



Orchard Park Central School District

School Bus Procurement and Reserves

Report of Examination

Period Covered:

July 1, 2012 — November 20, 2013

2013M-368



Thomas P. DiNapoli

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State of New York Office of the State Comptroller

Division of Local Government and School Accountability

March 2014

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 operations and Board of Education governance. Audits also can identify strategies to reduce costs and to strengthen controls intended to safeguard district assets.

Following is a report of our audit of Orchard Park Central School District, entitled School Bus Procurement and Reserves. 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 Orchard Park Central School District (District) is located in the Towns of Aurora, Boston, Elma, Hamburg, Orchard Park and West Seneca, all of which are in Erie County. The District, which operates six schools and one District office building, has an enrollment of approximately 5,000 students and a workforce of approximately 850 employees. The District's total expenditures for the 2012-13 fiscal year were approximately \$82 million. These expenditures were funded primarily with revenues from real property taxes, State aid and sales tax.

The District is governed by the Board of Education (Board), which is comprised of seven 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.

Scope and Objective

The objective of our audit was to evaluate the internal controls over selected financial activity for the period July 1, 2012 through November 20, 2013. We extended our review of reserve activity back to 2010-11. Our audit addressed the following related questions:

- Did the District verify that all procured non-original equipment manufacturer (OEM) school bus options were consistent with State contract discount pricing?
- Did the Board properly plan for the use of reserve funds?

Audit Results

District officials did not verify that all non-OEM school bus options were consistent with State contract pricing for the 16 school buses they purchased in 2012-13 and 2013-14. District officials did not obtain the State contract list price books, apply the appropriate contract discounts or compare the resultant prices with the invoice prices. As a result, they overpaid by \$12,080 for two non-OEM options (rust proofing and heaters) installed on 12 of the buses.

The Board did not properly plan for the use of reserve funds. As of June 30, 2013, the District had seven reserve funds with balances totaling \$5 million. We analyzed these reserves for reasonableness and adherence to statutory requirements, and found the balances of five of the reserves appeared to be reasonable. However, the balances of two reserves (the unemployment insurance and tax reduction reserves) with balances totaling approximately \$2.2 million appeared higher than necessary to fund

costs that may be legally paid from these reserves. District officials should use the excess reserve funds to pay off debt or finance one-time expenditures.

Comments of District Officials

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

Introduction

Background

The Orchard Park Central School District (District) is located in the Towns of Aurora, Boston, Elma, Hamburg, Orchard Park and West Seneca, all of which are in Erie County. The District is governed by the Board of Education (Board), which is comprised of seven 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 Business Manager and Treasurer are responsible for the District's finances, accounting records and financial reports.

The District, which operates six schools and one District office building, has an enrollment of approximately 5,000 students and a workforce of approximately 850 employees. The District's total expenditures for the 2012-13 fiscal year were approximately \$82 million. These expenditures were funded primarily with revenues from real property taxes, State aid and sales tax. As of June 30, 2013, the District had more than \$5 million in Board-authorized reserves.

The Transportation Department is supervised by a Transportation Manager and has two office employees and three mechanics. The District owns and operates 43 large capacity buses and 35 small capacity buses, and outsources 18 general education bus routes. The District has been purchasing small and large capacity school buses from vendors who have been awarded State contracts for these vehicles. The most recent school bus purchases are as follows: August 2012 – three large capacity buses totaling \$323,426, October 2012 – five small capacity buses totaling \$308,929, August 2013 – four large capacity buses totaling \$444,597 and four small capacity buses totaling \$233,485.

Objective

The objective of our audit was to evaluate the internal controls over selected financial activity. Our audit addressed the following related questions:

- Did the District verify that all procured non-original equipment manufacturer school bus options were consistent with State contract discount pricing?
- Did the Board properly plan for the use of reserve funds?

**Scope and
Methodology**

We examined the District’s internal controls over bus procurement and reserve funds for the period July 1, 2012 through November 20, 2013. We extended our review of reserve activity back to 2010-11.

