



Vestal Central School District

Internal Controls Over Selected Financial Activities and Computer Data

Report of Examination

Period Covered:

July 1, 2006 — November 30, 2007

2008M-125



Thomas P. DiNapoli

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State of New York Office of the State Comptroller

Division of Local Government and School Accountability

October 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 Vestal Central School District, entitled Internal Controls Over Selected Financial Activities and Computer Data. 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

EXECUTIVE SUMMARY

The Vestal Central School District (District) is governed by the Board of Education (Board) which comprises nine elected members. The Board is responsible for the general management and control of the District's financial and educational affairs. The 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. The Deputy Superintendent is responsible for overseeing aspects of the District's financial operations.

Several employment bargaining units exist within the District. One of the bargaining units is the Vestal Administrators Association (VAA), which covers employees whose jobs are deemed to be managerial in nature. They include principals, departmental directors, and some high level support staff of various departments. The most recent two VAA contracts contained a provision called Select Benefits. District officials eliminated that provision from the current contract via a memorandum of understanding (MOU) dated June 5, 2007. As part of this elimination, participating employees of the VAA received a cash payout of their remaining benefit balances.

The District employs a director of computer services, who reports to the Deputy Superintendent and oversees a staff of five. The department is responsible for policy enforcement relating to technology; network administration, monitoring and security; and other technology related functions.

The Board contracts with Broome Tioga (BT) BOCES for cafeteria services. This contract includes the oversight from a cafeteria director and his support staff. The cafeteria director is responsible for maximizing revenues and controlling costs. Accordingly, he is responsible for ensuring that cash from vending machine sales is accounted for properly.

The Board appointed an employee of the BT BOCES Central Business Office (CBO) to serve as its claims auditor for the 2006-07 and 2007-08 fiscal years.

The District employs a local attorney to function as school attorney. The District classifies him as an employee rather than an independent contractor.

Scope and Objectives

We had two objectives for our audit. The first objective was to determine if District officials had established internal controls over selected financial and information technology operations effectively for the period July 1, 2006 through November 30, 2007. Our second objective was to determine if District officials properly classified employees enrolled in the Employees' Retirement System (ERS) for the period March 1, 2007 through March 6, 2008. Our audit addressed the following related questions:

- Did District officials properly administer the Select Benefits program?
- Did District officials establish adequate procedures to safeguard computerized data?
- Did the cafeteria director ensure that all cash from vending machine sales was properly collected and deposited?
- Did the Board appoint a claims auditor in accordance with New York State Education Department regulations?
- Did District officials take steps to ensure that the persons they enroll in ERS are valid public employees rather than independent contractors or consultants?

Audit Results

Our audit disclosed internal control weaknesses over several areas of the District operations, including Select Benefits administration, information technology (IT), cash from vending machine sales, the appointment of the claims auditor and the classification of District staff. These weaknesses resulted in overpayment to employees, misuse of District equipment, exposure to the risk of error or abuse of computerized data and cash assets, the appointment of a non-independent individual as claims auditor, and the misclassification of an independent contractor as an employee.

Specifically, District officials did not properly administer the Select Benefits program. We found employee misuse of equipment, questionable equipment requests, and overpayments to employees. For example, we found downloaded software and programs not typically used in the District and evidence of inappropriate use of the District's computer system including adult websites and internet history detail of pornographic images on certain computers. We reviewed a sample of the Select Benefits requests and resulting purchases and found that several of those purchases appeared excessive for their intended use. Those items included three digital cameras at a cost of \$1,590, three high-end laptops at a combined cost of \$8,474, two desktops and a laptop at a combined cost of \$3,742, and a 37-inch television costing \$999. Additionally, we found that the District overpaid three employees by \$1,412.

District officials did not adequately assess the IT risks and did not adequately safeguard the District's computerized data and assets by establishing and implementing appropriate procedures. More specifically, the Director of Computer Services has not implemented procedures that address user access for the District's computer system, specifically requiring unique user accounts with complex passwords, or limits for login attempts and periods of inactivity. These weaknesses expose the District to the risk that unauthorized individuals could gain access to the computer system and disclose, change or delete sensitive information.

The cafeteria director did not establish a system of controls or procedures to ensure that all cash from vending machine sales was accounted for (i.e., collected and deposited). He did not establish procedures to track sales of units and then reconcile those figures to cash collected. As a result, the potential exists for either of the employees involved in the vending process to take money without District officials' knowledge.

