



June 4, 2021

To: Board of Education

Michael J. Martirano, Ed.D., Superintendent

I reviewed HCPSS procurement practices, pursuant to the fiscal year 2021 Internal Audit Plan approved by the Board of Education.

SUMMARY OF RESULTS

The review focused on possible ways to optimize the effectiveness of HCPSS procurement, primarily by comparing HCPSS procurement policies and practices to leading guidance for government procurement. Based on the review, HCPSS may want to consider taking steps to:

- I. Clarify the authority of the Purchasing Office and require it to develop a procurement strategic plan with key performance indicators aligned with the Strategic Call to Action.
- II. Develop more robust outreach to the Howard County community to increase interest and participation in HCPSS procurement.
- III. Fully utilize the new HCPSS contract management system to ensure effective contract oversight and contractor performance.
- IV. Take certain steps to better implement Policy 4050 Procurement of Goods and/or Services.
- V. Consider means to engage the Board earlier in programs and activities that give rise to contracts to better coordinate the Board's oversight and decision-making roles.

BACKGROUND

Procurement is an important pillar of strategic governance and services delivery for governments. The fundamental objective of procurement is to provide the organization with the goods and services it needs in the right quality and quantity, on a timely basis, as efficiently as possible, and at the lowest overall cost. Procurement offices seek to foster as much competition as possible and to ensure the community has a fair opportunity to compete for business.

The terms procurement and purchasing are often interchangeable. Purchasing is technically one of the three components of procurement – (1) planning and scheduling procurement activities to meet program and budgetary objectives; (2) source selection (purchasing) – the process through which solicitations are issued, advertisements run, vendors selected, and goods and services received; and (3) contract administration, in which provisions are enforced.

The purpose of the review was to identify suggested steps for optimizing the effectiveness of HCPSS procurement, primarily by comparing HCPSS procurement policies and practices to leading guidance for government procurement. The review also included discussions with the Director of Purchasing and other staff with knowledge of procurement. The review identified 13 suggested steps for optimizing procurement.

AUTHORITY AND ALIGNMENT WITH SCTA

HCPSS may wish to clarify the authority of the Purchasing Office by designating it as the sole office responsible for procurement activity. Further, HCPSS may want to strengthen procurement by requiring the Office to develop a procurement strategic plan with several key performance indicators (KPIs) aligned with the Strategic Call to Action (SCTA).

Authority

Leading guidance provides that organizations establish an independent professional procurement function led by a chief procurement official who reports to the organization's executive leadership team and has full procurement authority. This approach can help ensure the organizational management, transparency, and accountability necessary for public trust and achievement of the organization's goals. For example, the Council of Great City Schools states that this approach can further:

- Cross-functional knowledge of the challenges facing the organization and identification of opportunities for effective collaboration and strategic planning;
- Development of procurement strategies that align with the organization's strategic plan;

- Execution of procurement responsibilities in a manner that best contributes value to organization-wide planning, budget resolution, and project execution;
- Timely planning of cost-effective purchases and better identification of opportunities related to issues such as economies of scale, cooperative purchasing, and other objectives; and
- Better identification and mitigation of procurement-related risks facing the organization.

The organization can assess whether the current placement of its procurement function is meeting its organizational needs, recognizing there may be no single, optimal way to organize the function. A key part of assessment is determining whether senior leaders view procurement as a strategic asset in support of mission and business processes, and whether managers and staff view the procurement function as a business partner rather than a support or administrative function.

The National Institute of Governmental Purchasing advises that the organization centralize procurement and the chief procurement official delegate authority to trained procurement staff within a centralized purchasing office. By contrast, a decentralized procurement process under the supervision of many people independently exercising divided procurement authority (especially by those who are not procurement professionals), is less likely to achieve the strategic procurement objectives of the organization while increasing its exposure to financial, legal, and reputational risks. Delegated procurement authority should be established and documented explicitly. The delegation should describe all powers, limits, and duties, including for example position title or name, any training or certification conditions, and dollar limits.

HCPSS

The Director of Purchasing reports to the Chief Operating Officer, who is part of the Executive Leadership Team that reports to the Superintendent. That reporting alignment ensures the appropriate consideration of procurement matters.

The Procurement Manual states the Superintendent delegates procurement authority to the Director of Purchasing. The authority allows the Director to enter into contracts for the procurement of goods and services as the centralized purchasing office for HCPSS. The Manual further states the Director delegates purchasing authority to procurement specialists in the Purchasing Office for the purchase of specified goods and/or services.