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

**Comments of
District Officials and
Corrective Action**

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

The Board has the responsibility to initiate corrective action. Pursuant to Section 35 of the General Municipal Law, Section 2116-a (3) (c) of the Education Law and Section 170.12 of the Regulations of the Commissioner of Education, a written corrective action plan (CAP) that addresses the findings and recommendations in this report must be prepared and 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.

School Bus Procurement

District officials making purchases through a State contract should be familiar with the terms and conditions governing the use of the contract, and should hold the vendor accountable for charging the District the correct price. For example, according to the New York State Office of General Services (OGS), vehicle options that are referenced on the vendor's price list, whether original equipment manufacturer (OEM) or non-OEM, are generally subject to the contract discounts. District officials should verify the price of OEM and non-OEM options by comparing relevant list prices, reduced by contract discounts, to the vendor's invoice. Items not appearing on vendor's price lists are considered open market purchases and are subject to the District's procurement policy.

District officials did not verify that they received the correct State contract prices for non-OEM options that were installed on the 16 school buses they purchased in 2012-13 and 2013-14 fiscal years. The Transportation Manager did not obtain the relevant State contract list price books, apply the appropriate contract discounts or compare the resultant prices with the invoice prices.¹ As a result, District officials cannot demonstrate that they are paying the correct prices for non-OEM options. We found that the District overpaid, by \$12,080, for two non-OEM options on the new buses.

The District purchased 12 school buses from a vendor who was awarded a State bus contract. The vendor charged the District \$29,148 for rust-proofing these vehicles.² Had the applicable State contract discounts of 25 percent for small capacity buses and 20 percent for large capacity buses been properly applied to the list prices, the District would have paid \$22,795 for the rust-proofing,³ a difference of \$6,353. Additionally, the District purchased seven heaters totaling \$28,637 (\$4,091 each). Had the applicable 20 percent discount been applied, the District would have paid \$22,910 for the heaters, (\$3,273 each), a difference of \$5,727. We discussed our findings with the vendor who stated that these options were installed by a subcontractor, and the bus vendor charged the District the costs charged by the subcontractor. The

¹ This comparison should have been documented and attached to the vendor's claim for review by the claims auditor prior to approving it for payment.

² During 2012, District officials purchased five small capacity buses and were charged \$2,088 for rust proofing, and three large capacity buses and were charged \$2,604 for rust proofing. During 2013, District officials purchased four large capacity buses and were charged \$2,724 for rust proofing.

³ The District should have been charged \$1,566 for rust proofing five small capacity buses and \$2,083 for rust proofing three large capacity buses in 2012 and \$2,179 for rust proofing four large capacity buses in 2013.

bus vendor indicated that had the discount been applied, the vendor would have lost money on the sale. However, we found nothing in the State contract or the price lists which prohibited the contract discount rate from being applied to these non-OEM options.

We also found the vendor charged different list prices for rust-proofing than indicated in the vendor's list price book. The vendor charged the District \$2,088 for rust-proofing small capacity buses and \$2,604 for rust-proofing large capacity buses. The list price book indicated that rust-proofing for small capacity buses was \$1,824 and \$2,724 for large capacity buses. The vendor told us that prices are volatile and subject to change. OGS also told us that list prices are subject to change and that the vendor is required to offer the most current list prices. We were unable to verify that the vendor's list prices were correct and most current for rust-proofing. If District officials had compared the vendor's prices with the list price book and adjusted for contract discounts, they may have noted the differences and could have reviewed the matter with the vendor prior to payment.

The District also purchased four school buses from another vendor that was awarded a State contract. The buses included cameras (\$13,944), two-way radios (\$2,634) and rust-proofing (\$6,080), which were non-OEM options. We requested a list price book from vendor staff who told us they did not have a list price book for non-OEM options. According to OGS, non-OEM options that do not appear in the vendor's list price book are considered open market purchases. Therefore, they are subject to the District's procurement policy. According to the District's procurement policy, District officials should have solicited written quotations for these purchases, but never did.