The Board appointed an employee of the BT BOCES Central Business Office (CBO) to serve as its claims auditor for the 2006-07 and 2007-08 fiscal years. This arrangement is not appropriate because the District paid the BOCES approximately \$7.7 million during 2006-07 for various services including the internal claims audit function.

The District had no formal procedures for staff to follow in distinguishing employees from independent contractors (for example, checking criteria related to the worker's supervision, reporting structure, work hours, benefits, and so forth), but based such classification on general knowledge of the individual worker. This weakness in internal controls over the District's classification process increases the risk that the District could improperly provide benefits to independent contractors. As a result, we found one contractor improperly classified as a District employee.

Comments of District Officials

The results of our audit and recommendations have been discussed with District officials and their comments, which appear in Appendix B, have been considered in preparing this report. Except as specified in Appendix B, District officials generally agreed with our recommendations and indicated they planned to take corrective action. Appendix C includes our comments on the issues raised in the District's response letter.

Introduction

Background

The Vestal Central School District (District) is located in the Towns of Vestal and Binghamton in Broome County, and the Town of Owego in Tioga County. The District is governed by the Board of Education (Board) which comprises nine elected members. The Board is responsible for the general management and control of the District's financial and educational affairs. The 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. The Deputy Superintendent is responsible for overseeing aspects of the District's financial operations.

There are seven schools in operation within the District, with approximately 4,000 students and 780 employees. The District's budgeted expenditures for the 2006-07 fiscal year were approximately \$57 million, which were funded primarily with State aid, real property taxes, and grants.

Several employment bargaining units exist within the District. One of the bargaining units is the Vestal Administrators Association (VAA) which covers employees whose jobs are deemed to be managerial in nature. They include principals, departmental directors, and some high level support staff of various departments. The most recent two VAA contracts contained a provision called Select Benefits which gave those employees an annual dollar allowance to be used for the purchase of equipment, services, or supplemental education to assist in the completion of their respective job duties. From 2002 through 2007 the District purchased the following quantities of equipment through the Select Benefits provision: 23 cameras, 33 desktop computers, 9 laptops, 22 printers, and 2 televisions. In most cases, the requesting employee already had a District computer or access to similar equipment. District officials eliminated the Select Benefits provision from the current contract via a memorandum of understanding (MOU) dated June 5, 2007. As part of this elimination, participating employees of the VAA received a cash payout for their remaining benefit balances.

The District employs a director of computer services, who reports to the Deputy Superintendent and oversees five staff members. The department is responsible for policy enforcement relating to technology; network administration, monitoring and security; and other technology related functions.

The Board contracts with Broome Tioga (BT) BOCES for cafeteria services. This contract includes the oversight from a cafeteria director and his support staff. The cafeteria director is responsible for maximizing revenues and controlling costs. Accordingly, he is responsible for ensuring that cash from vending machine sales is accounted for properly.

The Board appointed an employee of the BT BOCES Central Business Office (CBO) to serve as its claims auditor for the 2006-07 and 2007-08 fiscal years.

The District employs a local attorney to function as school attorney. The District classifies him as an employee rather than an independent contractor.

Objectives

We had two objectives for our audit. The first objective was to determine if District officials had established internal controls over selected financial and information technology operations effectively for the period July 1, 2006 through November 30, 2007. Our second objective was to determine if District officials properly classified employees enrolled in the Employees' Retirement System (ERS) for the period March 1, 2007 through March 6, 2008. Our audit addressed the following related questions:

- Did District officials properly administer the Select Benefits program?
- Did District officials establish adequate procedures to safeguard computerized data?
- Did the cafeteria director ensure that all cash from vending machine sales was properly collected and deposited?
- Did the Board appoint a claims auditor in accordance with New York State Education Department regulations?
- Did District officials take steps to ensure that the persons they enroll in ERS are valid public employees rather than independent contractors or consultants?

Scope and Methodology

We examined internal controls over certain financial operations for the period July 1, 2006 through November 30, 2007. We expanded our scope to examine assets purchased through the Select Benefits program back to July 1, 2002. We also reviewed the District's classification of employees enrolled in ERS for the period March 1, 2007 through March 6, 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 D 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 B, have been considered in preparing this report. Except as specified in Appendix B, District officials generally agreed with our recommendations and indicated they planned to take corrective action. Appendix C includes our comments on the issues raised in the District's response letter.

