



Rye Neck Union Free School District

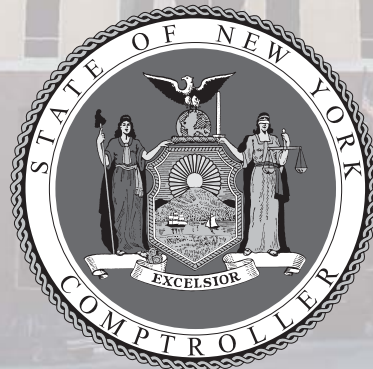
Internal Controls Over Criminal Background Checks and Procurement of Professional Services

Report of Examination

Period Covered:

July 1, 2007 — December 31, 2008

2009M-100



Thomas P. DiNapoli

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State of New York Office of the State Comptroller

Division of Local Government and School Accountability

July 2009

Dear School District Officials:

A top priority of the Office of the State Comptroller is to help school district officials manage their districts efficiently and effectively and, by so doing, provide accountability for tax dollars spent to support district operations. The Comptroller oversees the fiscal affairs of districts statewide, as well as districts' 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 district operations and Board of Education governance. Audits also can identify strategies to reduce district costs and to strengthen controls intended to safeguard district assets.

Following is a report of our audit of the Rye Neck Union Free School District, entitled Internal Controls Over Criminal Background Checks and 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 General Municipal Law.

This audit's results and recommendations are resources for district 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*



State of New York Office of the State Comptroller

EXECUTIVE SUMMARY

The Rye Neck Union Free School District (District) is governed by the Board of Education (Board) which comprises six elected members. The Board is responsible for the general management and control of the District's financial and educational affairs. The Superintendent of Schools (Superintendent) is the chief executive officer of the District and is responsible, along with other administrative staff, for the day-to-day management of the District under the direction of the Board. The Assistant Superintendent for Business also serves as the District's purchasing agent.

Scope and Objective

The objective of our audit was to examine the District's internal controls over selected operations for the period July 1, 2007 through December 31, 2008. Our audit addressed the following related questions:

- Are internal controls over the performance of criminal background checks appropriately designed and operating effectively to safeguard District students?
- Are internal controls over the procurement of professional services appropriately designed and operating effectively to safeguard District assets?

Audit Results

The District did not establish adequate controls over the performance of criminal background checks. Consequently, background checks were not performed for 17 of the 22 independent contractors we tested who had direct contact with students. The independent contractors provided services such as special education services, speech therapy, occupational therapy, and psychology. Without proper background checks, District officials are potentially placing the welfare of the District's students at risk.

District officials have since been proactive in addressing criminal background checks. Since we brought the situation to their attention, they have developed new procedures to ensure criminal background checks are obtained for independent contractors who are in direct contact with students and have been able to obtain fingerprint clearances for all the independent contractors we identified in our audit.

The District did not establish adequate controls over the procurement of professional services. Although the District has a purchasing policy, it does not properly address the procurement of professional services. As a result, the District retained the services of 23 professional service vendors

without requesting competitive proposals or other forms of competition and paid these vendors \$461,419 during the audit period. When goods and services are purchased without the benefit of competition, there is an increased risk that goods and services have not been obtained under the most favorable terms in the best interest of District taxpayers.

Comments of District Officials

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

Introduction

Background

The Rye Neck Union Free School District (District) encompasses portions of the City of Rye and the Town of Rye in Westchester County. The District is governed by the Board of Education (Board) which comprises six elected members. The Board is responsible for the general management and control of the District's financial and educational affairs. The Superintendent of Schools (Superintendent) is the chief executive officer of the District and is responsible, along with other administrative staff, for the day-to-day management of the District under the direction of the Board. The Assistant Superintendent for Business also serves as the District's purchasing agent.

There are four schools in operation within the District, with approximately 1,460 students and approximately 290 employees. The District's budgeted expenditures for the 2007-08 fiscal year were approximately \$31.5 million, which were funded primarily with real property taxes, State aid, and grants.

