

F-11. The committee recommends and I so move that the Board accept the Public School Contracts Law Compliance Review – Report of Examination from the New Jersey Department of Education, Office of Fiscal Accountability and Compliance, Investigations Unit dated December, 2012 together with Corrective Action Plan in accordance with the information it the hands of each board member.

I CERTIFY THAT THE ABOVE RESOLUTION WAS ADOPTED BY THE TOWNSHIP OF UNION BOARD OF EDUCATION AT ITS REGULAR MEETING ON MARCH 19, 2013.



JAMES J. DAMATO
BOARD SECRETARY

UNION TOWNSHIP SCHOOL DISTRICT
PUBLIC SCHOOL CONTRACTS LAW COMPLIANCE REVIEW
OFAC CASE #INV-127-12

CORRECTIVE ACTION PLAN

Should the Township of Union Board of Education require the services of a Construction Manager ("CM") in the future, the formal bid process shall include the verification of CM firm qualifications [Department of Property Management and Construction ("DPMC") and School Construction Corporation ("SCC")] to verify that the CM firm is qualified and in good standing prior to the contract award. Affidavits of qualification will no longer be accepted at face value.



State of New Jersey
DEPARTMENT OF EDUCATION
PO BOX 500
TRENTON, NJ 08625-0500

CHRIS CHRISTIE
Governor

KIM GUADAGNO
Lt. Governor

CHRISTOPHER D. CERF
Commissioner

February 4, 2013

Dr. Patrick Martin, Superintendent
Union Township School District
2369 Morris Avenue
Union, NJ 07083

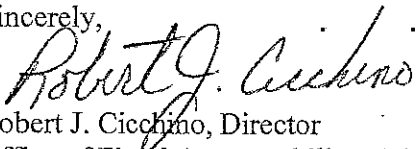
Dear Dr. Martin:

SUBJECT: Union Township School District – Public School Contracts Law Compliance Review
OFAC Case #INV-127-12

Based upon a review regarding the calculation of the state recovery associated with the above referenced matter, the Office of Fiscal Accountability and Compliance (OFAC) noted an irregularity in the data used as the basis for the recovery amount. The OFAC has recalculated the applicable percentage of state aid based on the corrected figures and has included that information as an attachment to this letter. The original calculation indicated a recovery of \$37,850.00. The correct recovery amount is \$39,277.00. Attached to this letter is a copy of the documents that served as the basis for establishing the amount of the recovery.

The adjusted recovery amount should be substituted for the amounts listed in the report. Please post this letter as an attachment to the report when it is posted on the district's website. Should you have any questions, please contact Mr. Thomas Martin, Manager, Investigations Unit, at (609) 633-9615.

Sincerely,


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

RJC/ktf/I:\kfeltes\EDA Cases\Union Township\Recovery Modifica
Attachments

- c: David Corso
- Barbara Morgan
- Thomas C. Martin
- Joseph Passiment
- Karl T. Feltes
- Karen Schaffer (via e-mail at kschaffer@njsda.gov)

*Post
on
website.
Send to AH*

**UNION TOWNSHIP SHOOOL DISTICT
LEGACY CONSTRUCTION MANAGEMENT PAYMENTS**

Date	Amount	Check Number	
8/16/2011	\$ 5,000.00	197	
9/20/2011	\$ 3,500.00	205	
10/18/2011	\$ 12,000.00	214	
11/15/2011	\$ 12,000.00	1002	
12/20/2011	\$ 12,000.00	1008	
1/17/2012	\$ 3,500.00	1013	
1/17/2012	\$ 12,000.00	1013	
2/14/2012	\$ 12,000.00	1018	
3/20/2012	\$ 12,000.00	1024	
4/24/2012	\$ 12,000.00	1029	
5/15/2012	\$ 12,000.00	1034	
6/19/2012	\$ 12,000.00	1040	
6/29/2012	\$ 12,000.00	1046	
	\$ 132,000.00		2011/2012
8/21/2012	\$ 12,000.00	1052	
9/18/2012	\$ 12,000.00	1061	VOIDED
	\$ 12,000.00		2012/2013
2012	\$ 36,295.00		
2013	\$ 2,982.00		
State Recovery =	\$39,277.00		