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.

Select Benefits Administration

A collective bargaining agreement between the District and employees clearly sets forth all compensation and fringe benefits. Such benefits can include allowances for equipment, travel and tuition reimbursements, and additional insurance. It is important for the Board to establish, and District officials to administer, adequate procedures to follow when processing compensation and fringe benefits claims pursuant to collective bargaining agreements. When the benefits include the purchase of equipment, there should be policies and procedures outlining the acceptable use of the equipment.

The District and the Vestal Administrator's Association (VAA) negotiated a collective bargaining agreement covering a five-year period from July 1, 2005 through June 30, 2010. The first version of this contract contained a provision entitled "Select Benefits." The Select Benefits contract provision¹ allowed members of the VAA to earn amounts between \$1,000 and \$1,500 annually, and to accrue a maximum of three years of allowances, for purchase or reimbursement of certain items related to their job duties. District officials eliminated the provision through a Memorandum of Understanding (MOU) dated June 5, 2007.

District officials did not properly administer the Select Benefits program. For example, we found employee misuse of equipment, questionable equipment requests, and overpayments that were made in conflict with MOU guidelines.

Equipment Misuse

The Board established two policies² for the use of District computers including computers purchased under the Select Benefits program. Those policies disseminate, among other things, what is considered inappropriate use of the computers. They prohibit accessing inappropriate internet sites including sites related to gambling and sexually explicit materials. They also prohibit users from installing personal, unauthorized software.

In total, at least 42 computers have been purchased under the Select Benefits program. We reviewed a sample of computer purchases under the Select Benefit program and found that three employees who purchased a combined six computers using their Select Benefits

¹ See appendix A for specific contract language.

² The policies included Policy 8271 Internet safety/protection and administrative regulation 8270R.

allowances did not follow established computer use policies. We reviewed those six computers to determine if their use complied with the computer use policies and found that all six computers contained evidence of personal use. For example, we found downloaded software and programs not typically used in the District. We also found children's games, casino games, various unauthorized virus protections, and other questionable software. Although there was some evidence of District work-related files on two of the computers, it was minimal. Finally, we saw evidence of inappropriate use, including adult websites and internet history details of pornographic images on two of the six machines. None of the six computers were connected to the Vestal network and none were on school grounds when we initially requested to review them. The three employees brought them onto District grounds for our review.

District officials failed to monitor employees' computer use for compliance with established policies. The lack of monitoring leaves the District vulnerable to risks associated with the above mentioned activities including viruses and spyware.

Equipment Requests

The approval process for Select Benefits-equipment requests should have provided a mechanism to determine if the requests were truly needed. Such an approval should have been based on not only benefit balances but also prior requests, reasonableness, relevance to job, and whether the cost of the equipment was truly justified for the intended purpose.

According to the contract provisions, members of the VAA could request assets to assist them in performing their duties by preparing a Select Benefits-request form. The Superintendent would approve the employee request form which would detail the reasons for the equipment, how the equipment would help in their job duties, and the types and cost of the equipment.

We found that the Superintendent approved equipment requests based solely on VAA members available Select Benefits balances, not clearly defined criteria for the approval of these purchases. He allowed employees to request and purchase equipment that was well beyond what was actually necessary for their job duties, or allowed them to accumulate multiple equipment assets of the same type for purposes other than to assist in their job responsibilities.

The members of the VAA requested and the District purchased 23 cameras, 33 desktop computers, 9 laptops, 22 printers, and 2 television sets from 2002 to 2007. We reviewed a sample of the Select Benefits requests and resulting purchases from July 1, 2002 to November 30, 2007 and found that several of those purchases appeared excessive for their intended use:

