

**STATE OF DELAWARE**  
**OFFICE OF**  
**AUDITOR OF ACCOUNTS**

**RED CLAY CONSOLIDATED**  
**SCHOOL DISTRICT**

**SPECIAL INVESTIGATION**

**FIELDWORK END DATE: JUNE 3, 2008**

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**State of Delaware**  
**Office of Auditor of Accounts**  
R. Thomas Wagner, Jr. – CFE, CGFM, CICA

*Working Hard to Protect YOUR Tax Dollars*

**Why We Did This Review**

In response to a fiscal crisis at Red Clay Consolidated School District (the District), the Department of Education (DOE) assembled a financial recovery team to assess the District's financial practices. The team provided a report to the public on December 13, 2007. DOE requested that the Office of Auditor of Accounts (AOA) review additional areas at the District. Via its Fraud Hotline, AOA received additional allegations regarding the District.

**Background**

The District was formed on July 1, 1981. It is one of four districts created when the New Castle County School District was reorganized.

Red Clay Consolidated School District includes northwestern sections of the City of Wilmington and its suburbs, all the way to the Pennsylvania State Line, from the Brandywine Creek to the Pike Creek Valley area, and along the Christina River back to the city line. The District serves approximately 16,000 students in 14 elementary schools, 6 middle schools, 3 high schools, 5 special education schools, and 1 special focus school.

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**RED CLAY CONSOLIDATED SCHOOL DISTRICT – SPECIAL INVESTIGATION**

**What We Found**

*Competitive Bidding Practices*

Seven of 20 vendors tested did not undergo the required RFP and bid process and two vendor contracts had not been bid within the last five years. A no bid contract for \$473,700 was given to A Friend of the Family, Inc. to provide services to the Central School.

*Occupation Vocational and Perkins Funding*

FY06 funding was not used in a timely fashion resulting in \$115,895 (32%) of funds reverted back to the State.

*Minor Capital Spending*

Minor Capital funding in the amount of \$618,162 was incorrectly used for Linden Park Office renovations and Conrad School renovation planning. Transactions in the amount of \$1,024,184 were recorded as expense items rather than capital purchases. Further budget controls were not exercised over the Linden Park Office project resulting in the project exceeding the minor capital \$500,000 limitation by \$4,481.

*Hiring Practices*

The Dean of Academics (Principal) at the Conrad School of Science and Technology was not subject to the interview panel screening process required by the Teachers' contract and did not have the required Delaware Teacher certifications to be a principal. Additionally, the District could not provide documentation to support the Energy Educator/Specialist position salary change from \$51,390 to \$54,671 to a range of \$87,769 to \$93,371 upon reposting of the position.

*Rent Reimbursement*

A relocating principal was provided a rental apartment costing \$16,891. The District does not have a relocation policy and the rental apartment was not included as part of the principal's contract. The District did not follow IRS guidelines when it failed to report the \$16,891 to the employee as taxable income.

*Tuition Reimbursements*

The District reimbursed an individual for \$1,102 above the District policy. Additionally, the District did not report \$1,509 of income to the IRS.

*Additional Allegations*

Additional allegations were received indicating that (a) an employee was stealing time, (b) an administrator was incorrectly paid from federal funds, and (c) a human resource employee had inappropriate PHRST access. These allegations were unsubstantiated.

**AOA Recommends**

*Competitive Bidding Practices*

The District comply with Delaware law and competitive bidding requirements.

*Occupation Vocational and Perkins Funding*

The District implement spending controls to ensure funding does not revert back to the State.

*Minor Capital Spending*

The District (a) reimburse Minor Capital funds \$618,162 and (b) establish control procedures to assist with compliance with Minor Capital funding laws and accounting system requirements.

*Hiring Practices*

The District (a) comply with hiring practices and Teachers contracts, (b) ensure that employees meet certification requirements, and (c) document salary re-evaluations.

*Rent Reimbursement*

The District establish a policy for relocation expenses and/or include relocation in employee contracts.

*Tuition Reimbursements*

The District establish procedures to ensure compliance with District policy and IRS reporting requirements.

**Please read the complete report for a full list of findings/recommendations and to review the District's response to our findings.**

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# AUDIT AUTHORITY

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Title 29, Del. C. c. 29 authorizes the Auditor of Accounts to file written reports containing:

1. Whether all expenditures have been for the purpose authorized in the appropriations;
2. Whether all receipts have been accounted for and paid into the State Treasury as required by law;
3. All illegal and unbusinesslike practices;
4. Recommendations for greater simplicity, accuracy, efficiency, and economy; and
5. Such data, information, and recommendations as the Auditor of Accounts may deem advisable and necessary.

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# ALLEGATIONS

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The Office of Auditor of Accounts (AOA) received the following allegations regarding Red Clay Consolidated School District (the District):

- The District did not comply with State bidding procedures:
  - The Central School contracted with a management services company for \$1.5 million over three years. State bid laws were not followed.
  - The District entered into a contract for a data base system, SchoolNet, even though the system was rated low by the bid committee.
  - Services for Occupational Therapists (OT), Physical Therapists (PT), and Speech and Language Therapists (SLT) were never put out to bid.
- Occupational Vocational (509) and Perkins Funds were not used properly.
- The District used minor capital funding on projects that did not meet the criteria for minor capital funding.
- The District's tuition reimbursement policy was revised for the benefit of one employee.
- Hiring practices were biased:
  - A principal was hired despite not meeting the minimum requirements.
  - The Dean of Academics at the Conrad Biotechnical School (Conrad) is not qualified for the position.
  - An employee that was endorsed by a politician was hired for the Energy Educator/Specialist position despite the employee being unqualified and applying for the position after the closing date.
- The District paid for an apartment for an employee until the employee sold his house.
- A human resources employee has an inappropriate PHRST access level.
- An employee at Alexis I. duPont High School (A.I. DuPont High School) stole time from the State.
- An administrator was incorrectly paid from federal funds.