**Township of Union
State Aid Recovery Calculation For
Expenditures During FY2012**

Total General Fund Revenue for Fiscal Year Ended June **2012** \$117,089,214.00

Less:

T.P.A.F. Pension Contribution	\$3,264,283.00	
T.P.A.F. post retirement medical Contribution	\$1,623,810.00	
T.P.A.F. Social Security Contribution	\$3,690,731.00	<u>\$8,578,824.00</u>

Net General Fund Total Revenue = \$108,510,390.00

General Fund State Revenue = \$38,415,232.00

Less:

T.P.A.F. Pension Contribution	\$3,264,283.00	
T.P.A.F. post retirement medical Contribution	\$1,623,810.00	
T.P.A.F. Social Security Contribution	\$3,690,731.00	<u>\$8,578,824.00</u>

Net General Fund State Revenue = \$29,836,408.00

Percent of Net General Fund State Revenue to Net General Fund Total Revenue	27.50%
Payments made to Legacy Construction Management Inc. During fiscal year 2012	\$132,000.00

Refundable State Aid = \$36,295.20

TOWNSHIP OF UNION SCHOOL DISTRICT
BUDGETARY COMPARISON SCHEDULE
GENERAL FUND
FOR THE FISCAL YEARS ENDED JUNE 30, 2012 ✓

	ADOPTED BUDGET	BUDGET TRANSFERS/ AMENDMENTS	FINAL BUDGET	ACTUAL	VARIANCE FINAL TO ACTUAL FAVORABLE/ (UNFAVORABLE)
REVENUES:					
Local Sources:					
Local Tax Levy	\$ 76,951,915.00	\$	\$ 76,951,915.00	\$ 76,951,915.00	\$
Tuition	55,621.00		55,621.00	239,752.58	184,131.58
Transportation Fees				4,754.00	4,754.00
Interest on Capital Reserve	25,000.00		25,000.00	18,585.13	(6,414.87)
Miscellaneous	225,000.00		225,000.00	342,867.59	117,867.59
Total - Local Sources	\$ 77,257,536.00	\$	\$ 77,257,536.00	\$ 77,557,874.30	\$ 300,338.30
State Sources:					
Extraordinary Aid	\$ 969,157.00	\$	\$ 969,157.00	\$ 1,136,948.00	\$ 167,791.00
Categorical Special Education Aid	4,279,517.00		4,279,517.00	4,279,517.00	
Equalization Aid	23,139,405.00		23,139,405.00	24,343,701.00	1,204,296.00
Non-Public Transportation Aid (Non-Budgeted)				76,242.00	76,242.00
✓ On Behalf TPAF Non-Contributory Insurance (Non-Budgeted)				1,623,810.00	✓ 1,623,810.00
✓ On Behalf TPAF Pension Contributions (Non-Budgeted)				3,264,283.00	✓ 3,264,283.00
✓ Reimbursed TPAF Social Security Contributions (Non-Budgeted)				3,690,730.98	✓ 3,690,730.98
Total - State Sources	\$ 28,388,079.00	\$	\$ 28,388,079.00	\$ 38,415,231.98	✓ 10,027,152.98
Federal Sources:					
Medicaid Reimbursement	\$ 84,686.00	\$	\$ 84,686.00	\$ 134,869.15	\$ 50,183.15
Education Jobs Fund	750,000.00	231,238.93	981,238.93	981,238.36	
	\$ 834,686.00	\$ 231,238.93	\$ 1,095,924.93	\$ 1,116,107.51	\$ 50,183.15
Total Revenues	\$ 106,480,301.00	\$ 231,238.93	\$ 108,711,539.93	\$ 117,089,213.77	✓ 10,377,674.41
EXPENDITURES:					
CURRENT EXPENSE:					
Instruction - Regular Programs					
Salaries of Teachers:					
Preschool	\$ 512,236.00	\$ (80,145.50)	\$ 432,090.50	\$ 356,578.65	\$ 75,511.85
Kindergarten	1,401,716.00	119,020.30	1,520,736.30	1,484,110.04	36,626.26
Grades 1-5	10,835,570.00	635,170.42	11,470,740.42	11,470,740.02	0.40
Grades 6-8	7,565,684.00	(15,701.11)	7,549,982.89	7,532,907.24	17,075.65
Grades 9-12	10,572,977.00	(161,369.96)	10,421,607.44	10,139,821.85	281,785.59
Regular Programs - Home Instruction:					
Salaries of Teachers	64,530.00	161,204.34	225,734.34	225,734.34	
Purchased Professional Educational Services	60,000.00	12,218.72	72,218.72	59,833.24	12,285.48
Regular Programs - Undistributed Instruction:					
Other Salaries for Instruction	643,129.00	48,917.84	692,046.84	663,950.36	28,096.48
Purchased Technical Services	30,000.00	(15,432.50)	14,567.50	14,567.50	
Other Purchased Services	300,000.00	72,065.25	372,065.25	361,063.35	11,001.90
General Supplies	1,219,443.00	(95,214.01)	1,124,228.99	972,715.77	151,513.22
Textbooks	836,903.00	(184,754.66)	652,148.44	641,828.87	10,319.57
Other Objects	4,379.00	(4,379.00)			
Total Regular Programs	\$ 34,046,587.00	\$ 591,800.83	\$ 34,548,167.63	\$ 33,908,483.73	\$ 639,683.90
Special Education					
Cognitive - Moderate:					
Salaries of teachers	\$ 98,159.00	\$ 1,861.59	\$ 100,020.59	\$ 100,020.59	\$
Other salaries for instruction	23,314.00	458.14	23,772.14	23,772.14	
General supplies	3,037.00	2,000.00	5,037.00	3,774.80	1,262.20
Total cognitive moderate	\$ 124,510.00	\$ 4,319.73	\$ 128,828.73	\$ 127,567.53	\$ 1,262.20