- The Superintendent approved a principal's request for a \$500 radio. The explanation on the principal's request form stated that she would like to keep up with the weather and local news so that in case of emergency, she would have up-to-date information. We question the need for such an expensive radio when she could easily access similar information through her desktop computer. When we visited the principal's office the radio was on her desk.
- The Superintendent approved another principal's requests for three digital cameras for a combined cost of \$1,590 over a two-year period. He approved each request despite the fact that the employee was requesting the same type of equipment. Those cameras were not on District grounds when we first attempted to verify their existence; according to the employee they were at her house. She brought the cameras onto District grounds for our review.
- Three principals purchased the same type of high-end laptop during the same school year in order for them to perform word processing tasks. Their reasoning for the particular laptops was almost identical. Each principal said they would use the laptops to observe and evaluate teachers. We question the need for such laptops considering that the three principals also had desktops. One internet website has the following description of the laptops purchased: "If you're a hard-core gamer looking to play the newest games at the highest settings, this is the best system that money can buy." The District paid a total cost of \$8,474 for the three laptops.
- One employee's three most recent requests were for two desktop computers and a laptop computer. The District purchased those computers during the 2003-04, 2004-05, and 2006-07 school years for \$3,742. That employee used the same justification, "to prepare 19A forms" for each of those requests. When we visited the employee's office to verify whether the computers were on school grounds, we found that she also had a District desktop in her office. Thus, she had four computers to do the same tasks. The three Select Benefits computers purchased through the Select Benefits allowance were not on school grounds. The employee brought the computers onto school grounds for our review.
- The Superintendent approved an employee's request for a 37-inch LCD television at a cost of \$999 so that the employee could show training videos. We visited the employee in order to verify the existence of the television set and found that it

was not on District grounds; instead, it was at his home. In addition, another employee of the same department requested a television set a few years prior to our audit period to watch videos related to the department. The employee told us that the television set was at her home. We question the department's need for two television sets considering the fact that they were not on school grounds at the time of our initial visit.

Overpayments of Benefits

There are situations over the life of collective bargaining agreements when the District and its employees could agree to alter previously agreed upon benefits. A memorandum of understanding (MOU) provides the new guidelines for any modifications and becomes the standard to which District officials and employees must adhere. Employees and District officials may agree to some type of payment or concession when eliminating a benefit and such payments or concessions must be in accordance with the MOU. The MOU should clearly define the District's responsibility and any questions should defer to this new agreement.

The Superintendent and VAA agreed to eliminate the Select Benefits provision from the current contract in June 2007. As part of this agreement, the MOU stated that participating employees would be paid any remaining Select Benefits balance in an additional payroll check. Those payments were based on the contract language that stated an employee could carry over a maximum of three years of allowances.

We found that three employees were not paid in accordance with MOU guidelines. As a result, the District overpaid those employees a total of \$1,412 because District officials improperly based the overpayments on an additional year of carry-over.

Recommendations

1. The director of computer services should monitor employees' compliance with computer use policies.
2. The Board should ensure that all Select Benefits purchases are reviewed to determine the location and existence of assets and recover any assets that are not on District property.
3. The Board should recoup the overpayments made to employees for the extra year's carry-over of Select Benefits balances.

Safeguarding Computerized Data

An effective system of internal controls to safeguard computerized data includes policies adopted by the Board and procedures implemented by the director of computer services to minimize the loss or corruption of essential data. Computer data is a valuable District resource. District officials rely on computer data for making financial decisions and for reporting to State and Federal agencies. If the computer on which this data is stored fails or the data is lost or altered either intentionally or unintentionally, the results could range from inconvenient to catastrophic. Even small disruptions in electronic data systems can require extensive employee and consultant hours to evaluate and repair. For this reason, access to computer data systems should be controlled and monitored to reduce the risk of misuse and/or alteration of data resulting in potential financial loss to the District.

District officials did not adequately assess the IT risks and did not adequately safeguard the District's computerized data and assets by establishing and implementing adequate procedures. The District did not have adequate procedures that addressed user access to the District's computer system, such as requiring complex passwords, limiting log-in attempts, and providing for a network time out.

Network users are required to enter usernames and passwords to gain access to computers and network applications. To protect computerized data, District officials should establish procedures that require employees to use complex passwords,³ change their passwords every 30 to 90 days, limit access attempts to the system without a valid password to three or four, and provide for a network time-out⁴ after a reasonable period of inactivity.

The director of computer services has not implemented procedures that address user access for the District's computer system, specifically requiring unique user accounts with complex passwords, or limits for login attempts and periods of inactivity. We communicated specific concerns related to the complexity of passwords and limits for login attempts and periods of inactivity verbally to District officials.

