



Rockland Board of Cooperative Educational Services

Internal Controls Over Selected Operations

Report of Examination

Period Covered:

July 1, 2007 — August 31, 2008

2008M-241



Thomas P. DiNapoli

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State of New York Office of the State Comptroller

Division of Local Government and School Accountability

December 2008

Dear BOCES Officials:

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

Following is a report of our audit of the Rockland Board of Cooperative Educational Services, entitled *Internal Controls Over Selected Operations*. 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 BOCES officials to use in effectively managing operations and in meeting the expectations of their constituents. If you have questions about this report, please feel free to contact the local regional office for your county, as listed at the end of this report.

Respectfully submitted,

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



State of New York Office of the State Comptroller

EXECUTIVE SUMMARY

The Rockland Board of Cooperative Educational Services (BOCES) is located in West Nyack, Rockland County. It is governed by a nine member board (Board) whose members represent eight component school districts within Rockland County. Board members are elected by the boards of education of each component school district, and there is one member at large. The Board is responsible for the general management and control of the BOCES' financial and educational affairs. The Interim District Superintendent (Superintendent) is the Chief Executive Officer of BOCES and is responsible, along with other administrative staff, for the day-to-day management of BOCES. By law, the Superintendent is an employee of both the appointing BOCES and the New York State Education Department. As such, the Superintendent works under the direction of both the Board and the New York State Commissioner of Education.

The main BOCES campus is located in West Nyack, and employs approximately 725 staff members with satellite sites in various school districts in Rockland County. BOCES expenditures for the 2007–08 fiscal year were \$79.7 million, including \$1.9 million for contracted professional services. Of the \$1.9 million for contracted professional services, \$1.6 million were for consultants that provided services such as psychiatric evaluations, chemical addiction counseling, speech, physical and occupational therapy.

Scope and Objective

The objective of our audit was to determine whether controls over selected operations were appropriately designed and operating effectively for the period July 1, 2007 through August 31, 2008. Our audit addressed the following related questions:

- Are internal controls over the performance of criminal background checks appropriately designed and operating effectively to safeguard BOCES' students?
- Are internal controls over purchasing appropriately designed and operating effectively to adequately safeguard BOCES' assets?

Audit Results

We found weaknesses in the controls over BOCES's operations, caused by a lack of policies and procedures. In some cases, when those policies and procedures did exist, they were inadequate.

BOCES does not have a procedure in place to ensure that fingerprint-supported background criminal history checks are performed on independent contractors/consultants that are in direct contact with students as required by Education Law. We found that 21 of 22 consultants serving BOCES had not undergone fingerprint clearance checks. This included chemical addiction counselors, and speech, occupational and physical therapists who regularly have direct contact with students. Without proper background checks, BOCES is in violation of Education Law and is potentially placing its students' welfare at risk.

BOCES' purchasing policy does not address the procurement of professional services, which are not subject to competitive bidding. Eight of 10 professional services providers that we tested were procured without the benefit of request for proposals or quotes. As a result, BOCES officials cannot be sure that they obtained professional services in the most prudent and economical manner.

Finally, BOCES' policy for meals and refreshments does not require supporting documentation detailing the purpose or list of attendees at meetings or functions where refreshments are provided. We found that 53 percent of the meal and refreshment invoices that we reviewed, totaling approximately \$19,000, did not have sufficient supporting documentation to prove that expenditures were valid and necessary. Without an adequate policy for meals and refreshments, BOCES officials may incur costs that do not represent proper BOCES expenditures.

Comments of BOCES Officials

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

Introduction

Background

The Rockland Board of Cooperative Educational Services (BOCES) is located in West Nyack, Rockland County. It is governed by a nine member board (Board) whose members represent eight component school districts within Rockland County. Board members are elected by the boards of education of each component school district and there is one member at large. The Board is responsible for the general management and control of the BOCES' financial and educational affairs. The Interim District Superintendent (Superintendent) is the Chief Executive Officer of the BOCES and is responsible, along with other administrative staff, for the day-to-day management of the BOCES. By law, the Superintendent is an employee of both the appointing BOCES and the New York State Education Department. As such, the Superintendent works under the direction of both the Board and the New York State Commissioner of Education.

The main BOCES campus is located in West Nyack, and employs approximately 725 staff members with satellite sites in various school districts in Rockland County. The BOCES expenditures for the 2007–08 fiscal year were \$79.7 million.

The BOCES has a Cooperative Service Agreement (Agreement) for the procurement of goods in which component school districts participate. In addition to the Agreement, the BOCES is divided into seven divisions: Administration, Instructional Services, Transportation, Facilities, Special Education, Adult Education, and Career and Technical Education (CTE) that offers 11 career academies. Due to the volume of these programs and its own central administration, BOCES awarded contracts for over \$1.9 million for professional services including approximately \$1.6 million for consultants that provided services such as psychiatric evaluations, chemical addiction counseling, speech, physical and occupational therapy.