**Township of
Union
State Aid Recovery Calculation
Expenditures During FY2013**

Total General Fund Revenue for Fiscal Year Ended June 2013 \$123,280,914.00

Less:

T.P.A.F. Pension Contribution	
T.P.A.F. post retirement medical Contribution	
T.P.A.F. Social Security Contribution	<u>\$0.00</u>

Net General Fund Total Revenue = \$123,280,914.00

General Fund State Revenue = \$30,633,507.00

Less:

T.P.A.F. Pension Contribution	\$0.00	
T.P.A.F. post retirement medical Contribution	\$0.00	
T.P.A.F. Social Security Contribution	\$0.00	<u>\$0.00</u>

Net General Fund State Revenue = \$30,633,507.00

Percent of Net General Fund State Revenue to Net General Fund Total Revenue =	24.85%
Fiscal year 2013 payments made to Legacy Construction Management Inc. =	\$12,000.00

Refundable State Aid = \$2,981.82

06/26/2012

UNION - UNION TWP

Advertised Enrollments

ENROLLMENT CATEGORY	October 15, 2010 Actual	October 15, 2011 Actual	October 15, 2012 Estimated
Pupils on Roll Regular Full-Time	6618	6574	6574
Pupils on Roll Regular Shared-Time	12	16	25
Pupils on Roll - Special Full-Time	902	904	904
Pupils on Roll - Special Shared-Time	30	29	20
Subtotal - Pupils On Roll	7562	7523	7523
Private School Placements	63	58	66
Pupils Sent to Other Districts-Reg Prog		2	3
Pupils Sent to Other Dists-Spec Ed Prog	68	56	56
Pupils Received	3	2	2
Pupils in State Facilities	6	4	4

