does not specify how those written quotes will be obtained (e.g., advertising) or that the Board will review the quotes obtained for those contracts to form its approval. Instead, the Board generally relies on the Director to seek quotes, select the vendor and provide the subsequent contract to the Board for its review and approval. Further, while the procedures recommend that officials obtain three quotes for purchases between \$5,000 and \$20,000, it does not indicate whether these should be written or verbal. Lastly, the policy does not specifically describe the Board's role and process for handling contracts awarded because of emergency situations.

We found instances where the School may have realized potential savings. For example, School officials identified that the high school ceiling needed repair work estimated to cost more than \$20,000, so the School's architect solicited quotes.

While the School ultimately received two written quotes for this project, they were obtained over a year apart. One vendor submitted a written quote in December 2016 totaling approximately \$66,000 that estimated project completion in July 2017. This quote was valid for 30 days. However, this quote was not accepted and no work was done. Subsequently, School officials determined that because the ceiling repair work had not been performed, over time it had become an emergency condition. As a result, the architect provided School officials a written quote from a different vendor in January 2018 totaling approximately \$70,500, which was accepted and the work was completed that same month.

Had officials obtained three policy-required written quotes within the same time period, and compared them, they may have been able to save the School money. The quote submitted in December 2016 was approximately \$4,500 less than the January 2018 quote. While it was not documented in the Board's meeting minutes, officials told us the repair project was delayed multiple times due to cost and various other factors including timing. School officials said they wanted to perform the work while students were not in session, either during the summer or winter break. Further, while officials indicated that the ceiling repair had become an emergency project, this determination was not documented in the Board's meeting minutes.

Encouraging solicitation of RFPs for the procurement of professional services can help School officials ensure that they are procuring these services in the best interests of the School. The policy states that while professional service contracts are excluded from the requirements to seek multiple quotes, nothing shall preclude School officials from seeking such multiple quotes for these contracts. Because of this, we identified three professional service contracts with payments totaling \$120,000 in our audit testing¹ that School officials did not advertise for, or otherwise seek to obtain quotes. For example, a contract with an individual to assist with grant applications and the School's Charter renewal was based on an hourly rate and did not have an estimated annual amount of hours of service to be provided. During 2018-19, the School paid \$25,340 to this individual without using quotes or explaining why quotes were not used. As a result, officials do not have assurance this contract was paid at the best rate.

The Board and Officials Did Not Always Competitively Procure Goods and Services or Properly Approve Contracts

We reviewed 115 payments made to 30 vendors² for 56 purchase contracts totaling approximately \$2.7 million and found that they were for appropriate School purposes. However, the Board and School officials did not always use a competitive process when acquiring goods and services or properly approve the contracts.

¹ Refer to Appendix B for a description of our sampling methodology.

² Some vendors were in both categories below. See Appendix B for our sampling methodology.

The School made 26 purchases from 22 vendors totaling \$2.4 million that exceeded the policy's \$20,000 threshold, which required three written quotes and Board approval of the contracts. We found that the School generally obtained the three written quotes for these purchases, in accordance with the policy. However, the Board did not properly approve the contracts for 18 purchases with payments totaling approximately \$1.3 million. For example, while officials provided us the contract for a basement renovation project totaling approximately \$113,000, it was not approved by the Board, as required. While the Board, in its meeting minutes, authorized the Director to select a vendor for this project at a cost not to exceed \$130,000, this did not constitute Board approval of a specific contract.

The School also made 30 purchases from 18 vendors totaling \$325,000 that were between \$5,000 and \$20,000 for which the procedures recommend obtaining three quotes. However, School officials did not obtain quotes for payments made to 16 of these vendors on 26 purchases totaling \$289,500. Additionally School officials did not obtain quotes for two purchases made to one vendor, totaling \$25,000 for information technology equipment, because they told us the vendor was a sole source provider. Officials provided us documentation from the vendor – which was dated after our audit fieldwork ended – that indicated the vendor was a sole source provider of the items the School purchased.

School officials indicated that obtaining quotes for purchases below \$20,000 is unreasonable and time-consuming, despite this being recommended in the School's procurement procedures. However, when officials do not seek appropriate competition and the Board does not properly approve contracts, they lack assurance that the procurements are made in the most economical manner.

