



State of New Jersey

DEPARTMENT OF EDUCATION

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CHRIS CHRISTIE
Governor

KIM GUADAGNO
Lt. Governor

KIMBERLEY HARRINGTON
Commissioner

August 11, 2017

Mrs. Maria Alvarez, Board President
Palisades Park Public Schools
410 2nd Street
Palisades Park, NJ 07650

Dear Mrs. Alvarez:

SUBJECT: Palisades Park Public Schools - Attorney Billing Practice Review
OFAC Case #INV-029-17

The New Jersey Department of Education, Office of Fiscal Accountability and Compliance (OFAC), completed a review of the process utilized by the Palisades Park Board of Education (Board) to award a legal services contract. As a result of the review, the OFAC has identified material issues of noncompliance with N.J.A.C. 6A:23A-5.2(a) and N.J.S.A. 18A:18A-4.5a. The issues of noncompliance are detailed in the attached Report of Examination. Please provide a copy of the report to each board member.

Utilizing the process outlined in the attached "Procedures for LEA/Agency Response, Corrective Action Plan and Appeal Process," the Palisades Park Board of Education is required, pursuant to N.J.A.C. 6A:23A-5.6, to publicly review and discuss the findings in this report at a public board meeting no later than 30 days after receipt of the report. Within 30 days of the public meeting, the board must adopt a resolution certifying that the findings were discussed in a public meeting and approving a Corrective Action Plan (CAP) to address the issues raised in the report and/or submit an appeal of any findings in dispute. A copy of the resolution and the approved CAP and/or appeal must be sent to this office within 10 days of adoption by the board. Direct your response to my attention.

Also, pursuant to N.J.A.C. 6A:23A-5.6(c), you must post the findings of the report and the board's CAP on your school district's website. Should you have any questions, please contact Thomas C. Martin, Manager, Investigations Unit, at (609) 633-9615.

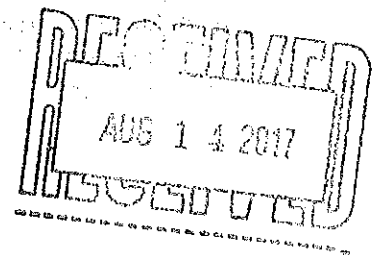
Sincerely,

Robert J. Cicchino, Director
Office of Fiscal Accountability and Compliance

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Attachments

- c: Robert Bumpus Joseph Cirillo ✓
- David Saenz Stephen Eells
- Norah Peck



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STATE OF NEW JERSEY
DEPARTMENT OF EDUCATION
OFFICE OF FISCAL ACCOUNTABILITY AND COMPLIANCE
INVESTIGATIONS UNIT

PALISADES PARK PUBLIC SCHOOLS
ATTORNEY BILLING PRACTICE REVIEW
OFAC CASE #INV-029-17

REPORT OF EXAMINATION
AUGUST 2017

**PALISADES PARK PUBLIC SCHOOLS
ATTORNEY BILLING PRACTICE REVIEW**

INVESTIGATIVE SUMMARY

On July 13, 2017, the New Jersey Department of Education, Office of Fiscal Accountability and Compliance (OFAC), received information regarding the Palisades Park Board of Education's (Board) flat rate billing for the legal services contract awarded to the Brovarone Law Firm, Richard A. Brovarone, Esq., as the General Counsel (Counsel).

In July 2017, the OFAC investigator initiated an investigation into the concerns and conferred with individuals thought to have knowledge of the contract award. The investigator also reviewed relevant documents including Board minutes, purchase orders/invoices, payments, Board policy and Taxpayers' Guide to Educational Spending (TGES).

The investigator requested the last three years of the Counsel's contracts from the Palisade Park Public Schools (District); however, the District provided contracts for the 2012/2013, 2013/2014 and 2014/2015 school years. According to the business administrator, the District did not have the last two years of contracts and could only provide copies of the Board minutes memorializing the yearly appointments of Counsel. The last contract maintained by the District, dated October 2014, stated the Board approved the "Employment Contract" of General Counsel, Richard Brovarone, for the period July 1, 2014, through June 30, 2015. The contract stipulated Mr. Brovarone be compensated for that term at a rate of \$7,500.00 per month and detailed the expected duties. The May 3, 2016, Board minutes disclosed that the Board appointed General Counsel, Richard A. Brovarone, Esq., for the 2016/2017 school year at a salary of \$99,000.00. The terms of the agreement were not listed in the minutes.