UNION - UNION TWP

Advertised Revenues

Budget Category	Account	2010-11 Actual	2011-12 Revised	2012-13 Anticipated
OPERATING BUDGET			949,909	8,120,050
Budgeted Fund Balance - Operating Budget	10-303			
Revenues from Local Sources:				
Local Tax Levy	10-1210	75,443,054	76,951,915	78,490,953
Tuition	10-1300	211,139	55,621	25,040
Transportation Fees from Individuals	10-1410	9,345		
Interest Earned on Capital Reserve Funds	10-1XXX	31,661	25,000	18,000
Unrestricted Miscellaneous Revenues	10-1XXX	660,028	225,000	63,592
SUBTOTAL		76,355,227	77,257,536	78,597,585
Revenues from State Sources:				
Extraordinary Aid	10-3131	1,348,462	969,157	
Other State Aids	10-3XXX	66,058		
Categorical Special Education Aid	10-3132	4,279,517	4,279,517	4,520,284
Equalization Aid	10-3176	21,935,108	24,343,701	25,491,399
Categorical Security Aid	10-3177			312,596
Categorical Transportation Aid	10-3121			309,228
SUBTOTAL		27,629,145	29,592,375	30,633,507
Revenues from Federal Sources:				
Medicaid Reimbursement	10-4200	126,190	84,686	85,732
Education Jobs Fund	18-4522	120,317	981,238	
SUBTOTAL		246,507	1,065,924	85,732
Adjustment for Prior Year Encumbrances		14,413,894		
Actual Revenues (Over)/Under Expenditures		118,644,773	109,661,075	117,436,874
TOTAL OPERATING BUDGET				
GRANTS AND ENTITLEMENTS				
Revenues from Local Sources	20-1XXX	76,427	482,920	
Revenues from State Sources:				
Other Restricted Entitlements	20-32XX	293,703	283,776	283,776
TOTAL REVENUES FROM STATE SOURCES		293,703	283,776	283,776
Revenues from Federal Sources:				
Title I	20-4411-4416	821,176	1,121,337	707,039
Title II	20-4451-4455	240,261	210,799	177,381
Title III	20-4491-4494	70,313	48,966	41,246
Title IV	20-4471-4474	363	163	
I.D.E.A. Part B (Handicapped)	20-4420-4429	3,362,032	2,008,541	1,582,796
Vocational Education	20-4430	34,112	46,649	39,652
Other	20-4XXX		122,349	
TOTAL REVENUES FROM FEDERAL SOURCES		4,528,257	3,558,804	2,548,114
TOTAL GRANTS AND ENTITLEMENTS		4,898,387	4,325,500	2,831,890
REPAYMENT OF DEBT				
Budgeted Fund Balance	40-303		2,135	281,705
Transfers from Capital Reserve	40-5210	572,702		
Revenues from Local Sources:				
Local Tax Levy	40-1210	1,832,700	2,407,988	2,603,922
Miscellaneous	40-1XXX	12,795		
TOTAL REVENUES FROM LOCAL SOURCES		1,845,495	2,407,988	2,603,922
Revenues from State Sources:				
Debt Service Aid Type II	40-3160	125,610	126,596	126,523
TOTAL LOCAL REPAYMENT OF DEBT		2,543,807	2,536,719	3,012,150
Actual Revenues (Over)/Under Expenditures		-224,960		
TOTAL REPAYMENT OF DEBT		2,318,847	2,536,719	3,012,150

TOTAL REVENUES/SOURCES		125,862,007	116,523,294	123,280,914
DEDUCT REVENUES INCLUDED IN MULTIPLE FUNDS DUE TO TRANSFERS:				
Transfers from Capital Reserve	40-5210	572,702		
TOTAL REVENUES/SOURCES NET OF TRANSFERS		125,289,305	116,523,294	123,280,914
UNION - UNION TWP				

