

*State of New Jersey
Office of the State Comptroller
Audit Division*



Buena Regional School District

***A PERFORMANCE AUDIT OF SELECTED
FISCAL AND OPERATING PRACTICES***

For the period July 1, 2015 through June 30, 2017

Kevin D. Walsh
Acting State Comptroller

July 10, 2020

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Audit Authority

We performed this audit pursuant to the State Comptroller's authority in *N.J.S.A. 52:15C-1 et seq.* We conducted this performance audit in accordance with Generally Accepted Government Auditing Standards. Those standards require that we plan and perform the audit to obtain sufficient, appropriate evidence to provide a reasonable basis for our findings and conclusions based on our audit objectives. We believe that the evidence obtained provides a reasonable basis for our findings and conclusions based on our audit objectives.

Background

Buena Regional School District (District), located in a rural section of Atlantic County, operates five schools for approximately 1,800 students. In Fiscal Year (FY) 2017 the District employed 325 full-time equivalent staff, reported total revenue of \$43.4 million, and received \$24.6 million, or 57 percent of its total revenue, in State aid.

The District is governed by the Buena Regional Board of Education (Board), which includes nine elected board members. The Board appoints a superintendent of schools responsible for the administration of the District.

Executive Summary

The audit found Buena Regional School District had failed to comply with (i) federal regulations for income verification in the school lunch program; (ii) state regulations for the procurement of insurance brokers; (iii) the District's own policies and procedures for procuring a broker; and (iv) terms in employment contracts and collective bargaining agreements (CBAs) addressing health benefit opt-out waiver payments.

We make five recommendations to improve the District's operations and its compliance with applicable statutes and regulations.

Audit Objectives

We conducted a performance audit of selected fiscal and operating practices of the Buena Regional School District. The objectives of the audit included:

Objective 1: To determine whether the District conducted income verification for the National School Lunch Program pursuant to the United States Department of Agriculture regulations in FYs 2016 and 2017.

Objective 2a: To determine whether the District complied with state regulations, including the Public School Contracts Law, for the procurement and award of its insurance broker contracts for services in FY 2017.

Objective 2b: To determine whether the District's health insurance broker complied with the statutory requirements regarding the disclosure of its commission for services in FY 2017.

Objective 3: To determine whether the District provided health benefit opt-out waiver payments in accordance with its policies and procedures, employment contracts, and collective bargaining agreements in FY 2017.

Audit Scope

The period July 1, 2015 through June 30, 2017

Audit Methodology

To accomplish our objectives, we reviewed relevant statutes, regulations, District policies and procedures, Board meeting minutes, employment contracts, CBAs, audit reports, and other related financial records and supporting documents. We also interviewed certain District personnel to obtain an understanding of their job responsibilities and the District's internal controls.

As part of our review, we selected a judgmental sample of records. Our samples were designed to provide conclusions about the validity of the sampled transactions and the adequacy of internal controls and compliance with applicable statutes, regulations, policies, and procedures with regard to the same. Because we used a non-statistical sampling approach, the results of our testing cannot be projected over the entire population of like transactions or contracts.

AUDIT FINDINGS and RECOMMENDATIONS

Income Verification for Free and Reduced-Price Lunch

Objective 1: To determine whether the District conducted income verification for the National School Lunch Program pursuant to the United States Department of Agriculture regulations in FYs 2016 and 2017.

Finding

The District failed to comply with federal regulations for the National School Lunch Program in conducting income verification in FYs 2016 and 2017.