³ Complex passwords contain a combination of upper and lower case letters, punctuation and at least eight characters. An example of a weak password is the word "vestal." That same password in a complex format is V3\$t@1^*.

⁴ A time-out is a feature that automatically locks a computer after a pre-determined period of inactivity, e.g., 10 minutes. This feature requires employees to re-enter their user names and passwords to gain access.

If a password system is not strong, or if a computer does not time-out after a period of inactivity, unauthorized persons could gain access to the system and change or delete sensitive information. If there are no limitations to the number of failed attempts to access the system, unauthorized persons could try thousands of words or names until a valid password was found.

Recommendation

4. The director of computer services should establish procedures that require password complexity, periodic password changes, limits to the number of incorrect log in attempts, and network time-outs for user accounts.

Cash From Vending Machine Sales

The cafeteria director is responsible for designing and implementing a system of controls to ensure that all cash collected from vending machine operations is properly accounted for (i.e., collected and deposited). These controls must include a mechanism to reconcile cash collected to actual units sold. The District's vending machines have built in reporting functions which, among other capabilities, detail the number of units dispensed (i.e., sold). This reporting capability is the first part in establishing a reconciliation procedure. By using the vending machines' readings, the director can easily determine the required amount for deposit based on units sold. This computation allows him to determine if all vending machine sales are accounted for properly.

The cafeteria director did not establish a system of controls or procedures to ensure that all cash from vending machine sales was collected and deposited. Two District employees were involved in the cash collection process. One employee collected all cash from the machines and restocked them with products. A second employee counted and prepared the cash for deposit. The cafeteria director did not establish a procedure to track sales of units and then reconcile the figures to cash collected. The District reported total cash collections from machine sales of \$128,000 for the 2006-07 fiscal year.

The current procedures did not allow us to verify that all cash from vending machine sales was properly deposited based on the number of units sold during the audit period. As a result, we developed a test of the vending machines with the help of the two vendors responsible for supplying and servicing the machines. We asked the vendors to show us how to obtain machine readings detailing units sold so that we could reconcile units sold against actual cash collections. The cafeteria director and the employee responsible for collecting the cash also learned how to obtain these readings.

We selected two machines within the District's administrative building. We accompanied the employee responsible for collecting cash as he collected the cash and took readings on January 14 and January 18, 2008. He placed each machine's cash in separate bags and labeled them accordingly. We subtracted the readings taken on January 14 from the readings taken on January 18 to obtain the number of units sold for each machine. Then, we multiplied those values by the vending price to obtain the amount of cash for deposit. We did not inform the employee responsible for counting and preparing the deposit of our test. We asked that employee to count each bag

separately and prepare the deposit as she normally would. After she prepared the deposit, we successfully reconciled the value of the units sold to the cash collected. The cafeteria director was not aware that the vending machines could report units sold.

The potential exists for either of the employees involved in the vending process to take money without District officials' knowledge.

Recommendation

5. The cafeteria director should develop a process for reconciling vending machine sales to cash collected to ensure all cash from vending machine sales is accounted for properly.

Appointment of Claims Auditor

The Board or its appointed claims auditor must approve each claim against the District before making payment. If the Board appoints a claims auditor, that individual assumes all the powers and duties of the Board to audit each claim to determine whether it is properly authorized and accurate; whether the purchase represents a valid District expense for goods or services; and whether the goods or services were actually received. The Board may delegate the claims audit function by using inter-municipal cooperative agreements, shared services to the extent authorized by law, or independent contractors. However, SED guidance on interpreting regulations⁵ states it may not be appropriate for a BOCES to provide claims auditing services to its component Districts, because the District could have material and significant contract payments to that BOCES.

The Board appointed an employee of the BT BOCES Central Business Office to serve as its claims auditor for the 2006-07 and 2007-08 fiscal years. This arrangement is not appropriate because the District paid the BOCES approximately \$7.7 million during 2006-07 for various services including the internal claims audit function.

According to the Deputy Superintendent, a District employee handled the function approximately three years prior to our audit period, but the employee left. District officials had to explore another alternative. District officials felt the CBO could handle the claims audit function and therefore the District would not have to hire an employee to replace the previous one.