This vendor told us that a subcontractor installed all non-OEM options for school buses purchased by the District and that the subcontractor's prices were passed-through to the District. We requested the vendor provide supporting documentation, showing the subcontractors charges for security cameras, two-way radio and rust-proofing. This vendor only provided in-house created purchase orders for the security cameras, two-way radios and rust-proofing. Because the vendor did not provide subcontractor invoices, we were unable to verify whether the prices that the District was charged were the passed-through prices. Additionally, District officials received delivery of the school buses purchased from this vendor on July 1, 2013 but the purchase order for the security cameras was dated September 12, 2013, two months after the school buses were delivered and one month after the District paid for the school buses. The Transportation Manager told us that the school buses were delivered fully stocked and were not returned to this vendor for additional equipment installations.

These questionable transactions highlight the need for District officials to become familiar with the terms and conditions governing the use of the State contracts, obtaining relevant price information, and holding vendors accountable for charging the District the correct prices.

Recommendations

1. The Transportation Manager should request the appropriate price lists from vendors when purchasing vehicles on State contract, and compare the vendor's pricing with the State contract list prices, as adjusted for State contract discounts. This comparison should be documented and attached to the vendor's claim for review by the claims auditor prior to approving it for payment.
2. District officials should obtain written quotations as required by their procurement policy to ensure they are receiving the best prices for open market purchases.
3. The Board should recover any overpayments made to State contract bus vendors.

Reserves

Reserves may be established by the Board in accordance with applicable laws. Moneys set aside in reserves must be used only in compliance with statutory provisions, which determine how reserves are established, funded, expended and discontinued. Generally, school districts are not limited as to how much money can be held in reserves; however, reserve balances must be reasonable. Funding reserves at greater than reasonable levels contributes to real property tax levies that are higher than necessary because the excessive reserve balances are not being used to fund operations. The Board is responsible for developing a formal plan for the use of its reserves, including how and when disbursements should be made.

As of June 30, 2013, the District had seven reserve funds with balances totaling \$5 million. We analyzed these reserves for reasonableness and adherence to statutory requirements, and found the balances of the tax certiorari (\$371,614), employee benefits accrued liability reserve (\$1,515,093), bonded debt (\$361,752), capital reserve-playground project (\$117,040) and capital reserve-turf project (\$387,200) appear reasonable. However, the balances of the following two reserves, with balances totaling approximately \$2.2 million, appeared higher than necessary to fund costs that may be legally paid from these reserves.

Unemployment Insurance Reserve – General Municipal Law authorizes the establishment of this type of reserve to reimburse the State Unemployment Insurance Fund for payments made to claimants. This reserve had a reported balance as of June 30, 2013 of \$913,550, which is larger than necessary. While the District incurred unemployment costs totaling \$199,134 from fiscal year 2010-11 through 2012-13, (an average of \$66,400 per year) these expenditures were consistently budgeted for and paid out of the general fund tax levy as routine operating costs. District officials told us that there is no formal plan in place to use these reserves but they are anticipating lay-offs in the near future. The reserve balance has remained unchanged since it was established in 2010. As such, we question the reasonableness of the amount held in this reserve.

Tax Reduction Reserve – Education Law authorizes school districts to establish a reserve for the gradual use of the proceeds from the sale of school district real property where such proceeds are not required to be placed in a mandatory reserve for debt service. A school district is permitted to retain the proceeds from a sale for a period not to exceed 10 years and to use them during that period for tax reduction.

As of June 30, 2013, the amount in this reserve was \$1,306,627. Officials told us the related property was sold in 2007 and there is no formal plan to use these proceeds, although they will use the reserve to offset the tax levy before the funds expire. District officials told us they were holding the funds for unexpected drops in revenue. The District has increased its tax levy \$3.6 million, or 9.2 percent, over the past three years. If the District had used this reserve to offset the tax levy for 2013-14, the District would have increased the tax levy from the prior year by 0.82 percent, instead of 3.28 percent.

District officials did not have a formal plan for the use of reserves, including how and when disbursements should be made, optimal or targeted funding levels and why these levels are justified.

Reserve funds should not merely be used as a means to store excess fund balance. The Board should balance the intent for accumulating moneys for future identified needs with the obligation to ensure taxpayers are not overburdened. Excess reserve funds could be used to pay off debt or finance one-time expenditures in compliance with statutory limitations.