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# BACKGROUND

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The District was formed on July 1, 1981. It is one of four districts created when the New Castle County School District was reorganized. The District includes northwestern sections of the City of Wilmington and its suburbs, all the way to the Pennsylvania state line, from the Brandywine Creek to the Pike Creek Valley area, and along the Christina River back to the city line. The District serves approximately 16,000 students in 14 elementary schools, 6 middle schools, 5 high schools, 5 special education schools, and 1 special focus school. Of the more than 2,000 employees, about 1,100 are teachers. The District operates on a budget of more than \$115 million. About one-third of that amount is derived from local property taxes with the remainder coming from State and federal funds.

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# OBJECTIVES, SCOPE, & METHODOLOGY

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## **OBJECTIVES**

The objectives of this investigation were:

1. To determine if (a) State bid laws were followed, (b) there was proper oversight of services provided, and (c) services were provided in accordance with contracts.
2. To determine the propriety of the use of Occupational Vocational and Perkins Funds.
3. To determine if minor capital funds were used for projects that met the requirements for minor capital spending.
4. To determine the consistency of the District's tuition refund policy.
5. To determine if proper hiring practices were followed.
6. To determine the propriety of payment for apartment rental for a new hire.
7. To determine the propriety of an employee's PHRST access level.
8. To determine the propriety of an employee's time reporting.
9. To determine the propriety of using federal funds for an employee's salary.

## **SCOPE**

The scope of this investigation was July 1, 2006 through June 30, 2007 (FY07) and July 1, 2007 through November 30, 2007.

The investigation was performed in accordance with the President's Council on Integrity and Efficiency, *Quality Standards for Investigations*.

## **METHODOLOGY**

Investigative techniques included:

- Interviews and inquiry.
- Inspection and confirmation of documentation and assets.

The investigation consisted of the following procedures:

### **Bid Laws**

1. Reviewed a sample of contracts to determine compliance with State bid laws.

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# OBJECTIVES, SCOPE, & METHODOLOGY

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2. Reviewed a sample of expenditures to determine if (a) there was proper oversight of the services provided, (b) services were in accordance with the contracts, and (c) background checks were conducted for substitute teachers.

## Occupational Vocational and Perkins Funding

1. Reviewed a sample of expenditures to determine if (a) funds were expended for State approved occupational and vocational courses and/or programs within the District, (b) expenditures were supported by adequate documentation, and (c) expenditures were properly coded in DFMS.
2. Reviewed financial records to determine if Occupational Vocational Funds were properly allocated to and spent by the schools within the District that generated the funds.
3. Viewed assets to determine if assets were in appropriate schools and classrooms.

## Minor Capital Funds

1. Reviewed expenditure documents to determine if (a) minor capital improvement funds were expended on projects that met the minor capital funding criteria, (b) expenditures were supported by adequate documentation, and (c) expenditures were properly coded in DFMS. Emphasis was placed on three projects: Brandywine Springs project, Linden Hill project, and the Conrad School.

## Tuition Refund Policy

1. Obtained all policies related to tuition reimbursement from FY04 through present.
2. Determined if reimbursement amount was dependent upon the position held in the District.
3. Determined if the policy was modified for the benefit of certain individuals.

## Hiring Procedures

1. Determined the hiring procedures for principals and administrative employees.
2. Obtained job postings and minimum qualifications.
3. Reviewed personnel files and determined, based on Delaware Administrative Code Title 14, Section 1500, if principals met the required state certification standards.
4. Determined if the individuals were qualified for the positions at the time of hire. If they were not qualified as of the date of hire, determined if they are currently qualified.
5. Determined if it appears that any preferential treatment was given to certain applicants.

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# OBJECTIVES, SCOPE, & METHODOLOGY

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6. Determined if the employees qualified for State funding and the type(s) of funding used to pay the employees.

## Moving Expenses

1. Determined if the District had an established policy for moving expenses/rentals.
2. Determined the amount of rent paid on behalf of the recently hired principal.
3. Determined if payments were in accordance with the District's policies.

## PHRST

1. Determined the job functions/duties of the Human Resource Employee.
2. Determined if the employee's PHRST access level was in accordance with job functions/duties.

## Time Theft

1. Determined the required schedule for the employee.
2. Obtained school sign-out records for the current school year.
3. Reviewed leave records to determine if the employee's leave records or pay were properly adjusted.

## Federal Funds

1. Determined the amount of pay and funding sources for the salary of the administrator.
2. Determined if appropriate time and effort records were maintained.
3. Reviewed grant documentation to determine if salaries were allowable.
4. Reviewed the employee's job functions/duties and determined if the amount of time charged to federal funds appears reasonable.

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# CONCLUSIONS

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## **Objective 1**

To determine if (a) State bid laws were followed, (b) there was proper oversight of services provided, and (c) services were provided in accordance with contracts.