The Board's ability to monitor and oversee school District financial activity is affected negatively when a non-District employee whose independence might be impaired authorizes critical financial-related transactions. In this instance, the person assigned as the District's claims auditor cannot be independent from the responsibility they have to the BOCES as their employer. Thus, the claims auditor's objectivity, and therefore independence, is compromised.

Recommendation

6. The Board should appoint the District's claims auditor in accordance with SED regulations.

⁵ Amendment of the Regulations of the Commissioner of Education (http://www.emsc.nysed.gov/mgtserv/accountability_regs06.htm)

Classification of Employees

Local governments and school districts obtain services from both public employees and independent contractors and consultants. The Office of the State Comptroller's *Financial Management Guide for Local Governments*⁶ provides information to help distinguish between independent contractors and employees. The New York State and Local Retirement System (NYSLRS), which operates the Employees' Retirement System (ERS), provides its own checklist of indicators⁷ that can help localities and school districts make this determination correctly. In addition, as of April 3, 2008, enhanced regulations are available that more clearly define how local governments and school districts should classify professional service providers as employees or independent contractors. These regulations are posted on the Office of the State Comptroller (OSC) website.

For the period March 1, 2007 through March 6, 2008, we audited the status of persons the District enrolled in the ERS to determine whether these individuals met the criteria for employee classification as established by the *Financial Management Guide for Local Governments* and ERS indicators. The District had no formal procedures for staff to follow in distinguishing employees from independent contractors (for example, checking criteria related to the worker's supervision, reporting structure, work hours, benefits, and so forth). District officials based such classification on general knowledge of the individual worker. This weakness in internal controls over the District's classification process increases the risk that the District could improperly enroll non-employees in the ERS. We found one employee improperly classified as a District employee.

An attorney that the District has paid as an employee of the District since 1995 has the title of School District Attorney. During the 2006-07 fiscal year, he received a salary of \$52,800. Although the District reports 260 days per year or 10 days per pay period worked for the attorney to the ERS, he does not submit a time sheet or otherwise substantiate his time worked. The District currently does not set the attorney's work schedule, although he is required to attend all Board meetings. In addition, he does not maintain an office on the District's premises or work set hours. Instead, he works at an office in his law firm. Further, the attorney is not covered by a union or employment

⁶ Financial Management Guide for Local Governments, Subsection 8.4020, page 1, issued December 1992

⁷ The NYSLRS Checklist: Distinguishing Between an Employee and an Independent Contractor (available from the NYSLRS)

contract, he receives no fringe⁸ or health benefits, and the District does not provide any type of an employee evaluation for him.

When public employers misclassify contractors as employees, local taxpayers are paying for ERS pension contributions that their school district is making on behalf of persons who are not eligible to be enrolled in ERS and not entitled to receive a public employee pension. These are not appropriate costs for the District to pay, and they are not costs that taxpayers should bear.

Recommendation

7. District officials should strengthen controls over the employee classification process to help ensure that they correctly determine the status of individuals who work for the District in compliance with the Guide and the enhanced regulations posted on the OSC website.

⁸ Paid vacation, sick, personal leave, etc.

APPENDIX A

SELECT BENEFITS CONTRACT LANGUAGE

Allows employees of the Vestal Administrators Association to earn an amount between \$1,000 and \$1,500 for purchase/reimbursement of certain items related to their job duties. As it reads from the contract:

Each unit member shall be eligible for a Select Benefits program which would be established in accordance with the following schedule:

- Levels 1-5: \$1,000 for years 5-10
- Levels 6-8: \$1,250 for years 5-10
- Levels 9-11: \$1,500 for years 5-10

Benefits to be included under this provision include, but are not limited to:

1. Supplemental Administrative Support Equipment; e.g., PDA's, Laptop Computers
2. Tuition Reimbursements over and above XIII.H. (contract provision for \$900 tuition reimbursement)
3. Conference & Travel over and above building or department allocation
4. Purchase of insurance
5. Other items mutually agreed upon by the Superintendent of Schools or designee and the President of the Association or designee, exclusive of salary or wages.

If an employee chooses not to utilize the benefit in a given fiscal year, the employee may carry the benefit amount into the subsequent fiscal year. In no case may an employee carry a benefit beyond two fiscal years; e.g., 2005-06 benefit may not be carried past fiscal year 2007-08. In addition, if any employee separates from the district by resignation or for the purpose of retirement, the employee may not be able to carry the benefit beyond the separation date.

