

OFFICE OF THE NEW YORK STATE COMPTROLLER



DIVISION OF LOCAL GOVERNMENT  
& SCHOOL ACCOUNTABILITY

# Lockport City School District

## Monitoring Transportation Contracts and Costs

### Report of Examination

Period Covered:

July 1, 2013 — May 21, 2015

2015M-200



Thomas P. DiNapoli

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## **Office of the State Comptroller**

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

January 2016

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 Lockport City School District, entitled Monitoring Transportation Contracts and Costs. 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 New York State 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*

# Introduction

## Background

The Lockport City School District (District) is located in the City of Lockport and portions of the Towns of Lockport, Cambria and Pendleton, in Niagara County. The District is governed by the Board of Education (Board), which is composed of 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 is the District's chief executive officer and is responsible, along with other administrative staff, for the District's day-to-day management under the Board's direction. The Assistant Superintendent for Finance and Management Services (Assistant Superintendent) is responsible for financial services, including reviewing monthly transportation invoices and bus routes for possible consolidations or additions.

The District operates seven schools with approximately 5,300 students. The District's budgeted appropriations for the 2014-15 fiscal year totaled \$86.6 million and were funded primarily with State aid, real property taxes and the appropriation of fund balance.

Transporting students to and from various schools and programs represents a significant District cost. For 2014-15 the District's transportation costs were \$4.8 million (6 percent of total expenditures). The District has six subcontracts with one transportation vendor (Vendor) for bus service. The District also entered into contracts with a transportation management company Consultant (Consultant) to provide transportation coordination and oversight services.

Our prior audit,<sup>1</sup> dated November 2008, contained multiple recommendations regarding the District's transportation operations, such as to seek competition for primary transportation services and enter into new contracts, to appoint an individual who is free from the influence of the transportation vendor to oversee District transportation services and to conduct periodic reviews of its transportation vendors to ensure the services were provided and billed in accordance with applicable contracts and extensions.

## Objective

The objective of our audit was to evaluate the District's transportation operations. Our audit addressed the following related question:

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<sup>1</sup> *Lockport City School District, Internal Controls Over Selected Financial Operations (2008M-159)*

- Do the Board and District officials have an effective process to monitor transportation costs and ensure that billing is appropriate and accurate?

## **Scope and Methodology**

We examined the District's transportation operations for the period July 1, 2013 through May 21, 2015. In addition, we reviewed certain documentation dating back to 2009 and contacted District officials subsequent to the completion of fieldwork in order to complete our audit objective.

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. Unless otherwise indicated in this report, samples for testing were selected based on professional judgment, as it was not the intent to project the results onto the entire population. Where applicable, information is presented concerning the value and/or size of the relevant population and the sample selected for examination.

## **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 findings and recommendations and indicated they planned to initiate or have already taken 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 New York State 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 provided to our office within 90 days, with a copy forwarded to the Commissioner of Education. 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.

## Monitoring Transportation Contracts and Costs

The District uses the services of an outside vendor for student transportation on a daily basis to and from District facilities and other locations and for extracurricular trips. The Board is responsible for ensuring that the District obtains these services in the most economical and efficient manner possible and verifying that contracts are executed accordingly.

The District also contracted with the Consultant to oversee and coordinate transportation services for \$32,600 annually.<sup>2</sup> However, we found that, as reported in our prior audit, the companies of the Consultant and the Vendor appear to be related or affiliated to each other. The Consultant and the Vendor share the same headquarters and use the same letterhead and billing/remittance address. The same individual, as president of both companies, signs the contracts and the claims for payment. Furthermore, the individual assigned by the Consultant to be the District's representative formerly held the position of general manager for the Vendor for at least 20 years. This apparent relationship between the two companies raises a substantial concern as to whether the Consultant could truly provide independent monitoring and consulting services in the District's best interests. Despite the concerns raised in our prior audit and a report by an independent transportation advisor (Advisor) hired by the Board, the District entered into a new contract with the same Consultant when the contract expired in 2009.

We found that the Board has not provided sufficient oversight of the Consultant and the Vendor. District officials have not periodically solicited bids or proposals for primary transportation services. Instead, they have subsequently extended the contracts annually as they expired.<sup>3</sup> In addition, we found that the Consultant did not provide all of the services which, based on the contract with the District, appeared to be the Consultant's responsibility. The Consultant reviewed the Vendor's monthly billings. We reviewed 22 disbursements totaling over \$1.2 million and found minor deficiencies. However, we found that the mileage information submitted by the Vendor for fuel reimbursements was not supported by appropriate documentation

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<sup>2</sup> The first contract was executed for the 1997-98 fiscal year, re-bid in 2009 for the years 2009-10 through 2011-12 and extended in 2012 for an additional three years. After the conclusion of our audit fieldwork, the contract expired in July 2015 and the District, after a request for proposals, has subsequently entered into a transportation oversight services contract with a new consultant.