Allegation: The Central School contracted with a management services company for \$1.5 million over three years. State bid laws were not followed.

Results of Testing: The District entered into two contracts with A Friend of the Family, Inc. (Friend of the Family). One contract was for Friend of the Family to operate an alternative educational program at the Community School; this contract was properly bid. The District entered into a one-year contract with Friend of the Family to provide services to the Central School for \$531,000; this contract was not bid properly. In FY07, the District paid Friend of the Family \$473,700 for these services. District management indicated that the Friend of the Family contract was terminated as of January 31, 2008.

Allegation: The District entered into a contract for a data base system, SchoolNet, even though the system was rated low by the bid committee.

Results of Testing: The District did enter into a contract with SchoolNet. This contract was subject to a 2005 special investigation that concluded the contract was not properly bid and that the pricing in the bid did not agree to what the District was paying. In September 2006, the District obtained the required sole source designation for SchoolNet and entered into a contract with SchoolNet for software licenses and maintenance.

Allegation: Services for OT, PT, and SLT were never put out to bid.

Results of Testing: The District was unable to provide documentation regarding proper bid processes for OT, PT, and SLT services provided by Delaware Curative Workshop. The District bid certain OT, PT, and SLT services in FY07 in which Therapy Services was awarded the bid. Prior to FY07, Therapy Services provided OT, PT, and SLT services to the District; the District was unable to provide documentation regarding proper bid processes for these services.

Conclusion: Allegations were substantiated. The District did not consistently comply with competitive bidding requirements. Of the 20 vendors selected for testing, AOA found the following: (a) certain services provided by seven vendors did not undergo the required RFP and bid processes, and (b) two contracts were not bid within the last five years. Overall, the District provided proper oversight of services received and did receive the services for which they paid.

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# CONCLUSIONS

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## **Objective 2**

To determine the propriety of the use of Occupational Vocational and Perkins Funds.

Allegation: Occupational Vocational (509) and Perkins Funds were not used properly.

Results of Testing: AOA sampled \$137,127.29 of expenditure transactions charged to Perkins funding. Three transactions totaling \$547.80 (representing less than 1% of the sample) were not related to a vocational-technical program. The District corrected the coding of the transactions after being made aware of the error.

AOA sampled \$667,127.86 of expenditure transactions charged to Occupational-Vocational funding and determined the following:

- The District was unable to provided sufficient support for transactions totaling \$3,349.89.
- The District made a duplicate payment to a vendor for \$636.79. The District corrected the duplicate payment after being made aware of the error.
- Remaining expenditures were allowable, properly coded, and properly supported.

AOA reviewed the allocation of funding to the schools within the District and found the following:

- The District did not use the State allocated funds for FY06 in a timely manner. The District used FY07 funding prior to fully spending FY06 funding; hence, \$115,895.52 (32%) of FY06 funds reverted back to the State.
- DOE allocated \$19,223 of FY07 occupational vocational funding to Skyline Middle School; however, Skyline expended \$20,355 resulting in over-spending of \$1,132.
- DOE allocated \$2,715 of FY06 occupational vocational funding to the Central School; however, Central School spent \$2,814 resulting in over-spending of \$99.

Conclusion: Allegation is partially substantiated.

## **Objective 3**

To determine if minor capital funds were used for projects that met the requirements for minor capital spending.

Allegation: The District used minor capital funding on projects that did not meet the criteria for minor capital funding.

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# CONCLUSIONS

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Results of Testing: In FY07, the District (a) used minor capital funding for projects that were not minor capital eligible and (b) did not notify the Department of Education (DOE) of the spending of minor capital funds. Additionally, control concerns were noted with the Linden Park renovation budget, the recording of expenditures in DFMS, and supporting documentation.

- Twenty-two (22) transactions totaling \$618,162 were not minor capital eligible.
- Forty-six (46) transactions totaling \$1,024,184.84 were incorrectly recorded in DFMS as an expense object code; the transactions should have been recorded as either assets (furniture) or leasehold improvements.
- The District did not notify DOE of the intended uses of minor capital funding.
- Eight (8) payroll transactions totaling \$1,250 were incorrectly funded with minor capital funding.
- The District did not control the renovation cost at the Linden Park Office complex and, as a result, exceeded the \$500,000 minor capital threshold by \$4,481.

FY08 transactions were minor capital eligible and were properly coded.

Conclusion: Allegation is substantiated.

## **Objective 4**

To determine the consistency of the District's tuition refund policy.

Allegation: The District's tuition reimbursement policy was revised for the benefit of one employee.

Results of Testing: AOA is unable to determine that the tuition reimbursement policy was changed to benefit the employee. The District's policy was revised to allow administrators to receive tuition reimbursement. The employee identified in the allegation, as well as other administrators, received tuition reimbursements after the new policy went into effect. AOA did determine that the employee in question received tuition reimbursement in excess of the District's reimbursement policy. In addition, AOA determined that the District did not meet tax reporting requirements.

Conclusion: Unsubstantiated.

## **Objective 5**

To determine if proper hiring practices were followed.

Allegation: A principal was hired despite not meeting the minimum requirements.

Results of Testing: The principal was eligible for the position both at the time of interview and when hired.

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# CONCLUSIONS

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Allegation: The Dean of Academics at Conrad is not qualified for the position.

