SPECIAL AUDIT

Boynton-Moton Public School District

January 1, 2010 through May 27, 2011

Oklahoma State
Auditor & Inspector
Gary A. Jones, CPA, CFE

BOYNTON-MOTON PUBLIC SCHOOL DISTRICT

SPECIAL AUDIT REPORT

JANUARY 1, 2010 THROUGH MAY 27, 2011

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Oklahoma State Auditor & Inspector

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December 5, 2011

Honorable Janet Barresi, Chairperson
Oklahoma State Board of Education
2500 North Lincoln Blvd., Room 118
Oklahoma City, Oklahoma 73105-4599

Transmitted herewith is the Special Audit Report of the Boynton-Moton Public School District, Boynton, Oklahoma.

Pursuant to the State Superintendent of Public Instruction's request and in accordance with the requirements of **74 O.S. 2001, § 213(C)**, we performed a special audit with respect to the Boynton-Moton Public School District No. I-4 for the period: January 1, 2010 to present (end of fieldwork: May 27, 2011).

The objectives of our special audit primarily included, but were not limited to, the areas noted in the State Superintendent of Public Instruction's request. Our findings related to these objectives are presented in the accompanying report.

Because the above procedures do not constitute an audit conducted in accordance with generally accepted auditing standards, we do not express an opinion on the account balances or financial statements of the Boynton-Moton Public School District for the period January 1, 2010 to present (end of fieldwork: May 27, 2011).

The Office of the State Auditor and Inspector is committed to serve the public interest by providing independent oversight and by issuing reports that serve as a management tool to the State. Our goal is to serve the citizens of Oklahoma by promoting accountability and fiscal integrity in state and local government.

We wish to take this opportunity to express our appreciation for the assistance and cooperation extended to our office during the course of our special audit.

This report is addressed to and intended solely for the information and use of the Oklahoma State Department of Education and the Oklahoma State Board of Education and should not be used for any other purpose.

Sincerely,

GARY A. JONES, CPA, CFE
OKLAHOMA STATE AUDITOR & INSPECTOR

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BOARD OF EDUCATION
AS OF MAY 31, 2011

Hubert Adkins......President

June Lee......Clerk

Robert Lang......Member

Angela Jackson......Member

Yolanda Wiggins......Member

Leonard Walker......Member

Superintendent

Dr. Shelbie Williams

Introduction

The Boynton-Moton Public School District (I-4) is part of the Oklahoma State System of Public Education, as described in **70 O.S. § 1-101 *et seq.***, the **Oklahoma School Code**.

The Board of Education ("Board") of the Boynton-Moton Public School District ("District") is responsible for the supervision, management, and control of the District as provided for in **70 O.S. § 5-117**.

Both the Board and the District are subject to the provisions of the **Oklahoma School Code**, as well as other statutes found in various titles including, but not limited to, Title 25 (Definitions and General Provisions), Title 51 (Officers), Title 61 (Public Buildings and Public Works), Title 62 (Public Finance), and Title 68 (Revenue and Taxation).

The District is audited annually by private independent auditors. However, the FY10 and FY11 audits have not been done and consequently those audit reports were not available for review, as noted in this report.

The Office of the State Auditor and Inspector conducted a special audit of the records of the District, primarily those records relating to outstanding liabilities and payroll contracts.

All dollar amounts included in the report are rounded to the nearest dollar, unless otherwise specified.

The District's fiscal year starts July 1 and ends June 30. In this report, fiscal years are abbreviated by using the ending calendar year. For example, the fiscal year of July 1, 2010 to June 30, 2011, will be identified as "FY11."

The results of the State Board of Education's special audit request are in the following report.

Background

Dr. Shelbie Williams was hired September 8, 2009, as the Superintendent for the District. She continued to serve as the District's Superintendent until the school was closed, as of June 30, 2011.

The District's student enrollment and school revenues had been declining rapidly. Between July 1, 2008 and closing at June 30, 2011, both student enrollment and estimated revenues had decreased by approximately 49%.

During their August and September 2010 Board meetings, the District's Board acknowledged the need to transfer all high school students out of the District. The Board did not officially vote to close the high school, but the high school was effectively closed with the transfer of the students. The kindergarten through 8th grade school remained open for the balance of the school year.

On March 17, 2011, Janet Barresi, State Superintendent of Public Instruction, sent a letter to the District, addressed to District Superintendent Dr. Shelbie Williams. The letter informed Dr. Williams that the District would no longer be accredited for the following school year ending June 30, 2012 (FY12).

On March 23, 2011, Janet Barresi, State Superintendent, formally requested an investigative audit of the District be performed by the State Auditor and Inspector's Office.

On March 24, 2011, the Oklahoma State Board of Education voted to close the District and annex the District to the surrounding school districts.

Following that decision, officials from the State Department of Education were instructed to secure all records of the District schools. Copies were made and retained at the State Department of Education office in Oklahoma City, OK. The original records were returned to the school.