Policy 4050 requires the Purchasing Office to approve all contracts paid with appropriated funds, and for the Board to approve all contracts over \$25,000. The policy allows school Principals to approve all contracts using school activity funds, even though

Principals are not procurement specialists and are generally not trained on procurement matters.

Policy 4050 requires the Purchasing Office to store, maintain, and execute all contracts. The Purchasing Office recently began implementing an electronic contract management system that can serve as a repository for storing contracts, and as explained below in the section on Repository, plans to enter all contracts in the system.

HCPSS has entered memoranda of agreement/understanding (MOUs) with various parties. While not always legally enforceable, the MOUs communicate mutually accepted expectations between HCPSS and other parties, and in some cases may resemble contracts. The Purchasing Office is responsible for maintaining financial MOUS and plans to enter them in the contract management system. The HCPSS Partnerships Office is responsible for maintaining non-financial MOUs and has an electronic repository for storing them. However, neither the Purchasing Office nor Partnerships Office have the ready means to ensure that they are aware of all MOUs.

The Purchasing Office may benefit from further clarifying its authority over all procurement. One means of doing that would be to revise Policy 4050 to require the Purchasing Office to approve or review all contracts and MOUs, and to enter them in its contract management system as discussed below in the section on Repository.

Strategic Plan

Leading guidance provides that an organization can best realize the strategic value of procurement when it directly involves procurement professionals in the overall strategic planning process. These professionals can ensure the organization aligns procurement strategies with overall strategies. The strategic value of procurement flows from the creation of opportunities for advance planning, obtaining best value, reducing risk, maintaining the integrity of public funds, and complying with laws and regulations.

The guidance further provides that the organization's Procurement Office develop a procurement strategic plan reviewed and approved by the organization's senior leadership and the organization's Board. A key component of the plan is the extent to which it systematically identifies and analyzes organization-wide procurement planned in the next 1 to 2 years and aligns with the budget.

HCPSS

The SCTA does not explicitly refer to procurement, and the Purchasing Office does not have a procurement strategic plan. Requiring the Purchasing Office to have a strategic plan would explain to the Board and others how the Office aligns its work with the SCTA and the budget and put the Office on par with leading guidance. Doing so would also help facilitate earlier Board engagement in contracts, as discussed below in the section on Board Engagement.

Key Performance Indicators

Leading guidance provides that the organization have multiple key performance indicators (KPIs) for procurement. The KPIs should align with strategic goals and be used regularly to measure all aspects of the procurement function.

The National Procurement Institute, for example, has an Achievement of Excellence in Procurement Award with a criterion that calls for the organization to have KPIs for multiple procurement areas. The criterion requires that the organization have at least three KPIs and that the organization define the purpose of each KPI and an action plan for the results of the KPI data collected. The decision regarding which KPIs to use will vary by organizational goals and objectives. The Council of Great City Schools, for example, recommends that school systems track at least the following three KPIs:

- Percentage of contract expenditures competitively awarded;
- Percentage of contract expenditures made through cooperative, or piggyback, contracts; and
- Extent to which the contractors meet requirements, as measured through consistently applied evaluation procedures.

HCPSS

The Purchasing Office has only one KPI – the percentage of contracts competitively awarded. The Purchasing Office may want to consider developing additional KPIs in accordance with the guidance above and with suggestions discussed in the sections below.

OUTREACH TO THE COMMUNITY

Organizations have several practices for increasing interest and participation in procurement, including for example, hosting pre-bid events prior to large projects, and inviting firms based on

industry codes, conducting outreach events at project sites so that potential bidders and sub-contractors can ask technical questions while touring the sites, and hosting or participating in vendor fairs. Leading guidance provides that the organization design its contract solicitation process to receive as many responses and contract bids as possible, under the general view that more bids will result in lower contract prices. Providing long solicitation processes with ample time for questions and answers also helps to increase the number of bids with the goal of lower prices.

Maryland promotes the participation of minority business enterprises (MBEs)¹ in state procurement activities, and Maryland law requires that contracts for school buildings, improvements, supplies, or other equipment be awarded to responsible bidders who provide the best value and conform to specifications with consideration given to, among several other requirements, the plan for utilization of minority contractors. Maryland currently has a statewide goal of 29 percent MBE participation on state-funded projects.

