

Summary of Findings

The District contracted with and paid 12 special education service providers approximately \$347,000 during the audit period without using a competitive process, such as requests for proposals (RFPs), and therefore may not have procured those services in the most economical way and in the best interest of District taxpayers. Moreover, District officials could not provide supporting documentation to indicate how they selected these providers.

The District's procurement policy addresses professional services by requiring District officials to establish written procurement procedures that tackle each of the detailed requirements outlined in the General Municipal Law (GML). However, the District has not established specific procedures for the procurement of the professional services.

By not using a competitive process to procure special education services, District officials cannot be assured that they are contracting for these services at the lowest reasonable cost to taxpayers. Further, by not documenting actions taken with regard to the procurement of special education professional services, District officials are not in compliance with GML or the District's own procurement policy.

Background and Methodology

The Ardsley Union Free School District (District) is located in the town of Greenburgh in Westchester County and is governed by a five-member Board of Education (Board). The District has three schools in operation and employs 578 staff. District enrollment for the 2008-09 school year was approximately 2,209 students, of which 245 students were enrolled in the District's special education programs. The District's general fund expenditures for the 2008-09 school year were approximately \$53.5 million; \$8.4 million¹ was used for special education services.

The District develops Individualized Education Programs (IEPs) for students who are determined to be in need of special education services. IEPs include the various related services² that a student requires to achieve the goals contained in the IEP. It is common for districts to contract out for such services. However, some special education students require services for which the District does not select the provider or negotiate the contract. For example, if a student requires a modified learning environment the student would attend a State-approved educational facility. The rates for such services are negotiated and set by the New York State Education Department. These types of services are generally accounted for in the special aid fund and have been excluded from our audit. Our audit was limited to the special education services for which the District identifies and selects the providers. These services, which are generally paid for from the general fund, include occupational therapy (OT), physical therapy (PT), auditory services, nursing services, speech therapy, vision services and others.

During our audit period, the District contracted with 12 private special education service providers for applied behavior analysis, dialectic therapy, music therapy, mobility therapy, teaching assistant, RN services, OT, PT, specialized instruction and parent training, speech, and special education teachers; payments to these providers totaled approximately \$347,000 for the

¹ Represents expenditures reported in general fund account code 2250 - Programs for Students with Disabilities School Age. The District only charges account code 2250 for special education related expenses.

² Related services may include developmental, corrective, and/or other supportive services to assist a student who has a disability.

period July 1, 2008 through August 31, 2009. The Director of Pupil and Personnel Services negotiates these professional service contracts; once the contract rates are determined, the Superintendent presents them to the Board for their review and approval.

We interviewed various District officials to determine the district's procedures for procuring special education professional services. We also reviewed the District's purchasing policy and examined related professional service contracts, expenditures and other supporting documentation. Our audit procedures also included steps to determine if the District was in compliance with its own procurement policy regarding special education professional services.

We conducted this performance audit in accordance with generally accepted government auditing standards (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.

Audit Results

GML does not require competitive bidding for professional services that involve specialized skill, training and expertise, use of professional judgment or discretion, and/or a high degree of creativity. Although District officials are not legally required to competitively bid special education services, the solicitation of competitive proposals is an effective way to ensure the District receives the desired services for the best price without favoritism. GML requires the Board of Education to adopt, by resolution, policies and procedures governing the procurement of goods and services that are not subject to competitive bidding requirements. An effective and comprehensive procurement policy requires the District to seek competition by other means, such as issuing RFPs or obtaining price quotations, when competitive bidding is not required.

The Board has adopted a procurement policy that addresses the procurement of professional services by requiring the District to develop procedures to "Assure the prudent and economical use of public monies in the best interest of the taxpayer, facilitate the acquisition of goods and services of the maximum quality at the lowest possible cost under the circumstances; and guard against favoritism, improvidence, extravagance, fraud and corruption." Specifically, and in accordance with GML, the District's policy requires District officials to establish procedures for:

- Determining whether a procurement is subject to competitive bidding and requiring documentation for determinations where an item is not subject to competitive bidding
- Obtaining alternative proposals or quotations using requests for proposals, written or verbal quotations or any other method of procurement that assures competition is sought
- Determining when each method of procurement will be used and requiring adequate documentation of actions taken
- Requiring justification and documentation for awards to other than the lowest responsible dollar offer
- Indicating circumstances or types of procurement for which, at the Boards discretion, the solicitation of alternative proposals or quotations will not be in the best interest of the municipality.