OBJECTIVE I. Determine the estimated liabilities, revenue, and cash on hand for the year ended June 30, 2011.

Procedures

The primary objective for this engagement was to determine the outstanding liabilities of the District at the end of the FY11 school year and the amount of cash and investment assets the District had available to pay its final bills and liabilities. In order to accomplish this objective, we reviewed the District's accounts payable and payroll records and estimated the District's remaining liabilities. We then estimated revenue to be collected and confirmed the cash held in the District's bank account, less any outstanding checks at the time of fieldwork.

Findings

Estimated Current Liabilities:

The estimated liabilities of the District for the close of FY11 are as follows, by category:

1. ***Vendors*** – We reviewed the vendor files which contained vendor invoices, statements, notices to pay, and miscellaneous communications with the District, as maintained at the Boynton-Moton School. We compiled a list, per vendor, of the most recent invoice/statement, any amounts paid on the invoice/statement, and any outstanding amount on the invoice/statement. We also reviewed the documentation for reasonableness and completeness.

   In order to determine if the listing of vendors was complete we made inquiries of District administrators. We also examined a listing of all vendors paid throughout the fiscal year, as provided by the District's Treasurer, to determine if any frequently paid vendors were missing from our compiled list. Finally, we reviewed the records that were obtained from the District, as noted in the background information, which were maintained at the State Department of Education in Oklahoma City, OK. Although some vendor files and invoices were noted in this documentation, nothing useful was identified to help determine the final bills and liabilities.

   For each vendor listed, we inquired of District administrators if there were any transactions, service requests, or other reasons to believe additional invoices would be mailed to the school for services performed or products received in the school year. In some instances we were able to determine the overall liability owed to a vendor by contacting them directly. In many cases we estimated, with the assistance of District administrators, any future liabilities based on the assumption the school would continue to be in operations until the end of FY11.

We estimated vendor and payroll liabilities to be $137,496, as of the date of fieldwork.

2. ***Projected State Auditor and Inspector Fees*** – We estimated fees for our audit engagement to be $10,000.

3. ***Payroll*** – As of the end of fieldwork date (May 27, 2011), the District owed employees their paychecks for the May and June 2011 payrolls. We examined the outstanding payroll information provided by District administrators to determine the amount of payroll owed to salaried employees. We then determined which hourly employees were expected to work in the months of May and June and made inquiries of District administrators to estimate the number of hours they would be working in those months to arrive at the total estimated payroll outstanding. We estimated payroll liabilities to be $81,064.

4. ***Vacation, Sick, and Personal Accruals*** – We inquired of the Superintendent, Principal, and Superintendent Secretary as to the nature or existence of all outstanding benefit and payroll accruals such as accrued vacation time, unused sick time, or personal days for which the school will be liable.

   Employees are provided vacation, sick, and/or personal days based on their employment contracts. However, with the exception of administrators, these benefits are not accrued after year end. Teachers can accrue personal days, but their accrual is carried over to the next school district that they may be employed in, and those personal leave days will not be paid by the District.

   We spoke with the remaining administrators who believed they had accrued vacation time. However, they had not kept records of the vacation time they had accrued. Furthermore, due to the fiscal decline in the school district, they all stated they would rather waive their accrued vacation, if any, so as not to appear to be taking additional money from the school. Therefore, no provision was made for vacation leave, sick leave, or personal day liabilities.

5. ***Payroll Taxes and Penalty*** – The District had not made timely deposits of payroll taxes for the period of October 2010 through March 2011, resulting in the penalties shown below:

Monthly Payroll	Became Delinquent	Paid	Amount	IRS Rate	Penalty
October	11/15/10	*	$9,802.05	10%	$980.21
November	12/15/10	05/03/11	$10,082.26	10%	1,008.23
December	01/15/11	05/03/11	$9,536.40	10%	953.64
January	02/15/11	05/03/11	$8,920.96	10%	892.10
February	03/15/11	05/03/11	$9,049.36	10%	904.94
March	04/15/11	05/03/11	$8,997.25	10%	899.73
					$5,638.85

***** *As of fieldwork date 5/27/11, the October 2010 payroll taxes were unpaid.*

We calculated the penalty imposed by the IRS on late payments based on the schedule above and the 10% IRS penalty rate on all payments 16 or more calendar days late. As shown above, we estimated payroll taxes overdue and tax penalties to be $15,441.

6. ***Audit and Closing Fees*** – We assessed future required audit and closure fees the District may incur, as a result of the school closing. Under **70 § 22-108**, a school district is required to have an annual audit and file the audit report "within ten (10) months after the close of the fiscal year…"

   The District had had the same external auditor for the past several years. The external auditor notified Dr. Williams by letter dated May 6, 2011, that they would not be performing the required FY10 audit of the District, after Dr. Williams had informed them that there was no funding to pay for the engagement. The external auditor estimated the cost of a FY10 audit would be $5,500.