Advertised Appropriations

Budget Category	Account	2010-11 Expenditures	2011-12 Rev. Approp.	2012-13 Appropriations
GENERAL CURRENT EXPENSE				
Instruction:				
Regular Programs	11-1XX-100-XXX	35,225,494	34,261,242	35,399,009
Special Education	11-2XX-100-XXX	7,829,278	8,143,921	8,641,831
Basic Skills/Remedial	11-230-100-XXX	2,030,700	1,757,240	1,859,550
Bilingual Education	11-240-100-XXX	468,707	486,835	472,237
Vocational Programs - Local	11-3XX-100-XXX	18,270	29,790	30,790
School-Spon. Co/Extra-Curr. Activities	11-401-100-XXX	181,578	200,205	208,967
School Sponsored Athletics	11-402-100-XXX	746,058	840,936	855,308
Other Instructional Programs	11-4XX-100-XXX	136,418	136,418	148,147
Before/After School Programs	11-421-XXX-XXX	185,484	51,667	
Other Supplemental/At-Risk Programs	11-424-XXX-XXX	205,224		
Support Services:				
Tuition	11-000-100-XXX	8,628,490	9,507,917	9,092,983
Attendance and Social Work Services	11-000-211-XXX	168,069	224,824	231,713
Health Services	11-000-213-XXX	925,851	861,891	898,465
Speech, OT, PT, Related & Extraordinary Services	11-000-216,217	1,901,848	2,344,291	2,140,115
Guidance	11-000-218-XXX	2,228,306	2,199,824	2,391,001
Child Study Teams	11-000-219-XXX	2,556,599	2,582,193	2,699,420
Improvement of Instructional Services	11-000-221-XXX	1,668,357	1,691,217	1,854,318
Educational Media Services - School Library	11-000-222-XXX	963,253	935,332	990,425
Instructional Staff Training Services	11-000-223-XXX	54,723	120,584	112,851
General Administration	11-000-230-XXX	2,184,278	2,612,165	2,306,795
School Administration	11-000-240-XXX	3,707,657	3,934,188	4,026,824
Central Svcs & Admin Info Technology	11-000-25X-XXX	1,406,784	1,540,857	1,683,984
Operation and Maintenance of Plant Services	11-000-26X-XXX	8,116,215	9,568,658	12,662,645
Student Transportation Services	11-000-270-XXX	4,071,890	5,651,004	5,824,667
Personal Services - Employee Benefits	11-XXX-XXX-2XX	18,366,865	18,605,647	19,685,000
Total Support Services Expenditures		56,849,185	62,380,582	66,601,206
TOTAL GENERAL CURRENT EXPENSE		103,876,396	108,288,836	114,217,045
CAPITAL EXPENDITURES				
Interest Earned on Capital Reserve	10-604		25,000	18,000
Equipment	12-XXX-XXX-73X	407,099	477,891	1,345,337
Facilities Acquisition and Construction Services	12-000-4XX-XXX	2,361,278	851,420	1,828,460
Capital Reserve-Transfer to Capital Expend Fund	12-000-4XX-931	12,000,000		
TOTAL CAPITAL EXPENDITURES		14,768,377	1,354,311	3,191,797
Transfer of Funds to Charter Schools	10-000-100-56X		17,928	28,032
OPERATING BUDGET GRAND TOTAL		118,644,773	109,661,075	117,436,874
SPECIAL GRANTS AND ENTITLEMENTS				
Local Projects				
Other State Projects:		76,427	482,920	
Nonpublic Textbooks	20-XXX-XXX-XXX	31,952	28,008	28,008
Nonpublic Auxiliary Services	20-XXX-XXX-XXX	150,316	146,502	146,502
Nonpublic Handicapped Services	20-XXX-XXX-XXX	73,449	69,259	69,259
Nonpublic Nursing Services	20-XXX-XXX-XXX	37,986	40,007	40,007
Total State Projects		293,703	283,776	283,776
Federal Projects:				
Title I	20-XXX-XXX-XXX	821,176	1,121,337	707,039
Title II	20-XXX-XXX-XXX	240,261	210,799	177,381
Title III	20-XXX-XXX-XXX	70,313	48,966	41,246
Title IV	20-XXX-XXX-XXX	363	163	
I.D.E.A. Part B (Handicapped)	20-XXX-XXX-XXX	3,362,032	2,008,541	1,582,796
Vocational Education	20-XXX-XXX-XXX	34,112	46,649	39,652
Other Special Projects	20-XXX-XXX-XXX		122,349	
Total Federal Projects		4,528,257	3,558,804	2,548,114
TOTAL GRANTS AND ENTITLEMENTS		4,898,387	4,325,500	2,831,890
REPAYMENT OF DEBT				
Repayment of Debt - Regular	40-701-510-XXX	2,318,847	2,536,719	3,012,150
TOTAL REPAYMENT OF DEBT		2,318,847	2,536,719	3,012,150
Total Expenditures		125,862,007	116,523,294	123,280,914
DEDUCT EXPENDITURES INCLUDED IN MULTIPLE FUNDS DUE TO TRANSFERS:				
0250X Local Contribution - Transfer to Special Revenue	11-1XX-100-93X			
Capital Reserve - Transfer to Repayment of Debt	12-000-400-933			
Transfer Property Sale Proceeds to Debt Svc Res	11-000-520-934			
TOTAL EXPENDITURES NET OF TRANSFERS		125,862,007	116,523,294	123,280,914
UNION - UNION TWP				

