



# Ardasley Union Free School District Internal Controls Over Competitive Bidding and Employee Benefits

Report of Examination

Period Covered:

July 1, 2006 — April 15, 2008

2008M-191



Thomas P. DiNapoli

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# State of New York Office of the State Comptroller

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## **Division of Local Government and School Accountability**

November 2008

Dear School District Officials:

A top priority of the Office of the State Comptroller is to help school district officials manage their districts efficiently and effectively and, by so doing, provide accountability for tax dollars spent to support district operations. The Comptroller oversees the fiscal affairs of districts statewide, as well as districts' compliance with relevant statutes and observance of good business practices. This fiscal oversight is accomplished, in part, through our audits, which identify opportunities for improving district operations and Board of Education governance. Audits also can identify strategies to reduce district costs and to strengthen controls intended to safeguard district assets.

Following is a report of our audit of the Ardsley Union Free School District, entitled Internal Controls Over Competitive Bidding and Employee Benefits. This audit was conducted pursuant to Article V, Section 1 of the State Constitution, and the State Comptroller's authority as set forth in Article 3 of the General Municipal Law.

This audit's results and recommendations are resources for district officials to use in effectively managing operations and in meeting the expectations of their constituents. If you have questions about this report, please feel free to contact the local regional office for your county, as listed at the end of this report.

Respectfully submitted,

*Office of the State Comptroller  
Division of Local Government  
and School Accountability*



## State of New York Office of the State Comptroller

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### EXECUTIVE SUMMARY

The Ardsley Union Free School District (District) is governed by the Board of Education (Board) which comprises five elected members. The Board is responsible for the general management and control of the District's financial and educational affairs. The Interim Superintendent of Schools (Superintendent) is the chief executive officer of the District and is responsible, along with other administrative staff, for the day-to-day management of the District under the direction of the Board. There are three schools in operation within the District, with approximately 2,280 students and 680 employees. The District's budgeted expenditures for the 2006-07 fiscal year were \$51 million for the general fund, which were funded primarily by real property taxes, and State and Federal aid.

#### **Scope and Objective**

The objective of our audit was to evaluate internal controls over purchasing and employee benefits for the period July 1, 2006 through April 15, 2008. We extended our procurement testing for cleaning and landscaping to cover the period July 1, 1991 through June 30, 2008. Our audit addressed the following related questions:

- Did the District's purchasing practices for competitive bidding comply with established Board policies and applicable laws?
- Are internal controls over employee benefit payments designed appropriately and operating effectively?

#### **Audit Results**

We found that purchasing practices did not comply with Board policies and applicable laws. District officials did not have documentation to show that two contracts for day and night cleaning of the schools and landscaping totaling over \$1.4 million, over a two-year period, were procured using the competitive bidding process as required by General Municipal Law and the District's policy. The District has used this company for the last 17 years. District officials stated that the first contract was originally bid in 1991 and extended each year, and that the annual increase was not to exceed the increase in the consumer price index (CPI).<sup>1</sup> In most cases, the Board's minutes for ensuing years stated that the Board renewed the contract. There is no evidence that the Board sought competitive bids and Board resolutions did not always contain sufficient information relating to these extensions. For example, Board resolutions for the 2003-04 and 2007-08 fiscal years did not include dollar amounts. Further,

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<sup>1</sup> As reported by the State Education Department in May of each year. The Consumer Price Index is a measure of the average change over time in the prices paid by urban consumers for a market basket of consumer goods and services. Source: the State Education Department website.

District officials could not locate any documentation indicating that the Board formally renewed the Contract for the 1996-97, 1999-00, 2001-02, 2002-03, and 2005-06 fiscal years. Although a second contract for night cleaning was mentioned in the minutes in February 1995, officials could not produce a copy of the signed contract. There was no indication that a second contract was competitively bid, and District officials could not clearly substantiate that the additional payments were made pursuant to a second contract. As a result, the taxpayers have little or no assurance that these costs are appropriate or that cleaning and landscaping services have been procured in the most prudent and economical manner and without favoritism.

Internal controls over employee benefit payments were not effective. The Board did not periodically review employment contract terms to ensure that benefit provisions were clearly defined. District officials did not ensure that only appropriate benefits were properly authorized for reimbursement. As a result, six administrative employees received reimbursement for personal automobile and homeowner's insurance premiums totaling \$6,755, even though the Board may have only intended that medical insurance was eligible for reimbursement.

