



State of New Jersey

PHILIP D. MURPHY
Governor

SHEILA Y. OLIVER
Lt. Governor

OFFICE OF THE STATE COMPTROLLER
P.O. BOX 024
TRENTON, NJ 08625-0024
(609) 984-2888

KEVIN D. WALSH
Acting State Comptroller

July 28, 2022

George J. Solter Jr., Ed. D., Superintendent of Schools
North Bergen School District
7317 Kennedy Boulevard
North Bergen, NJ 07047

**Re: Follow-Up Report – North Bergen School District
A Performance Audit of Selected Fiscal and Operating Practices**

Dear Superintendent Solter:

On August 1, 2019, we issued an audit report, *North Bergen School District – A Performance Audit of Selected Fiscal and Operating Practices (2019 Audit)*,¹ in which we made recommendations to address identified weaknesses in multiple areas. Pursuant to *N.J.S.A. 52:15C-1 et seq.*, we have conducted a follow-up review of the corrective action plan of the North Bergen School District (North Bergen or District) to assess the implementation of the recommendations contained in the 2019 Audit. Our findings and conclusions are set forth below.

Background, Scope, and Objective

The Office of the State Comptroller (OSC) has been charged by the New Jersey State Legislature with assessing “the adequacy of controls over financial management, contracting, financial reporting and the delivery of government programs and activities with due regard to efficiency, effectiveness and economy.” The Legislature found that such oversight would “strengthen public accountability with the goal of increasing public trust and confidence that every tax dollar collected by government is spent wisely and well.”

In an effort to carry out those duties, OSC audited the District. In the 2019 Audit report, we identified weaknesses with the District’s fiscal and operating practices and identified opportunities for potential cost savings. We found that the District did not have appropriate internal controls for the management and administration of employee benefits and the processing of payments related to

¹ Available at: https://nj.gov/comptroller/news/docs/north_bergen_school_district_audit_report.pdf

such benefits; failed to comply with the Public School Contracts Law and applicable regulations for certain procurements; and did not appropriately or effectively manage and oversee legal services, which resulted in overpayments. Those weaknesses may lead to waste, may lead to contract awards based on favoritism, and create an environment in which the improper use of public funds is more likely.

We made 15 recommendations in the 2019 Audit. In response, North Bergen submitted a corrective action plan that committed to correcting certain deficiencies, including those related to unlawful practices under the Public School Contracts Law. North Bergen also stated that it would consider other deficiencies identified in our report involving annual vacation leave payments and general legal counsel and public relation services.

The objective of this follow-up review is to determine if the District has implemented the 15 recommendations contained in our 2019 Audit. OSC is required by law to conduct a review to determine whether there has been “full implementation and continued compliance” with its recommendations. The subsequent review must describe and discuss the effect of the corrective or remedial action taken.

Summary Conclusion

We find in this report that North Bergen has made little progress in implementing our 15 recommendations. North Bergen fully implemented 2 recommendations, partially implemented 6 recommendations, and failed entirely to implement 7 recommendations:

- North Bergen has not developed detailed policies for employee benefits; has not improved appropriate controls for administration of employee leave entitlements and payment processing; has not eliminated vacation leave payments; has not renegotiated collective bargaining agreements; and has not reviewed its wasteful and excessive employee benefits to align its practices with state law.
- North Bergen has failed to fully implement our recommendations to reevaluate its use of outside law firms and monitor all legal services. With the exception of ensuring that payments do not exceed board authorization, North Bergen has failed to fully implement recommendations that would ensure taxpayer money is being spent in the most efficient and effective manner.
- North Bergen has failed to fully implement our recommendations to develop policies and procedures to comply with the Public School Contracts Law, specifically including the issuance of proper public notice, the requirement for competitive fee quotes, and procedures for the proper evaluation of contract offers. With the exception of providing notice to OSC regarding contracts valued over \$2 million,² North Bergen has failed to implement any of our other recommendations for bringing its policies and procedures in line with state procurement law.
- North Bergen has failed to fully implement our recommendations related to the retention of a public relations consulting company and has failed to develop policies and procedures

² Notification thresholds were increased effective July 1, 2020. 52 N.J.R. 1443(b)(July 20, 2020).

regarding procurement of public relations consulting services.

North Bergen's unwillingness to implement or fully implement 13 of the 15 recommendations indicate that it has not taken OSC's recommendations seriously. We will therefore continue to monitor our recommendations. We direct North Bergen to submit further information regarding its compliance with our recommendations by October 26, 2022 and thereafter every 90 days until further notice.

Through this report, as required by N.J.S.A. 52:15C-11, OSC provides notice to the Governor, the President of the Senate, and the Speaker of the General Assembly that there has not been full implementation and continued compliance with OSC's recommendations and that North Bergen has not fully complied with its corrective action plan. We further notify the State Board of Education, the Commissioner of the Department of Education, and the Hudson County Executive County Superintendent of these findings.

Status of Initial Audit Recommendations

Recommendation 1

Implement a policy specifically setting forth all employee leave benefits, including annual vacation leave. The policy should specify the details for all benefits and provide consistent leave benefits for all employees based on a set formula or years of service. In addition, the District should seek to align employee benefits with those of current state employees.

Status: Partially Implemented

Our 2019 Audit found the District did not have a policy for employee leave benefits and a formal process for determining the vacation leave entitlement for non-instructional supervisory/administrative employees. The District's annual vacation leave entitlement was not based on a specific formula or years of service and was excessive compared to state employee benefits. The District advised in its corrective action plan that it would adopt policies and regulations that detail employee leave benefits and vacation leave benefits for all employees.

During our review, we found the District implemented a new policy that included details for employee leave benefits. The policy provided specific details for the annual number of sick and personal days, accrual of sick days, and payment for unused sick days. But the policy failed to include details of all employee leave benefits, including terms for accruing vacation leave. The policy, which provides between 20 and 30 vacation days to employees, does not establish the specific amount of vacation leave based on a set formula, such as years of service.

In addition, the District allows certain employees to receive as many as 30 vacation days annually and permits payment for up to 20 unused vacation days each year, which exceeds what state employees receive, and leads to cash payments state employees do not receive. State employees receive a maximum of 25 vacation days annually after 20 years of service, may only carry over one year of vacation to the following year, and are not entitled to annual payments for unused vacation

leave. Many District employees also receive varying levels of longevity pay – a benefit that does not exist for state employees which may lead to wasteful payments.

Likewise, the District also provides employees with a perfect attendance bonus and allows them to convert and add their unused personal days to their accumulated sick leave balance. Employees who suffer a catastrophic health condition are eligible to apply for “extended sick leave” after exhausting all accrued leave time, which provides pay at a reduced rate and requires Board approval. These benefits also are not provided to state employees.