Advertised Recapitulation of Balance

Budget Category	Audited Balance 6/30/2010	Audited Balance 6/30/2011	Estimated Balance 6/30/2012	Estimated Balance 6/30/2013
Unrestricted:				
General Operating Budget	2,443,634	3,768,167	3,118,258	2,177,315
Repayment of Debt	58,880	283,840	281,705	0
Restricted for Specific Purposes:				
General Operating Budget:				

24.87

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

UNION TOWNSHIP SCHOOL DISTRICT
PUBLIC SCHOOL CONTRACTS LAW COMPLIANCE REVIEW
OFAC CASE #INV-127-12

REPORT OF EXAMINATION
DECEMBER 2012

**UNION TOWNSHIP SCHOOL DISTRICT
PUBLIC SCHOOL CONTRACTS LAW COMPLIANCE REVIEW**

EXECUTIVE SUMMARY

The Department of Education, Office of Fiscal Accountability and Compliance (OFAC), conducted a review of the bid process utilized by the Union Township Board of Education (board) to award a contract for construction management services for the project titled Central-Five-Jefferson Demolition, Construction and Renovation in the Union Township School District (district). The review was initiated following notification by the New Jersey School Development Authority (SDA) that the documents submitted by the district indicated that a construction management services contract was awarded to a construction firm that had not been approved by the Department of Property Management and Construction (DPMC).

An OFAC investigator reviewed the bid documents, responses, bid summaries, invoices, purchase orders and payments issued to Legacy Construction Management, Inc. (LCM). As a result of the review, the investigator confirmed that although a document submitted by LCM indicated compliance with the prequalification requirement, no such prequalification existed. Prequalification is a requirement of the Public School Contracts Law (PSCL), N.J.S.A. 18A:18A-27.1 and, the SDA grant agreement. The investigator also noted that the district initially failed to publish a notice of the contract award as required by N.J.S.A. 18A:18A-5.

Subsequent to the SDA notification that prequalification was required; the district terminated the contract with LCM. The district hired an individual as a district employee to serve as a Clerk of the Works to manage the construction project. On July 5, 2012, in order to comply with statutory requirements, the district published a notice in its official newspaper of record announcing the award to LCM.

