



# State of New Jersey

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*Governor*

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*Acting State Comptroller*

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**CHRISTOPHER JENSEN**  
*Director*

January 24, 2024

Donald A. Shaw, Mayor  
Borough of Roselle  
210 Chestnut Street  
Roselle, NJ 07203

**Re: Follow-Up Report – Borough of Roselle  
A Performance Audit of Selected Fiscal and Operating Practices**

Dear Mayor Shaw:

On January 27, 2021, we issued an audit report, *A Performance Audit of Selected Fiscal and Operating Practices of the Borough of Roselle (2021 Audit)*,<sup>1</sup> in which we made recommendations to address identified weaknesses. Pursuant to N.J.S.A. 52:15C-11, we have conducted a follow-up review of the corrective action plan of Roselle to assess the implementation of the recommendations contained in the 2021 Audit. Our findings and conclusions are set forth below.

## **Background, Scope, and Objective**

Our 2021 Audit identified internal control weaknesses that resulted in noncompliance with statutory requirements and internal policies, and procedures related to the administration of employee payroll, health insurance benefits, personnel matters, and procurement of consulting services. These internal control deficiencies resulted in the improper use of Borough assets and improper expenditures totaling more than \$1.4 million. We also determined that Roselle would have saved approximately \$1.9 million if the Borough participated in the State Health Benefits Program (SHBP).

The objective of our follow-up review was to determine if the Borough had implemented the eight recommendations contained in our 2021 Audit.

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<sup>1</sup> Available at: [https://www.nj.gov/comptroller/news/docs/roselle\\_borough\\_audit\\_report.pdf](https://www.nj.gov/comptroller/news/docs/roselle_borough_audit_report.pdf)

## Summary Conclusion

We found that Roselle has made progress in implementing the recommendations set forth in our 2021 Audit, but substantial work remains. Of the eight audit recommendations, two were implemented, three were partially implemented, and three were not implemented. We urge Roselle to continue its efforts to comply with the recommendations not yet fully implemented.

## Status of 2021 Audit Recommendations

### Recommendation 1

*Develop policies and procedures to verify the initial eligibility of employees for health insurance coverage or health benefit opt-out waiver payments. Appropriate controls are required to monitor the continued eligibility. Appropriate controls should also be instituted to identify and process terminations and coverage changes in a timely manner to prevent improper payments.*

#### ***Status: Partially Implemented***

Our 2021 Audit found that Roselle provided health insurance coverage or health benefit opt-out waiver payments to 12 employees and 10 deceased retirees or their spouses who were ineligible for such benefits. The improper payments cost taxpayers \$800,000. The Borough also did not provide evidence to substantiate the mayor and council were eligible for the health insurance coverage or waiver payments they received. The Borough advised in its corrective action plan that waiver payments were reviewed and employees were required to submit appropriate documentation to verify eligibility.

The Borough pursued legal action to recover funds through refund adjustments from its prior health insurance provider for the payments made for deceased retirees or their spouses. Through a legal settlement, the Borough was able to recover \$155,000 in billing adjustments.

The Borough is currently enrolled in the SHBP. When the Borough transitioned to the SHBP, it was required to submit eligibility documents for all participants. We selected a sample of retirees who received health benefits and confirmed their eligibility status. We also selected a sample of opt-out waiver payments and confirmed the appropriateness of those payments. No exceptions were noted in either test.

Based on the 2021 Audit, we also reviewed healthcare coverage and opt-out payments for the council. We found that when Roselle joined the SHBP, it continued to offer health insurance and prescription coverage to the mayor and council improperly. According to its manual, all full-time employees and their eligible dependents employed by the Borough shall be entitled to health insurance. The Borough updated its policies and procedures to consider elected officials full-time employees by stating that “[e]lected officials shall be considered Full-Time status due to the amount of time they spend on weekends and evenings tending to the needs, providing information to, and fielding questions from the public. As such it is anticipated that an elected official in performing their duties will be dedicating no less than 32.5 hours to the Borough.” This provision violates

N.J.S.A. 52:14-17.26(c)(2), which requires a full-time appointive or elective officer to work a minimum of 35 hours per week. We also note that the council's hours were not documented which makes it impossible to determine whether council members are in fact working the minimum number of hours weekly. Improper health insurance premiums and opt-out payments for the council totaled \$28,800 in 2022.

We consider this recommendation partially implemented due to actions taken and monitoring in place to detect eligibility changes. We urge Roselle to fully implement this recommendation to comply with state law and to eliminate improper payments.

