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Michael Wolff Advisory Services

Averill Park Central School District
Attn: Board of Education/Audit Committee
146 Gettle Rd
Averill Park, NY 12018

September 15, 2020

Re: Procurement - Goods and Services Not Subject to Competitive Bidding

The review of the procurement policies and procedures has been completed for the period of July 1, 2019, through June 30, 2020. The objective of the engagement was to evaluate the district's compliance with General Municipal Law, Board policies, and "best practices" recommended by the New York State Comptroller as it pertains to the procurement of Professional Services.

Professional services generally include services rendered by attorneys, engineers, and certain other services requiring specialized or technical skills, expertise or knowledge, the exercise of professional judgment, or a high degree of creativity. Expenses related to professional services are usually significant, however, the procurement of these services falls outside the normal procurement process of competitive bidding. Although competitive bidding is not used as part of this procurement process, the district is still responsible for ensuring the use of public funds has been done prudently and economically.

During our review, we noted some inconsistencies with procuring professional services vendors, however, except for legal counsel and some insurance policies, the expenses for these vendors were less than \$10,000. We also noted that records for documenting the reasons for selecting a particular vendor should be more formalized to ensure all of the criteria used in selecting the vendor is memorialized. This is especially important for any purchases involving Federal Funds to comply with the Uniform Guidance Regulation.

During our review, we also noted that the Board policy for procurement, including professional services should be updated to include the Uniform Guidance Regulation.

It was a pleasure working with the Business office staff during this review. If there are any questions or concerns regarding this review or this report, please contact me.

Sincerely,



Michael T. Wolff, CIA
Internal Control Specialist
Michael Wolff Advisory Services

Overview/Background - Goods and Services Not Subject to Competitive Bidding

New York State General Municipal Law (GML) requires that district officials adopt internal policies and procedures for the procurement of goods and services when competitive bidding is not required. GML further requires school districts to include in their policies and procedures that, with certain exceptions, they secure alternative proposals or quotes for such goods and services. The district may outline in its policy circumstances when, or types of procurements for which, it has determined alternative proposals or quotes will not be in its best interests. Goods and services not required to be competitively bid should be procured in a manner to assure the prudent and economical use of public funds in the residents' best interest and to guard against favoritism. It is also important for the board to enter into written agreements with professional service providers that indicate the contract period, the services to be provided, and the basis for compensation for those services.

Averill Park's Board policy #6700 "Purchasing" and #6700-R "Purchasing Regulation" outline the various guidelines for staff wanting to procure products and services and the requirements required of the Purchasing Agent. Within these policies, the methods for using competitive bidding as well as exceptions to competitive bidding are outlined. One of these exceptions is for obtaining professional services. The Board policy notes that even though competitive bidding isn't required, the district will procure in a manner to ensure prudent and economical use of public monies. The methods outlined in the policy are verbal quotes, written quotes, and requests for proposals ("RFPs").

Uniform Guidance

The "Uniform Guidance" ("Guidance") is a set Federal Regulations established by the Federal Government's Office of Management and Budget to ensure entities receiving Federal Funds have established proper internal controls for these funds. These controls should ensure that the funds are properly accounted for, comply with the funding requirements as well as local laws and regulations. The regulation was approved in December of 2014 but hasn't required implementation until July 1, 2018. The objective of the Guidance is to strengthen internal controls, management oversight, and provide for the efficient and economical use of Federal Funds.

The majority of Federal funds for the Averill Park Central School District are spent on employees' salaries and benefits. However, the Guidance requires specific policies and procedures to be developed for the purchasing of tangible assets and contract services. Included in this guidance are purchasing thresholds and requirements for quotes, contracts, and written requests for proposals ("RFPs"). Additional requirements included in the Guidance are a "Conflict of Interest" disclosure document, as well as requirements for maintaining all documents related to the purchasing of goods and services purchased with Federal Funds.

Testing Procedures

1. The Board of Education's Policies and Procedures were reviewed for compliance with GML as well as the Uniform Guidance Requirements.
2. A listing of all vendors paid during the period of 7/1/2019 –through 6/30/2020 was obtained and sorted by type of vendor. The listing of vendors was prepared and reviewed with management to identify vendors considered as "professional services" vendors not requiring the normal competitive bidding process.