Results of Testing: The Dean of Academics at Conrad did not meet the Delaware Administrative Law requirement to be a principal at the school at the time of hire. The employee currently does not meet the requirement to be a principal. AOA determined that the employee did not undergo the Union Contract required interview and selection process. This employee was familiar with a District School Board member and completed her job application eight days after she was hired.

Allegation: An employee that was endorsed by a politician was hired for the Energy Educator/Specialist position despite the employee being unqualified and applying for the position after the closing date.

Results of Testing The Energy Educator/Specialist position was posted two times, once in June 2004 and again in August 2004. In June 2004, the position was posted with a salary range of \$51,390-\$54,671. In August 2004, the same position was re-posted with a salary range of \$87,769-\$93,371. The August 2004 posting was similar in most ways to the June 2004 posting except that the August 2004 posting eliminated the educator preferential treatment and added a requirement that "as much as 50% of the job will be outside normal 8 to 5 weekday hours." The District was unable to provide documentation or rationale for the increase in salary.

The hired employee applied within the required timeframe for the August 2004 posting. While the employee's application did include a recommendation letter from a State legislator, AOA also determined that the employee met the minimum requirements of the August 2004 posting.

Conclusion: Partially substantiated.

## **Objective 6**

To determine if payment was made for apartment rental for a new hire.

Allegation: The District paid for an apartment for an employee until the employee sold his house.

Results of Testing: The District paid \$16,891 for an apartment for a newly hired principal. The principal's contract did not indicate that the District would pay for an apartment, nor does the District have a policy regarding paying for an apartment for a relocating employee. The amount paid for the apartment rental was not included in the employee's W-2 or on a 1099. There is no documentation that the School Board approved this expense.

Conclusion: Allegation is substantiated.

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# CONCLUSIONS

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## **Objective 7**

To determine the propriety of an employee's PHRST access level.

Allegation: A human resources employee has an inappropriate PHRST access level .

Results of Testing: The Human Resources employee had an appropriate level of PHRST access given the employee's job functions.

Conclusion: Allegation is unsubstantiated.

## **Objective 8**

To determine the propriety of an employee's time reporting.

Allegation: An employee at A.I. DuPont High School stole time from the State.

Results of Testing: A.I. DuPont High School does not require employees to sign in or out during arrival or dismissal of work; therefore, sign-in sheets were not available. A.I. DuPont High School Article 18, Section 4 (18:4) of the Teacher Contract states, "Employees will not be required to 'clock in or out' but may be required to initial a roster upon arrival at their work location." If employees leave school at any time during the regular school day, they are required to sign out and obtain permission of the principal. Through discussions with the principal and employee, as well as review of the employee's schedule, AOA determined there was no impropriety in the employee's time reporting.

Conclusion: Allegation is unsubstantiated

## **Objective 9**

To determine the propriety of using federal funds for an employee's salary.

Allegation: An Administrator was incorrectly paid from federal funds.

Results of Testing: Per review of grant documents, time and effort reports, and the employee's job duties/functions, AOA determined the employee's salary was appropriately charged to federal funding.

Conclusion: Allegation is unsubstantiated.

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# FINDINGS AND RECOMMENDATIONS

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***Finding #1 - Compliance with Bidding Procedures***

The District did not consistently comply with competitive bidding requirements. Of the 20 vendors selected for testing, AOA found the following: (a) certain services provided by seven vendors did not undergo the required RFP and bid processes,<sup>1</sup> and (b) two contracts were not bid within the last five years.

The Purchasing and Contracting Advisory Council established thresholds that trigger formal bidding procedures in the areas of Materiel and Non-Professional Services, Public Works, and Professional Services. State agencies are required to use the formal bidding procedures when a purchase is made in an amount that exceeds the threshold limit. Professional services greater than \$50,000 are required to have formal Request for Proposal (RFP) process.

Based on testing, the following services were not properly bid:

Service	Vendor	Expenditures (FY07 and FY08 through November 30, 2007)
Transportation Services for Athletics and Summer School	Advanced Student Services, Sutton Bus, Boulden Bus	Summer School - \$146,180 Athletics –\$215,281 (unaudited)
Language Therapist	Amy Goldstein	\$77,745
Physical/Occupational/Speech Therapy	DE Curative Workshop	\$387,716
Central School	A Friend of the Family	\$473,000 (unaudited)
After School Care	Latin Community Center	\$111,250
Bilingual Services	Mariros	\$78,371

For two vendors, the RFP language allowed for contract extensions; however, the language was not specific as to how many times the contracts could be extended:

Service	Vendor	Expenditures (FY07 and FY08 through November 30, 2007)	Bid Fiscal Year
Substitute Teacher Services	STS	\$2,939,894	FY00
English as a Second Language	Back to Basics	\$105,172	FY01

Non-compliance with bid laws may result in the District paying more for services than necessary.

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<sup>1</sup>The same vendors may provide different services to the District, some of which may have been properly bid.

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# FINDINGS AND RECOMMENDATIONS

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## *Recommendation*

The District develop and implement control procedures to ensure compliance with State of Delaware bid requirements. Procedures should address adequate documentation of the entire bid process from the time of posting to the awarding of the contract. The District should consider specific language in RFPs and contracts regarding the number of extensions permitted.

## *Auditee Response*

In Fiscal Year 2008, the District extensively reviewed and modified the process for contract awards to formalize procedures, monitor services, and track expenditures. Any school or department requesting a contract must present documentation to the business office detailing the need for the contract, the RFP process, the funding source and funding availability for the contract. All information is verified and filed in the business office, including bid number, contract amount, and expiration of the contract.