Objective

The objective of our audit was to determine whether controls over selected operations were appropriately designed and operating effectively. Our audit addressed the following questions:

- Are internal controls over the performance of criminal background checks appropriately designed and operating effectively to safeguard BOCES' students?
- Are internal controls over purchasing appropriately designed and operating effectively to adequately safeguard BOCES' assets?

**Scope and
Methodology**

During this audit, we examined BOCES' internal controls over the performance of criminal background checks and purchasing for the period of July 1, 2007 to August 31, 2008.

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

**Comments of BOCES
Officials and Corrective
Action**

The results of our audit and recommendations have been discussed with BOCES officials and their comments, which appear in Appendix A, have been considered in preparing this report. BOCES 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 BOCES Clerk's office.

Criminal Background Checks

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

We found that BOCES contracts with independent contractors for various consulting services such as psychiatric services, chemical addiction programs, and speech, occupational and physical therapy. BOCES does not have procedures in place to ensure that background checks are performed and filed with OSPRA for these consultants who have direct contact with students. We tested 22 individuals providing consulting services to BOCES who had direct contact with students and found that BOCES had not performed the required criminal background checks on 21 of these individuals.

Because BOCES officials did not comply with the Education Law and obtain the required background checks for independent contractors/consultants who are in direct contact with students, they may have placed the welfare of District students at risk.

Recommendation

1. BOCES officials should develop procedures to ensure that required background checks are conducted on independent contractors/consultants who have direct contact with students.

Purchasing

Effective internal controls over purchasing include policies and procedures to provide an organization with reasonable assurance that it is using its resources effectively and complying with applicable laws and regulations. BOCES officials are responsible for designing internal controls that help safeguard assets and ensure the prudent and economical use of moneys when procuring professional services. Furthermore, policies must ensure that proper supporting documentation for expenditures is required. Sufficient supporting documentation for expenditures helps ensure that the component districts' dollars are expended in the most effective manner.

The Board has not adopted a comprehensive purchasing policy which addresses the procurement of services that are not subject to the competitive bidding requirements. BOCES officials did not solicit request for proposals (RFPs) or other competition for approximately 80 percent of the professional service providers we tested. Furthermore, the BOCES' policy for meals and refreshments does not require sufficient supporting documentation to detail the purpose and list of attendees at meetings and functions when meals or refreshments are provided.

Request For Proposals

General Municipal Law (Law) requires that BOCES adopt internal policies and procedures for the procurement of goods and services when competitive bidding is not required. Some of the items that are exempt from competitive bidding include payments for professional services, insurance, emergency purchases, and purchases from a sole source. Policies and procedures should require the use of competitive methods such as RFPs and written or verbal quotations. Suitable policies and procedures describe procurement methods, explain when to use each method, and require the documentation of the procurement decisions and document the reason why the lowest bidder is not selected. The purpose of this requirement is to assure the prudent and economical use of BOCES' moneys, to facilitate the acquisition of goods and services of desired quality at the lowest cost and to guard against favoritism, extravagance, fraud and corruption.

The Board has not adopted a policy, as required by Law that adequately addresses procurements of professional services which are not subject to competitive bidding. BOCES' current purchasing policy is inadequate because it is silent on the procurement of professional services.

Due to this weakness, we tested 10 professional service provider contracts and determined that BOCES paid approximately \$775,000 to eight providers without the use of RFPs or competitive quotes. These payments included approximately \$64,300 to two legal firms, \$61,500 to an advertising firm and \$29,400 to an architect.

BOCES officials informed us that they have not sought competition because they were comfortable with their current service providers. However, by not seeking competition for professional services, BOCES cannot be sure that they have acquired professional services in the best interest of taxpayers.

Meals and Refreshments

Generally, BOCES may not provide meals and/or refreshments at Board or other meetings. However, BOCES can pay for such costs when events occur that prevent Board members, BOCES officials or employees from taking time off for meals, or when there is a pressing need to complete BOCES business. Therefore, the Board must develop and implement a formal policy that sets criteria when meals and/or refreshments may be provided at BOCES expense. It is important that the policy require officials to document who attended the meetings and how the meetings fit the criteria.

BOCES' meals and refreshments policy does not require documentation as to the purpose of the function or who attended the function. During our audit period, BOCES expended approximately \$36,000 for meals and refreshments at meetings and functions. Of this amount approximately \$17,000 had supporting documentation detailing the purpose of the function; however, a list of attendees was rarely attached. We could not determine if the remaining \$19,000 in expenditures were valid and necessary expenditures because there was no documentation specifying function or attendees.

The lack of documentation to justify these expenses was due, at least in part, to the fact that the Board did not have a policy detailing what documentation was required for meals and refreshments expenditures. The claims auditor has been requesting a list of attendees and the purpose of the function when invoices for meals and refreshments are submitted for payment. However, because the policy did not require this documentation, she still approved the claims for payment because they contained the proper approvals. Without proper supporting documentation, BOCES officials cannot be sure that expenditures are valid and necessary expenditures.

Recommendations

2. The Board should revise the current procurement policy to include provisions for the procurement of professional services. In addition, BOCES officials should award contracts to professional service providers only after soliciting competition.