North Bergen’s previous and current policies regarding payments of unused sick time violate state law. The policy prior to 2020 allowed employees to receive unlimited terminal pay³ upon separation from employment. The current policy permits employees to receive terminal pay capped at \$15,000 upon separation from employment, not just at retirement, after 13 years of continuous service. North Bergen’s current policy is inconsistent with *N.J.S.A. 18A:30-3.6*, a 2010 law that was adopted as part of a series of employee benefit reforms.⁴ That law prohibits school district employees who were hired after May 21, 2010 from receiving payment of more than \$15,000 for accrued unused sick leave and requires such payments to be made only at retirement from a pension system. The District’s policy limits the payment to \$15,000, but improperly allows for payment prior to retirement for employees hired after May 21, 2010.⁵

The District’s policy also violates *N.J.S.A. 18A:30-3.5*, which was adopted in 2007. That statute applies to senior management in the school district and limits payment for accrued sick leave to \$15,000, only at retirement, except if earned before the law went into effect.⁶ Both the 2007 and 2010 laws were adopted for the purpose of reducing the burden of supplemental payments on local taxpayers.

In its response, the District discussed whether it complied with a recommendation that was not made by OSC and declined to address OSC’s recommendation that benefits should be based on a set formula or specific years. The District stated that “historically, non-certificated supervisory employees who are not covered by a [collective bargaining agreement (CBA)] are allotted 20 days’ vacation, which is identical to the negotiated days for those non-certificated staff members who are covered by a CBA. Certificated supervisory employees not covered by a CBA are allotted 30 days’ vacation, which is identical to negotiated days for those certificated non-supervisory employees who are covered by a collective bargaining agreement.” This practice is not formalized in a written policy, and our review of the CBAs found none that allowed 30 vacation days. The

³ We have also criticized such payments in prior reports as being wasteful. See Comptroller audit reports of the Borough of Keansburg (2021), available at <https://www.nj.gov/comptroller/reports/2021/approved/20210505.shtml>, and the Township of Hillside, the City of Perth Amboy and Gloucester City (2014), available at https://www.nj.gov/comptroller/news/docs/municipalities_audit_report.pdf. See also New Jersey State Commission of Investigation (SCI) report, *The Beat Goes On and On*, available at <https://www.state.nj.us/sci/pdf/BEAT%20GOES%20ON%20AND%20ON.pdf> (SCI identified such supplemental payments as wasteful and abusive)

⁴ P.L. 2010, c. 3.

⁵ Based on its policy terms, no employee that is subject to the 2010 law would qualify now for such a payment at separation. However, the policy terms as written would allow for such an illegal payment starting in 2023.

⁶ P.L. 2007, c. 92

District also claims that longevity pay, attendance bonuses and extended leave payments, which OSC identified as excessive and wasteful, help retain employees.

The District should revise its employee benefit policy to include all details relevant to who receives benefits and on what terms. We also urge the District to assess and eliminate wasteful and excessive employee benefits. In order to comply with state law, the District must immediately cease making and agreeing to make unlawful sick leave payments.

Recommendation 2

Develop procedures to ensure that employment contracts include details of all employee benefits.

Status: Partially Implemented

Our 2019 Audit found that the District's employment contracts and CBAs did not adequately establish the terms on which employees receive benefits, including annual vacation leave. The District advised in its corrective action plan that new employee contracts would include these details.

During our review, we confirmed that the District updated all 20 of its individual employment contracts executed from July 1, 2019 through July 1, 2020. The contracts specify the amounts of sick and vacation time provided to the employees and include the terms for terminal leave payments. However, we found that most contracts did not include details related to the accrual of vacation leave.

In its response, the District stated that "but for the Superintendent and Assistant Superintendent, no non-collectively bargained individual employee is entitled to accrual of vacation days. Any new employee hired or promoted without a collective bargaining agreement is no longer entitled to vacation payout nor accrual of vacation days." Although the District may follow this practice, it is not specified in a written policy or any individual employment contract. We urge the District to ensure that all individual employment contracts contain specific details for all employee benefits, including annual vacation leave entitlement and terms involving accrual. This will ensure compliance with N.J.S.A. 18A:30-9.1, which allows vacation accrued in one year to be used only in the subsequent year, except in limited circumstances provided in that statute.

Recommendation 3

Eliminate the vacation leave payout and allow the carry forward of unused vacation leave to the subsequent year, limited to the amount of time earned in the prior year, similar to the policy for state employees.

Status: Not Implemented

Our 2019 Audit found that the District's policy allowed administrative employees not covered by a CBA to be reimbursed for up to 20 unused vacation days at the end of each school year. The District advised in its corrective action plan that it would continue to consider the recommendation, taking

into account the rights of employees and the associated costs of the corrective action.

During our review, we confirmed the District continued its policy of providing annual payment for unused vacation leave. We found the District revised its employee leave benefits policy effective April 22, 2020 to state that administrators and confidential employees not covered by a CBA, excluding the Superintendent and the Business Administrator, may be paid for up to 20 unused vacation days. Our review identified 16 employees whose payments for unused vacation days in 2020 amounted to \$125,116.

In its response, the District stated it “has implemented a policy eliminating vacation leave payouts for any newly hired or promoted employee not covered by a collective bargaining agreement.” Although the District may follow this practice, it is not specified in its revised written policy provided to OSC. We urge the District to eliminate the payments for unused annual vacation leave. We also urge the District to conform its policies to N.J.S.A. 18A:30-9.1, which provides that unused vacation leave may accrue only to the subsequent year. That statute was adopted in 2010 to implement recommendations made in 2006 by a joint legislative committee to conform local vacation leave policies to that of state government.

Recommendation 4

Develop formal policies and procedures, including the use of templates, for any employee benefit payments. Payments should be subject to formal management review and approval to ensure that only eligible employees receive such benefits pursuant to District policy, applicable employment contracts, or collective bargaining agreement provisions.

Status: Partially Implemented

Our 2019 Audit found that the District did not have a formal process, or use a standard template or form that included relevant information, to calculate benefit payments for unused vacation leave, sick leave or health benefit opt-out waivers. The District advised in its corrective action plan that it would create a template and require appropriate approvals.

During our review, we confirmed that the District implemented policies and procedures and developed templates for processing employee benefit payments. We found the policies and procedures were adequate and that the templates appropriately implemented the policies and procedures related to unused vacation and terminal sick leave payments. However, the District failed to create an appropriate template for the health benefit opt-out waiver payments.

The template used by the District does not capture all information needed to calculate the payment. The template did not include the employee’s coverage level or plan type. Also, because the District did not provide details on how the health benefit opt-out waiver payments were calculated, we were unable to use the District’s template to verify that the payments were accurate and complied with N.J.S.A. 52:14-17.31a, which limits the amount of opt-out waiver payments allowed to the lesser of twenty-five percent of the amount saved by the District or \$5,000.