### **Recommendation 2**

*Periodically, the Borough should conduct a cost-benefit analysis of its health insurance costs and evaluate the costs of participating in the State Health Benefits Program. This analysis should include a thorough review of the insurance broker's estimates and the reasonableness of such estimates compared to actual results.*

#### ***Status: Implemented***

Our 2021 Audit found that the Borough contracted with a private health insurance carrier to provide benefits to employees. Our analysis compared the premiums of the Borough's plan with the rates for comparable coverage in the SHBP. We determined that Roselle would have saved approximately \$1.9 million if it had participated in the SHBP. The Borough advised in its corrective action plan that it transferred from a private health insurance plan to the SHBP. Roselle also committed to identifying and assessing significant cost disparities that would cause it to move back to a private health insurance plan in the future.

During our review, we confirmed that the Borough is currently enrolled in the SHBP and commissioned a brokerage and consulting firm to provide an employee benefit market analysis of competitive insurance rates for 2023. We reviewed the market analysis, which found that competitors were unable to provide equal or better rates than the SHBP. Therefore, the Borough currently participates in the best plan based on its needs.

We consider this recommendation implemented based on the actions taken by the Borough and the monitoring it has performed and committed to perform for the purpose of choosing the most cost-effective option.

### **Recommendation 3**

*Implement policies and procedures regarding the process for timely review of employee discipline matters, including an investigation and any referrals that are required. These policies should include the appropriate processes for consulting legal counsel and notifying the Borough Council.*

***Status: Implemented***

Our 2021 Audit found that the Borough failed to take prompt disciplinary action involving the municipal clerk who was suspended with pay without any further action taken and remained in that status for over six years. The failure to resolve the disciplinary action resulted in the Borough paying approximately \$611,000 in payroll expenses and \$48,000 in health benefit opt-out waiver payments to an employee who was not working. The Borough accepted the clerk's resignation in July 2018.

Our review found that Roselle has revised its Personnel Policy and Procedures Manual (Manual) effective January 1, 2022. The Manual includes policies regarding employee disciplinary procedures and adopts the rules and regulations of the Civil Service Commission regarding employee disciplinary matters and procedures. We reviewed a small sample of disciplinary actions taken in 2022 and found that the Borough promptly suspended or terminated employees in accordance with its policy.

We consider this recommendation implemented based on the updated Manual and the disciplinary actions taken.

**Recommendation 4**

*Develop procedures and appropriate processes to ensure that all permanently-assigned vehicles to Borough employees are assigned through written requests and approvals in accordance with the Borough's policy.*

***Status: Not Implemented***

Our 2021 Audit found that the Borough did not have evidence of the department head's written request for 15 of the 17 permanently-assigned vehicles or the Business Administrator's approval for 4 of those vehicles. These approvals were required by the Manual. The Borough's failure to document requests and approvals for the use of Borough-owned vehicles may result in the misuse of the vehicles. The Borough advised in its corrective action plan that the Administrator or Assistant Borough Administrator will annually approve the permanent assignment of vehicles to employees.

Our review found that Roselle failed to develop procedures and processes to ensure vehicles were properly assigned in accordance with its own policy. The Borough failed to provide both written requests by department heads and approvals from the Borough Administrator for any of its now five permanently-assigned vehicles in violation of its own policy. The Borough allowed employees to acquire and use municipal vehicles that had been previously assigned to employees in the same position without a formal approval process.

We urge the Borough to comply with its own policy and formally approve assignment of Borough vehicles.

### **Recommendation 5**

*Develop policies and procedures to require employees to account for their actual vehicle mileage, including details of all trips, such as the date, start and end time, trip location, purpose, and actual mileage. The procedures should include comparisons of the employee mileage reports with the actual GPS reports to identify personal and commuting uses. Any unusual or inappropriate vehicle use should be documented and addressed appropriately, including through employee discipline.*

#### ***Status: Partially Implemented***

Our 2021 Audit found that the Borough failed to adequately monitor employees' use of permanently-assigned vehicles. We found that four vehicles were driven a total of 6,016 miles, which included 2,410 miles (40 percent) to and from non-Borough locations during evening, overnight, and weekend hours. In its corrective action plan, the Borough advised that fewer employees would be permitted to take municipal vehicles home; that most vehicles will only be accessible during work hours; and that GPS systems will be monitored by the Borough Administrator's office.