Recommendations

4. The Board and District officials should review reserves and determine if the amounts reserved are necessary and reasonable.
5. District officials should develop a plan for the use of the excess amounts in reserve funds in a manner that benefits District taxpayers.

APPENDIX A

RESPONSE FROM DISTRICT OFFICIALS

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

Orchard Park Central School District

2240 Southwestern Blvd. West Seneca, NY 14224



Matthew McGarrity
Superintendent

www.opschools.org
(716) 209-6200

March 19, 2014

By Regular Mail and Electronic Mail

[REDACTED]
Office of the State Comptroller
Local Governments and School Accountability
295 Main Street, Room 1032
Buffalo, New York 14203

Re: Orchard Park Central School District

Dear [REDACTED]

The following constitutes the Orchard Park Central School District's response to the Report of Examination issued by your office which is entitled "School Bus Procurement and Reserves". The Report of Examination covers the District's fiscal operations during the period July 1, 2012 through November 30, 2013.

At the outset, the District would like to express its appreciation for the professional and courteous manner in which your staff carried out its important audit responsibilities during the nearly 2 1/2 months spent at the District Office reviewing files and documents from August 26, 2013 to November 1, 2013. It's very reassuring to know that after the lengthy time spent in our office reviewing extra-classroom accounts, food service, payroll & benefits, transportation department, and many other areas, that the only areas that warranted comment and further review and recommendations were in the bus purchase and reserve areas.

The District is currently in the process of preparing its Corrective Action Plan to fully address the findings and recommendations in the Report of Examination, and that Plan will be filed within the 90 day period specified by law. Here is the District's initial response to the two areas of recommendation in your audit:

Jeffrey R. Petrus
Assistant Superintendent for
Business & Support Services

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School Bus Procurement:

The Assistant Superintendent for Business will review the Comptroller's Office work papers, analysis, and determination in which they state the District overpaid for certain non-original equipment manufacturer school bus options on school buses purchased in the 2012-13 and 2013-14 fiscal years. In the Comptroller's Office analysis, they determined that two vendors, from which the buses were purchased, did not charge the correct state contract pricing for the non-original equipment (or optional equipment) that was intended to be purchased via state contract pricing.

If after a thorough review of the supporting documentation, the District determines they were overcharged, they will make every effort to recover any overpayments they determine did not follow state contract pricing, as well as report the bus companies that to the NYS Office of General Services Procurement Office for possible improper practices on their part.

The District will provide an update on the result of this analysis, recovery of overpayment, and plan to ensure it doesn't happen in the future, in the Corrective Action Plan.

Reserves:

The Administration and Board of Education will review each of our reserves to verify that the amounts reserved are necessary and reasonable, as you requested. The amounts reserved are not only reviewed by our External Auditor annually as part of our external audit, but they actually made the recommendation on the original amount to be reserved for each. These amounts were not just set up to "store excess fund balance". We were being financially responsible in setting these reserves up to help support the budget during difficult financial times and anticipating possible large, one-time expenditures due to layoffs and not cause large spikes in the tax impact on the community.

Unemployment Insurance Reserve:

This reserve was set up in 2010-11, as recommended by our External Auditor, in anticipation of a large group of layoffs possible with the poor economic climate. As you know, many districts have experienced massive layoffs the last few years due to severely reduced state aid, and now the tax cap, which drastically limits the revenue needed to fund our programs and mandates. The reserve was set up so as to avoid a one-time spike in taxes to our community which is also now limited due to the tax levy cap. If we had a large layoff in any one given year, the unemployment costs alone would eat up a large portion of the savings due to the required staff reductions. To date, we have only had a few layoffs that have resulted in unemployment payments going to former employees, so we have been able to pay for those within the budget amounts previously budgeted for this expense.

Due to sound fiscal planning we have been able to avoid large staff reductions and thus, a large unemployment insurance cost spike. However, as you know, we are not out of the woods yet. There is no immediate end in sight for school districts with regards to struggling financial conditions. While we have been able to hang on so far without a large reduction in staff, we do anticipate that there is a strong possibility that a large layoff still may happen if the state funding doesn't get restored in the next few years.

