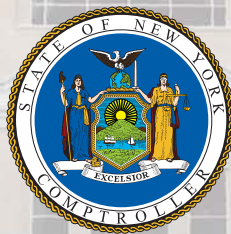




St. Joseph's School for the Deaf

Selected Financial Management Practices

Report 2009-S-30



Thomas P. DiNapoli

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State of New York Office of the State Comptroller

Division of State Government Accountability

January 14, 2010

Ms. Clare Thompson
President
St. Joseph's School for the Deaf
1000 Hutchinson River Parkway
Bronx, NY 10465

Dear President Thompson:

The Office of the State Comptroller is committed to providing accountability for tax dollars spent to support government funded services. The Comptroller oversees the fiscal affairs of State agencies, public authorities, and local government agencies, as well as their compliance with relevant statutes and their observance of good business practices. This fiscal oversight is accomplished, in part, through our audits, which identify opportunities for improving operations. Audits can also identify strategies for reducing costs and strengthening controls that are intended to safeguard assets.

Following is a report of our audit of financial management practices at St. Joseph's School for the Deaf (School). This audit was performed pursuant to the State Comptroller's authority as set forth in Article V, Section 1, of the State Constitution and Article II, Section 8, of the State Finance Law.

This audit's results and recommendations are resources for you to use in effectively managing your operations and in meeting the expectations of taxpayers. If you have any questions about this report, please feel free to contact us.

Respectfully submitted,

*Office of the State Comptroller
Division of State Government Accountability*



State of New York Office of the State Comptroller

EXECUTIVE SUMMARY

Audit Objective

Our objective was to determine whether St. Joseph's School for the Deaf (School) has established and maintains an adequate system of internal control over its financial operations in the areas of procurement, cash disbursements, and payroll practices.

Audit Results - Summary

We determined that the Board needs to improve its efforts to monitor compliance with certain elements of the School's policies and procedures, and it needs to ensure that the School's activities comply with State Education Department (SED) guidance. For example, the Board did not provide adequate oversight of the School's financial operations with regard to procurement and cash disbursements. In both these areas, we found non-compliance with established policies and procedures.

We found that the School often did not follow the procedural guidance provided by SED and its own internal practices when disbursing payments. Thus, there is limited assurance that the School received the goods and services at a reasonable price. According to SED's guidance, the School should use competitive procurement procedures for purchases of goods and services exceeding \$10,000 and public works projects exceeding \$20,000. For 11 of 12 transactions, totaling \$391,050 we found no evidence that School officials had requested bids or solicitations from other vendors. For example, the School paid a plumbing company \$102,784 for repairs without obtaining bids from other vendors. In addition, it had paid an electric contractor \$39,373 for services without using competitive bidding. The School also needs to strengthen its adherence to procedures for completion of purchase orders.

Our report contains 8 recommendations for improving controls over procurement, cash disbursement practices, and personnel/payroll practices. School officials agreed with most of our recommendations.

This report, dated January 14, 2010, is available on our website at: <http://www.osc.state.ny.us>.

Add or update your mailing list address by contacting us at: (518) 474-3271 or

Office of the State Comptroller

Division of State Government Accountability

110 State Street, 11th Floor

Albany, NY 12236

Introduction

Background

St. Joseph's School for the Deaf (School) is located in the Bronx, New York. The School is one of eleven private schools in New York State (State) that receive operating aid directly from the State to provide educational services for disabled students pursuant to Section 4201 of the State Education Law. The School also operates a daycare center and pre-school on-site. During the 2007-08 fiscal year, the School had an enrollment of about 112 students and employed 98 staff.

The School received approximately \$9 million in State funds to operate during the same period. The School is governed by a nine-member Board of Trustees (Board). According to the Board's By-Laws, it is responsible for the general management and control of the School's financial and education affairs. The Executive Director, along with other administrative staff, is responsible for the day-to-day management of the School under the direction of the Board.

Audit Scope and Methodology

The objective of our audit was to determine whether the School has established and maintains an adequate system of internal control over its financial operations in the areas of procurement, cash disbursements, and payroll. Our audit period was from July 1, 2007, through June 19, 2009.