3. The Purchasing Agent was interviewed to review the process of obtaining professional services as well as requesting the most recent RFP for the sample selected.
4. A sample of RFP's was selected to review the timeliness of obtaining the contracts and to ensure the contracts were still valid. Additionally, a sample of invoices was selected and traced back to the contracts to ensure the vendors were charging their agreed-upon price for their services.

Observations/Recommendations

Upon review of the vendor disbursements report, we selected vendors that appeared to provide "professional services" and had aggregate annual payments exceeding \$2,500. ^{Note 1} This review produced a listing of sixteen vendors totaling \$597,508 in payments during the 2019-20 year.

Vendor Type	Expenses
Insurance	\$ 354,739
Capital projects, building maintenance and engineering	\$ 99,032
Legal	\$ 59,330
Physicians/Medical	\$ 37,272
Accounting & Audit	\$ 23,645
Other	\$ 23,490
Total	\$ 597,508

Based on our review, the following items and recommendations were noted:

Board Policy

1. The Board's written policies on purchasing are relatively comprehensive however the following was noted:
 - a. The policies currently don't address purchases with Federal monies and the requirements of the Uniform Guidance regulation;
 - b. The policies don't include a clause of how often non-competitive bids are required. Usually, they are not required annually, however, the law requires your external audit to be evaluated every five years.
 - c. Policy #6700 references other policies that no longer exist.

Recommendation: As part of the annual review of the Purchasing policies, the policies should be updated to include the additional information, and comply with the Uniform Guidance regulation.

Note 1— Excluded from the scope of this audit were payments to special education providers since these vendors have additional considerations in their selection process. It should be noted that these providers are also treated as professional service vendors however a student's IEP is a considerable factor in the selection process. Examples of these types of vendors include physical and occupational therapists.

Procurement Selection

2. The review of the processes used to select the professional service vendors sampled found inconsistencies. Major purchases associated with capital projects, auditing, some medical services were purchased using the RFP process. Other services such as the district's legal counsel, insurance company, medical testing, and some engineering and environmental testing agencies were obtained without an RFP or formal procedure.

An analysis of vendors that were informally obtained noted except for legal and insurance the expenditures were less than \$10,000. Additionally, through discussion with the business official, the selection of these vendors was usually made with various considerations such as availability, past experience, or recommendations.

Although these informal methods may have resulted in the same vendor being selected as if a formal process was used, the district is responsible for ensuring the best value is obtained when using public funds. Without a more formal process, including supporting documentation the district cannot demonstrate this objective has been attained.

Recommendation: The selection of professional services should follow the Board's purchasing policies. For vendors that are treated as large professional service vendors, an RFP should be used for obtaining the services and the evaluation of the selection should be documented. This documentation is even more critical to have in place when the price selected isn't the lowest or when the purchase is made under the requirements of the Uniform Guidance regulation.

Situations in which the selection of the professional services vendor is not following one of the methods noted in the board policy for professional services, the purchase should follow the regular policy for goods and services. This would require documented bids, written quotes, or verbal quotes based on the expected expense for the year. If this method is used, the lowest priced vendor would have to be selected unless there are extenuating circumstances. Either way, the selection process would require supporting documentation.

Invoice/Transaction Testing

3. A sample of eleven payments, to the previously sampled professional services vendors, was selected and reviewed for agreement to the original RFP and/or purchase order.

The transactions were able to be traced back to the original contract or agreement on file. Minor recommendations were made for including personnel in the approval process.

Conclusion

The procurement of professional services must be performed in a manner that ensures the district is obtaining the most economical use of taxpayer dollars. Based on our review, the procedures in obtaining professional services have been inconsistent. However, except for legal counsel and insurance purchases, the larger expenses have followed the appropriate procedures. The inconsistency has primarily been smaller vendors with less than \$10,000, spent on these vendors.

Improvements are recommended in the areas of documenting the selection process of RFPS, and how the final determination was selected. Additionally, for purchasing involving Federal funds, the district

should ensure the reason for the selection is documented and all related documentation used in the selection process is retained.

The Board policies should also be updated to ensure they include the Uniform Guidance requirements and expand on the processes for selecting professional services vendors and documenting these selections.

It was a pleasure working with the Business Office staff during this review. If there are any questions concerning this report or review, please contact me.