### **Comments of District Officials**

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

# Introduction

## **Background**

The Ardsley Union Free School District (District) serves the Village of Ardsley and parts of the Village of Dobbs Ferry within the Town of Greenburgh in Westchester County. The District is governed by the Board of Education (Board) which comprises five elected members. The Board is responsible for the general management and control of the District's financial and educational affairs. The Interim Superintendent of Schools (Superintendent) is the chief executive officer of the District and is responsible, along with other administrative staff, for the day-to-day management of the District under the direction of the Board.

There are three schools in operation within the District, with approximately 2,280 students and 680 employees. The District's budgeted expenditures for the 2006-07 fiscal year were \$51 million for the general fund, which were funded primarily by real property taxes, and State and Federal aid.

## **Objective**

The objective of our audit was to evaluate internal controls over purchasing and employee benefits. Our audit addressed the following related questions:

- Did the District's purchasing practices for competitive bidding comply with established Board policies and applicable laws?
- Are internal controls over employee benefit payments designed appropriately and operating effectively?

## **Scope and Methodology**

We examined the District's internal controls over purchasing and employee benefits for the period July 1, 2006 to April 15, 2008. We extended our procurement testing for cleaning and landscaping services to cover the period July 1, 1991 through June 30, 2008.

We conducted our audit in accordance with generally accepted government auditing standards (GAGAS). More information on such standards and the methodology used in performing this audit are included in Appendix B of this report.

## **Comments of District Officials and Corrective Action**

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

The Board has the responsibility to initiate corrective action. Pursuant to Section 35 of the General Municipal Law, Section 2116-a (3)(c) of the Education Law and Section 170.12 of the Regulations of the Commissioner of Education, a written corrective action plan (CAP) that addresses the findings and recommendations in this report must be prepared and forwarded to our office within 90 days. To the extent practicable, implementation of the CAP must begin by the end of the next fiscal year. For more information on preparing and filing your CAP, please refer to our brochure, *Responding to an OSC Audit Report*, which you received with the draft audit report. The Board should make the CAP available for public review in the District Clerk's office.

## Competitive Bidding

General Municipal Law (GML) requires that purchase contracts in excess of \$10,000 and public works contracts in excess of \$20,000 be advertised for sealed bids, and awarded to the lowest responsible bidder to encourage competition and provide assurance that supplies, equipment and services of desired quality are acquired at the lowest possible price, without favoritism, improvidence, extravagance, fraud or corruption. District officials are responsible for providing oversight to ensure that goods and services are procured in accordance with GML and Board policy and that bid documentation is kept on file for future reference. District officials are also responsible for ensuring that payments to vendors are in accordance with contract terms and are properly supported.

District officials did not ensure that payments for goods and services were in accordance with contract terms and properly supported. We reviewed five contracts and found that the District had no documentation to indicate that two contracts, totaling over \$1.4 million, over a two-year period,<sup>2</sup> were competitively bid. The two agreements were for day and night cleaning of the schools and landscaping and were with the same company that the District had used for the past 17 years.

The annual renewal of the contracts without competitively bidding, and the failure to ensure that documentation was on file and payments were in accordance with contract terms and supported has restricted competition, and provides taxpayers with little or no assurance that the services are procured in the most prudent and economical manner and without favoritism.

District officials stated that the day cleaning contract was originally bid in 1991 and extended each year with the annual cost increase not to exceed the increase in the consumer price index (CPI).<sup>3</sup> Although the 1991 Board minutes did mention an award of a cleaning services contract to the vendor for \$210,356, the Board resolution did not indicate the period of the award or contract. In addition, the minutes did not include, and no documentation was available to indicate, the number of bids that were received as a result of the public advertisement. In addition, there was no formal contract between the District and the vendor.

<sup>2</sup> \$711,265 for 2006-07 and \$751,645 for 2007-08

<sup>3</sup> As established by the State Education Department in May of each year. The Consumer Price Index is a measure of the average change over time in the prices paid by urban consumers for a market basket of consumer goods and services. Source: The State Education Department website.

In most cases, Board minutes for each ensuing year stated that the day cleaning contract was extended for an annual increase not to exceed the increase in the CPI. However, the Board resolutions for the 1995-96, 1997-98, 1998-99, and 2000-01 fiscal years showed that the contract was renewed for the same amount - \$225,356. Resolutions for the 2003-04 and 2007-08 fiscal years did not include any dollar amounts. Further, District officials could not locate any resolutions indicating that the Board renewed the contract for the 1996-97, 1999-00, 2001-02, 2002-03, and 2005-06 fiscal years. We also found that the District paid more than twice the amount based on the initial day cleaning contract amount and the annual CPI increases.