Our review found the Borough decreased the number of employees authorized to take municipal vehicles home from 17 in 2016 to 5 in 2023. However, Roselle failed to develop policies and procedures requiring these employees to report their actual mileage and trip details. We also found that the Borough has not equipped these vehicles with GPS monitoring devices, but some unassigned vehicles do have this feature. The lack of vehicle-tracking logbooks or GPS tracking prevents the Borough from monitoring its vehicles for inappropriate use. We note that an employee was recently disciplined for, among other things, misuse of a Borough vehicle; this violation was supported by a review of GPS records which demonstrates the importance of tracking and monitoring vehicle usage.

We urge the Borough to require employees who use permanently-assigned vehicles to account for their actual vehicle mileage with vehicle logbooks or GPS tracking in order to monitor the employees' use of Borough vehicles.

### **Recommendation 6**

*Implement the process to assess taxable fringe benefits for Borough employees' personal and commutation use of the Borough-owned vehicles in accordance with its policy and pursuant to Internal Revenue Service regulations.*

#### ***Status: Partially Implemented***

Our 2021 Audit found that the Borough did not adequately monitor employees' vehicle usage which limits its ability to ensure appropriate use of the vehicles, proper tax reporting of commuting and personal use, and compliance with Internal Revenue Service (IRS) regulations and its own policies and procedures. The Borough advised in its corrective action plan that the chief financial officer now ensures the Borough meets its obligations under applicable IRS laws involving personally-assigned municipal vehicles.

The Borough is currently using the IRS Commuting Rule<sup>2</sup> for assessing the fringe benefit and treating the taxable benefit as paid on an annual basis. This means that the value of a vehicle provided to an employee for commuting use is determined by multiplying each one-way commute by \$1.50. One of the requirements for utilizing the Commuting Rule is that the employee does not use the vehicle for personal purposes other than commuting and de minimis personal use.<sup>3</sup> Although the Borough treated commuting benefits as paid when applicable in 2022, Roselle did not require employees to prepare and submit logs and did not monitor employees' vehicle usage through the review of GPS reports. The Borough has a policy indicating that the vehicles shall be used for business use only, but its failure to monitor personal vehicle usage by, for instance, requiring the submission of logs, prevents Roselle from properly ensuring compliance with its policy and from appropriately assessing fringe benefits for non-commuting usage.

We urge Roselle to track vehicle usage to ensure there is not personal use of vehicles and that they are complying with IRS fringe benefits guidelines.

### **Recommendation 7**

*Develop policies and procedures that ensure procurement of and awarding of consulting service contracts complies with the Local Public Contracts Law.*

#### ***Status: Not Implemented***

Our 2021 Audit concluded that the Borough's procurement of vendors' services for 2015 and 2016 failed to comply with Local Public Contracts Law (LPCL) N.J.S.A. 40A:11-1 *et seq.* The Borough stated in its corrective action plan that it employs a Qualified Purchasing Agent and complies with LPCL. In addition, new policies and procedures have been implemented for purchasing that require multiple reviews and authorizations to ensure its practices comply with LPCL.

Our review found the Borough's revised purchasing manual does not provide guidance on the proper use of the professional service exception and the extraordinary unspecified services (EUS) procurement process. The purchasing manual lacks other important features such as a comprehensive definition section, and fails to explain distinctions, such as the difference between fair and open and non-fair and open procurement processes. The purchasing manual is also unclear as to the legal requirements of other procurement processes available to Roselle. For example, it provides only a passing mention of the professional services exemption and no details regarding the required steps a municipality must take when using that exception. Roselle must review its procurement manual to ensure it provides adequate guidance to staff and complies with LPCL.

Roselle submitted three procurements for OSC review as examples of its updated procurement

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<sup>2</sup> IRS Publication 15-B, Employer's Tax Guide to Fringe Benefits. Available at <https://www.irs.gov/publications/p15b>

<sup>3</sup> The de minimis rule is used by the IRS to determine if a benefit provided to an employee is excluded from taxable income because the value is so small and the practice so infrequent that accounting for the value of the benefit is unreasonable or impractical. For example, a small personal detour while on business, such as driving to lunch while out of the office on business.

process. The resolutions for two of the contracts, one for public relation services, and one for television/media services, state they were procured using LPCL's professional services exception. N.J.S.A. 40A:11-2(6) defines professional services as "services rendered or performed by a person authorized by law to practice a recognized profession and whose practice is regulated by law and the performance of which service required knowledge of an advanced type in a field of learning acquired by a prolonged formal course of specialized instruction and study as distinguished from generic academic instruction apprenticeship or training." Neither television/media services nor public relations services meet the definition of a professional service. As with the procurements reviewed in our 2021 Audit, Roselle continues to improperly utilize the professional services and EUS exceptions. The supporting documentation and correspondence with Roselle indicate that the Borough attempted to comply with fair and open requirements, however, because these procurements should have been done via competitive bidding or competitive contracting, compliance with the fair and open requirements would not make these procurements compliant with LPCL.