The District, and its external auditors, believe we are being financially responsible by securing these reserve funds for unemployment insurance should there be a large layoff of staff, which is highly likely in the next few years.

Tax Reduction Reserve:

The Tax Reduction Reserve was set up with the proceeds of the sale of the Murphy Road property in 2007. By law, a District is permitted to retain the proceeds from the sale of property for a period of ten years and to use them during that period for tax reduction. While we did not have a formal plan outlining the exact amounts to be used each year, we have been cautiously reviewing the use of this reserve to help avoid any spiked increases in property taxes to the community and/or any large layoff situations in any one given year. The 2013-14 year was the first year we determined was the best time to utilize these funds to avoid layoffs.

To say we do not have a formal plan is a little unfair and misleading because it is impossible to determine how much you will need to use each year when we have no way of forecasting future state aid increases and/or reductions and increases in mandated expenses. If the state had a reliable system of determining state aid allocations to school districts as part of a long range, multiple year plan, it would allow school districts to outline an accurate long range plan on how best to use reserve monies. When the state is forcing the school districts to live year-to-year, and not knowing the following year's state aid allocation or changes in mandated expenses, it is unfair to say we have no long term plan showing how much we will be using each year. It is impossible to determine over a ten year period.

That being said... we are planning on using \$550,000 of the \$1,306,627 amount in the reserve during the current 2013-14 budget year. We are also planning on using a similar amount in next year's 2014-15 budget to reduce the impact of layoffs and prevent a spike in taxes, as our long term planning suggests. Over the current two year period we will using at least \$1.1 million of the \$1.3 million reserve. This will only leave us about \$200,000 left to use in the 2015-16 budget. With this plan, the money will be returned to the taxpayers within the ten year period allowed by law.

*Jeffrey R. Petrus
Assistant Superintendent for
Business & Support Services*

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Conclusion

Once again, the District's administration and Board of Education wish to express their appreciation for the Comptroller's Office assistance in helping to ensure the District's finances are managed with fiscal responsibility and accountability. The interactive process between the Comptroller's office and the District during the audit process will no doubt benefit the District and its taxpayers by identifying additional ways to strengthen the District's financial operations.

Please let us know if your office has any questions regarding the District's official response to the Report of Examination. You will receive our Corrective Action Plan within 90 days as requested.

Very Truly Yours,

Jeffrey R. Petrus
Assistant Superintendent for Business

Jeffrey R. Petrus
Assistant Superintendent for
Business & Support Services

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APPENDIX B

AUDIT METHODOLOGY AND STANDARDS

Our overall goal was to assess the internal controls put in place by District officials to safeguard District assets. To accomplish this, we performed an initial assessment of internal controls so that we could design our audit to focus on the areas most at risk. Our initial assessment included evaluations of the following areas: financial condition, information technology, cafeteria operations, extra-classroom activity, payroll, community education, cash receipts and disbursements, procurement and reserves.

During the initial assessment, we interviewed appropriate District officials, performed limited tests of transactions and review pertinent documents such as Board minutes, bank statements and available financial records. 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 on the reported objective and scope by selecting for audit the areas most at risk. We selected school bus procurement and reserves for further testing.

To accomplish the objective of this audit and obtain valid audit evidence, our audit procedures included the following steps:

School Bus Procurement

- We interviewed District officials to gain an understanding of the internal controls over the school bus procurement process.
- We corresponded with the New York State Office of General Services to obtain clarification on the terms and conditions of purchasing non-OEM options from State contract.
- We interviewed both school bus vendors to gain an understanding of their invoices and pricing.
- We compared the District's invoices with the list price book to determine what list prices apply to the non-OEM options the District selected for their school buses. We applied the discount offered on State contract to the list price for the non-OEM options selected by the District to determine if the District was charged the correct price.

Reserves

- We interviewed District officials to obtain an understanding of the District's use of reserves.
- We reviewed the last three years of financial information submitted to the Office of the State Comptroller.
- We reviewed the minutes of the Board's proceedings, accounting records, audited financial statements, applicable statutes, and activity within the reserves to determine if the reserves were properly established, funded and used.

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.

APPENDIX C

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