HCPSS

Policy 4050 states the Purchasing Office will encourage MBE participation in HCPSS procurements. The Purchasing Office believes it meets the state goal of 29 percent on HCPSS projects the state funds and may be able to use the new contract management system to measure MBE participation on state or other funded projects. The Office said that it has participated in the past in county efforts to increase MBE participation in county technology projects but does not have a formal plan for future MBE outreach.

The section above discussed how the Purchasing Office would benefit from having a strategic plan. The Purchasing Office could strengthen the plan by articulating steps the Purchasing Office could take to increase interest in HCPSS procurement in general and by MBEs in particular, laying out the steps for measuring MBE participation on state and other funded HCPSS projects, and developing relevant KPIs for such areas.

CONTRACT MANAGEMENT

Leading guidance provides that the organization have a contract management system that rigorously and thoroughly tracks contracts and evaluates contractor performance over the entire life of each contract, thereby helping to ensure contracts are managed effectively and contractors successfully comply with all contract provisions. Having a system is critically important for effective budget implementation and execution.

¹ Maryland has a Governor's Office of Small, Minority and Women's Business Affairs and a State Office of Minority Business Enterprise that encourages participation in state procurement and contracting opportunities for socially and economically disadvantaged small business owners. MBE in this report encompasses all such businesses.

Ideally, the system would include contract performance metrics and provide for the collection of quantifiable data from program and other offices on contract performance. However, developing and using performance metrics is difficult and is not necessarily a prevailing practice. For example, McKinsey and Company, a strategic management consulting company, found in 2018 that most procurement contracts it reviewed fell well short of having a range of performance metrics.

HCPSS

As discussed in the section above on Authority, the Purchasing Office recently began implementing an electronic contract management system. However, there are certain challenges to fully utilizing the system. One challenge is that it is not clear whether the Office will enter all school-based contracts paid with school activity funds and non-financial MOUs into the system.

A second challenge will be the extent to which the system tracks all contract provisions, includes a range of contract performance metrics in the system, and collects and enters quantifiable data from program and other offices related to the metrics into the system. The Purchasing Office has used a contract evaluation method called the Supplier Scorecard and can enter the results of the method into the system. The method includes metrics such as quality of work and materials and schedule management and is a best practice. However, the Office has only used the method intermittently, largely due to resource constraints, and it is not clear as to whether the Office will continue to use the method and enter the results in the system in the future.

A third potential challenge may be the extent to which HCPSS documents all agreements with outside parties, either through contracts or MOUs, and the extent to which HCPSS then enforces all provisions of contracts and agreements through the system. The Board has raised questions in the past about documenting and enforcing all contracts and agreements.

The system can help ensure successful oversight and management of contracts, provided the Purchasing Office and other staff fully utilize the system. In addition to entering all contracts and MOUs in the system as soon as practicable, as discussed in the section above on Authority, the Office may want to consider developing and collecting information on a wide range of contract performance metrics and/or fully using its Supplier Scorecard method on large contracts through the system. The Office may also want to consider taking steps to ensure it documents and enforces all agreements with outside parties through the system.

POLICY 4050 PROVISIONS

Leading guidance provides that the organization develop a comprehensive policy that clearly defines the authority, responsibility, and guidelines for the organization's procurement office. The guidance calls for the policy to address certain key elements, including for example:

- Fostering effective broad-based competition from all segments of the supplier market,
- Outlining the training for all staff involved in procurement processes,
- Ensuring appropriate public access to contracting information,
- Providing guidance on cooperative purchasing, and
- Developing controls to prevent conflicts of interest.

Board Policy 4050 Procurement of Goods and/or Services provides guidelines for the procurement of all HCPSS goods and services, consistent with leading guidance, and addresses most of the elements specified in the guidance. The policy provides an effective framework for HCPSS procurement. The Purchasing Office may wish to take certain steps to better implement the policy to make it more effective and ensure it addresses key elements of leading guidance by taking the steps discussed in the sections below.

Solicitations Greater Than \$25,000

Leading guidance provides that the organization should have a procurement policy that fosters effective broad-based competition from all segments of the supplier community.

HCPSS

Policy 4050 states that procurement of *goods* with a value over \$25,000 require a solicitation. The Policy defines solicitation as a requirements document that outlines the procurement process and selection criteria to obtain goods and/or services that is formally advertised to the public. The Policy does not require that procurement of *services* with a value over \$25,000 require a solicitation, though the Purchasing Director said HCPSS normally does so. The Director agreed on the benefit of including reference to services in the next revision of the policy.