Both the 2021 Audit and the current follow-up review found that Roselle improperly utilized the EUS exception for its procurement of career training services. LPCL defines EUS as "services which are specialized and qualitative in nature requiring expertise, extensive training and proven reputation in the field of endeavor." Additionally, to utilize this exception, a designated official of a municipality must file a certificate with the governing body clearly describing the work to be done, stating that it is not reasonably possible to draft specifications, describing the informal solicitation of quotes and describing why the contract meets the EUS criteria. No EUS certification was completed. As OSC found previously, the career training services do not meet the definition of EUS. However, even if the career services met the definition of EUS, N.J.A.C. 5:34-2.2 (c) limits the use of the EUS exception by creating a presumption that services previously bid or generally characterized as being of a continuous nature are subject to the presumption that the services may not be classified as an EUS. Here, Roselle has designated the career services as meeting the EUS criteria for several years, continually relying on the EUS exception to bidding even though the services do not meet the exception. When next procuring these services, Roselle should either issue a bid pursuant to N.J.S.A. 40A:11-4 or a request for proposal pursuant to N.J.S.A. 40A:11-4.1(b)(2) or (m).

We urge the Borough to update its written policies and procedures to comply with applicable laws and to define the appropriate procedures to ensure the proper use of the professional service and EUS exemptions.

### **Recommendation 8**

*Develop policies and procedures that require consulting services to be documented with a formal written contract. The contracts should include a detailed scope of work and include all relevant terms defining the contract period, contract price and payment terms, reporting requirements that allow for verification of the performance, and outcomes as anticipated in the award of the contract. Payments for consulting services should be based on Borough policy and only after appropriate review and approval of whether services rendered meet the terms of the agreement.*

### ***Status: Not Implemented***

Our 2021 Audit found that the Borough paid approximately \$146,000 to a vendor for consulting services performed in 2015 without a formal signed contract. Two February 2015 resolutions initially awarded the vendor \$280,000 for the Roselle First Initiative and post-prison reentry services for a one-year term. Although the Request for Qualifications (RFQ) stated that the successful vendor would execute a formal written contract, the vendor never did so. The resolutions did not include details regarding the scope of work and vendor obligations. The Borough advised in its corrective action plan that it had recently hired a new Borough Administrator who would meet with Borough Counsel to revise and draft new policies and procedures for the procurement and contracting of consulting services.

During our follow-up, we reviewed a sample of services contracts and supporting documentation. We determined new policies and procedures for contracting for consulting services have not been created and implemented. Furthermore, contract templates have not been updated. For example, the Scope of Work sections for RFQs awarded in 2016 and 2023 were identical, containing the same deficiencies. Both documents failed to address vendor deliverables, anticipated outcomes, and reporting requirements that allow for verification of performance. The agreements for another contract awarded to the same vendor in 2016 and 2023 were essentially the same except for the addition of a Contract Modification clause.

We urge the Borough to create new policies and procedures related to consulting services. We further urge the Borough to draft new contract templates that include all relevant terms, either explicitly or by reference, defining the contract period, contract price, and payment terms. The template should also address reporting requirements that allow for verification of the performance, and deliverables or other ways to measure the services were adequately provided.

### **Reporting Requirements**

We provided a draft copy of this report to the Borough for its review and comment. Its 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 enable us to meet this requirement, within 90 days, the Borough shall report to our office regarding the actions that have been or will be taken to address the unresolved issues in this report. We will continue to monitor those steps.

We thank the management and staff of Roselle for the courtesies and cooperation extended to our auditors during this review.

Sincerely,

KEVIN D. WALSH  
ACTING STATE COMPTROLLER

A handwritten signature in blue ink, appearing to read 'C. Jensen', is positioned below the typed name of the signatory.