In addition, we noted that the District did not have evidence of management approval for some of the payments issued in 2020.

In its response, the District stated that it used the template provided by the New Jersey Division of Pension and Benefits (NJDPB) which “does not allow for, or require, the capture of information as recommended by the OSC.” In addition to using the NJDPB template, the District is responsible for obtaining any additional information it needs to accurately calculate opt-out waiver payments. In order to protect the interests of taxpayers and to prevent fraud, waste, and abuse, we urge the District to obtain the necessary supplemental information to adequately complete the template used for the health benefit opt-out waiver payments to include the employee’s coverage level and plan type and to implement appropriate procedures to ensure management approval for all employee benefit payments.

Recommendation 5

Seek to renegotiate the collective bargaining agreements to limit the terminal leave benefit for retirees and cap any payment for such benefit like the equivalent state policy.

Status: Not Implemented

Our 2019 Audit found that the District’s CBAs did not cap payment for accrued sick leave at \$15,000, which is required by state law. The District advised in its corrective action plan that although it was unsuccessful in negotiating the CBAs to limit terminal leave payments for all employees, it amended its Board policy as of April 22, 2020 to limit payment for accrued sick leave to a maximum of \$15,000 for all new employees with contracts executed after July 1, 2012.⁷

Although District officials informed us that these negotiations took place, they did not provide evidence, such as meeting minutes or agendas, or evidence of any attempted negotiations supporting this action. We were able to confirm, however, that the new Board policy was updated. This policy allows for payment of accrued sick leave upon separation from the District, not just at retirement, after 13 years of continuous service. State law that applies to school board employees allows for unused sick leave compensation only at the time of retirement for employees hired after May 21, 2010. *N.J.S.A. 18A:30-3.6*. North Bergen’s policy thus creates a two-year period from May 21, 2010 to July 1, 2012, during which employees who were hired may receive unlawful payments.⁸

In short, North Bergen’s policies for the payment of unused sick leave violate state law.⁹ The failure of the District to comply with *N.J.S.A. 18A:30-3.6* may result in the District making unlawful payments decades into the future. The District thus should not only prospectively adjust its contracts to comply with state law, but should also conduct a retrospective review, including any

⁷ Board Policy states that July 1, 2012 is the first day after the expiration of contract agreements in effect on May 21, 2010, the effective date of the legislation capping compensation for unused sick leave

⁸ See *Town of Hammonton*, 48 NJPERC P8 (P.E.R.C. No. 2021-53 June 24, 2021) (statute preempts payment of accrued sick leave at resignation for employee hired on or after May 21, 2010 except upon retirement).

⁹ We note that North Bergen’s union contracts posted on the New Jersey Public Employment Relations Commission’s website all expired as of 2012. North Bergen is required by statute to provide a copy to PERC of any negotiated contract. *N.J.S.A. 34:13A-8.2*. For more detail on PERC’s collection of collective bargaining agreements for public section employers, see

https://www.state.nj.us/perc/documents/Notice_to_Public_Employers_Public_Sector_Contracts_Letter_2012.04.02.pdf.

payments to school district employees, to evaluate whether payments since 2019 or payments coming due soon are unlawful.

In its response, the District indicated that it would “amend the policy to reflect its practice that for employees hired after May 21, 2010, sick leave payment shall be capped at \$15,000.00 upon retirement.” Although the policy should be revised to be in compliance with state law, OSC recommended that the District seek to renegotiate the CBAs. We note that the District has not provided evidence of its attempt to do so.

Recommendation 6

Assess the specific needs for the general counsel services and determine the most effective manner to obtain such services. Conduct a cost analysis to determine the most cost-efficient manner to obtain the services, considering an outside vendor compared with a District employee.

Status: Not Implemented

Our 2019 Audit found that the District used a contracted law firm to provide general counsel services. The law firm was paid approximately \$1.3 million between July 1, 2013 and June 30, 2016. The District advised in its corrective action plan that it would form a committee and perform a review to evaluate the District’s need for general counsel services and the most cost-efficient delivery of such services.

During our review, District officials informed us that they had discussions to determine the most cost- effective manner to obtain general counsel services. However, the District did not provide evidence that it formed a committee, did not provide agendas, meeting attendees, or other evidence of any discussions, and did not provide evidence that it conducted a cost analysis. We also reviewed the monthly Board meeting minutes during the follow-up period and did not identify any documented cost benefit analysis or discussion.

In its response to a draft of this report, the District stated it “formed a committee which discussed the recommendation and considered any costs or benefits associated with utilizing a District employee compared to using an outside vendor.” We consider this recommendation not implemented because the District did not provide evidence of its assessment of its specific needs for general counsel services or its cost-benefit analysis. We urge the District to evaluate the use of in-house general counsel and substantiate any evaluation or cost-benefit analysis with written documentation to ensure taxpayer money is being spent in the most efficient and effective manner.

Recommendation 7

Implement a process to ensure compliance with the Board's policy regarding the administration and monitoring of legal services as required by N.J.A.C. 6A:23A-5.2(a), including controls on how legal work is assigned and monitored. In addition, require that invoices be submitted with sufficient details, according to [State Board of] Education regulations, and include details of the work performed, identify the attorney who performed the work with billing hours and rate for each task. In addition, the policy should also include specific strategies to minimize the cost of legal services.

Status: Partially Implemented

Our 2019 Audit found that the invoices submitted by the District's law firm did not have sufficient detail of the services rendered to allow the District to assess whether the hours billed were reasonable or billed pursuant to the terms of the contract. The District failed to detect duplicate billings, billing calculation errors, and the use of a billing rate that was not specified in the contract. The District also failed to comply with State Board of Education regulations and the District's own policy designed to minimize the cost of professional services. The District advised in its corrective action plan that it would review, follow, and monitor its legal services policy in compliance with state regulations and would continue to review legal invoices to ensure accurate billing and monitor the use of legal services.

During our review, we confirmed the District implemented additional procedures to ensure compliance with its policy regarding the administration and monitoring of legal services as required by *N.J.A.C. 6A:23A-5.2(a)*, including controls on how legal work is assigned and monitored. The procedures also include specific strategies for minimizing the cost of legal services, such as designating specific staff as liaisons to ensure that legal counsel is not contacted unnecessarily, as well as requiring a log be maintained of all legal counsel contacts. We verified the process used to assign legal work; however, the District did not provide logs to support its monitoring of legal work.

We selected a judgmental sample of 19 legal invoices submitted by several law firms for services provided in 2020 to ensure that invoices included sufficient details of the work performed; identified the attorney who performed the work with billing hours; included an hourly rate for each task; and verified that the billed charges were accurate. We found 4 out of 19 invoices contained inaccurate billing calculations or did not specify the hourly billing rate.