Training

Leading guidance provides that the organization have a required formal training program for all procurement staff and all staff involved in contract management. The training should be comprehensive and cover multiple procurement subjects, including integrity risks, such as guarding against conflicts-of-interest and compliance with laws and regulations, and not be limited to a specific topic such as procurement cards or a few specific contracts or pre-bid meetings. A formal training program ensures the organization complies with procurement laws, regulations, and organization policy and procedures, and can facilitate other procurement objectives such as contract management and performance.

HCPSS

The Purchasing Office has a formal training program for procurement cards. The Office generally provides a basic training course for HCPSS staff who evaluate bid proposals and provides other types of ad hoc guidance and training to staff who request or need it. The Office may wish to consider developing and implementing a required formal training program for all staff involved in procurement. The Office may also wish to consider developing a KPI related to training.

Repository

Leading guidance provides that the organization enter and maintain all contracts in a central repository and that the contracts be easily retrievable and available to the public for reference and review in an online portal. Availability should be consistent with the law and any public disclosure protections. As discussed in the sections above on Authority and Contract Management, a repository can help also clarify procurement authority and facilitate contract management in the organization.

Leading guidance also provides that organizations have consistent contract drafting, such as by using a standard template, to facilitate entering contracts into the repository and managing and using the repository. A standard template can also decrease the time and effort that vendors spend doing business with the organization.

HCPSS

Policy 4050 requires the Purchasing Office to store, maintain, and execute all contracts. The Office recently began implementing an electronic contract management system that will serve as a means, or repository, for storing all contracts. It is not clear whether the Office will enter all school-based contracts paid with school activity funds and non-

financial MOUs into the system. The Office is providing certain rights to the system to the Board and management but does not plan to provide access to the public. The Office plans to use a standard template for all contracts.

Storing all contracts and MOUs in the system; providing access to the public; using a standard template for all contracts; and possibly developing a KPI related to the system would ensure that the Office fulfills the intent of the Policy 4050 provision to store, maintain, and execute all contracts. Doing so would also help clarify procurement authority and contract management.

Cooperative Procurement

Leading guidance encourages the organization to participate in cooperative procurement to the extent practicable. Cooperative procurement is the combining of requirements of two or more procurement organizations to leverage the benefits of volume purchases, delivery and supply chain advantages, best practices, and the reduction of administrative time and expenses. A “piggyback” procurement is a form of cooperative purchasing in which the organization receives the same pricing and terms of a contract entered into by another organization. In a piggyback procurement, the originating organization competitively awards a contract that includes language allowing other organizations to utilize the contract, which may be to their advantage in pricing and contract terms, thereby gaining economies of scale that they would otherwise not achieve if they competed on their own. Maryland law encourages public school systems to use cooperative procurement where feasible, and the Maryland Office of Legislative Services (OLA)² recommends that public school systems maintain written determinations with certain information when using cooperative procurements.

Leading guidance also spells out several steps the organization should take in evaluating whether to use a piggyback contract. For example, the National Institute of Governmental Purchasing recommends the organization compare available piggyback contracts; perform market research; obtain certain contract documents for the file such as the original solicitation, bid tabulations, and the winning bid; and take certain other steps.

HCPSS

The Procurement Office participates in several cooperative procurement alliances and has several piggyback contracts. The Office provides estimated administrative cost savings to the Board for some piggyback contracts but does not always maintain written determinations for them. The Office follows some of the steps recommended by the

² OLA is part of the Maryland General Assembly’s Office of Legislative Services. OLA audits Maryland public school systems once every 6 years. OLA plans to begin its next audit of HCPSS in later 2021.

National Institute of Governmental Purchasing based on available resources. The Office does not have KPIs related to cooperative purchasing.

Conflicts of Interest

Leading guidance underscores the importance of ethics in procurement, recognizing the importance of guarding against potential conflict-of-interest and ensuring public trust in the organization. The guidance states the organization should have written policies and procedures to guard against conflicts-of-interest in procurement.

HCPSS

Board Policy 2070, Ethics, and the HCPSS Ethics Regulations contain provisions guarding against conflicts-of-interest. The Policy requires certain HCPSS officials to disclose certain financial interests to guard against improper influence. The Regulations explicitly prohibit an official or qualified relative from participating in any contract that presents a conflict-of-interest between employee and the contractor.

The Purchasing Office has a Procurement Manual that addresses the importance of ethics in procurement, and the Office requires each contractor bidding on a contract proposal to sign an affidavit disclosing whether any school system employee or qualified relative has a conflict-of-interest with the contractor. The Office recently strengthened the affidavit's effectiveness in guarding HCPSS against conflicts-of-interest by adding certain contractor declarations regarding potential conflicts-of-interest with HCPSS employees.