By: Christopher Jensen, CPA  
Director, Audit Division

Attachment

c: Brandon Bernier, Council President  
T. Missy Balmir, Borough Administrator  
Mohamed Jalloh, Borough Attorney  
Nick Trasente, Chief Financial Officer  
Jacquelyn Suarez, Acting Commissioner, Department of Community Affairs  
Michele Meade, Deputy Director, Department of Community Affairs, Division of Local  
Government Services



# BOROUGH OF ROSELLE

210 CHESTNUT STREET • ROSELLE, NEW JERSEY 07203  
TELEPHONE (908) 245-5600

January 19, 2024

James Armillei  
Supervising Auditor  
Quality Control Specialist, Audit Division

The Borough of Roselle is in receipt of and has reviewed the Office of the State Comptroller's report of January 3, 2024, entitled "Follow-Up Report – A Performance Audit of Selected Fiscal and Operating Practices of the Borough of Roselle." The Borough accepts the findings contained therein and has implemented or is in the process of implementing policies and procedures to address all included recommendations. Said recommendations are addressed in detail below.

**Recommendation 1:** Develop policies and procedures to verify the initial eligibility of employees for health insurance coverage or health benefit opt-out waiver payments. Appropriate controls are required to monitor the continued eligibility. Appropriate controls should also be instituted to identify and process terminations and coverage changes in a timely manner to prevent improper payments.

**Response:** Based on the advice of counsel, Borough officials believed, in good faith, that their weekly hours worked qualified them for eligibility to enroll in the State Health Benefits Program. In light of the recommendations made by the Office of the State Comptroller, all elected officials from the Borough of Roselle will opt out of the SHBP, and the Borough will bar future elected officials from receiving these benefits by implementing the necessary policies to effectuate that outcome.

**Recommendation 2:** Periodically, the Borough should conduct a cost-benefit analysis of its health insurance costs and evaluate the costs of participating in the State Health Benefits Program. This analysis should include a thorough review of the insurance broker's estimates and the reasonableness of such estimates compared to actual results.

**Response:** Implemented

**Recommendation 3:** Implement policies and procedures regarding the process for timely review of employee discipline matters, including an investigation and any referrals that are required. These policies should include the appropriate processes for consulting legal counsel and notifying the Borough Council.

**Response:** Implemented

**Recommendation 4:** Develop procedures and appropriate processes to ensure that all permanently assigned vehicles to Borough employees are assigned through written requests and approvals in accordance with the Borough's policy.

**Response:** The Borough has distributed and collected Borough Vehicle Assignment forms that identifies the assigned vehicle, the Department requesting the vehicle, and the employee assigned the vehicle. The form serves as a written request and approval of the vehicle's assignment.

**Recommendation 5:** Develop policies and procedures to require employees to account for their actual vehicle mileage, including details of all trips, such as the date, start and end time, trip location, purpose and actual mileage. The procedures should include comparisons of the employee mileage reports with the actual GPS reports to identify personal and commuting uses. Any unusual or inappropriate vehicle use should be documented and addressed appropriately, including through employee discipline.

**Response:** In addition to the Borough being found to have already partially implemented the policies included in this recommendation, the Borough will revise policies related to accounting of take-home vehicle mileage. Each individual assigned such vehicles will be required to report their mileage monthly, explaining all commuting mileage and miles logged at work, and discipline will be imposed for any non-work-related use of such vehicles.

**Recommendation 6:** Implement the process to assess taxable fringe benefits for Borough employees' personal and commutation use of the Borough-owned vehicles in accordance with its policy and pursuant to Internal Revenue Service Regulations.

**Response:** In addition to the Borough being found to have already partially implemented the policies included in this recommendation, each individual assigned a take-home vehicle is monitored by days in use and calculated at a rate of three dollars per day which is entered into their total payroll amount for taxation. This existing policy in conjunction with the proposed policies in response to "Recommendation 5" fully addresses this recommendation.

**Recommendation 7:** Develop policies and procedures that ensure procurement of and awarding of consulting service contracts complies with the Local Public Contracts Law.

**Response:** The Borough will take this under advisement and revise its purchasing manual to fully comply with the recommendation, as well as LPCL and PTP laws.

**Recommendation 8:** Develop policies and procedures that require consulting services to be documented with a formal written contract. The contracts should include a detailed scope of work and include all relevant terms defining the contract period, contract price and payment terms, reporting requirements that allow for verification of the performance, and outcomes as anticipated in the award of the contract. Payments for consulting services should be based on Borough policy and only after appropriate review and approval of whether services rendered meet the terms of the agreement.

**Response:** The Borough will take this under advisement and fully comply with all documentation requirements.

Submitted by,

T. Missy Balmir

A handwritten signature in blue ink, appearing to read 'T. Missy Balmir', with a long horizontal flourish extending to the right.

Borough of Roselle, Administrator