To accomplish our objective, we reviewed the School's records related to procurement, cash disbursement, and personnel/payroll transactions. We reviewed Board meeting minutes, and financial statements prepared by the School's independent certified public accountant (CPA), as well as the School's completed Consolidate Financial Reports (CFR) for the audit period. We interviewed School officials and staff to obtain an understanding of the School's policies and procedures for the procurement, cash disbursement, and payroll functions. We also reviewed applicable laws and regulations and the School's practices related to procurement. Further, we reviewed a sample of 12 procurements to determine compliance with applicable laws, regulations, policies, and procedures. We also reviewed a sample of 25 cash disbursements to determine whether School officials complied with applicable policies and procedures. We reviewed the records of 18 employees to determine whether the School was in compliance with Section 424-a of the Social Services Law. Using VERIS software, we sought to verify that the School's employees had valid Social Security numbers.

We conducted our performance audit in accordance with generally accepted government auditing standards. 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.

In addition to being the State Auditor, the Comptroller performs certain other constitutionally and statutorily mandated duties as the chief fiscal officer of New York State. These include operating the State's accounting system; preparing the State's financial statements; and approving State contracts, refunds, and other payments. In addition, the Comptroller appoints members to certain boards, commissions, and public authorities, some of whom have minority voting rights. These duties may be considered management functions for purposes of evaluating organizational independence under generally accepted government auditing standards. In our opinion, these management functions do not affect our ability to conduct independent audits of program performance.

Authority

The audit was performed pursuant to the State Comptroller's authority as set forth in Article V, Section 1, of the State Constitution and Article II, Section 8, of the State Finance Law.

**Reporting
Requirements**

We provided a copy of this report, in draft, to School officials. We have considered their comments in preparing this audit report. School officials disagreed with some of our conclusions, but generally agreed with many of our recommendations. Officials provided details regarding the actions they are taking to address our recommendations. A copy of the School's response is attached to this report.

Within 90 days of the final release of this report, as required by Section 170 of the Executive Law, the Superintendent of the School shall report to the Governor, the State Comptroller, and the leaders of the Legislature and fiscal committees, advising what steps were taken to implement the recommendations contained herein, and where recommendations were not implemented, the reasons therefor.

**Contributors
to the Report**

Major contributors to this report include Kenrick Sifontes, Stephen Lynch, Tania Zino, Jonathan Bernstein, Trina Clarke, and Irina Kovaneva.

Audit Findings and Recommendations

Board Oversight

SED provides guidance to the School's Board members that is intended to help them perform their duties. For example, SED recommends that the Board monitor the School's compliance with laws and regulations applicable to its operations, and to approve the School's policies and contracts. In addition, the Board should help set the fiscal environment or "tone at the top," in order to promote a theme of fiscal responsibility and ethical conduct among all School staff and Board members. SED also recommends that Board members establish an Audit and Finance Committee to monitor the adequacy of the School's internal controls and financial reporting process. This committee would also be responsible for monitoring the reliability of the School's fiscal reports and ensuring that the weaknesses reported by the School's external auditors are corrected promptly.

We found the Board needs to strengthen its oversight of the School's financial operations with regard to procurement and cash disbursements to ensure that an appropriate internal control environment is set for the School. We determined the Board did not monitor the School's compliance with either SED guidance for competitive bidding or its own policies and procedures. We also found School officials' procurement practices did not provide assurance that a competitive process was used to obtain best prices.

During the period of July 2007 through March 2009, the Board held eight regular Board meetings. The minutes from those meetings do not indicate that the Board discussed any matters relating to bank reconciliations or procurements that required competitive bidding. Further, there were no detailed discussions of the School's budget.