<b>Fiscal Year</b>	<b>Actual Amount Paid</b>	<b>Amount to be Paid Per CPI Rate Increase</b>
2002-03	\$505,551	\$287,415
2003-04	\$543,379	\$293,738
2004-05	\$572,767	\$301,963
2005-06	\$688,396	\$313,740
2006-07	\$711,265	\$324,407
2007-08	\$751,645	\$339,978
<b>Totals</b>	<b>\$3,773,003</b>	<b>\$1,861,241</b>

District officials stated that payments were made pursuant to a second contract for night cleaning awarded in 1994 at the rate of \$9.84 per hour, also subject to CPI rate increases. Although a second contract referred to as bid #1994-30 for contract cleaning was awarded to the same vendor in the February 1995 Board minutes, there was no signed contract or documentation to indicate that a second contract was competitively bid, and District officials could not provide documentation or detail calculations to clearly substantiate that the additional payments were made pursuant to a second contract.

District officials contend that a solicitation of bids for this service would result in a substantial increase in maintenance costs based on internal cost comparisons performed by the Director of Facilities and Transportation and bid results provided by neighboring school districts and their BOCES. Although District officials may believe that this price is fair, this is not a substitute for competitive bidding. Without formal bidding, District officials have no assurance that they are receiving the best price. These procedures also do not guard against favoritism, improvidence, extravagance, fraud or corruption in the way that a formal public bidding process would.

## **Recommendations**

1. The Board should provide adequate oversight over the District's purchasing practices to ensure that goods and services are procured in accordance with GML and the District's procurement policy, and that all bidding documentation is kept on file for future reference.
2. District officials should ensure that payments to vendors are made in accordance with contract terms and are properly supported.
3. District officials should review payments made to the contractor and determine if there are any overpayments that should be recovered.

## Employee Benefits

Employee benefits represent a significant portion of a school district's budget. Therefore, it is important for the Board and District officials to implement internal controls to ensure that the District pays only reasonable and necessary benefits to its employees. The type of benefits provided to employees should be clearly defined in collective bargaining agreements, terms and conditions of employment agreements, individual employment contracts, or employment letters. It is important for the Board to periodically review these documents to ensure that all benefit provisions are clearly defined and specific, and for District officials to ensure that only appropriate benefits are reimbursed to reduce the risk of waste or abuse.

The Board did not periodically review employment contracts and District officials did not ensure that only appropriate benefits were reimbursed. We examined 17 benefit reimbursement claims totaling \$21,700 and found that six administrative employees were improperly reimbursed for joint and individual automobile insurance totaling \$5,066 and \$435, respectively, and \$1,254 for homeowner's insurance.

Since 1993, District employment contracts have contained provisions that allowed for the reimbursement of "any insurance" expenditure up to \$2,400 per year. Based on the reimbursement claim form, which was designed for the reimbursement of medical claims, it appears that the District's intent was that reimbursement was available for vision and other miscellaneous health-related expenses such as medical or dental. However, six employees submitted claims for their automobile and homeowner's insurance costs. Current Board members indicated that they were not aware of the original intent or the specific contract terms because they did not periodically review contracts and the membership of the Board had changed since 1993.

The lack of specificity in and periodic review of employment contracts created an environment conducive to the misuse of District funds, and resulted in the inappropriate reimbursement of employees for automobile and homeowner's insurance, totaling \$6,755.

### Recommendations

4. The Board should review the employment contracts for administrative employees and clarify them as necessary to clearly indicate the types of insurance that are eligible for reimbursement.

5. The Board should periodically review all employment contracts to ensure that all contract provisions, including reimbursable employee benefits, are clearly defined.
6. District officials should implement adequate controls to ensure that only appropriate Board authorized employee benefits are reimbursed.

## **APPENDIX A**

### **RESPONSE FROM DISTRICT OFFICIALS**

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



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*Director of Facilities & Transportation*

November 20, 2008

### **Ardsley Union Free School District (AUFSD) Response to the Draft Comptroller's Audit Report**

The Board of Education, Superintendent and Business Manager of the AUFSD have carefully reviewed the findings and recommendations contained in the draft audit report received in district on October 24, 2008. We commend the Office of the State Comptroller's (OSC) staff for their careful analysis of the documents reviewed and for their comprehensive analysis of the processes and practices employed to carry out the business function of the district.