Although the district took action to remedy the PSCL deficiencies, the award of the contract to an entity that lacks prequalification constitutes material noncompliance with the PSCL. In accordance with N.J.A.C. 6A:26-14.1, the material noncompliance issue will result in a recovery of the state aid portion of the LCM project payments that totaled \$132,000.00 in FY 2012 and \$12,000.00 in FY 2013. The percentage of the state aid recovery for payments issued in FY 2012 is 26.25% of \$132,000.00 or \$34,650.00. The percentage of the state aid recovery for payments issued in FY 2013 is 26.66% of \$12,000.00 or \$3,200.00. The total amount of the recovery is \$37,850.00. The basis for the OFAC determinations is detailed in the remainder of this report.

ALLEGATION, INVESTIGATION, CONCLUSION and RECOMENDATION

The OFAC conducted a review of the bid process utilized by the district to award a contract for construction management services for the project titled Central-Five-Jefferson Demolition, Construction and Renovation. The project was partially funded by the SDA. As such, the district was bound by the provisions of grant documents that included district compliance with the provisions of the PSCL, N.J.S.A. 18A:18A-1 et seq.

The OFAC review was initiated following notification by the SDA that its review of documents required to be submitted by the district indicated that a construction management services contract was awarded to a construction firm that had not been prequalified by the DPMC. Based upon the identified deficiency, following established protocol, the SDA forwarded the matter to the OFAC for review. A review of the bidding process conducted by an OFAC investigator confirmed certain deficiencies in the contracting process.

The district awarded a contract to a construction management firm that lacked the required DPMC prequalification as required under provisions of the Public School Contracts Law, N.J.S.A. 18A:18A-27.1.

During 2011, while embarking on a school construction project, the board posted a notice on the district's website seeking proposals from construction management firms to oversee the various phases of the Central-Five-Jefferson Demolition, Construction and Renovation project. The website notice indicated that the solicitation of Requests for Proposals (RFP) would be awarded using the fair and open process for professional service contracts following the provisions of N.J.S.A. 19:44A-20.4 et seq., the New Jersey Local Unit Pay to Play law (LAW).

Five proposals were received and opened on June 1, 2011. The proposals ranged in price from a low bid of \$300,000.00 to the highest bid of \$432,000.00. The lowest bid was submitted by LCM. On June 21, 2011, the board approved a resolution awarding a contract to LCM in the amount of \$300,000.00. Upon execution of a contract and notice to proceed, LCM began providing the requested services.

As the project proceeded, the district submitted various documents to the SDA as required by the grant agreement. Upon review of the document titled, Design Phase Checklist, the district indicated that it had solicited RFPs from construction management firms using a Fair and Open Process to award a professional service contract. The district acknowledged that LCM does not qualify as a registered architect or licensed engineering firm. Such a qualification is necessary to be deemed a professional service exempt from advertising for competitive bidding. Upon further inquiry, the SDA determined that LCM was not prequalified by the DPMC or SDA as required by statute and the SDA grant agreement.

The SDA notified the OFAC and district that the award appears to be contrary to the provisions of PSCL. The SDA requested the OFAC conduct a review of the bidding process. Following notice from

the SDA of the potential violation, the district terminated the contract with LCM.¹ The district also published a notice of the LCM contract award in the Union County Local Source newspaper to comply with the noticing requirement of N.J.S.A. 18A:18A-5. The district has hired an individual as a district employee to manage the remainder of the construction project.

Prior to the termination of the contract, the district had issued 14 payments to LCM totaling \$144,000.00. Thirteen of the payments, totaling \$132,000.00 were issued during FY 2012. One payment for \$12,000.00 was issued in FY 2013.

Conclusion:

Following a comprehensive review of the solicitation and award of contract for construction management services for the project, the investigator has reached the following conclusions.