Objective

The objective of our audit was to examine the District's internal controls over selected operations. Our audit addressed the following related questions:

- Are internal controls over the performance of criminal background checks appropriately designed and operating effectively to safeguard District students?
- Are internal controls over the procurement of professional services appropriately designed and operating effectively to safeguard District assets?

Scope and Methodology

We examined the District's internal controls over criminal background checks and purchasing for the period July 1, 2007 to December 31, 2008.

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 is included in Appendix B of this report.

Comments of District Officials and Corrective Action

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

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. 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.

Criminal Background Checks

To protect the safety and well-being of students, New York State Education Law requires that all employees and independent contractors who have direct contact, or are reasonably expected to provide services that involve direct contact, with students under the age of 21 must have criminal background checks including fingerprinting. These fingerprint-supported background criminal history checks are required to be filed with the New York State Education Department's Office of School Personnel Review and Accountability (OSPRA). If an individual is arrested subsequent to providing fingerprints to OSPRA, notice of the arrest will be made to OSPRA by the New York State Division of Criminal Justice Services (DCJS). OSPRA then notifies the school district of the name of the arresting agency, the date of arrest, and the court jurisdiction.

District officials did not have a procedure in place to ensure that criminal background checks were performed and filed with OSPRA for independent contractors who had direct contact with students. Consequently no one was assigned this responsibility. Due to this control weakness, we tested 22 independent contractors who had direct contact with students, including 10 contractors who worked for seven different agencies. District officials did not perform criminal background checks for 17 of these individuals, including six special education providers, four speech therapists, two occupational therapists, two theatre arts providers, a physical therapist, a psychologist and a psychiatrist. Without proper background checks, District officials are potentially placing the welfare of the District's students at risk.

Once we brought the lack of fingerprint clearances to District officials' attention they developed procedures and were able to obtain the fingerprint clearances for all the independent contractors we identified during our audit that were lacking clearances.

Recommendation

1. District officials should monitor their newly developed procedures to ensure that required background checks for independent contractors, who come in direct contact with students, are performed.

Professional Services

District officials are responsible for designing internal controls to safeguard the District's resources and ensure that these resources are used economically and efficiently. A good system of internal controls consists of policies and procedures that allow a school district to provide reasonable assurance that it is using its resources effectively. One way to promote competition when obtaining professional services is to issue requests for proposals (RFP). An RFP can provide a mechanism for fostering increased competition for professional services and can ensure that these contracts are awarded in the best interest of the taxpayers.

General Municipal Law (GML) does not require competitive bidding for the procurement of professional services that involve specialized skill, training and expertise; the use of professional judgment or discretion; and/or a high degree of creativity. However, GML requires the District to adopt policies and procedures governing the procurement of goods and services when competitive bidding is not required. To have an effective and comprehensive procurement policy, it is essential that the District seek competition when acquiring professional services. RFPs are one method for soliciting competition and are meant to ensure that the District receives the desired services on the most beneficial terms and conditions.

The Board has adopted a purchasing policy; however, the policy does not adequately address the procedure for obtaining professional services. The District's procurement policy does not require officials to seek competition when procuring professional services. As a result, the District's procurement policy does not provide adequate assurance that the District will procure professional services at the most favorable terms and in the best interest of District taxpayers.

We identified and reviewed the District's contracts with 28 professional service vendors who received a total of \$663,053 during the audit period. The District awarded contracts to 23 of these vendors without soliciting any form of competition. The District paid these vendors a total of \$461,419. Professional services procured without competition included:

- \$178,324 for occupational therapy
- \$139,132 for speech therapy
- \$ 66,083 for psychology services

- \$ 53,408 for legal services
- \$ 24,472 for art consultants.

District officials reappointed the same service providers annually. They believed that because they were following the District's policy they did not need to seek competition. However, in the absence of a comprehensive policy and specific procedures that require seeking competition for procuring professional services, District officials cannot be sure that they are obtaining these services in the most favorable terms and in the best interest of District taxpayers.

Recommendation

2. The Board should amend the District's procurement policy to specify methods of procurement for professional services, which include soliciting competition for professional services.

APPENDIX A

RESPONSE FROM DISTRICT OFFICIALS

The District officials' response to this audit can be found on the following pages.