We acknowledge that the district was unable to produce certain documents to substantiate our claim that our building maintenance contracts were competitively bid in 1991 and 1994 according to the requirements of General Municipal Law, and we recognize that while we did provide ancillary documentary evidence which supported that the contracts in question were competitively bid (bid award resolutions, legal notice of bid from newspaper and reference in the minutes to the maintenance contracts), we recognize that such circumstantial evidence fails to demonstrate, with the same level of certainty, that the required competitive bidding process was used in 1991 and 1994. We recognize that two building construction projects which involved the central office were undertaken since 1991. That, coupled with the relocation of files during these construction projects, was the likely cause of the missing documents. Our corrective action plan will specifically address the steps that the AUFSD will take to insure that proper documentation is readily available for inspection.

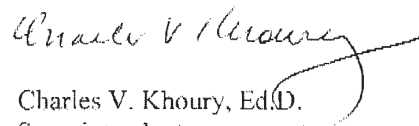
We also recognize that we were unable to provide copies of Board minutes for several years indicating that the maintenance contracts in question were renewed. The members of the Board of Education renewed these maintenance contracts based on a provision contained in the original bid specifications that provided for the annual renewal of the contract such that the rate of increase would not exceed CPI (which it did not) and after a careful examination of prevailing school maintenance contracts in the Southern Westchester area. The per-foot cleaning rate charged by our maintenance contractor has consistently been among the very lowest in the region, and the AUFSD has been noted in state reports as having either the lowest or next-to-the-lowest maintenance cost per student in the region. It should be noted that the Board believed that such an arrangement, the annual renewal of the contract at a rate not to exceed CPI, was permissible under General Municipal Law, based on a legal opinion offered by district

counsel to the district in 1993. It has only been through the give and take of this audit process that we have learned, from the legal opinion offered to us from the OSC that such a practice, for the number of years in question (17) is frowned upon by the OSC. We will address this shortcoming in our corrective action plan.

In the area of Employee Benefits, the audit finding identifies general insurance reimbursement payments made to certain employees over the course of several years as an area of concern. We note that the contract provision in question which permitted this insurance reimbursement practice was included in contracts in 1993 and we recognize that the contract language could have been more clearly defined as to intent over the course of the intervening years. We note, and identified to the representatives of the OSC, that the contract provision in question is part of certain existing employee contracts and, under the provisions of the Taylor Law, cannot be simply modified by a unilateral action of the Board. Under the provisions of the Taylor Law, contract language changes can only be accomplished through the collective bargaining process. No member of the present Board was also present in 1993 when the language of concern was included. To attempt to determine what were the issues in 1993 which gave rise to the inclusion of such language would be speculative and inappropriate. Absent such background information, and at the same time, understanding the requirements of the collective bargaining process, the district finds it difficult to understand the audit characterization that these reimbursements were "unreasonable and unnecessary". That being said, the Board will attempt take the necessary steps, through the collective bargaining process, to more clearly define this contract provision. In addition, the Board will continue to exercise its longstanding practice of reviewing the provisions of all contracts for precision and clarity at the Board level. The specific internal control actions that we will take will be more clearly defined in our corrective action plan.

The Ardsley Union Free School District Board of Education and senior administrative staff recognize that the purpose of the Office of the State Comptroller's audit program is to help our district identify opportunities for improving both our operations and governance. A secondary, but no less important goal is to suggest areas and ways where we may reduce costs, strengthen controls and safeguard assets. To both of these desirable ends the process has worked.

Respectfully submitted,



Charles V. Khoury, Ed.D.  
Superintendent

## APPENDIX B

### AUDIT METHODOLOGY AND STANDARDS

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

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

After reviewing the information gathered during our initial assessment, we determined where weaknesses existed, and evaluated those weaknesses for the risk of potential fraud, theft and/or professional misconduct. Based on that evaluation we determined that controls appeared to be adequate and limited risk existed in most of the financial areas we reviewed. We then decided upon the reported objectives and scope by selecting for audit those areas most at risk. We selected purchasing and employee benefits for further audit testing. To accomplish the objective of this audit our procedures included the following:

- We reviewed Board minutes and vendor payment files including voucher packets and invoices to test for compliance with statutory bidding requirements and the District's procurement policy.
- We examined payroll earnings summaries and Board-authorized contracts, employment and collective bargaining agreements, employee reimbursements and written policies and procedures to verify benefits paid. We also compared claim forms and supporting insurance payment documentation to employment contracts.

We conducted this performance audit in accordance with generally accepted government auditing standards (GAGAS). Those standards require that we plan and perform the audit to obtain sufficient, appropriate evidence to provide a reasonable basis for our findings and conclusions based on our audit objective. We believe that the evidence obtained provides a reasonable basis for our findings and conclusions based on our audit objective.

## APPENDIX C

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## APPENDIX D

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