3. The Board should adopt a policy that requires documentation of the purpose and the attendees of each meeting for which meals and refreshments are provided.

APPENDIX A

RESPONSE FROM BOCES OFFICIALS

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

ROCKLAND BOCES
BOARD OF COOPERATIVE EDUCATIONAL SERVICES

DR. JAMES T. LANGLOIS
INTERIM DISTRICT SUPERINTENDENT

65 PARROTT ROAD
WEST NYACK, NY 10994-0607
PHONE: 845.627.4701 • FAX: 845.624.1764
WWW.ROCKLANDBOCES.ORG



November 21, 2008

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

Re: Rockland Board of Cooperative Educational Services
Internal Controls Over Selected Operations
Report of Examination
Period Cover: July 1, 2008 – August 21, 2008
2008M-241

Dear Mr. Ellis:

This is in response to the draft Audit Report which we received from representatives of the Office of the State Comptroller last week. This response is being submitted in accord with the guidance provided in your publication "RESPONDING TO AN OSC AUDIT REPORT BROCHURE."

On November 18, 2008, representatives of the Rockland Board of Cooperative Educational Services (BOCES), which included me in my role as Interim District Superintendent, met with representatives of the Division of Local Government Services and Economic Development for an exit conference pertaining to the Report of Examination which, we acknowledge, has accurately identified three areas of weakness in our internal controls which needed to and have now been addressed.

While we will soon be submitting a formal Corrective Action Plan, we want to bring to your attention our response to the findings in the draft audit report.

As far as putting into place procedures to ensure that independent contractors/consultants who have direct contact with students are fingerprinted, we will be implementing measures to ensure that all such individuals satisfy the fingerprint clearance requirements as set forth in the Education Law. On a going forward basis, contracts entered into by BOCES with such individuals will provide that they must submit adequate documentation to demonstrate that they have received the necessary fingerprint clearance from the State Education Department. We do wish, however, to point out that consultants who have worked with our students have done so in the presence of administrators and/or teachers. While certainly we recognize the need to comply with the applicable provisions of the

Mr. Christopher J. Ellis, Chief Examiner
November 21, 2008
Page 2

Education Law, the health, safety and well-being of our students has always been our first priority and none of our students has ever been at risk.

As far as our purchasing policies are concerned, as they pertain to the procurement of professional services, we have prepared a draft policy which we will be presenting to the BOCES Board next month for approval. The future procurement of professional services will be done in full compliance with that policy.

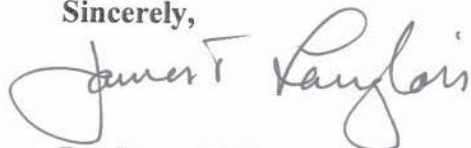
Regarding the need to have appropriate documentation for any expenditure for meals and refreshments for individuals attending meetings, we have prepared a revised policy to address that issue which will be presented to the BOCES Board next month for their approval and implementation. We are taking corrective action immediately because we recognize the importance of having appropriate procedures and documentation in place.

As noted earlier, a Corrective Action Plan will be presented to the BOCES Board for their approval at their meeting on December 10, 2008. Once it is approved, we will be filing it with your agency as well with the State Education Department.

In closing, we want to thank your auditors who carried out their responsibilities in a very courteous and professional manner. While we pride ourselves on providing an outstanding level of services to our eight component school districts and their students and families, we recognize the benefit of having an external review of our operation so that any weaknesses in our system can be identified and corrected.

I would appreciate your letting me know whether there is anything further than requires our attention at this time.

Sincerely,



Dr. James T. Langlois
Interim District Superintendent

JTL:cb

cc: BOCES Board
Mr. William Renella

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 BOCES 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 condition, cash receipts and disbursements, payroll, purchasing and information technology.

During the initial assessment, we interviewed appropriate BOCES officials, performed limited tests of transactions and reviewed pertinent documents, such as BOCES' 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 BOCES' financial transactions as recorded in its databases. Further, we reviewed BOCES' internal controls and procedures over the computerized financial databases to help ensure that the information produced by such systems was reliable.

After reviewing the information gathered during our initial assessment, we determined where weaknesses existed, and evaluated those weaknesses for the risk of potential fraud, theft and/or professional misconduct. We then decided upon the reported objective and scope by selecting for audit that area most at risk. We selected purchasing and criminal background checks for further audit testing. To accomplish the objective of this audit and obtain valid audit evidence, our procedures included the following steps:

- We reviewed current BOCES policies and procedures relevant to purchasing.
- We interviewed key personnel to determine the process for requisitioning goods or services and approvals required.
- We examined RFP and bidding documentation to determine whether the procurement of professional services and purchases were made in accordance with Board policy and legal requirements.
- We examined vendor payment files to determine if documentation was adequate to support expenditures for meals and refreshments.
- We interviewed key personnel to determine if employees had proper fingerprint clearance on file.
- We interviewed key personnel to determine if consultants, who have contact with the students, were fingerprinted.
- We examined personnel files and verified fingerprint clearance forms on file.

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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