We also reviewed the School's By-Laws and determined that they need to be strengthened. We found that the By-Laws did not prescribe the frequency of Board meetings; nor did they provide sufficient guidance to Board members regarding financial oversight of the School's daily operations. Further, the By-Laws did not establish the Board's responsibility for oversight of the contracting process. For example, the Executive Director could enter into any contract on behalf of the School without obtaining Board approval. In addition, without a formal resolution, the Board allowed School management to process three cost-of-living increases, totaling \$703,403, for all employees working at the School during the 2007-08 fiscal year. The Board acknowledged that approval for these increases was not documented in the minutes. However, they stated that the Board had agreed to pay all three of the cost-of-living increases, which totaled \$113,427.

In response to our draft report, School officials stated that, in their view, adequate oversight was provided by the Board and this is reflected in the School's budget controls and accurate financial reports. Board members advised us that they will continue their efforts to monitor the School's compliance with SED guidance and the School's own internal procedures, and will approve all cost-of-living increases. In addition, the Board Chair is currently working with legal counsel to review and revise the Board's By-Laws.

- Recommendations**
1. Monitor the School's compliance with SED guidance as well as its own internal procedures to ensure that the School is being operated in an efficient and effective manner.
 2. Revise the Board's By-Laws to specify frequency of Board meetings, and to establish the Board's responsibility for oversight of the contracting process.
 3. Require that all approved COLA payments be documented in the Board minutes.

Procurement

Purchases Subject to SED Guidance

SED provides entities such as the School with procedural guidance, related to procurement, derived from its Reimbursable Cost Manual and the State's General Municipal Law (Section 103). SED's guidance helps to ensure that materials, supplies and equipment are obtained in the quantities needed and at the lowest reasonable price. It states that the School should solicit bids by advertising public works projects of \$20,000 or more and purchases of goods or services valued at \$10,000 or more. A public works project designation would apply to projects in which both labor and materials are involved. During the period of July 1, 2007, through April 2, 2009, 25 procurements met these thresholds. However, we determined that the School often did not conform to SED's guidance.

To determine whether the School had complied with SED guidance for competitive bidding, we judgmentally selected 12 large procurements that were made during the period of July 1, 2007, through April 2, 2009, for goods and services valued at more than \$10,000 and public works projects valued at more than \$20,000 (see Exhibit A). These transactions totaled \$419,252 and were selected to test a variety of expense classifications (e.g., repairs, construction, etc.) that were of a high dollar value. Of the 12 transactions, we found that 11, totaling \$391,050, were not competitively bid, as recommended. For example, the School paid a plumbing contractor \$102,784 for repairs without obtaining bids from other vendors. In addition, it also paid an electric contractor \$39,373 for services without

using competitive bidding. Therefore, there is limited assurance that the price paid was reasonable.

We also found that the School does not advertise or require vendors to submit sealed bids. In addition, the School does not have formal bid openings or prepare written justifications for its vendor selections. Further, there was no requirement that the Board approves contracts exceeding a certain threshold thus; the Executive Director could enter into any contract on behalf of the School.

The School does not have one central purchasing agent; instead, each department performs its own purchasing. We found that the School used multiple vendors for comparable goods and/or services. For example, although the School had a written contract with an extermination company, we found it had also procured comparable services from another vendor. The School may have been able to save money if it had competitively bid and/or entered into a contract with one vendor instead of multiple vendors who provided the same goods and/or services. The following expenditures are examples of the School's use of multiple vendors:

- Two different plumbing vendors were paid a total \$109,839.
- Three different landscaping vendors were paid a total of \$55,396.
- Eight different school supply vendors were paid a total of \$35,737.
- Three different computer equipment vendors were paid a total of \$35,089.

School officials stated that the School is not legally bound to comply with the General Municipal Law. We acknowledge the School's position on this matter. However, we also note that the State Education Law provides the Commissioner of Education with the general supervision of all schools and institutions that are subject to the provisions of the Education Law. Because the direct provision of State funding to the School is authorized explicitly under the Education Law, we believe the School should follow SEDs formal guidance pertaining to financial operations. Moreover, we are pleased that School officials acknowledge the value of clearly defined and consistently followed policies and procedures for procurement and contracting.

Purchases Not Subject to SED Guidance

SED guidance advises schools to adopt written policies and procedures for the procurement of goods and services that are below the \$10,000 and \$20,000 thresholds. These policies and procedures should establish the dollar limits for the use of verbal and written quotations.