<sup>3</sup> Four of the District's six subcontracts were last bid in 1982, 1983, 1989 and 1995 and the remaining two in 2009.

and the District was overbilled for over 5,200 gallons of fuel with a value of approximately \$16,300 for 2013-14.

### **Transportation Services Consultant**

In our previous audit report, our Office recommended appointing a District official or another vendor, who is free from the influence of the Vendor, to oversee District transportation services. In response, the Board contracted with the Advisor in 2008 to review the transportation services and to help assess if the Consultant's contract was in the District's best interest.<sup>4</sup> In a March 4, 2009 presentation to the Board, and in a report dated February 2009, the Advisor recommended that the Board terminate the transportation services oversight contract with the Consultant at the earliest possible date, citing a potential conflict of interest for the Consultant to perform the duties. The contract with the Consultant contains a provision that allows the Board to terminate the contract with an advance written notice of 30 days.

Subsequent to the Advisor's recommendation, in 2009 the Board invited competitive bids for the transportation coordination and oversight services and four individuals and businesses, including the Consultant, responded. Despite recommendations from our previous audit and the Advisor, the Board awarded the 2009 contract again to the Consultant.<sup>5</sup>

The Consultant's 2009 contract with the District includes a comprehensive list of responsibilities related to the administration of transportation services. These services were approximately the same as the services set forth in the previous contract, which, in most instances, were not provided by the Consultant as found in our prior audit. These responsibilities, among others, included:

- Review monthly transportation invoices with the Assistant Superintendent, including additional services billing.
- Review current transportation contracts for recommendations of possible consolidation or coordination.
- Review and make recommendations relating to the need for additional vehicles, aides or both with the Assistant Superintendent.

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<sup>4</sup> The Advisor received a one-time payment of \$16,300.

<sup>5</sup> The Board President indicated that the Board awarded the 2009 contract to the Consultant because of the long-standing working relationships the District had with the Consultant and Vendor. It is our understanding that the terms of the 2009 contract between the Consultant and District were then extended for an additional three years, expiring in July 2015.

- Assist in analyzing transportation costs and provide or obtain information necessary for such analysis.
- Assist in preparing New York State Education Department transportation reports.
- Make period reports on the number of students using the transportation services, on not less than a monthly basis.

Given the Consultant's apparent lack of independence and association with the Vendor, and lack of performance per the initial contract, we continue to question whether these services can effectively be provided to the District. For example, we question if the Consultant would recommend actions that would result in potentially reducing the Vendor's revenues, such as consolidating contracts and routes and reducing vehicles or aides, and we found no instances of the Consultant recommending actions that would result in reduced revenues for the Vendor. We also discussed the contract's provisions with the Consultant and various District officials and found that the Consultant provides very few of the services detailed in the contract. In our prior audit, we reported on these deficiencies and on the lack of performance by the Consultant; however, the Board not only hired the Consultant again but also appears, based on the language in the contract, to have failed to ensure the Consultant performed all services as per the agreement. For example, of the six services listed above, we found that only one was provided by the Consultant – the review of monthly bills, which is done in conjunction with the Assistant Superintendent. Therefore, we selected and reviewed 22 billings<sup>6</sup> totaling over \$1.2 million<sup>7</sup> and found that generally the claims appear to be for proper District purposes. The billing rates appear to be in compliance with contractual rates and the payment claims for the established sporting and field trip runs were properly authorized. We identified minor deficiencies that were discussed with District officials.

Although the Consultant participated in reviewing the monthly bills, we found that the Vendor's employees or District officials performed most of the duties and prepared reports that, according to the language of the contract, appear to be the responsibility of the Consultant. For example, the Consultant did not appear to be aware of all the reporting requirements set forth in the contract. The Consultant indicated that he is primarily responsible for coordinating

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<sup>6</sup> We judgmentally selected six billings for regularly scheduled runs for the months of November and December 2014 and January 2015, and 16 payments for field and sports trips from throughout our audit period.

<sup>7</sup> The billing for regularly scheduled runs totaled approximately \$1.3 million.

requests for transportation changes, requests during the school year and reviewing the bills. However, the contract provides, in part, that the Consultant annually submit a report to the District of services provided and documentation to show that the Consultant's services resulted in a more efficient, economical or safe pupil transportation program. The Consultant never provided such a report to District officials. The Consultant indicated that he has limited knowledge of computers and, therefore, any reports would have had to be generated by District officials or Vendor employees.