Criteria

The National School Lunch Program (NSLP) is a federally assisted meal program operating in public and nonprofit private schools and residential child care institutions. It provides free lunches or reduced-priced lunches to children of eligible households. The U.S. Department of Agriculture (USDA) program regulations at 7 C.F.R. § 245 state that a “local educational agency” such as a school district is responsible for ensuring compliance with NSLP income requirements, including in the following circumstances:

- Error Prone Applications - an approved household application that indicates monthly income within \$100 or annual income within \$1,200 of the applicable income eligibility limit for free or for reduced meals. 7 C.F.R. § 245.6a(a)(2).
- Verification for Cause - questionable applications which the District is required to verify and should, on a case-by-case basis, verify any applications for cause such as an application in which a household reported zero income or when the District is aware of additional income or persons in the household. 7 C.F.R. § 245.6a(c)(4)(ii)(C)(7).

Methodology

To meet this objective, we performed the following:

- Interviewed District personnel responsible for the administration of the NSLP program, including income verification; and
- Assessed the District's income verification review of 20 error prone applications and the District's identification of applications warranting verification for cause for FYs 2016 and 2017.

Audit Results

The District's income verification was not completed pursuant to the USDA regulations at 7 C.F.R. § 245. The District selected the required sample size of error prone applications and determined that 15 of the 20 error prone applications sampled in FYs 2016 and 2017 required changes in the benefits initially approved. We reviewed the applications and identified two exceptions with the District's results. The District did not correctly adjust 1 of the 15 households identified by the District as requiring a change in benefits. District staff reduced the household benefit from free lunch to reduced-price lunch when the application should not have been approved for either program. In addition, we identified one additional household that the District approved for free lunch that should have been approved for reduced-price lunch.

The District was unaware of the USDA verification for cause requirement and did not conduct any review to determine if any of the applications required income verification pursuant to the USDA regulations. We conducted a cursory review of the remaining NSLP applications and identified 11 applications that were missing information, including some that reported no income, a specific example of the type of application requiring further review pursuant to the verification for cause provisions of the USDA regulations.

Cause

District personnel did not conduct a thorough review of the error prone applications and were unaware of the USDA regulations governing verification for cause reviews.

Effect/Potential Effect

Children from households that are ineligible for the program are receiving free or reduced-price lunches because the District did not comply with 7 C.F.R. § 245.

Recommendation

1. Develop policies and procedures to ensure compliance with the National School Lunch Program regulations on income verification.

Procurement of Insurance Brokers

Objective 2a: To determine whether the District complied with state regulations, including the Public School Contracts Law, for the procurement and award of its insurance broker contracts for services in FY 2017.

Objective 2b: To determine whether the District's health insurance broker complied with the statutory requirements regarding the disclosure of its commission for services in FY 2017.

Finding

The District did not comply with the Public School Contracts Law requirements in the award of two insurance broker contracts for services in FY 2017. In addition, the health insurance broker did not disclose its commissions pursuant to *N.J.S.A. 17:22A-41.1(a)* for FY 2017.

Criteria

- *N.J.S.A. 18A:18A-1, et seq.* - Public School Contracts Law
- *N.J.S.A. 17:22A-41.1(a)* - Notification by Insurance Producer to Purchaser of Compensation Received by Producer
- District Policies and Procedures - Section VI

Methodology

To meet these objectives, we performed the following:

- Interviewed District personnel responsible for procurement;
- Reviewed District Policies and Procedures - Section VI; and
- Reviewed the procurement files for the two insurance broker contracts awarded for services in FY 2017 and all supporting documentation including bid notices, board resolutions, and commission disclosures.

Audit Results

Pursuant to the Public School Contracts Law, school districts are permitted to contract with insurance brokers without following formal bidding procedures, *N.J.S.A.* 18A:18A-5(a)(10), provided that the districts comply with statutory and regulatory requirements for awarding an “extraordinary unspecifiable services” (EUS) contract in accordance with *N.J.S.A.* 18A:18A-5(a)(2) and *N.J.A.C.* 5:34-2.3. Specifically, a school district must obtain at least two competitive quotations and document that effort. In addition, a designated school official, such as a business administrator, must request that the board of education award the broker contract as an EUS by certifying to the board that the contract meets the EUS exception and describing the informal solicitation of quotes. In the resolution awarding the contract, the school district must identify the reasons for utilizing the EUS contracting process. Finally, the school district must publish a notice of the contract award in its official newspaper, including details such as “the nature, duration, service and amount of the contract.” *N.J.S.A.* 18A:18A-5(a)(1).