RYE NECK

Union Free School District

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Superintendent of Schools

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July 16, 2009

Mr. Christopher Ellis
Office of the State Comptroller
Newburgh Regional Office
33 Airport Center Drive, Suite 103
New Windsor, New York 12553

Dear Mr. Ellis,

Enclosed please find Rye Neck UFSD's response together with our corrective action plan in reply to the preliminary draft findings of the Office of the State Comptrollers recent examination of Internal Controls over Criminal Background Checks and Procurement of Professional Services for the period July 1, 2007 – December 31, 2008.

The district is in general agreement with the findings included in the Draft Report of Examination and has developed procedures to address the findings and recommendations.

Criminal Background Checks

Response: The District does perform and file with OSPRA Criminal Background checks on all employees required to have background checks under New York State Regulations. We have amended our procedures to include independent contractors and related service providers. As noted in the audit, during the period of the examination, the district was able to obtain the OSPRA clearance on the service providers identified as needing clearance.

Action: District RFP's and bids now require fingerprint and background clearance with OSPRA. Additionally, with the implementation of specific procedures for hiring independent contractors, the hiring administrator, in coordination with the Personnel Office will make sure the necessary documents have been received before placing the contract for the service provider on the Board Agenda for approval.

Professional Services

Response: The current district policy addresses the criteria of how professional and consulting services shall be purchased and the district is following those

Excellence in Education

guidelines. The current policy reads: *Any professional services (pursuant to Section 104-B of the General Municipal Law) are at the discretion of the Superintendent of his/her designee, with the approval of the Board of Education.*

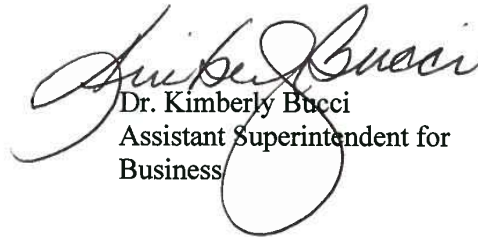
The district is in agreement with the recommendation of the OSC that the policy can be strengthened by amending it to specify the methods to be used when obtaining professional service such as RFP's.

Action: The Board of Education and its Policy Committee will review existing policies and procedures for the procurement of good and services and amend the appropriate policies and regulations to specify RFP's, and quotations when soliciting competition for professional services.

In conclusion, I would like to commend the Comptroller's staff for the courteous and professional manner in which they conducted this examination of district records, policies and procedures. We value the opportunity to identify ways to improve upon our practices and procedures.



Dr. Peter J. Mustich
Superintendent of Schools



Dr. Kimberly Bucci
Assistant Superintendent for
Business

APPENDIX B

AUDIT METHODOLOGY AND STANDARDS

Our overall goal was to assess the adequacy of the internal controls put in place by officials to safeguard District assets. To accomplish this, we performed an initial assessment of the internal controls so that we could design our audit to focus on those areas most at risk. Our initial assessment included evaluations of the following areas: financial oversight, cash receipts and disbursements, purchasing, and payroll, personal services and information technology.

During the initial assessment, we interviewed appropriate District officials, performed limited tests of transactions and reviewed pertinent documents, such as District policies and procedures manuals, Board minutes, and financial records and reports. In addition, we obtained information directly from the computerized financial databases and then analyzed it electronically using computer-assisted techniques. This approach provided us with additional information about the District's financial transactions as recorded in its databases. Further, we reviewed the District's internal controls and procedures over the computerized financial databases to help ensure that the information produced by such systems was reliable.

After reviewing the information gathered during our initial assessment, we determined where weaknesses existed, and evaluated those weaknesses for the risk of potential fraud, theft and/or professional misconduct. We then decided on the reported objectives and scope by selecting for audit those areas most at risk. We selected criminal background checks and purchasing for further audit testing.

To accomplish the objective of this audit and obtain valid audit evidence, we interviewed District officials and examined the following records to determine the effectiveness of internal controls pertaining to criminal background checks and purchasing:

- Policies and procedures
- Personnel files
- Fingerprint clearances
- Vendor payment files and invoices
- Payments to professional service vendors

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.

APPENDIX C

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