From December 2009 through March 2015, the District paid a total of \$179,194 to the Consultant. Because the Consultant did not provide all the services which appear to be the Consultant's responsibility per the contractual agreement, and many services are being performed by District officials or Vendor employees, we question the payments to the Consultant and how continuing the contract benefits the District and taxpayers.

### **Contracts for Transportation Services**

The Board is responsible for ensuring that the District procures the desired goods and services in compliance with the District's policies and legal requirements. To accomplish this, it is important that District officials periodically evaluate and seek bids or issue requests for proposals for transportation services.<sup>8</sup> The use of competition provides taxpayers with more assurance that goods and services are procured in a prudent and economical manner and that the procurement is not influenced by favoritism or established relationships.

The Board and District officials have not periodically solicited bids or proposals for transportation services. The District's four subcontracts were last bid between 1982 and 1995 and the remaining two in 2009.<sup>9</sup> District officials stated they have extended the contracts annually as they expired due to the non-competitive nature of the market. District officials indicated that using a bid process is likely to result in higher costs than if a contract is extended because cost increases were restricted to the lower of the Consumer Price Index (CPI) or the rates negotiated with the Vendor. While this might be true in some instances, District officials should conduct a review and explore ways to attract more vendors to possibly lower transportation costs now and in the future.

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<sup>8</sup> In general, Education Law provides that transportation contracts may be awarded to the lowest responsible bidder or based on an evaluation of proposals in response to a request for proposals.

<sup>9</sup> The contracts were last bid as follows: Pupils to Public, Private, and Parochial Schools – 1982, Athletic and Educational Trips – 1983, Intramural Activities – 1989, Various School Programs – 1995, Special Education Home to School and Early Release – 2009.

## Fuel Purchases

District officials are responsible for establishing adequate controls over the purchase and use of fuel. The fuel purchased by the District and furnished to its Vendor should be used to transport District students as per the transportation contracts. District officials should closely monitor periodic fuel usage reported by the Vendor because the Vendor orders the fuel,<sup>10</sup> reconciles the amounts used annually and retains the fuel in its own storage tanks, which are shared with other school districts.<sup>11</sup>

We reviewed the reconciliation report prepared by the Vendor for the 2013-14 school year. We found that the District was given a one-page summarized report showing gross mileage, without any supporting documentation to show the actual route miles logged by the drivers. The District and the Consultant did not request documentation to support the number of daily route miles used to calculate the predetermined amount of fuel to be provided by the District.<sup>12</sup>

During 2013-14, the District paid \$276,640 for 116,206 gallons of diesel fuel that was delivered to the Vendor's storage tanks. We compared the route mileage provided by the Consultant to the reconciliation summary and found that fuel purchased by the District appeared to exceed fuel used by the Vendor by over 5,200 gallons, or approximately \$16,300 which was not credited back to the District.<sup>13</sup> We found that the District was overcharged by the Vendor an additional 5 percent for "bus warm-up and idle time" during 2013-14. The contract contains no provision for such a charge. District officials stated that they provided this additional fuel because it has always been provided and that fuel used for warming up the buses is needed for the run.

The Board and District officials' failure to implement the recommendations from our previous audit<sup>14</sup> and from their Advisor regarding instituting effective processes and procedures to monitor

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<sup>10</sup> The legal propriety of the Vendor ordering and storing fuel on behalf of the District is not within the scope of this audit.

<sup>11</sup> At the end of the year, the Vendor prepares a reconciliation statement, showing the amount of fuel purchased by the District, the estimated amount that should have been purchased based on the route miles and the resulting fuel due to the Vendor or credit due to the District.

<sup>12</sup> The Consultant stated that the route mile summaries presented appear adequate and he trusts the Vendor's employees because he has personally worked with them for a long time. However, during our audit, we asked for support for the route miles and the Consultant contacted the Vendor at that time to obtain supporting documentation for the route miles reported.

<sup>13</sup> Gallons purchased by the District and delivered were 116,206 and gallons per mileage records (excludes the 5 percent "bus warm-up charge" assessed by Vendor) that should have been delivered were 110,957, a difference of 5,249 gallons at an average price of \$3.11 based on total fiscal year deliveries.

<sup>14</sup> As indicated on page 2 of this report.

the transportation services continues to expose the District to the risk of inappropriate or inaccurate billing and resulted in the District apparently being overbilled by approximately \$16,300. Additionally, the District, and ultimately taxpayers, may not have received the intended benefit of the Consultant contract since the Consultant continues to not perform services which, according to the contract with the District, appear to be the responsibility of the Consultant. Without effective oversight by the District and Board, and periodic competitive bids or proposals, taxpayers have less assurance that transportation services are being procured and provided in the most prudent and economical manner.