We note that we have previously issued a report, *An Analysis of Legal Fees Paid by New Jersey Local Governments*, which developed best practices for engaging and managing legal counsel.¹⁰ Those best practices include developing specific policies and procedures, conducting competitive procurements for legal counsel services, using formal written contracts that provide specific billing practices and require specific detail for billing, as well as designating a specific employee to review those legal bills.

In its response, the District only acknowledged an error with an invoice without an hourly billing rate. The District noted that "the hourly rate was contained within the Request for Proposal and Board resolution. When the District identified this administrative error, corrective action was immediately taken and did not result in any over or underpayments of any legal invoice." The District, however, failed to acknowledge the two miscalculations we identified, one of which resulted in a \$1,765.50 overpayment. We urge the District to ensure that it properly monitors all legal services and that it utilizes best practices issued by OSC. We further urge it to perform a thorough review of the invoices to verify itemized details of the services rendered, including verifying the attorney who performed the work, hours billed, and the rate for each task. This will prevent fraud, waste, and abuse, improve transparency, and allow taxpayers to evaluate whether their funds are being used efficiently and

¹⁰ See *An Analysis of Legal Fees Paid by New Jersey Local Governments*, available at https://www.nj.gov/comptroller/news/docs/local_government_legal_fees_report.pdf.

effectively.

Recommendation 8

Develop and implement a process to ensure that payments for legal services do not exceed the Board authorized and/or contract limits.

Status: Implemented

Our 2019 Audit found that the District's payments for legal services exceeded the Board-authorized limits. The District advised in its corrective action plan that it would continue to review legal invoices to ensure that payments do not exceed Board-approved contract limits.

Our review confirmed the District developed and implemented a process to review legal invoices to ensure that payments did not exceed Board-authorized limits. The District also implemented a policy that requires the Superintendent to recommend to the Board an increase to the Board's authorized limit prior to when such limits are reached. We reviewed the payments issued to six law firms between July 1, 2019 and June 30, 2020 and found that the payments did not exceed the Board-authorized limits. In one instance, the Board properly increased the payment limit for one firm prior to a payment that would have exceeded the authorized limit.

Recommendation 9

Develop policies and procedures to improve compliance with the Public School Contracts Law, including the public notice requirements for professional service contract awards.

Status: Not Implemented

Our 2019 Audit found that the District failed to comply with N.J.S.A. 18A:18A-5(a)(1), which requires the District to publish "the nature, duration, service and amount of the contract, and that the resolution and contract are on file and available for public inspection in the office of the board of education" for professional services contracts awarded without public bidding. The District's public notice for all professional services contracts only included a list of the firms awarded professional services contracts, but did not include all of the information required by that law. The District advised in its corrective action plan that it would develop policies and procedures to improve compliance with the Public School Contracts Law.

Our review found that the District failed to fully develop policies and procedures regarding the procurement of professional services or procedures to ensure compliance with the Public School Contracts Law. We selected a judgmental sample of seven professional services contracts awarded in Fiscal Year (FY) 2021 and found that the District did not publish the required newspaper notice for any of the contracts awarded. The District's failure to follow the law denied the public transparency that allows North Bergen residents and others to participate in the governance of the District and to hold the Board accountable for its decisions.

In its response, the District stated "Given the nature of the pandemic and considering the numerous

executive orders relaxing many rules related to State and Local governmental procedures, the District elected to utilize an alternate procedure to evaluate and hire professional services.” This is a poor excuse for the District’s non-compliance. Although there were relaxed rules for contracting due to the COVID-19 pandemic, those changes did not relate to the public notice requirements. We urge the District to comply with state law, adhere to our previously issued guidance on best practices, and develop policies and procedures as recommended in our 2019 Audit report in order to provide transparency to the taxpayers regarding the District’s contracts.

Recommendation 10

Implement procedures regarding the Requests for Qualifications for legal services process to require competitive proposals with fee quotes from all respondents.

Status: Not Implemented

Our 2019 Audit found that the District, in its 2015 and 2016 Requests for Qualifications (RFQs) for legal services, did not solicit competitive fee quotes or cost proposals. Under *N.J.A.C. 6A:23A-9.3(c)(11)*, the District should have solicited competitive proposals with fee quotes or used a comparable competitive process to ensure it received the highest quality professional services at a fair and competitive price. We found that many of the firms that responded to the RFQs did not submit fee quotes and that North Bergen did not provide evidence of a comparative process used to award legal services contracts at a fair and competitive price. The District advised in its corrective action plan that it would review the RFQ process for legal services.

Our review found that the District implemented a new policy that requires it to procure professional services contracts through the Request for Proposal (RFP) process. That policy does not require the receipt of fee quotes and thus does not comply with *N.J.A.C. 6A:23A-9.3(c)(11)*. Also, during our review, we found the District did not use the RFP process for legal services contracts awarded for FY 2021. Instead, the District awarded the contracts for legal services as professional services, which are exempt from bidding provisions pursuant to *N.J.S.A. 18A:18A-5(a)(1)*. As a result, the District failed to procure the legal services through the RFP process in accordance with its policy or the Public School Contracts Law.

As noted in Recommendation 9, the District stated that due to the relaxed contracting rules during the COVID -19 pandemic, it “elected to utilize an alternate procedure to evaluate and hire professional services. This procedure primarily utilized an alternative procurement process as opposed to the recommended Request for Proposal (‘RFP’) competitive bidding process.” The District cites the pandemic as the reason to use an alternative procurement process in contravention of the state law and its own policy. Moreover, the District’s failure to solicit proposals with fee quotes undermines competition and demonstrates its lack of fiscal responsibility. Under common sense principles, law firms competing with other law firms upon identical requirements, including a fee quote, is likely to result in lower fees.

We urge the District to adhere to our previously issued guidance on best practices, *An Analysis of Legal Fees Paid by New Jersey Local Governments*, and to implement a policy that specifically requires competitive proposals with fee quotes from all respondents for legal services contracts.

These changes would provide transparency, ensure the District selects a cost-effective and qualified law firm, and make it less likely that contracts will be awarded based on inappropriate considerations.

Recommendation 11

Develop policies and procedures for the evaluation of RFQ submissions. The evaluation scoring sheets should include an explanation of the scoring factors that are consistent with those specified in the RFQ, identify the score range, the maximum score, and include a narrative statement justifying the evaluation, scoring, and selection.