What Do We Recommend?

The Board should:

1. Adopt a more comprehensive procurement policy to provide detailed guidance for officials and employees with clear language addressing the procurement of goods and services.
2. Provide sufficient oversight to ensure School officials and employees adhere to the policy.
3. Properly approve contracts as required by the policy.

School officials should:

4. Develop procedures to ensure a competitive process is used to procure goods and services not addressed in the current policy.
5. Seek competition and obtain quotes for purchases, as required by the policy and as recommended in the procurement procedures.

Appendix A: Response From School Officials



March 2, 2020

Jeffrey P. Mazula, Chief Examiner
Buffalo Regional Office—Office of the New York State Comptroller
295 Main Street, Suite 1032
Buffalo, NY 14203-2510

Dear Mr. Mazula,

This provides Buffalo Academy of Science Charter School's Written Response to *OSC Draft Audit Report of Examination 2019M-250 (Audit Period July 1, 2016 to September 18, 2018)*.

Key Finding #1: The School's procurement policy is not comprehensive.

Response: To improve the School's procurement policy, updates have been drafted for Board review, revision, and approval.

Key Finding #2: The Board did not properly approve 18 contracts with cumulative payments totaling \$1.3 million, as required by the School's policy.

Response: For purchases/contracts over \$20,000, the School receives quotes from at least three quotes that the Board reviews and votes on as evidenced in School financial reports as well as in board minutes. For the identified 18 contracts, 12 of them contracted with the lowest bidders among at least three bidders and contracts signed by the school Director with an authorization by the Board of Trustees. 3 of them was "sole provider" and additional quotes were not needed. And the remaining 3 of them were professional services which were not require competitive bidding process. Board minutes evidence review and authorization given to Mr. Joseph Polat (BASCS Executive Director) to choose the lowest bid and begin service.

To address similar concerns in the future, the Board discussed amending the policies that will ensure the proper follow-up and approval procedures of the authorized transactions.

Key Finding #3: School officials made 26 purchases totaling \$289,500 without using quotes, as recommended by the School's procedures.

Response: These 26 purchases were between \$5,000 and \$20,000. The School's Standard Operating Procedures recommends attaining bids for items/services in this cost range but does not require it. (Purchasing Procedure #14).

The Board is considering to bring more clarity in the School's Standard Operating Procedures for the transactions between \$5,000 and \$20,000.

On behalf of Buffalo Academy of Science Charter School, we thank you for the services you provide to us as we ensure that students and families are guaranteed an excellent education and excellent organizational practices.

Sincerely,



Selcuk Acar
Board President



Joseph Polat
Executive Director

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 Section 2854 of the New York State Education Law, as amended by Chapter 56 of the Laws of 2014. To achieve the audit objective and obtain valid audit evidence, our audit procedures included the following:

- We interviewed School officials and reviewed the School's charter, policies and procedures and NYSED guidance to gain an understanding of the School's procurement procedures.
- We reviewed and summarized payments made from July 1, 2016 through June 30, 2019 for purchases and professional services over \$5,000. We identified that the School paid \$7.3 million to 148 vendors where each payment was individually more than \$5,000, in at least one year of our audit period.
- To determine our audit sample, we excluded payments made to government entities, and utility, health insurance and insurance companies. We then used our professional judgment to select 30 vendors (certain vendors had purchases in both categories below) from this remaining population and the corresponding payments made by the School totaling \$2.7 million, or 37 percent. We excluded individual purchases that were less than \$5,000 from the sample of vendors we selected.
 - We selected 22 vendors who received payments totaling \$2.4 million for 26 individual purchases which exceeded the \$20,000 threshold requiring written quotes and Board approval on contract awards as required by the School's policy.
 - We selected 18 vendors who received payments totaling \$325,000 for 30 individual purchases which were within the \$5,000 to \$20,000 threshold for price quotes as recommended in the School's procurement procedures.
 - For the samples selected, we reviewed any available supporting documentation such as contracts, invoices and quotes to assess whether the School solicited competition. When applicable, we also reviewed the Board's meeting minutes and vendor contracts to determine whether the Board approved the contracts as prescribed by the School's policy.

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. We encourage the Board to prepare a plan of action that addresses the recommendations in this report and forward the plan to our office within 90 days.

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

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