An examination of the purchase orders and the legal fees' check register for the prior two years disclosed the District paid Counsel \$8,250.00 per month for the 2016/2017 school year. The documents also revealed Counsel was paid \$7,500.00 for July, August and September 2015; and for the remainder of the 2015/2016 school year, Counsel was paid \$8,250.00 per month. According to the District, Counsel did not submit invoices from July 2015 through June 2016 and from January to February 2017. For March, April and May of 2017, Counsel did submit invoices of services rendered; however, the invoices did not stipulate the dates the services were completed. Additionally, line items detailing services completed did not correspond with the month submitted. On July 26, 2017, Counsel submitted backdated invoices for July 2016 through December 2016.

Contracting for the Board's legal services falls under the professional services exemption of N.J.S.A. 18A:18A-5a(1), which exempts services from bid requirements. However, N.J.A.C. 6A:23A-5.2(a)5, requires school districts to utilize a deliberative and efficient process that ensures the district receives the highest quality services at a fair and competitive price or through a shared services agreement.

The provisions of N.J.S.A. 18A:18A-4.5, requires districts utilizing competitive contracting to acquire legal services, publish a notice of the availability of the request for proposals (RFP) documentation in an official newspaper of the Board at least 20 days prior to the proposal submission date. Additionally, if a district awards a contract by utilizing the professional services exemption or competitive contracting, the district must announce the award by publishing a notice in its official newspaper. The notice shall include, but not be limited to, the

nature, duration, and the amount of the contract. It shall also include the name of the vendor and a statement that the resolution and contract are on file and available for public inspection in the office of the secretary of the board of education.

In order to determine compliance with the Public School Contracts Law requirements, the OFAC reviewed pertinent Board resolutions and spoke to the business administrator. The review disclosed the District failed to follow competitive contracting requirements, N.J.S.A. 18A:18A-4.5a, by not advertising for RFPs or another comparable process. The District also failed to advertise in an official newspaper, the supporting reasons for awarding the contract.

The Board, by paying Counsel a monthly flat fee without receiving an itemized bill, failed to adhere to the provisions of:

N.J.A.C. 6A:23A-5.2(a)4 i, ii, iii and iv, which states:

"4. A provision that requires that contracts for legal services comply with payment requirements and restrictions pursuant to N.J.S.A. 18A:19-1 et seq. and as follows:

- i. Advance payments shall be prohibited;*
- ii. Services to be provided shall be described in detail in the contract;*
- iii. Invoices for payment shall itemize the services provided for the billing period; and*
- iv. Payment shall only be for services actually provided."*

In addition, a review of the TGES disclosed the District exceeded the statewide average of legal costs per pupil. The District did not follow the provisions of N.J.A.C. 6A:23A-5.2(a)3, which requires that districts with legal costs that exceed 130 percent of the statewide average per pupil amount establish procedures and, if not established, provide evidence that such procedures would not result in a reduction of costs. The procedures should include a limitation on the number of contact persons with the authority to contact the attorney; criteria to prevent the unnecessary use of legal counsel for routine management decisions or readily available information; a provision that requests for legal advice to be made in writing; a provision to maintain a log of all legal counsel contact.

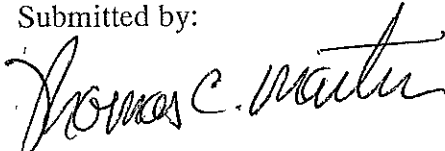
Conclusion

The OFAC review determined the Board did not adhere to the provisions of N.J.S.A. 18A:18A-4.5a for competitive contracting; and N.J.A.C. 6A:23A-5.2(a)3, 4, and 5 with respect to the billing practices and payment of legal fees for its Counsel.

Recommendation

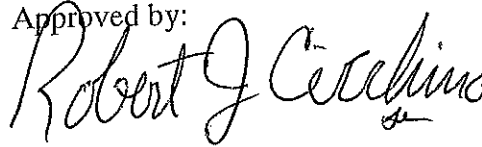
The District shall prepare a Corrective Action Plan indicating the measures it will implement to ensure compliance with the applicable provisions of the N.J.S.A. 18A:18A-4.5a and N.J.A.C. 6A:23A-5.2(a).

Submitted by:



Thomas C. Martin, Manager
Investigations Unit

Approved by:



Robert J. Cicchino, Director
Office of Fiscal Accountability and Compliance

Investigator:

Francesco Frangella