In two instances of the findings for FY07, the contracts were originally anticipated below the \$50,000 procurement threshold for bidding for professional services (\$77,745 and \$77,371 for Goldstein and Mariros, bilingual and speech therapists). Based on the needs of the schools and programs, services exceeded the original contract estimate. In Fiscal Year 2008, the revised process for payments added a detailed review of any purchase order modification request against a review of expenditures to validate payments, contract terms, and instances where contracts exceed estimated hours. Neither of the vendors noted exceeded payments over the bid threshold in FY08.

The District does not agree with the findings regarding transportation contracts. Transportation services are bid by the District and contractors are awarded contracts in accordance with State procurement guidelines and 14 Del C. §2901 and 2908. Due to the nature of athletics and playoffs, complete schedules (both location and duration) are not known in advance. The contracts awarded by the board for transportation contractors states "when it is necessary to provide additional services at the request of the Board which are not anticipated in this agreement, additional compensation shall be mutually agreed upon by the Board and the Contractor, and will be paid by the aforesaid District." For athletics, contractors are again selected based on their status as an approved contractor for the District as well as price and availability for service. For summer school, where the schedule is determined in advance, a letter is sent to all District contractors offering the opportunity to quote on summer school transportation. The terms are specified in the quote—requesting a per bus amount with a three-hour minimum, an hourly cost above three hours, and a number of buses that could be committed to the summer school program. For Fiscal Year 2007, the letter was sent on February 20, 2006. The District received quotes and selected vendors based on lowest quote. The District believes the contracting processes meets the spirit of the procurement process and secured the lowest price for athletic and summer school services. Every contractor selected met the specified bid requirements as a District transportation contractor.

The District agrees the contracts were not properly bid for Central School, Delaware Curative Workshop, and the Latin American Community Center. The contract for Friend of the Family was signed under emergency circumstances as an extension of the existing contract with Community School when administrative staff at the Central School was terminated for cause weeks prior to the start of school. A

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# FINDINGS AND RECOMMENDATIONS

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Friend of the Family was an existing vendor that provided alternative education services at the Community School through an appropriate bid process. The services provided at Central School were alternative education for special education. The District continued the contract for Central School in the subsequent year incorrectly believing it was an extension of the existing bid with Friend of the Family for the Community School. The District recognized the error and as the Auditor's Office notes, the contract with the Friend of the Family was terminated by the District in FY08. This finding was also reviewed by the Financial Recovery Team in its December 2007 report.

The contract with Delaware Curative Workshop continued a long standing partnership in Red Clay for therapists for the District's 3 and 4-year-old program. Historically, the program was housed at the Delaware Curative Workshop. In later years, and as space became available, the program was moved back to the schools. Delaware Curative Workshop terminated the contract in FY08 and the District has prepared and posted an RFP for therapists for the next school year. Similar to Delaware Curative Workshop, the Latin American Community Center held a unique qualification to the program and neighborhood for a successful credit recovery program for high school students. However, the District agrees no sole source distinction was filed by the District. In FY08, funding was not provided and a contract was not awarded for services.

In the final item regarding contracts, the District has language in existing RFPs regarding extensions. Contract extensions allow the District the most flexibility in two critical areas: both extending and terminating contracts to best meet financial and programmatic needs. Continuity of educational programs is a critical factor where a change in vendor can create a potential hardship. Contract extensions are allowed by state procurement code and the District has complied with State guidelines and its own contract language. The District will continue to monitor RFPs and contract extensions as part of the overall revised procurement procedures.

## ***Finding #2 - Minor Capital Funding***

In FY07, the District (a) used minor capital funding for projects that were not minor capital eligible and (b) did not notify the Department of Education (DOE) of the spending of minor capital funds. Additionally, control concerns were noted with the Linden Park renovation budget, the recording of expenditures in DFMS, and supporting documentation.

According to Title 29, Budget, Fiscal, Procurement and Contracting Regulations, Chapter 75, School Construction, §7528 Minor Capital improvements, "Minor Capital Improvements shall mean, but shall not be limited to, capital expenditures for rebuilding or major repairs of roofs, floors, heating systems or facilities, painting, electrical systems or facilities, plumbing or water systems or facilities, asbestos abatement, the removal of architectural barriers to the handicapped, stand-alone storage buildings and purchase or lease of portable classrooms." Delaware Administrative Code Title 14, Education, 400 Construction, 405 Minor Capital Improvement, Subsection 1.2 Use Funding, further defines the use of Minor Capital Spending to "roofs, heating systems, ventilation & air conditioning systems, plumbing & water systems, electrical systems, windows, doors, floors, ceilings, masonry, structural built in equipment, painting, fire suppression systems, life safety systems, maintenance of site, office equipment used for instructional purposes only and renovations, alterations and modernizations that do not require major structural changes." Further, Title 29, states "Before contracts for minor capital improvements are

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# FINDINGS AND RECOMMENDATIONS

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let or funds expended for minor capital improvements by any school district, a portion of the costs of which are to be funded with the proceeds of bonds or notes, such school district shall transmit a request for approval of such capital expenditures to the State Department of Education, which request shall (1) itemize the minor capital improvements to be undertaken and (2) show the estimated cost of each such item."