The parties shall mutually agree upon provisions for procurement, reimbursement, and any/all other financial provisions regarding the implementation of this benefit. Such agreements shall be in accordance with applicable IRS guidelines and reviewed with the school district's independent auditor.

The employee is expected to follow district procurement guidelines in the use of this benefit.

APPENDIX B

RESPONSE FROM DISTRICT OFFICIALS

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

September 16, 2008

██████████ Division of Local Government and School Accountability
Office of the State Comptroller
State Office Building
44 Hawley Street
Binghamton, New York 13901-4417

Dear ██████████:

We are in receipt of your draft report regarding the examination of internal controls over selected financial activities and computer data in the Vestal Central School District. I have been authorized by the Vestal Board of Education to respond to that report.

The district accepts the findings of the audit that was conducted, with exceptions as noted below. For each recommendation included in the audit report, the following are the actions that either have already been or will be implemented to address the issue.

- Audit Recommendation:** The Director of Computer Services should monitor employees' compliance with computer use policies.

Implementation Plan of Action: The Director of Computer Services is no longer responsible for monitoring compliance with district computer use policies. The district has contracted with a third party, the BOCES Instructional and Information Technology Service (IITS), to manage our computer network. IITS will assist the district in developing an Acceptable Use Policy (AUP). IITS staff will monitor employee use of district computer resources for compliance with the AUP and will notify the district of any instances where computer use policies are violated. The Director of Computer Services position will be eliminated.

Implementation Date: IITS implemented July 1, 2008. AUP implemented no later than 11/08.

Persons Responsible for Implementation: BOCES IITS Project Manager, Superintendent of Schools and Board of Education.
- Audit Recommendation:** The Board should review all Select Benefits purchases to determine the location of existing assets and recover any assets that are not on District property.

Implementation Plan of Action: A moratorium was placed on all Select Benefit purchases in July 2005. Prior to the arrival of representatives from the Office of the State Comptroller, the district terminated the Select Benefit Program in June 2007. Beginning in March 2008, the district conducted a physical inventory to confirm the location and use of assets that were purchased prior to the program termination. All assets were accounted for and inventory control tags assigned. In cases where it was determined that the asset was not being used in accordance with district guidelines, the equipment was returned to the district.

Implementation Date: The physical inventory was conducted between March and June 2008.

Persons Responsible for Implementation: Superintendent of Schools and Board of Education.

3. **Audit Recommendation:** The district should recoup the overpayments made to employees for the extra year's carry-over of Select Benefit balances.

Implementation Plan of Action: The district disagrees with this finding. The district terminated the Select Benefit program in June 2007. As part of that termination, a Memorandum of Understanding was negotiated with the VAA to address any unexpended balances in the Select Benefit accounts. As a result, payments were made to staff with outstanding balances at the time the program was terminated. We believe those payments were in accordance with the Memorandum of Understanding. However, the district will have the payments reviewed by legal counsel to insure that the payments were made appropriately and to determine if any further action is needed.

Implementation Date: November 1, 2008.

Persons Responsible for Implementation: Superintendent of Schools, Board of Education and District legal counsel.

See
Note 1
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4. **Audit Recommendation:** The Director of Computer Services should establish procedures that require password complexity, periodic password changes, limits to the number of incorrect log-in attempts, and network time-outs for user accounts.

Implementation Plan of Action: The Director of Computer Services is no longer responsible for network security. The district has contracted with a third party, the BOCES Instruction and Information Technology Service (IITS), to analyze district security issues, including, but not limited to, the issues identified in audit recommendation #4. The District Instructional Technology Committee will participate in this process. Recommendations about specific district protocols will be made for the consideration of the Vestal Board of Education.

Implementation Date: November 1, 2008.

Persons Responsible for Implementation: BOCES IITS Project Manager, Chairperson of District Instructional Technology Committee, Superintendent of Schools and Board of Education.

5. **Audit Recommendation:** The cafeteria director should develop a process for reconciling vending machine sales to cash collected to ensure all cash from vending machine sales is accounted for properly.

Implementation Plan of Action: The district implemented a cash receipt procedures designed by [REDACTED] to insure that all cash sales from vending machines is accounted for properly.

Implementation Date: Successfully implemented March 2008.