Status: Not Implemented

Our 2019 Audit found that the District used cost as a scoring factor in its evaluation of the responses to the RFQs for legal services in FYs 2015 and 2016 although fee quotes or cost proposals were not required in the RFQ or provided by all the respondents. In addition, not all of the scoring evaluation sheets included a scale for the score factors, identified the maximum score possible, or contained a narrative justification of the evaluation, score, or selection. The District advised in its corrective action plan that it would thoroughly review the RFQ process and all aspects of scoring, evaluation, and selection and make the necessary changes.

We found during our review that the District did not implement procedures to evaluate RFP submissions. We judgmentally selected the District's RFPs for grant consulting services and public relations consulting services and reviewed the District's evaluation criteria and scoring forms based on the respondents' submissions. Overall, the forms lacked adequate detail to support the evaluation process and recommendation made by the evaluation committee. We found that none of the evaluation committee members' scoring sheets included an explanation of scoring factors specified in the RFP. The scoring sheets did not identify the score range or the maximum score. Also, some evaluations did not include a justification for the selection of the vendor. The goals of fair evaluation of proposals, transparency, and accountability were not and could not be satisfied without this information.

In its response, the District stated that it "used a scoring sheet since recommended by the OSC in its initial 2019 Audit. While there was a break in the utilization of scoring sheets due to the COVID-19 pandemic, upon return to full capacity in-person work, the District renewed its use of scoring sheets in evaluating RFQ proposals." Although there were relaxed rules for contracting due to the COVID-19 pandemic, none permitted the discontinuation of using a scoring sheet. We urge the District to develop policies and procedures for evaluation of RFQ and RFP submissions that include evaluation scoring sheets. The evaluation scoring sheets should include an explanation of the scoring factors that are consistent with those specified in the RFQ and the RFP. They should also identify the score range and the maximum score and include a narrative statement justifying the evaluation, scoring, and selection. These measures will improve the transparency of the District's evaluation of bid submissions and provide greater assurance that the District will select the most qualified and cost-efficient vendor.

Recommendation 12

Develop policies and procedures to comply with the contract award notification to the Office of the State Comptroller required by N.J.S.A. 52:15C-10.

Status: Implemented

Our 2019 Audit found that the District awarded three contracts that exceeded \$2 million that it failed to report to OSC's Procurement Division in violation of N.J.S.A. 52:15C-10. The District advised in its corrective action plan that it would develop policies and procedures to reflect the notification process of contract awards to the OSC.

During our review, we confirmed the District developed a policy to improve compliance with contract award notification to OSC and that that policy was approved by the Board. The policy included the updated notification thresholds effective July 1, 2020.¹¹ Our review also found that OSC's Procurement Division received five contract award notifications from the District after the 2019 Audit.

Recommendation 13

Develop policies and procedures to ensure that public relations consulting services are procured in compliance with the Public School Contracts Law. In addition, the District must ensure that all required vendor forms and certifications are received in accordance with applicable statutory requirements. All contracted services should be obtained or performed only after Board approval.

Status: Partially Implemented

Our 2019 Audit found that the District paid three vendors for services rendered without prior Board authorization. One of the vendors received payments under a monthly retainer agreement for public relations and communication services. That contract was improperly awarded under the professional services exemption from public bidding in violation of the Public School Contracts Law. In addition, in awarding that retainer agreement, the District did not obtain certifications required by state law and regulation, including the business registration certificate, corporate ownership disclosure, and political contribution disclosure form. The District advised in its corrective action plan that it would update current policies and procedures and implement the necessary changes.

In FY 2021, the District awarded one contract for public relations consulting services. For that contract, we verified that the District received all vendor forms and certifications required by state law from the public relations consulting firm. In addition, our review found that all payments to the firm between July 1, 2020 and December 31, 2020 were made after Board approval. However, we found that the District did not develop policies and procedures regarding the procurement of its public relations consulting services.

¹¹ See 52 N.J.R. 1443(b)

In addition, our review of the FY 2021 Board resolution for the contract award to the public relations consulting services vendor found it improperly identified it as a contract for professional services. As noted in the 2019 Audit, such a characterization is inaccurate.

In its response, the District stated that “Policy 9120 was enacted in 2017, which complies with all requirements of the applicable regulations and includes the requirement that ‘[t]he Board of Education will establish annually . . . a maximum dollar limit for public relations, as defined in N.J.A.C. 6A:23A-9.3(c)14.’ It further establishes that ‘any increase in the maximum dollar amount shall require formal Board action.’” However, we have no record of this policy ever being provided to us during either the 2019 Audit or the follow-up. The District also stated that an alternative procurement process was utilized due to the impact of the COVID-19 pandemic. Although there were relaxed rules for contracting due to the COVID-19 pandemic, none permitted the reclassification of public relations consulting services as a professional services contract.

We urge the District to develop policies and procedures to ensure that public relations consulting services are procured in compliance with the Public School Contracts Law and applicable regulations. Such policies are required by regulation and will provide transparency that enables local residents to evaluate whether the District has selected a vendor that was qualified and cost-effective. N.J.A.C. 6A:23A-5.2 provides that “[e]ach district board of education of a school district shall establish by policy(ies) a strategy(ies) to minimize the cost of public relations.” North Bergen has failed to comply with this regulation, which further limits the amount spent on both public relations and legal services. The regulation, among other things, requires the District to institute a “maximum dollar limit” that is “established annually prior to budget preparation.” Further, N.J.A.C. 6A:23A-9.3 discourages the use of outside vendors for public relations. The District should determine whether such public relations consulting services are necessary given the regulatory admonition against such services, establish a policy, and establish a maximum limit for such services in its budget if they are found to be necessary.

Recommendation 14

Develop policies and procedures for the procurement of legal and consultant services that require all such services to be documented with formal purchase requisitions, purchase orders, and contracts. The contracts should define the specific scope of work, duties and responsibilities, period of performance, and include appropriate billing rates and terms, among other things. Any consulting services that include retainer payments should be carefully considered and utilized only when appropriate, and through a formal agreement outlining the scope of work to be covered through the retainer as well as additional billing terms for other services.

Status: Partially Implemented

Our 2019 Audit found that the District paid a public relations firm approximately \$66,000, but did not provide a contract detailing the terms of the monthly retainer, the scope of work, or billing terms for any additional services provided. The District advised in its corrective action plan that it would review current policies and procedures and update them as needed. The District would also review current agreements and make any recommended changes subject to agreement of all parties.

During our review, we found that the District developed policies and procedures for the procurement of legal and consultant services that require all such services be documented with formal purchase requisitions, purchase orders, and contracts.

We selected a judgmental sample of nine contracts for FY 2021 – seven for law firms and two for consulting firms – to determine if the services procured were executed with formal contracts and purchase orders. We also reviewed the contracts to ensure they included a specific scope of work, duties and responsibilities of the vendor, period of performance, and appropriate billing rates and terms. We found that the consulting firm contracts included all appropriate details, but none of the seven contracts for legal services specified the duties and responsibilities of the vendor.