Our review of the procurement files for the two insurance broker contracts awarded for services in FY 2017 found that the District did not satisfy all of the requirements for either EUS contract. Specifically, the District personnel did not file certifications with the Board stating that the contracts met the EUS exception, as required by *N.J.A.C.* 5:34-2.3(b), and the contract awards and details of those awards were not published in the District’s official newspaper, as required by *N.J.S.A.* 18A:18A-5(a)(1) and *N.J.A.C.* 5:34-2.3(c).

Our review additionally found the health insurance broker did not comply with *N.J.S.A.* 17:22A-41.1(a), which required the broker to notify the District “in writing, of the amount of any commission, service fee, brokerage, or other valuable consideration that the producer will receive as a result of the sale, solicitation or negotiation of the health insurance policy or contract.”

Cause

District personnel failed to follow state procurement regulations applicable to the procurement of insurance brokers.

Effect/Potential Effect

Noncompliance with the Public School Contracts Law may result in the improper awarding of contracts. In addition, failing to publish the required notice results in a lack of transparency to the public regarding expenditures of public funds.

Recommendations

2. Revise policies and procedures to ensure that insurance broker contracts are procured and awarded in compliance with the Public School Contracts Law.
3. Revise policies and procedures to ensure that health insurance brokers disclose any commission, service fee, brokerage or other valuable consideration received as a result of the contract pursuant to *N.J.S.A. 17:22A-41.1(a)*.

Health Insurance Benefits

Objective 3: To determine whether the District provided health benefit opt-out waiver payments in accordance with its policies and procedures, employment contracts, and collective bargaining agreements in FY 2017.

Finding

The District did not adequately monitor health benefit coverage and improperly provided health benefit opt-out waiver payments to nine employees for the same period they had received District-provided health insurance. This deficiency resulted in duplicate benefits that totaled \$35,469 in FY 2017.

Criteria

- Employment Contracts
- CBA terms for health benefit coverage and health benefit opt-out waivers

Methodology

To meet this objective, we performed the following:

- Interviewed District personnel responsible for benefit administration;
- Reviewed Employment Contracts;
- Reviewed CBA terms for health benefit coverage and health benefit opt-out waivers; and
- Tested 71 employee health benefit opt-out waiver payments totaling \$306,665 paid in FY 2017.

Audit Results

A health benefit opt-out waiver payment is provided to employees who are otherwise entitled to health insurance coverage by the District, have alternate health insurance coverage, and voluntarily opt to not participate in the District's health insurance plan. In FY 2017, the District provided health benefit opt-out waiver payments to 71 employees. We tested whether the payments for all 71 employees were processed for eligible employees who were not covered by District-provided

health insurance. Our audit found nine exceptions including three employees that received health benefit opt-out waiver payments for the same time period they were covered under District-provided health insurance. Because the employees were receiving health insurance coverage, the health benefit opt-out waiver payments of \$5,280 were improper.

In addition, pursuant to the CBA, the District paid \$165,000 for health insurance coverage and \$30,189 in health benefit opt-out waiver payments for six couples that included individuals who were both employed by the District. CBA provision 21.4 states that “[m]arried employees or those in civil union partnerships where both employees are employed by the board prior to July 1, 2010 will retain their ability to individually choose to opt-out of coverage.” The District’s policy of providing health insurance coverage and health benefit opt-out waiver payments for married employees is a duplication of benefits contrary to the overall intent of the health benefit opt-out waiver payment. We conclude the health benefit opt-out waiver payments of \$30,189 were improper and a duplication of benefits.

Cause

The District did not have proper procedures in place to prevent health benefit opt-out waiver payments to employees covered by the District’s health insurance.