The District's lack of compliance with State laws has resulted in the misspending of \$619,412 in funding and incorrect financial reporting in DFMS.

## ***Recommendation***

The District repay the minor capital appropriation \$619,412. The District should establish control procedures to ensure compliance with minor capital funding requirements and the appropriate recording of transactions in DFMS. Management should also establish project management procedures to control costs and ensure that both budget and legal funding requirements are not exceeded.

## ***Auditee Response***

The District agrees there was an error in coding \$619,412 of minor capital improvement eligible expenditures in FY07. However, the District also incorrectly charged local and discretionary funds for minor capital improvement eligible expenses in excess of the \$619,412. The District has discussed this with the Department of Education. The District will provide a detailed itemization and will work with the Department of Education to identify the expenditures and verify their eligibility for minor capital improvement funds. This is an equitable offset and would eliminate the need for a repayment from local funds.

The District does not agree that \$1,024,184.84 in expenditures were incorrectly recorded as expense or non-capital assets. Section III, A of the State's Capital Asset Accounting Manual states the minimum capital asset capitalization threshold must be greater than \$25,000 per single item in order to be recorded as a capital asset. None of the items purchased exceeded the single item criteria required by the State's Division of Accounting.

In FY08, the District has worked extensively with the Department of Education to update the needs assessment database and electronic schedule for minor and capital building improvements. Representatives from the District also attended the capital asset training update provided by the Division of Accounting in May 2008.

## ***Auditor Comment***

In the above response, the District indicates that it does not agree that \$1,024,184.84 in expenditures is incorrectly recorded as a District expense. Note that AOA does not report the \$1,024,184 in this finding, but reports the incorrect recording in the conclusion section.

According to the State's Capital Asset Accounting Manual, Section III, Subsection B, "An asset with associated component parts that are necessary to the functioning of the asset is considered to be one asset

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# FINDINGS AND RECOMMENDATIONS

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when the life and utility of the component parts are mainly dependent on that of the asset. Effective July 1, 2004, the cost of the asset and its component parts are together subject to the \$25,000 threshold."

Although invoices for some of the component parts may be below the \$25,000 threshold, the overall value of the completed item was greater than \$25,000 and thus should be capitalized as a District asset. For example, the District purchased \$459,523 in office furniture for Linden Park that was paid through 12 invoices ranging between \$11,015 to \$79,087. As a result, AOA believes the \$459,523 should have been capitalized as furniture rather than expensed as furniture less than \$1,000.

### ***Finding #3 - Allocation of Vocational Funding***

Title 14, Del C. §1706 allows funds to be appropriated to each school district based on each occupational-vocational unit. Funds are then allocated to each school that generates the funds and shall be expended to support a State-approved occupational-vocational course and program at that school. Districts have a two-year period in which to use the funds.

AOA found the following:

- DOE allocated \$19,223 of FY07 occupational vocational funding to Skyline Middle School; however, Skyline expended \$20,355 resulting in over-spending of \$1,132.
- DOE allocated \$2,715 of FY06 occupational vocational funding to the Central School; however, Central School spent \$2,814 resulting in over-spending of \$99.
- The District did not use FY06 occupational vocational funding in a timely manner resulting in \$115,895.52 of funds reverting back to the State. District officials indicated that they currently have a process in place to utilize funds in the order of expiration; however, the process was not in place during FY06. In addition, officials stated that the occupational vocational programs and classes have the newest equipment, books, and instructional materials which leads to difficulty in identifying valid, allowable needs for the occupational-funding. District officials stated this places the District in a position to revert the funds back to the State.

### ***Recommendation***

The District should:

- Implement control procedures to ensure that each school expends only the amount of funds that are earned by and allocated to them.
- Repay \$1,231 to the State.
- To the extent allowed by law, use funds in the order of expiration and track the use of funds to limit the amount of funds reverted to the State.

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# FINDINGS AND RECOMMENDATIONS

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## *Auditee Response*

The District will repay \$1,231 to the State. Allocations for specific schools can change each year as enrollment changes and small fluctuations occur. For FY07 and forward, the District has developed and utilized a detailed process to track allocations to the expenditures by school and fiscal year. No findings were reported for FY07 or FY08.

The District does not agree with the finding that FY06 vocational funds were not spent in a timely manner. Vocational funds are appropriated in one fiscal year and districts have the opportunity to spend against that appropriation for two years. Each year this leads to continued carry-over. The District did spend the FY06 and FY07 vocational funds in a timely manner based on the current year's appropriation. Rather than expend irresponsibly against a perpetually continuing appropriation, the District was prudent and allowed State vocational funds to revert back to the State. The District was not short of vocational education funding—FY07 State funds carried into FY08, and FY08 State funds carried into FY09 adding to the current year allocation.

## *Auditor Comment*

Occupational-vocational appropriations are two-year appropriations. Unspent funds revert back to the State at the end of the two-year period. Historically, Delaware school districts, including Red Clay Consolidated, spend the funds in the order in which received. This limits the amount of funds that districts revert back to the State. During FY06, the District was allocated \$359,050.50 and had two years to spend the funds. At the end of FY07, the District had not spent or encumbered \$115,895.52 of the funds. At the end of FY08, the District had not spent an additional \$11,718.86. A total of \$127,614.38 of FY06 occupational-vocational funds reverted back to the State. This represents 35% of the total funds.