In its response, the District stated “the contract documents, including the RFP documents detail the nature of the contract, including scope of services, duties, and responsibilities of the vendor.” This is incorrect. Although RFPs typically would contain more detailed information, here, North Bergen elected to award legal service contracts through an exemption to public bidding without an RFP for the period tested and, therefore, the contract documents did not detail the duties and responsibilities of the vendors. We urge the District to ensure all legal and consultant contracts include the duties and responsibilities of the vendors to ensure transparency and appropriate use of public funding.

Recommendation 15

Conduct an assessment for the need of public relations and communications services including a cost-benefit analysis to determine the most efficient manner to obtain such services.

Status: Not Implemented

Our 2019 Audit found that the District did not provide a cost-benefit analysis that compared the services provided by the public relations firm with other sources, including in-house operations, to determine if the services were reasonable or necessary. The District advised in its corrective action plan that it would form a committee to evaluate the need for public relations/crisis communications services and the most cost-efficient manner for obtaining such services.

During our review, District officials informed us that they had discussions to determine the most cost-effective manner to obtain public relations and communications services. However, the District did not provide evidence that it formed a committee and did not provide an agenda, a list of meeting attendees, or other evidence of any such discussions. The District also did not provide evidence that it conducted a cost-benefit analysis. We also reviewed the monthly Board meeting minutes during the follow-up period and did not identify any documented cost-benefit analysis or discussion.

In its response, the District stated that it “formed a committee and conducted a cost-benefit analysis” but did not provide evidence to support its claims. We found recommendation 15 was not implemented because the District did not provide evidence of its assessment of its specific need for public relations and communications services or its cost-benefit analysis. We urge the District to continue to consider whether it needs public relations and communications services and substantiate any evaluation or cost-benefit analysis with written documentation to determine the most efficient manner to obtain such services.

Reporting Requirements

We provided a draft copy of this report to North Bergen for review and comment. The District's response was considered in preparing our final report and is attached as Appendix A.

By statute, we are required to monitor the implementation of our recommendations. To meet this requirement, District officials must report periodically to our office advising what additional steps they have taken to address the unresolved issues in this report. In view of the District's failure to fully implement all but 2 of our 15 recommendations, and in view of the numerous areas in which the District is in violation of state law and has maintained wasteful and potentially wasteful policies, we direct it to submit a written update regarding its compliance with our recommendations within 90 days, or by October 26, 2022. Reports regarding compliance are due every 90 days thereafter until further notice.

Sincerely,

KEVIN D. WALSH
ACTING STATE COMPTROLLER



By: Christopher Jensen
Director, Audit Division

Attachment

c: Dr. Angelica Allen-McMillan, Acting Commissioner, Department of Education
Dr. Jamar E. Purnsley, Director, Department of Education
Steven Somick, Business Administrator, North Bergen School District



NORTH BERGEN BOARD OF EDUCATION

7317 Kennedy Boulevard, North Bergen, New Jersey 07047 • (201) 868-1000

KANAIYALAL PATEL
PRESIDENT

GEORGE J. SOLTER JR., Ed.D
SUPERINTENDENT

HAISSAM JAAFAR
VICE PRESIDENT

STEVEN P. SOMICK
ASST. SUPERINTENDENT

HUGO D. CABRERA
BOARD SECRETARY

Christopher Jensen
Acting Director – Audit Division
Office of the State Comptroller
P.O. Box 024
Trenton, New Jersey 08625-0024

June 17, 2022

Dear Mr. Jensen,

Please accept this correspondence as the North Bergen School District's Response to the Office of the State Comptroller's ("OSC") follow-up report to the OSC's 2019 Audit and Corrective Action Plan ("CAP"). We have reviewed your findings and determinations, and while we disagree with the assertion that the District has ever failed to comply with the Public School Contract Laws for any procurement or limiting terminal leave payments, we will agree to amend certain policies for transparency purposes. Furthermore, the District will continue to utilize the recommendations of the OSC to recognize additional operational efficiencies and cost reductions, as it has since the 2019 Audit.

However, the District disagrees and objects to any statement or categorization that it engaged in any unlawful behavior, lacked internal controls or that it failed, in practice, to comply with any law and regulation related to employee benefits, procurements or contracted services. The District has, and will continue, to follow and adhere to the law. The District does recognize, however, that certain benefits are not limited to the same extent as state contracts but that such recommendations are not legally obligated to be implemented. Even still, the District has implemented a number of the recommendations of the OSC and will continue to work to implement some of the recommendations identified in the OSC's report. In the interest of clarity, the District responds to the Comptroller's recommendations as follows:

Recommendation 1- The OSC recommended that the Board: a) implement a policy setting forth all employee leave benefits b) provide consistent leave benefits for all employees and c) the District should seek to align their benefits with the benefits provided to current state employees.

In 2019, the Comptroller determined that the Board lacked a policy addressing the three issues listed above. In response to the Audit, the District enacted a policy which addressed the concerns listed above. In response to this follow-up report, the District offers some clarification.

The District, historically, has several groups of employees who are entitled to various amounts of vacation, dependent on several factors. These factors include whether they are covered under a Collective Bargaining Agreement (“CBA”), if they have or are subject to certification requirements as condition of employment and if the employee is in a supervisory position.

The various groups of employees are:

- a) Certificated employees covered by a CBA;
- b) Certificated employees not covered by a CBA;
- c) Non-certificated employees who are covered by a CBA;
- d) Non-certificated employees not covered by a CBA, and;
- e) Supervisory employees.

Upon best information, the OSC has taken issue with the portion of Board Policy 3420.1 which states as follows: “All administrators and confidential employees not covered by a collective bargaining agreement . . . shall be entitled to 20 to 30 vacation days.” For clarification, historically, non-certificated supervisory employees who are not covered by a CBA are allotted 20 days’ vacation, which is identical to the negotiated days for those non-certificated staff members who are covered by a CBA. Certificated supervisory employees not covered by a CBA are allotted 30 days’ vacation , which is identical to negotiated days for those certificated non-supervisory employees who are covered by a collective bargaining agreement. Any employee who is not governed by a CBA is entitled to the same number of days as their supervisor, in accordance with Policy 3420. While the OSC is requesting that we provide consistent leave benefits, the District responds that it is, in fact, providing consistent leave benefits, but those benefits depend on the category of employee. While the District acknowledges that this may differ from the State’s formula for vacation days, the District believes that their policies have assisted in the District’s mission of competing for quality staff members both locally and across the state. However, the District will continue to consider the recommendations of the OSC in an effort to realize cost-savings moving forward.