## **Recommendations**

The Board should:

1. Periodically evaluate its contracts and seek competition for transportation services.

District officials should:

2. Require the Vendor to submit records to support the total number of daily route miles used in calculating the District's annual fuel use.
3. Ensure mileage information used to calculate the fuel usage complies with the contract.

## **APPENDIX A**

### **RESPONSE FROM DISTRICT OFFICIALS**

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

# Lockport City School District

## Board of Education

130 Beattie Avenue, Lockport, New York 14094-5099

John A. Linderman, President  
David M. Nemi, Vice President  
Marietta Schrader, Secretary

Fax: (716) 478-4863  
Phone: (716) 478-4835

Michelle T. Bradley, Superintendent  
Deborah A. Coder, Clerk

December 17, 2015

Jeffrey D. Mazula, Chief Examiner  
Office of the State Comptroller  
Buffalo Regional Office  
295 Main Street, Room 1032  
Buffalo, NY 14203-2510

Dear Mr. Mazula;

On behalf of the Lockport City School District Board of Education and administrative team, we would like to express our appreciation to your audit team for the informative report provided to the district following the recent audit process. After reviewing the draft audit report on Monitoring Transportation Contracts and Costs for the period July 1, 2013 through May 21, 2015, we believe the report is in alignment with district initiatives that were already underway.

Based upon the results of the examination, the district is pleased with the findings that show overall adequate and appropriate internal controls are in place to minimize the risk of theft, fraud and abuse while ensuring compliance with accounting practices and compliance with policy. The Lockport City School District is committed to maintaining the highest level of ethical standards and strong fiscal controls to safeguard district funding, and the report reflects the district's commitment to fiscal responsibility. It is important to note that most of the recommendations contained in the report had already been implemented prior to the arrival of the State Comptroller auditor and the release of the draft audit report.

The draft audit report includes findings in three areas for which the district confirms the implementation of initiatives was underway prior to the commencement of the audit. Our responses to your findings are as follows:

### Transportation Services Consultant

Prior to the release of the State Comptroller's report concerning the appropriateness of the district transportation consultant and a perceived conflict of interest, the district had already advertised for, and hired, an independent transportation consultant effective July 1, 2015. This newly-hired independent consultant has never been employed by our current transportation company, however, this consultant does have over thirty years of experience in the school transportation industry.

John D. Craig  
Diane R. Phelps

Thomas W. Fiegl  
Kevin W. Pratt

Todd G. McNall  
Diane R. Phelps

### **Contracts for Transportation Services**

The Board of Education did seek formal bids for transportation of students with special needs in 2009, with the intent of seeking bids for the remaining five contracts in 2010. However, given the fiscal constraints put on the district by the State of New York, and upon advice from the district's independent transportation advisor, the Board of Education decided not to expend additional taxpayer dollars to solicit bids, potentially resulting in higher transportation costs above existing contracts, which were capped at the CPI increase only.

### **Fuel Purchase**

Prior to the release of the State Comptroller's report concerning adequate controls over establishing correct mileage calculations for the purposes of purchasing fuel, the district requested mileage routing reports developed through the transportation software system which clearly identifies the number of miles actually transported versus driver-submitted manual mileage logs. These reports will be obtained at the beginning of each school year and verified every time the district is requested to purchase fuel for the transportation company.

In conclusion, the district confidently states the findings in this written report had been fully addressed prior to the commencement of the examination and during the issuance of the audit report.

Thank you for your time, efforts, and assistance during the audit of our district records.

Sincerely,

/John A. Linderman  
Board of Education President  
Lockport City School District

Michelle T. Bradley  
Superintendent of Schools  
Lockport City School District

JAL/MTB:bb

## **APPENDIX B**

### **AUDIT METHODOLOGY AND STANDARDS**

To achieve our audit objective and obtain valid audit evidence, we performed the following audit procedures:

- We interviewed District officials to gain an understanding of the District's monitoring of transportation costs and policies and procedures over the awarding of the transportation contracts.
- We interviewed District officials, staff and the Consultant to gain an understanding of the requirements of the transportation contracts and the billing process.
- We reviewed the District's Board meeting minutes and policies relating to bids and the coordination and oversight of transportation services.
- We reviewed the Vendor's and Consultant's contractual agreements.
- We judgmentally selected a sample of six regular transportation bills for three consecutive months and 16 other transportation bills and related disbursements for field trips, sports and other miscellaneous runs to ensure at least one bill from each of the District's contracts was tested.
- We reviewed all 63 payments made to the Consultant from December 2009 through May 2015.

We conducted this performance audit in accordance with 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.

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