We found that the School has not established written policies and procedures for purchases of goods and services that are below the \$10,000 and \$20,000 thresholds. This weakness in the School's purchasing process provides little protection against favoritism, extravagance, and waste. Because School officials have not used a competitive procurement process, they have limited assurance that they paid a reasonable price or that the contracts were awarded in a fair and equitable manner. For example, the School procured the following expenditures for goods and services without having verbal or written quotations:

- \$6,260 in fiscal year 2007-08 and \$8,647 in fiscal year 2008-09 for car services
- \$7,371 in fiscal year 2007-08 and \$4,300 in fiscal year 2008-09 for security alarm services
- \$8,635 in fiscal year 2007-08 and \$6,512 in fiscal year 2008-09 for office equipment repairs and supplies

The School advised us that they will work to enhance its written policies and procedures for purchasing goods and services that are not subject to competitive bidding by including dollar limits for the use of verbal and written quotations.

- | | |
|------------------------|---|
| Recommendations | <ol style="list-style-type: none"> 4. Comply with SED guidance for competitive procurements involving both goods and services. 5. Perform a cost/benefit analysis of whether centralizing the School's purchasing function would be beneficial. 6. Develop and implement written policies and procedures for purchasing goods and services that are both subject and not subject to competitive bidding. |
|------------------------|---|

Cash Disbursements	<p>SED guidance recommends that justification for school purchases be documented, and that such purchases be related directly to the educational program. In addition, all purchases must be supported by invoices describing the item purchased and indicating the purchase date and the purchase price. According to the School's Manual, the Department initiating the purchase is required to prepare one of the following: (1) a purchase order - a requisition form used to pre-encumber the funds needed for the merchandise or service ordered or requested, detailing each item, quantity, unit cost, and total cost, including shipping; or (2) a check request - a requisition used when payment is required in advance. During the period of July 1, 2007, through April</p>
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2, 2009, St. Joseph's School for the Deaf made 2,202 cash disbursements, totaling \$15,099,498.

To determine whether School officials had adhered to SED guidance and their own procedures, we selected and reviewed a judgmental sample of 25 cash disbursements totaling \$193,128. We selected disbursements with the highest dollar amount covering various types of expenditures such as plumbing, carpeting, physical therapy and car service. We found that School officials did not follow their procedures for 14 of the 25 cash disbursements. We noted that all 14 disbursements, totaling \$110,700, were missing a purchase order or check request. For example, School officials paid an invoice to a plumbing company, totaling \$27,089, even though no purchase order or check request had been issued authorizing these services. We also found that School officials paid another vendor \$23,135 for carpeting and tiling without written authorization.

School officials advised us of their oral authorization process, which is designed to prevent unauthorized purchases of services. All purchases of required services are orally approved by an administrator prior to the commencement of the service. Final approval is evidenced by an administrator's signature on the invoice prior to payment. Nonetheless, School officials stated that they will comply with SED guidelines and their own policies in the future.

Recommendations

7. Comply with SED guidelines and the School's own procedures regarding cash disbursements.
8. This recommendation was removed from the final report based upon the school's response.

Review of IRS 1099 Forms

All income earned as an independent contractor is reported on an IRS Form 1099 (1099 form) instead of the usual IRS Form W-2 that is used to report the earned income of employees. Generally, Local, State and Federal taxes are not withheld from the earnings reported on the 1099 form.

We reviewed the 1099 forms filed by the School for calendar years 2007 and 2008. We found that one School employee had received such a form for both years. In total, the employee had been paid a total of \$6,000 during that time, without Local, State and Federal taxes being withheld. According to School officials, this employee was being paid for her work in an after-school program supported by private funds. However, according to IRS guidance, if the school can control what will be done and how it will be done (as is the case here), the worker is an employee.

School officials agreed with us and stated that, in the future, no School employees will receive an IRS Form 1099. These forms will be provided only to independent contractors.

Recommendation 9. Issue 1099 forms only to independent contractors.