Although the District responds that this was prudent on their part, it is not consistent with how they utilized FY03, FY04, FY05, or FY07 occupational vocational funds. The lack of consistency calls into question whether the District was prudent in either FY06 or the combination of FYs 03, 04, 05, and 07.

The District also stated that the occupational vocational programs were already operating with the newest equipment and technology; hence, it was difficult to identify valid uses for the FY06 funds. However, AOA determined that FY07 occupational vocational funds were used during the same period of availability of FY06 funds. This indicates that there were valid uses for the FY06 funds, but that the funds were not used in the order of expiration.

AOA reviewed the FY06 funding for Delaware's 18 other school districts. Red Clay Consolidated was one of only three districts that reverted occupational vocational funds to the State; the remaining 16 districts utilized their occupational-vocational funds. In addition, Red Clay Consolidated reverted 35% of its occupational funds, while the two other districts reverted 14% and less than 1%, respectively.

AOA concludes that the District did not use the funds in the order of expiration. This decreased the amount of funding that was made available to the occupational-vocational programs.

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# FINDINGS AND RECOMMENDATIONS

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## *Finding #4 - Hiring Practices*

The District did not comply with interview requirements or certification requirements. Additionally, the District could not provide documentation to support a salary range increase in a reposted position.

- The current Red Clay Consolidated School District Teachers' contract requires that "the following Administrative positions shall be posted and subject to the screening committee . . . : Principal, Assistant Principal." The District hired a principal for the Conrad School of Science and Technology without going through the required screening committee. The individual was familiar with a School Board member and completed her employment application after she started in her position. The employee was not qualified at the time of hire and is not qualified at the time of this report. Delaware Administrative Code Title 14, Education, §1591 School Principal and Assistant Principal, Subsection 3.2.1 states, "A minimum of three (3) years of teaching experience at the level to be initially assigned as a school Principal or Assistant Principal." The employee does not have the required three years of teaching experience. In FY07, \$44,360 of the employee's salary was paid with State funding. During FY08, State funding has been used to pay the employee's salary.
- The District could not provide documentation for a salary change in a reposted Energy Educator/Specialist position. The District initially posted the position on June 29, 2004 with preferential treatment given to educators with a salary range of \$51,390-\$54,671. The position was reposted on August 23, 2004 with a salary range of \$87,769-\$93,371. The August 23, 2004 posting was similar in most ways to the June 29, 2004 posting except that the August 23 posting eliminated the educator preferential treatment and added a requirement that "as much as 50% of the job will be outside normal 8 to 5 weekday hours."

Non-compliance with contractually agreed to hiring processes is not only a violation of the teachers' contract, but may also result in biased hiring practices. Noncompliance with Delaware Administrative Code and the lack of proper documentation for job position salary changes may result in the appearance of biased hiring practices.

## *Recommendation*

The District should:

- Comply with both the Red Clay Consolidated School District Teachers' contract and Delaware Administrative Code.
- Establish controls to ensure employees meet minimum requirements, including certifications.
- Repay the State, from local funds, \$44,360 for the employee's FY07 salary and recode the State share of the employee's FY08 to local funds.
- Implement a formal process to re-evaluate positions and salary requirements. The job re-evaluation process should be documented and approved by the School Board.

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# FINDINGS AND RECOMMENDATIONS

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## *Auditee Response*

In the opening of Conrad Schools of Science, Red Clay publicly reported an alternative leadership model. The employee in question did not serve as the principal of the building. The Dean of School served in that capacity and handled all matters of discipline, staffing, and school-related services. An assistant principal was also assigned to the school. Working in conjunction with the Dean of School, the Dean of Academics served as an expert in the science field and worked with the various partnership groups including the Biotechnology Institute and Delaware Technical and Community College on programming issues. In FY07, the employee's position was paid through an academic excellence unit in accordance with 14 Del C. §1716. At the time, the candidate was pursuing alternative routes to certification.

The superintendent and board reviewed the candidate's resume prior to hiring. The employee hired held a PhD with an exemplary background at DuPont as a science professional. The applicant completed the traditional paperwork upon starting, including emergency contact information, etc. which included the referenced employment application. The District agrees it would have been more appropriate to use a non-principal unit for salary payment. This occurred in FY07, but not FY08. The difference in State funding is \$15,746 and will be repaid to the State. Effective July 31, 2008, the employee has resigned from Red Clay. The Dean of School also retired and the leadership team at Conrad has been changed back to the traditional principal model.

The District does not agree with the finding regarding the Energy Manager position in 2004. The position was posted with an initial salary and reposted based on both the increased specification of duties and expanded work hours. It is not uncommon for the District to attempt to underfill a position at a lower salary, particularly the first time a position is posted. It gives the opportunity to test the applicant market at the lowest cost to the District. However, underfilling is not always successful. Members of the auditor's office who reviewed the files recognized a significant difference in applicant skills and qualifications between the first and second posting. The position was filled with an approved salary from the administrative salary schedule established by the board.

## *Auditor Comment*

The District has discussed the repayment amount of the Dean of Students State portion of salary with the Department of Education. AOA has no further issue with the salary repayment amount.

AOA stands by its recommendation that for changes in job specifications and salary requirements, the District should implement a formal process and clearly document discussions. The qualifications of the person hired as the Energy Manager were not questioned by AOA; rather, AOA questioned the lack of documentation to support an increase in the salary (e.g. Board minutes, Board approval, etc.).