The District did not comply with the policy's requirement to develop specific procedures for the procurement of professional services. Further, District officials could not provide documentation to indicate the basis for their selection of special education professional service providers. The District did not advertise for or issue RFPs for special education professional services.

The District contracted with 12 vendors³ for applied behavior analysis, specialized instruction and parent training, mobility therapy, music therapy, teaching assistance, PT, RN services, special education teaching, dialectical therapy, OT, and speech to provide such services to the students in the District's special education program during the period July 1, 2008 through August 31, 2009. These 12 providers were paid approximately \$347,000 for services provided during this period⁴; the hourly rates⁵ for these services are illustrated below:

	2008-09	2009-10 ⁶
Applied Behavior Analysis	\$100	\$100
Dialectical Therapy	\$275	\$275
Music Therapy	\$140 ⁷	\$140
Mobility Therapy	\$200	\$150
RN services	\$57	\$57
OT - Individual	\$85-\$100	\$80-\$90
OT - Group	\$85-\$100	\$80-\$90
OT - Consultant	\$100	\$85
PT - Individual and group	\$100	\$90
PT - Home	\$156	\$156
Parent Training⁸	\$115	N/A
Speech - Individual and group	\$90-\$113	\$90-\$107
Speech - Consultant	\$100-\$120	\$90-\$120
Speech - Home	\$156	\$156
Special Education Teacher	\$105	\$90
Instruction⁹	\$62	N/A
Teaching Assistant	\$45	\$40

By not seeking competition for these services, District officials do not have adequate assurance that they procured these services in the best interest of the District's taxpayers. District officials

³ The District outsourced 20 services during our audit scope period using 12 providers. Four vendors provided multiple services to the District: one provided parent training and instruction (behavioral modification therapy) for Autism and related disorders to the District; one provided six services including OT, PT, speech, speech consult, special education teaching, and teaching assistant to the District; one OT and OT consult to the District and the other speech and speech consult to the District

⁴ Includes \$18,900 applied behavior analysis, \$5,500 dialectic therapy, \$13,800 for specialized instruction and parent training for autism and related disorders, \$24,400 music therapy, \$6,000 mobility therapy, \$11,500 RN services, \$118,900 OT, \$7,900 PT, \$17,400 special education teacher, \$5,100 teaching assistant, and \$117,400 speech

⁵ Rounded to the nearest dollar

⁶ N/A indicates that the District discontinued a contractual relationship with the vendor in the 2009-10 school year as the services were no longer needed.

⁷ The vendor that provided this service to the District charged \$115 for services during the summer (July to August 2008) and increased the cost to \$140 for the school year 2008-09.

⁸ Parent training and instruction (behavioral modification therapy) is a specialized service provided to students with autism and related disorders.

⁹ Ibid.

were also unable to provide documentation of how the vendors for these services were determined, as required by GML and District policy.

District officials said that they do not issue RFPs for special education professional services in an attempt to preserve the student/provider relationship and to provide consistency in services, and that they see no reason to seek alternate providers. District officials negotiate each special education professional service contract. While District officials were able to reduce the rates paid to six of the vendors they contract with for services during the 2009-10 school year, such a process does not replace the potential cost saving impact that a competitive proposal process can provide.

Seeking competitive rates from professional service providers is intended to provide assurance that such services are not being awarded without regard to being efficient and cost-effective, and also that contracts are entered into in a manner which is in the best interest of the public and guards against favoritism, improvidence, extravagance, fraud and corruption. This process is not intended to supplant the District's role in selecting its professional service providers, but rather to provide useful information for making these important decisions. District officials should use all means available to identify capable professional service providers, and document the process used and reasons for the selections made.

Recommendations

1. District officials should seek competition for special education professional services.
2. District officials should comply with GML and the District's own procurement policy by developing specific procedures for the procurement of professional services, including special education professional services. Once developed, the Board should adopt the procedures and monitor compliance with them.

The Board has the responsibility to initiate corrective action. Pursuant to Section 35 of the General Municipal Law, Section 2116-a (3)(c) of the Education Law, and Section 170.12 of the Regulations of the Commissioner of Education, a written corrective action plan (CAP) that addresses the findings and recommendations in this report must be prepared and forwarded to our office within 90 days, with a copy forwarded to the Commissioner of Education. To the extent practicable, implementation of the CAP must 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 District Clerk's office.

Sincerely,



Steven J. Hancox
Deputy Comptroller
Office of the State Comptroller
Division of Local Government
and School Accountability