EXHIBIT A**Purchases Subject to SED Guidance**

Type of Service/Product	Competitively Bid (Yes or No)	Total Amount Paid
Plumbing Services	No	\$102,784
Carpeting/Tiling Services	No	\$ 71,034
Electrical Services	No	\$ 39,373
Lawn Maintenance Services	No	\$ 36,400
Purchase of Smart Boards	No	\$ 29,840
Nurse Staffing Services	No	\$ 28,329
Extermination Services	Yes	\$ 28,202
Computer Server Services	No	\$ 27,821
Heating Services	No	\$ 18,045
Office Supplies	No	\$ 13,743
Computer Equipment	No	\$ 13,081
Door Installation Services	No	\$ 10,600
Total		\$419,252

School Comments

*St Joseph's
School
for the Deaf*

1000 Hutchinson River Parkway, Bronx, N.Y. 10465-1899

718-828-9000
TDD-828-1671
FAX-792-6631

November 16, 2009

Mr. Kenrick A. Sifontes
Audit Manager
Office of the State Comptroller
Division of State Government Accountability
110 State Street, 11th Floor
Albany, New York 12236

Re: **Response to Report 2009-S-30**

Dear Mr. Sifontes:

We are in receipt of the Office of the State Comptroller's ("OSC") draft audit report 2009-S-30, St. Joseph's School for the Deaf: Selected Financial Management Practices ("Report"). This letter shall serve as St. Joseph's School for the Deaf's ("SJSD") response to the findings and OSC recommendations set forth in the Report. We understand from your October 14, 2009 letter that SJSD's response will be included as an appendix to OSC's final report.

As you will see in the discussion below, we agree to comply with most of OSC's recommendations. However, SJSD continues to disagree with OSC's assertion that SJSD is subject to New York General Municipal Law ("GML") Section 103 and the State Education Department's ("SED") Purchasing Handbook. As such, while SJSD intends to enhance and adhere to its internal policies for contracting and procurement, it continues to take issue with those recommendations relating to procurement in accordance with the GML and SED's guidance.

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Board Oversight

As you are aware, SJSD, in its response to the OSC's preliminary findings on this issue, disagreed with the finding that Board members were not sufficiently involved in the financial management of the school's operations on the basis that such matters were debated and discussed at each and every Board meeting held from July 1, 2007 to March 31, 2009 (OSC's period of review). Likewise, with respect to the finding in the Report that the Board did not provide adequate oversight of the school's financial operations with regard to procurement and cash disbursements and has not set the appropriate tone for the school, we respectfully disagree. The Board provides general oversight of the school's financial operations and the day-to-day financial matters are left to the discretion of the school's Executive Director and Business Manager. In addition, we respectfully

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* See State Comptroller's Comments, page 25.

request that the record reflect that a review of SJSD financials and consolidated fiscal reports revealed proper financial management with no errors or budgetary shortfalls. Nonetheless, as a matter of good practice, SJSD will comply with OSC Recommendations 1 and 3 set forth on page 12 of the Report. Lastly, with regard to COLA payments, all three payments in question were made with Board approval as indicated by supporting documents (6/17/09 email, 5/19/08 Board minutes and 11/16/09 letter – see attachments). While not all approvals were reflected in Board minutes, they were in fact voted on and approved by the Board in every instance.

With respect to SJSD's Bylaws, we have worked with our legal counsel to update them, enhance them where necessary and to make sure they are in compliance with the New York Education and Not-For-Profit Corporation Laws. We have complied with OSC Recommendation 2 set forth on page 12 of the Report and have included, for your reference, a copy of the revised Bylaws currently under consideration by the Board. The frequency of Board meetings is set forth in Article III, Section 310. Article VII addresses the Board's responsibilities with respect to contracts, bank accounts, investments, etc. Please note that these revised Bylaws have not yet been approved by the Board.