Later in this recommendation, the OSC states that a number of the district policies related to longevity pay, attendance bonuses and extended sick leave exceed the benefits provided to state employees. The District believes that retaining skilled employees is critical to ensuring the efficient and successful operation of the schools and incentivizes those employees to remain in the district through benefits such as longevity pay. Similarly, the District has found that providing a perfect attendance bonus facilitates efficient school operations by limiting employee absences. The District also provides, in certain circumstances, “extended sick leave” as it would seem unfair to penalize otherwise competent and essential employees for health conditions outside of their control. By offering the possibility for “extended sick leave” we assist those employees who work diligently on behalf of the district, in the reasonable belief that it will lead to skilled employee retention.

Lastly, in Recommendation 1, the OSC raises concerns related to payment for unused vacation days in excess of \$15,000.00. The District responds by stating that any payments to any employee is governed by N.J.S.A. 18A:30-3.6 and applies uniformly to any employee who “commence[d] service with the board of education . . . on or after the effective date of P.L.2010, c.3[]”, such date being May 21, 2010. Any such employee who commenced service before that effective date would not be subject to any such limitation and may be entitled to benefits in excess of the amount, if provided for in any collective bargaining agreement. The District will amend Board Policy 3420.1 and 4420.1 to more clearly reflect the requirements of N.J.S.A. 18A:30-3.6. However, as noted by the OSC, our policy currently prohibits payments for separation for any employee subject to N.J.S.A. 18A:30-3.6, and no payments to any employee subject to this law has, or will be, paid in excess of \$15,000.00 upon retirement or for any other separation from service.

The Board respectfully asserts that in no way has any of its conduct been unlawful. The Board has worked diligently to ensure that their policies accurately reflect the Board’s legal obligations, and the District will continue to conduct a comprehensive review of its policies to ensure that they clearly reflect their obligations under the law. The District believes that upon revision of certain policies, the District will have implemented Recommendation 1 to such an extent as to satisfy any legal or regulatory requirements under the law. The District will continue to consider all other non-obligatory recommendations provided by the OSC if deemed necessary to realize cost savings or other operational efficiencies.

Recommendation 2 – All employment contracts should include all information related to employee benefits.

District responds by stating that, but for the Superintendent and Assistant Superintendent, no non-collectively bargained individual employee is entitled to accrual of vacation days. Any new employee hired or promoted without a collective bargaining agreement is no longer entitled to vacation payout nor accrual of vacation days. It is therefore the District’s opinion that Recommendation 2 has been implemented.

Recommendation 3 – Eliminate vacation leave payout and allow the carry forward of unused vacation leave to the subsequent year, limited to the time earned from the prior year, similar to current state employees.

In response to the 2019 audit, the District implemented a policy for new hires not covered by a collective bargaining agreement which does not permit any vacation leave payout or carry-forward. For those employees who receive vacation days because of any agreement or Board policy, any such payout has been and will continue to be subject to the requirements of N.J.S.A. 18A:30-9.1. As stated above, the District has implemented a policy eliminating vacation leave payouts for any newly hired or promoted employee not covered by a collective bargaining agreement, and it is therefore the District’s position that it has implemented Recommendation 3.

Recommendation 4 – Develop formal policies and procedures, including use of templates, for any employee benefit payments. Payments should be subject to formal

management review and approval to ensure that only eligible employees receive such payments pursuant to District policy, applicable employment contracts or CBA's.

As noted by the OSC, the District implemented policies, procedures, and templates in accordance with the OSC's recommendation. As to the determination that this was "partially implemented," due to the lack of capture of certain information on the templates used by the District for health opt-out payments, the District responds as follows: the template used by the District is Form HA-019-0920 provided by the New Jersey Division of Pension and Benefits ("NJDPB") for the School Employees Health Benefits Program. This document, as supplied by the State, requires that the employee submit proof of coverage with the aforementioned form. Upon submission, the practice of the District is to supply the employee with a breakdown of the amounts to be paid by the District, and upon request, a full breakdown of the standard payment based on salary tranches and type of coverage. This standard template, supplied by the State of New Jersey, does not allow for, or require, the capture of information as recommended by the OSC. The District agrees that any NJDPB form should allow for the recommended capture of information. If an updated template from NJDPB is provided, it will gladly use said form.

As the template used by the District is the one supplied by the agency governing employee health care opt-out payments, the District's opinion is that it has implemented Recommendation 4.

Recommendation 5 - Seek to renegotiate collective bargaining agreements to limit terminal leave benefit for retirees and cap any payment for such benefit like the equivalent state policy.

After thorough review of the District' policies, the District will amend the policy to reflect its practice that for employee hired after May 21, 2010, sick leave payment shall be capped at \$15,000.00 upon retirement. The District thanks OSC for its guidance and will ensure that this legal requirement is incorporated into our policy and collectively bargained agreements moving forward. The District has begun a retrospective review of all payments made and, at this time, has found no payments contrary to state law.

Recommendation 6 - District should assess specific needs for general counsel services and determine the most effective means to obtain such services. The District should conduct a cost analysis to determine the most cost-efficient manner to obtain the services, comparing an outside vendor with a District employee.

The North Bergen School District formed a committee which discussed the recommendation and considered any costs or benefits associated with utilizing a District employee compared to using an outside vendor. This committee consisted of the Board Secretary, the Assistant Superintendent for Business, and Superintendent. This committee met on several occasions to discuss the above, and the conclusion of such analysis was that they would continue to use an outside vendor for general counsel services and will continue to monitor the provision of legal services to identify additional cost-reductions and efficiencies. Through implementation of the OSC's prior recommendations, and through self-identified efficiencies,

the Board has realized cost-savings compared to the cost of general counsel legal services in 2016. Therefore, the District believes that it has implemented Recommendation 6.

Recommendation 7 - Implement a process to ensure compliance with the Board's policy regarding the administration and monitoring of legal services as required by N.J.A.C. 6A:23A-5.2(a), including controls on how legal work is assigned and monitored. In addition, require that invoices be submitted with sufficient details, according to Education regulations, and include details of the work performed, identify the attorney who performed the work with billing hours and rate for each task. In addition, the policy should also include specific strategies to minimize the cost of legal services.

In accordance with OSC's recommendation, the District implemented a legal log. However, due to the remote nature of all work during the COVID-19 pandemic, including legal services, use of the log became impracticable. Since return to full-time in-person work has resumed, the District will re-implement utilization of the legal log pursuant to the OSC's recommendation.

The District would like to note that the invoices cited by the OSC in their report contained some errors consisting of administrative errors. For example, one of the invoices identified by the OSC was supplied without an hourly billing rate. However, the hourly rate was contained within the Request for Proposal and Board resolution. When the District identified this administrative error, corrective action was immediately taken and did not result in any over or underpayments of any legal invoice.