Person Responsible for Implementation: Cafeteria Director.

6. **Audit Recommendation:** The Board should ensure that its appointment of the District's Claims Auditor is in accordance with SED Guidelines.

Implementation Plan of Action: SED has been informed about the appointment of the Internal Claims Auditor as part of the CBO shared service purchased through the Broome-Tioga BOCES. The district will re-confirm the appropriateness of this appointment with officials from the State Education Department to insure that the Internal Clams Auditor has been appointed in accordance with SED regulations.

Implementation Date: November 1, 2008.

Persons Responsible for Implementation: District Legal Counsel, CBO Comptroller and Board of Education.


7. **Audit Recommendation:** District officials should strengthen controls over the employee classification process to help insure that they correctly determine the status of individuals who work for the District in compliance with the guide and the enhanced regulations posted on the OSC website.

Implementation Plan of Action: The district has restructured the position of district legal counsel to conform to the guide and the enhanced regulations posted on the OSC website. A new application was submitted to [REDACTED] Director of Member and Employee Services from the Office of the State Comptroller. We were advised that the newly structured position, as outlined in that application, met the criteria articulated in the guide, as well as the enhanced regulations posted on the OSC website.

Implementation Date: Application filed June 4, 2008. Follow up telephone conversation on June 25, 2008 and August 22, 2008. Legal counsel began service consistent with the enhanced regulations on July 1, 2008.

Persons Responsible for Implementation: Superintendent of Schools and Board of Education.

Sincerely,


Mark A. Capobianco

kml

pc: Board of Education

Keith Olivet, Deputy Superintendent

Mary Surdey, Assistant Superintendent for Instruction

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See
Note 2
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APPENDIX C

OSC COMMENTS ON THE DISTRICT'S RESPONSE

Note 1

We reiterate that three employees were not paid in accordance with MOU guidelines. As a result, the District overpaid those employees a total of \$1,412 because District officials improperly based the overpayments on an additional year of carry-over.

Note 2

We maintain that using an employee of the Broome-Tioga BOCES as the claims auditor is inappropriate due to the material nature of the contracts with the Broome-Tioga BOCES, which amounted to approximately \$7.7 million during the 2006-07 fiscal year. In addition, it is likely that the claims auditor will be asked to review and approve a payment to the Broome-Tioga BOCES, which, in the case of an employee of the Broome-Tioga BOCES, is an independence impairment.

APPENDIX D

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, payroll and personal services, and information technology.

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. We then decided upon the reported objectives and scope by selecting for audit those areas most at risk. We selected Select Benefits administration, safeguarding computerized data, cash from vending machine sales, claims auditor and employee classifications for further audit testing.

In order to accomplish our objectives we performed the following:

- We met with District officials to gain an understanding of controls as they related to our audit objectives.
- We reviewed the VAA contract language, focusing on the Select Benefits provision and criteria. We tested Select Benefits assets to verify that they actually existed and were on District grounds. We also determined whether Select Benefits requests were reasonable and followed certain criteria for approval.
- We selected a sample of computers purchased through the Select Benefits provision and compared the employees' use of those computers against the Board policy for acceptable use.
- We obtained a copy of the MOU, which eliminated the Select Benefits provision, and re-computed benefit payouts made to selected staff and compared them against MOU guidelines.
- We met with Computer Services staff to gain an understanding of the District's computer network and the security measures in place to protect it.
- We reviewed computer user account settings relating to password length, complexity, and network time-outs.

- We toured the District and examined the computer network assets for security and protection measures.
- We interviewed staff involved in the collection, counting, and depositing of cash from vending machine sales. We also met with the two vendors that supplied the vending machines in order to learn how to obtain the number of units sold. Utilizing this information, we performed a reconciliation of the machine readings for units sold, selling price of products, and the total cash deposited for the test machines for two days.
- We documented the appointment of a BOCES CBO staff person as claims auditor.
- We completed the NYSLRS checklist for sampled employees. Based on the questionnaire results, we further investigated a professional employee, whose relationship was that of an independent contractor and who was listed on the District's payroll and retirement reporting. We documented the District's support for such classification. We also re-computed the District's report of the salaries and wages to ERS on behalf of the employee.

We conducted our 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 objectives. We believe that the evidence obtained provides a reasonable basis for our findings and conclusions based on our audit objectives.

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