Procurement

Procedures Subject to SED Guidance

As an initial matter, we note that the subheadings of this section of the Report differ from those contained in OSC's preliminary audit report on this subject. In the preliminary report, the subheadings were "Purchases Subject to Competitive Bidding" and "Purchases Not Subject to Competitive Bidding" not "Procedures Subject to SED Guidance" and "Procedures Not Subject to SED Guidance" as set forth in the Report. That being said, SJSD stands by its response to OSC's preliminary findings on this issue and we restate it here for purposes of the record:

"We respectfully disagree with the Office of State Comptroller's ("OSC") assertion that St. Joseph's is subject to New York General Municipal Law ("GML") Section 103. GML Section 103 applies to "political subdivisions". GML Section 100.1 defines a "political subdivision" as a municipal corporation, school district, district corporation and board of cooperative educational services. St. Joseph's, a private school, does not qualify as a "political subdivision". As such, we feel that we are not subject to the competitive bidding requirements set forth in GML Section 103 . . . The preliminary audit report also recommends that St. Joseph's comply with "SED guidance for competitive procurements involving both goods and services". As I indicated to you in previous telephone conversations, we are unclear as to what the "SED guidance" is exactly. You have since informed us that it is a combination of GML Section 103, SED's Reimbursable Cost Manual for Programs Receiving Funding Under Article 85 of the Education Law to Educate Students With Disabilities ("Reimbursable Cost Manual" or "RCM") and the School Business

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* See State Comptroller's Comments, page 25.

Management Handbook Number 5 ("Handbook Number 5") referenced in the Reimbursable Cost Manual. As mentioned at the beginning of this letter, we are of the opinion that GML Section 103 does not apply to St. Joseph's as the school does not fit the definition of "political subdivision" as that term is defined in GML Section 100.1. As for the RCM (the July 2008 Edition covering the July 1, 2008 through April 2, 2009 audit period¹), on page 30, it states: "When applicable, competitive bidding practices should be used in conformance with the School Business Management Handbook Number 5." SED has never provided us with a copy of Handbook Number 5 and we searched for it on the Internet at the link provided on page 30 of the 2008 Edition of the RCM, but that link leads to no information at all. We assume SED is referring to its Purchasing Handbook. We have reviewed the Purchasing Handbook and find that it relies heavily on GML Section 103 (which we argue does not apply to St. Joseph's) and speaks specifically to school districts, boards of education and BOCES. As such, we feel that the Purchasing Handbook, like GML Section 103, has no applicability to St. Joseph's, a private school." *SJSD July 10, 2009 Response to Preliminary Audit Report Regarding Purchases Subject to Competitive Bidding*.

SJSD asserts that there is no basis for applying the GML, the Reimbursable Cost Manual, or the Purchasing Handbook, as SJSD does not meet the definition of "political subdivision" and is not a school district, board of education or BOCES. It is a private school, as OSC correctly acknowledges in the Background on page 9 of the Report.

All this being said, as indicated in our response to the preliminary audit report, when applicable, SJSD has maintained the spirit of competitive bidding in its procurement efforts. This is evident by the inclusion of the "Procedures for Procurement of Goods and Services" set forth in the St. Joseph's School for the Deaf Accounting Policy and Procedures Manual for the School Year 2008/2009 – specifically, those provisions pertaining to Requests for Proposal and state contracts. Such provisions have enabled SJSD to successfully manage its finances with no errors or budgetary shortfalls. As such, SJSD respectfully requests that the language "Therefore, there is limited assurance that the price paid was reasonable" be stricken from the bottom of page 12 of the Report. While SJSD has maintained the spirit of competitive bidding in its procurement efforts, it still has taken or is taking steps to implement enhanced policies and procedures to ensure that its procurement and contracting practices are reasonable, prudent and responsible.

Procedures Not Subject to SED Guidance

¹ Please note that we are not in possession of the RCM covering the July 1, 2007 through June 30, 2008 audit period. Prior to the July 2008 Edition, the last RCM provided to us by SED was the July 2002 Edition covering the July 2002 – July 2003 Period.