In accordance with OSC recommendation, the Board has a specific employee as well as in-house accountants reviewing bills to ensure that any bill submitted satisfy the OSC's recommendation and comply with best practices. The District has specific policies and procedures in place, uses competitive bidding procedures to obtain legal services, and has in all other material ways complied with the OSC's recommendations. Therefore, the District believes that after re-implementation of the legal log, the District has implemented Recommendation 7.

Recommendation 8 - Develop and implement a process to ensure that payments for legal services do not exceed the Board authorized and/or contractual limits.

The District appreciates the OSC's acknowledgment of the District's implementation of legal service payment controls.

Recommendation 9 - Develop policies and procedures to improve compliance with the Public School Contracts Law, including the public notice requirements for professional service contract awards.

Recommendation 10 - Implement procedures regarding the Requests for Qualifications for legal services process to require competitive proposals with fee quotes from all respondents.

During the height of the State of Emergency, the District implemented policies and procedures which were primarily concerned with the safety of their employees, contracted

service providers and the public at large. Given the nature of the pandemic and considering the numerous executive orders relaxing many rules related to State and Local governmental procedures, the District elected to utilize an alternate procedure to evaluate and hire professional services. This procedure primarily utilized an alternative procurement process as opposed to the recommended Request for Proposal (“RFP”) competitive bidding process. While use of this process may not be considered best practice by the Comptroller, it is a lawful process. Since the beginning of the 2021-2022 school year, the District has renewed its use of the RFP process and has required a fee quote as part of the submissions for the RFP process. The District has complied with all statutory and regulatory requirements under the Public School Contracts Law, inclusive of appropriate and satisfactory notice. The District believes it has implemented Recommendations 9 and 10, after conclusion of the state of emergency caused by the COVID-19 global pandemic.

Recommendation 11 - Develop policies and procedures for the evaluation of RFQ submissions. The evaluation scoring sheets should include an explanation of the scoring factors that are consistent with those specified in the RFQ, identify the score range, the maximum score, and include a narrative statement justifying the evaluation, scoring, and selection.

The District has used a scoring sheet since recommended by the OSC in its initial 2019 Audit. While there was a break in the utilization of scoring sheets due the COVID-19 pandemic, upon return to full capacity in-person work, the District renewed its use of scoring sheets in evaluating RFQ proposals. As such the District believes it has implemented Recommendation 11 but will endeavor to create and utilize a more detailed scoring sheet as recommended by OSC moving forward.

Recommendation 12 - Develop policies and procedures to comply with the contract award notification to the Office of the State Comptroller required by N.J.S.A. 52:15C-10.

The District appreciates the OSC’s acknowledgment of the District’s implementation of policies and procedures compliant with the contract award notification requirements of N.J.S.A. 52:15C-10.

Recommendation 13 - Develop policies and procedures to ensure that public relations consulting services are procured in compliance with the Public School Contracts Law. In addition, the District must ensure that all required vendor forms and certifications are received in accordance with applicable statutory requirements. All contracted services should be obtained or performed only after Board approval.

In response to the recommendation and findings of the OSC, the District respectfully disagrees that it lacks policies and procedures which relate to procuring and utilizing public relation contractors and/or consultants. Policy 9120 was enacted in 2017, which complies with all requirements of the applicable regulations and includes the requirement that “[t]he Board of Education will establish annually . . . a maximum dollar limit for public relations, as defined in N.J.A.C. 6A:23A-9.3(c)14.” It further establishes that “any increase in the maximum dollar amount shall require formal Board action.”

In response to any action which took place during Fiscal Year 2021, the District utilized an alternate procurement process due to the impact of the COVID-19 pandemic. The District has resumed utilization of the RFQ and/or RFP processes to hire legal services and public relation consultants and contractors. The District asserts that it is currently following best practices in its procurement of all outside vendors.

Lastly, the District, in accordance with Recommendation 15, convened a committee consisting of the Superintendent, Assistant Superintendent of Business, Board Secretary and General Counsel to assess the need for public relations and found that public relations consultants are still the most effective way to deliver certain high priority and message sensitive information to the local school community. The primary utilization of the public relations consultant and/or contractor is for interaction with local, state, and national media for mission critical and crisis communication. For most day-to-day communications, the Superintendent of school has independently recorded and broadcast electronic communications to relay important school community messaging with minimal assistance of any hired public relations contractor. Public relations contractors are most important when utilizing a multi-level and multi-media communication campaign, which have been and will continue to be limited by the provisions contained within Policy 9120. Therefore, it is the District's opinion that it has implemented Recommendations 13 and 15.

Recommendation 14 – Develop policies and procedures for the procurement of legal and consultant services that require all such services to be documented with formal purchase requisitions, purchase orders, and contracts. The contracts should define the specific scope of work, duties and responsibilities, period of performance, and include appropriate billing rates and terms, among other things. Any consulting services that include retainer payments should be carefully considered and utilized only when appropriate, and through a formal agreement outlining the scope of work to be covered through the retainer as well as additional billing terms for other services.

The District disputes that this was partially implemented, as the contract documents, including the RFP documents detail the nature of the contract, including scope of services, duties, and responsibilities of the vendor. The District believes that it has implemented Recommendation 14, but the District will agree to further amend legal service contracts to provide more detailed information related to scope of services, duties, and responsibilities.

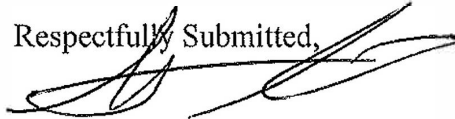
Recommendation 15 – Conduct an assessment for the need of public relations and communications services including a cost-benefit analysis to determine the most efficient manner to obtain such services.

The District contests the determination that this has not been implemented. The District formed a committee and conducted a cost-benefit analysis. This was addressed in the District's response to Recommendation 13.

Summary

The District has worked diligently to implement most of the recommendations in the Office of the State Comptroller's initial 2019 Audit. Utilizing OSC's recommendations, the District has realized cost savings and increased operational efficiencies. The District has and will continue to amend its policies to accurately reflect its statutory and regulatory obligations. Having said that, the District objects, as described above, to many of the characterizations that they have ever engaged in unlawful behavior, moreover, that it has failed to implement in-part, or in full, any number of recommendations provided by the Comptroller. The District's deviations from OSC recommendations either are a result of differing managerial prerogatives or are non-material in nature. The District will continue to consider all recommendations provided by the Comptroller in its continual efforts to reduce costs and operate in a more efficient manner. The District feels that it has continued, after COVID-19 State of Emergency, to implement most material and obligatory requirements proffered by the Office of the State Comptroller and has met the will continue to meet its obligations under the law.

Respectfully Submitted,



Steven Somick

Assistant Superintendent of Business.