## *Finding #5 - Rent Reimbursement*

The District does not have a policy regarding payment of rent for relocating employees. Per review of District records, it was determined that the District directly paid Pettinaro Relocation a total of \$16,891.86 for an apartment for a relocating high school principal. The principal's contract did not specify payment

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# FINDINGS AND RECOMMENDATIONS

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of rent or relocation costs. The lack of a policy may lead to the perception of favoritism and unequal treatment of employees. In addition, the District did not report the rent paid on behalf of the employee as taxable income.

According to IRS Publication 525 Taxable and Nontaxable Income, Faculty Lodging must meet the following criteria to be non-taxable:

You do not include in your income the value of meals and lodging provided to you and your family by your employer at no charge if the following conditions are met . . .

The lodging is:

- a. Furnished on the business premises of your employer,
- b. Furnished for the convenience of your employer, and
- c. A condition of your employment. (You must accept it in order to be able to properly perform your duties).

The rental of an apartment for the employee does not meet the above criteria and as a result, the \$16,891.86 (\$9,011.86 for tax year 2007 and \$7,880 for tax year 2006) is a taxable income event for the employee.

Furthermore, US Code Title 26, Section 6721 Failure to file correct information returns states,

(a) Imposition of penalty

(1) In general

In the case of a failure described in paragraph (2) by any person with respect to an information return, such person shall pay a penalty of \$50 for each return with respect to which such a failure occurs, but the total amount imposed on such person for all such failures during any calendar year shall not exceed \$250,000.

(2) Failures subject to penalty

For purposes of paragraph (1), the failures described in this paragraph are—

- (A) any failure to file an information return with the Secretary on or before the required filing date, and
- (B) any failure to include all of the information required to be shown on the return or the inclusion of incorrect information.

Lack of knowledge regarding IRS requirements resulted in noncompliance with IRS taxable income reporting requirements that can result in a monetary penalty.

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# FINDINGS AND RECOMMENDATIONS

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## *Recommendation*

The District should:

- Establish a policy for relocation expenses. Employee contracts should clearly indicate the amount to be paid for relocation costs.
- In order to comply with IRS Publication 525 and US Code Title 26, Section 672, report to the IRS payments made on behalf of the employee for rent.

## *Auditee Response*

The District does not have a relocation policy as individual circumstances and negotiations vary on a case-by-case basis. Relocation reimbursement, while not unprecedented, is not common in Red Clay. The particular position in question was advertised twice in order to find and select a candidate for the position. The District agrees that any similar decisions in the future will be included as an amendment to the employee's contract. The District also agrees information was not provided to the IRS for taxable income. This was an error by the business office. We have contacted the State to issue a revised W-2 and payment of taxes. We have also advised the employee of the error and the resulting tax liability.

## *Finding #7 - Tuition Reimbursement*

The District's policy for administrators' tuition reimbursement states, "Full reimbursement may be approved for up to 6 graduate or doctoral credit hours per semester or summer session." In the spring session of 2006, the District reimbursed an employee for a total of nine credit hours in the amount of \$3,307.00. As a result, the District overpaid the employee \$1,102.33 for the additional three credit hours. Further review of District records indicate that the employee was reimbursed \$6,759 for tax year 2006.

According to US Code Title 26, Section 127 Educational assistance programs,

(a) Exclusion from gross income

(1) In general

Gross income of an employee does not include amounts paid or expenses incurred by the employer for educational assistance to the employee if the assistance is furnished pursuant to a program, which is described in subsection (b).

(2) \$5,250 maximum exclusion

If, but for this paragraph, this section would exclude from gross income more than \$5,250 of educational assistance furnished to an individual during a calendar year, this section shall apply only to the first \$5,250 of such assistance furnished.

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# FINDINGS AND RECOMMENDATIONS

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In addition, US Code Title 26, Section 6721 Failure to file correct information returns states,

(a) Imposition of penalty

(1) In general

In the case of a failure described in paragraph (2) by any person with respect to an information return, such person shall pay a penalty of \$50 for each return with respect to which such a failure occurs, but the total amount imposed on such person for all such failures during any calendar year shall not exceed \$250,000.

(2) Failures subject to penalty

For purposes of paragraph (1), the failures described in this paragraph are—

- (A) any failure to file an information return with the Secretary on or before the required filing date, and
- (B) any failure to include all of the information required to be shown on the return or the inclusion of incorrect information.

The District did not include the \$1,509 above the IRS ceiling of \$5,250 as taxable income. Lack of compliance with District policy as well as lack of knowledge regarding IRS requirements resulted in overpayment to an employee and noncompliance with IRS taxable income reporting requirements that can result in a monetary penalty.

### ***Recommendation***

The District should:

- Limit tuition reimbursements to the amounts established in written policies and procedures
- Implement a policy to require the reporting of taxable income for any reimbursement exceeding \$5,250 in one calendar year.
- Review all employees who received tuition reimbursements and correct previous reimbursements that were not reported to the Internal Revenue Service in order to comply with US Code Title 26, Section 6721

### ***Auditee Response***

The District agrees information was not provided to the IRS for taxable income. This was an error by the business office. We have contacted the State to issue a revised W-2 and payment of taxes as well as notified the individual. The individual is no longer an employee of the District. In addition to the school year, the District has implemented a process to review all tuition reimbursement expenditures at the end of the calendar year, to coincide with tax year reporting.

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