As an initial matter, we note that OSC has changed its language with respect to the criteria for this element of the audit. In the Report, it states that SED guidance advises “schools” to adopt written policies and procedures for the procurement of goods and services that are below the competitive bidding requirements set forth in GML Section 104-b. However, in its preliminary audit findings, OSC specifically stated that this SED guidance and GML provision applied to “school districts”. As such, in our July 10, 2009 response to the preliminary audit findings, we informed OSC that the SED guidance regarding procurement not subject to competitive bidding did not apply to SJSD, as it is not a school district or a “political subdivision” as defined in the GML. Nonetheless, as we indicated in our response to the preliminary audit findings, we will work to enhance our written policies and procedures for purchasing goods and services that are not subject to competitive bidding by including appropriate dollar limits for the use of verbal and written quotations. In addition, we will consider centralizing the purchasing function.

Cash Disbursements

As detailed in our response to the preliminary audit findings on this issue and our comments following the audit exit meeting held on July 15, 2009, SJSD will comply with SED guidelines and our internal policies when making cash disbursements. We would like to point out for the record that thirteen (13) of the cash disbursements lacking purchase orders as detailed in the Report were handled by a Business Manager who is no longer employed here.

Less-Than-Arm’s-Length Transactions

As an initial matter, we note that, in the Report, OSC has incorrectly stated SED’s definition for a less-than-arm’s length (“LTAL”) transaction as one that is “between parties who are related in some manner.” To the contrary, SED’s Reimbursable Cost Manual (see 2008/2009 version at pages 34 to 35) specifically states the following:

“In general, a LTAL relationship exists when there are related parties and one party can exercise control or significant influence over the management or operating policies of another party, to the extent that one of the parties is or may be prevented from fully pursuing its own separate interests.”

The Reimbursable Cost Manual further states that “related parties” consist of an entity’s:

- Management and their immediate families
- Principal owners and their immediate families
- Any party that may have an opportunity to enter into a transaction, or deal with the agency and/or entity and that party has ownership of, control over, or can significantly influence the management or operating policies of a program(s) entity(ies) to the extent that an arm’s-length transaction may not be achieved.

* See State Comptroller’s Comments, page 25.

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Comment
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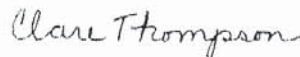
The instance detailed in the preliminary audit findings and the Report involves SJSD hiring a plumber who is married to one of our secretaries. The secretary is not management or a principal owner nor does she have any power to control or significantly influence the management to the extent that an arm's length transaction may not be achieved. In addition, the secretary can only order goods or services at the direction and supervision of her supervisor. SJSD firmly believes that this relationship does not fit SED's definition of "related parties" defined above and therefore, disclosure to the SED was not required. In addition, the record should reflect that SJSD's hiring of this plumbing company actually saved money, as the company was less expensive than other plumbing companies previously used by the school.

SJSD will continue to disclose all LTAL transactions to SED. However, respectfully, the transaction detailed in the Report is not a LTAL transaction.

Review of IRS 1099 Forms

Thank you to OSC for sharing this Report with us. The audit findings and recommendations provided us with important feedback that, in most cases, confirmed for us that we are using sound procedures that ensure efficient financial operations with regard to procurement and contracting practices at SJSD. It also helped us identify areas in which more efficient procedures can be applied to maintain that end. We are glad to have been part of this process, as it is a shared goal to effectively manage our operations and meet the expectations of stakeholders.

Very truly yours,



Clare Thompson
President, Board of Directors
St. Joseph's School for the Deaf

Enclosure

Cc: Debra Arles, Executive Director, SJSD

*
Comment
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* See State Comptroller's Comments, page 25.

State Comptroller's Comments

1. Our report acknowledges the School's position and we continue to believe that given the significant amounts of State funds used in the operation of the School, conformance with SED procurement guidance should occur. As shown in Exhibit A of our report, significant procurements were made without competitive procurements. We shall continue to work with SED to strengthen the procurement requirements related to schools supported by State funds. In the interim, we do support the School's efforts to strengthen its own internal procurement policies.
2. We have tempered the wording of the final report in response to the School's comments. However, our audit found that neither SED's nor the School's procurement guidelines were adhered to by the School and approval of bonuses were not evidenced in the Board minutes. We are encouraged to see that the School has improved its by-laws.
3. This matter was removed from the final report.