BOARD ENGAGEMENT

Leading guidance provides that the organization's Board oversee the organization's programs and activities before making key decisions about them. Systematically identifying and analyzing planned contracts before approving them would allow the Board to coordinate the timing of its oversight and decision-making roles, including budget development.

HCPSS

Policy 2000, School Board Governance, requires the Board to authorize programs and monitor continuous improvement of programs and activities. Policy 4050 requires the Board to make key decisions about contracts above \$25,000 by requiring the Board to approve all contracts above \$25,000. (The Purchasing Office has also presented certain sole source contracts below \$25,000 to the Board for approval as recommended by the Superintendent.)

There have been certain times when the Board raised questions about the operation of programs and activities when presented with related contracts for approval, including some contracts that the Board needed to approve immediately. Ideally, the Board would have had sufficient time and opportunity to raise questions about programs and activities with related contracts before the Purchasing Office presented the contracts for approval. Partly in that regard, the Superintendent issued a memorandum in 2017 that staff should provide sufficient time for the Board to review and approve contracts and that staff should not submit contracts for approval at the contract deadline.

The Purchasing Office may wish to engage the Board early in certain programs and activities that give rise to contracts to allow more time for the Board to review planned contracts. The Office could do so through various ways. For example, the Office could maintain an inventory of programs and activities with contracts, drawn on from a repository as discussed above in the section on Repository, and:

- Include the inventory and new contracts as an appendix to a procurement strategic plan, as discussed above in the section on Strategic Plan;
- Provide the inventory to the Board periodically and identify the programs and activities with new contracts approved first by the Superintendent that are planned in the next 6 to 12 months; and/or
- Invite the Board to schedule discussions to discuss certain programs and activities with new contracts at Board meetings before the Board meetings in which the Office presented the contracts for approval.

STAFFING

Some of the suggested steps in the review may take time and additional investment and resources to implement. It may be difficult to benchmark staffing in procurement offices accurately due to the variety of functions the offices perform in different organizations. The Council of Great City Schools has used a total organization employee (full time equivalent) benchmark as a general guide. The Council's median benchmark would equate to approximately 11 Purchasing Office staff in HCPSS. The Office currently has 8 staff.

SUGGESTIONS

HCPSS and the Purchasing Office may wish to optimize procurement by considering the steps summarized below. Consideration should also factor in the time to implement the steps and the availability of resources in the Purchasing Office. The steps follow the order of the report.

1. Clarify the Purchasing Office's authority over all procurement, possibly by revising Policy 4050 to require that the Purchasing Office approve or review all contracts and MOUs.
2. Develop a strategic plan for procurement aligned with the SCTA.
3. Develop more KPIs for procurement, including KPIs discussed in this report.
4. Articulate steps the Purchasing Office can take to increase interest in HCPSS procurement, particularly by MBEs.
5. Develop and collect information on a wide range of contract performance metrics and/or fully use the Supplier Scorecard method and enter the information and metrics in the contract management system.
6. Use the contract management system to ensure the Purchasing Office documents and enforces all agreements with outside parties through the system.
7. Revise Policy 4050 to state that procurement of services with a value over \$25,000 require a solicitation.
8. Develop and implement a required formal training program for all staff involved in procurement.
9. Enter all contracts and MOUs into the contract management system.
10. Provide access to the public to all contracts in compliance with the law and any public disclosure protections.
11. Implement plans to use a standard template for all contracts.
12. Consider providing written cost savings estimates to the Board for all piggyback contracts and review procedures for piggyback contracts in preparation for the next OLA audit.
13. Engage the Board early in certain programs and activities that give rise to contracts to better coordinate the Board's oversight and decision-making roles.

MANAGEMENT COMMENTS

Management reviewed a draft of this report and agreed with the information and the suggestions included in it.

This report is intended primarily for the information and use of the Board of Education, Superintendent, and senior management. Any questions about the report should be addressed to them or me. I can be reached at David.Clark@HCPSS.Org or 410-294-9787.

A handwritten signature in black ink that reads "David Clark". The signature is written in a cursive, flowing style.

David Clark
Internal Auditor

cc: Ms. Karalee Turner-Little, Deputy Superintendent

Mr. Scott Washington, Chief Operating Officer

Mr. Douglas Pindell, Director of Purchasing