1. The SDA grant agreement requires compliance with the PSCL. The PSCL requires that for goods and services that exceed the established bid threshold, contracts may only be awarded to the lowest responsible bidder after advertising for bids (N.J.S.A. 18A:18A-4).
2. Although the district received a document from LCM indicating that it was qualified to perform the requested services, the district failed to confirm that LCM had obtained the required prequalification from the DPMC as required by N.J.S.A. 18A:18A-27.1. The SDA grant agreement also required SDA prequalification.
3. The district declared in a May 10, 2011, resolution that it is subject to the provisions of N.J.S.A. 19:44A-20.4 et seq., the New Jersey Local Unit Pay-to-Play (LAW). Based upon that presumption, the district utilized the provisions of the LAW to solicit proposals for construction management as a professional service. Adhering to other provisions of the LAW, the district published the RFP on the district website rather than in the district's official newspaper. Such action is contrary to the applicable provisions of the PSCL. Although N.J.A.C. 6A:23A-6.3 prohibits school districts from awarding contracts in excess of \$17,500.00 to business entities that have made reportable contributions to a board member during the preceding one-year period or during the contract term, the regulation does not authorize a school district to substitute the contract award requirements of the LAW for the requirements of the PSCL.
4. Registered architects and licensed engineering firms are exempt from the bidding requirement of the PSCL, since they qualify as professional services when performing the duties specific to each profession. However, the district has acknowledged that LCM is not a registered architect or licensed engineering firm. As such the district may not award a contract to LCM as a professional service.

¹ After termination of the contract, LCM applied for and was granted DPMC and SDA authorization to enter into contracts that do not exceed, in the aggregate, more than one million dollars in value. The authorization was effective starting on September 21, 2012.

5. Construction management services do not qualify as a professional services exemption under the provisions of N.J.S.A. 18A:18A-5a(1) since such services do not meet the definition of a professional service as defined in N.J.S.A. 18A:18A-2h.

Recommendation:

The district must submit a Corrective Action Plan to the OFAC indicating the measures it will implement to ensure future compliance with the PSCL. Additionally, the district is required to refund to the State an amount equal to the state aid funded portion of the payments issued to LCM.

In accordance with N.J.A.C. 6A:26-14.1, the material noncompliance issue will result in a recovery of the state aid funded portion² of the LCM project payments that totaled \$132,000.00 in FY 2012 and \$12,000.00 in FY 2013. The percentage of the state aid recovery for FY 2012 is 26.25% of \$132,000.00 or \$34,650.00. The percentage of the state aid recovery for FY 2013 is 26.66% of \$12,000.00 or \$3,200.00. The total amount of state aid identified for recovery is **\$37,850.00**.

Submitted by:

Approved by:

Thomas C. Martin, Manager
Investigations Unit

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

Investigator

Karl T. Feltes

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² The percentage of FY 2012 state aid was based on funding allocations as reported on exhibit C1 of the district's 2012 CAFR. The percentage of FY 2013 state aid was based on funding allocations as reported in the approved 2013 budget.

**UNION TOWNSHIP SHOOOL DISTICT
LEGACY CONSTRUCTION MANAGEMENT PAYMENTS**

Date	Amount	Check Number	
8/16/2011	\$ ✓ 5,000.00	197	
9/20/2011	\$ ✓ 3,500.00	205	
10/18/2011	\$ ✓ 12,000.00	214	
11/15/2011	\$ ✓ 12,000.00	1002	
12/20/2011	\$ ✓ 12,000.00	1008	
1/17/2012	\$ ✓ 3,500.00	1013	
1/17/2012	\$ ✓ 12,000.00	1013	
2/14/2012	\$ ✓ 12,000.00	1018	
3/20/2012	\$ ✓ 12,000.00	1024	
4/24/2012	\$ ✓ 12,000.00	1029	
5/15/2012	\$ ✓ 12,000.00	1034	
6/19/2012	\$ ✓ 12,000.00	1040	
6/29/2012	\$ ✓ 12,000.00	1046	
	\$ 132,000.00		2011/2012
8/21/2012	\$ - 12,000.00	1052	
9/18/2012	\$ 12,000.00	1061	VOIDED
	\$ 12,000.00		2012/2013
State Recovery =	\$37,852.00		