Effect/Potential Effect

Inadequate monitoring and oversight of benefit administration resulted in duplicate benefits to nine employees in FY 2017 that cost the District \$35,469.

Recommendations

4. Develop policies and procedures regarding the administration of health insurance coverage and the processing of health benefit opt-out waiver payments to ensure that employees are not receiving duplicate benefits.
5. Seek to renegotiate the terms of any collective bargaining agreements to eliminate the duplication of benefits.

REPORTING REQUIREMENTS

We provided a draft copy of this report to District officials for their review and comment. The District officials agreed with the audit findings and conclusions, and their response indicated they intend to take corrective actions. District comments were considered in preparing our final report and are attached as Appendix A.

We are required by statute to monitor the implementation of our recommendations. In accordance with *N.J.A.C. 17:44-2.8(a)*, within 90 days following the distribution of the final audit report, the District is required to provide a report to us detailing the corrective action taken or underway to implement the recommendations contained in the report and, if not implemented, the reason therefore. We will review the corrective action plan to evaluate whether the steps taken by the District effectively implement our recommendations.

We thank the management and staff of Buena Regional School District for the courtesies and cooperation extended to our auditors during this engagement.

APPENDIX A - AUDITEE RESPONSE

BUENA REGIONAL SCHOOL DISTRICT

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Honoring Tradition. Inspiring Futures

DAVID C. CAPPUCCIO, JR.
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June 15, 2020

Ms. Yvonne Tierney
Audit Director
Office of the State Comptroller
P.O. Box 024
Trenton, NJ 08625-0024

Dear Ms. Tierney:

The Buena Regional School District (the "District") is in receipt of and has reviewed the Performance Audit of Selected Fiscal and Operating Procedures (the "Audit") for the period July 1, 2015 through June 30, 2017 prepared by the State of New Jersey, Office of the State Comptroller ("OSC"), Audit Division. The Audit noted three Findings and Recommendations to which this letter serves as the District's response.

Finding #1

The District failed to comply with federal regulations for the National School Lunch Program in conducting income verification in FYs 2016 and 2017.

District Response

The District accepts the finding but feels it is necessary to document the following information regarding the verification for cause portion of the finding. District staff who process free and reduced lunch applications and perform the verification process have attended several training sessions sponsored by the New Jersey Department of Agriculture, Division of Food and Nutrition. Further, an Administrative Review was conducted of the District's food services operations by the same State agency in February, 2019 and there were no findings and recommendations regarding verification for cause. In fact, the Administrative Review found "the food service records and administrative records, including applications, were also well organized and all the staff were very receptive and helpful with any questions I had".

District procedures to correct this finding will be addressed in the Corrective Action Plan.

Finding #2

The District did not comply with the Public School Contracts Law requirements in the award of two insurance broker contracts for services in FY 2017. In addition, the health insurance broker did not disclose its commission pursuant to N.J.S.A. 17:22A-41.1(a) for 2017.

District Response

The District accepts this finding but notes that corrective action had taken place for the FY 2019 year and was documented to OSC auditors via memorandum on June 25, 2018.

Finding #3

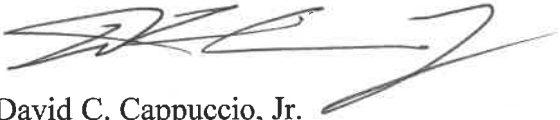
The District did not adequately monitor health benefits coverage and improperly provided health benefit opt-out waiver payments to nine employees for the same period they had received District-provided health insurance. This deficiency resulted in duplicate benefits that totaled \$35,469 in FY 2017.

District Response

The District accepts this finding and procedures to correct this finding will be addressed in the Corrective Action Plan.

In conclusion, the District will ensure appropriate actions are taken to address each of the items identified in the Draft Audit. If you have any questions, please do not hesitate to contact me.

Sincerely



David C. Cappuccio, Jr.
Superintendent

c: Mr. Pasquale Yacovelli, Business Administrator
File