   The District was also required to have a closing financial audit for the FY11 school year. The external auditor believes the cost of the closing audit would not be substantially different from the FY10 estimate with the exception, of an increased filing fee of $100. Therefore, the estimated liabilities for the un-performed audits are as follows:

	School Year Ended	Estimated Audit Fee
Annual audit	06/30/10	$5,500.00
Final annual audit	06/30/11	5,600.00
		$11,100.00

We spoke with multiple employees at the State Department of Education in the divisions of accreditation, finance, and state aid who stated that they were not aware of any closing fees imposed by the State Department of Education for closing school districts. As shown above, we estimated financial audit liabilities to be $11,100.00 for the final two fiscal years of the school district.

7. ***Child Nutrition*** – The State Department of Education informed us of a liability in the Child Nutrition Fund. The District had been providing free lunches to individuals who did not qualify for free lunches and, as a result, the District is liable for $17,920 owed to the state for that federal grant program.

8. ***Reserve for Unknown*** – Given the uncertainty of outstanding obligations of the District, which may not have been noted during our engagement and the general lack of documentation, we accrued an additional $10,000 for potential unknown liabilities or bills.

Estimated Revenues: Estimated revenues for the remainder of the school year ended June 30 were calculated using the Monthly Financial Report provided by the Treasurer for the District and determined to be $105,569.

Cash on Hand: The total cash on hand for the District was calculated at the last day of fieldwork, according to the bank statement date of May 23, 2011. The District has one bank account with Armstrong Bank. As of May 23, 2011, the District's account had the following balance:

Account balance	$140,802.17
Outstanding checks	-34,171.90
Deposits in transit	0.00
Cash on hand	$106,630.27

Estimated Liabilities over Revenues and Cash on Hand: Using the totals shown above, we calculated the estimated liabilities over revenues and cash on hand for the year ended FY11, to be $159,115 as shown in the schedule below:

Estimated Liabilities		
1	*Vendors*	$137,495.50
2	*Projected State Auditor and Inspector Fees*	10,000.00
3	*Payroll*	81,064.16
4	*Vacation, Sick, and Personal Accruals*	0.00
5	*Payroll Taxes and Penalty Due*	15,440.90
6	*Financial Audit Fees for FY10 and FY11*	11,100.00
7	*Child Nutrition*	17,920.44
8	*Reserve for Unknown*	10,000.00
Total Estimated Liabilities		283,021.00
Total Estimated Revenues		105,569.12
Cash on Hand at May 23, 2011		106,630.27
Less: Cash restricted for debt service		(88,293.57)
Cash on hand and estimated revenues available		123,905.82
Estimated Liabilities in Excess of Estimated Revenues and Cash on Hand available:		($159,115.18)

Title **68 § 3019**, states in relevant part:

> No warrant or certificate of indebtedness in any form shall be issued, approved, signed or attested, on or against any appropriation for a purpose other than that for which the said item of appropriation was made, *or in excess of the amount thereof*. (emphasis added)

Title **70 § 5-135** states, in relevant parts:

> "D. Prior to the issuance of a purchase order, the encumbrance clerk must first determine that *the encumbrance will not exceed the balance of the appropriation to be charged*." (emphasis added) and
>
> "E. Before any purchase is completed, a purchase order or encumbrance must be issued. No bill shall be paid unless it is supported by an itemized invoice clearly describing the items purchased, the quantity of each item, its unit price, its total cost and proof of receipt of such goods or services." and
>
> "H. The treasurer shall register the warrant or check in the warrant or check register, charging the appropriation account and crediting the warrants or checks outstanding account of the designated fund. *Provided, no warrant or check shall be registered in excess of the appropriation account's balance*." (emphasis added)

Under Oklahoma Administrative Code section 210:25-5-1, "The superintendent, as executive officer of the board of education, furnishes the leadership for the board…" in the preparation, implementation and monitoring of the District's budget/estimate of needs. According to the oath of office at **70 § 5-116**, a superintendent swears to "…faithfully discharge all of the duties pertaining to said office and obey the Constitution and laws of the United States and Oklahoma."

The final budget/estimate of needs report filed for the District indicated the FY11 "general fund" appropriations were $866,742 and the total FY11 warrants issued were $860,301, but it did not report any "reserves" for encumbrances.

At the end of fieldwork (May 27, 2011), the total warrants issued for the general fund stood at $782,092. Based on the final estimate of needs, $78,209 ($860,301 - $782,092) in additional bills and payroll had been paid by June 30. This report calculated estimated liabilities of $159,115, including a reserve of $10,000 for "unknown."

Based on the unpaid liabilities estimated for the June 30 year-end, the District appeared to have exceeded its legal appropriations by approximately $64,500 to $74,500 in its final year of operation.

As of May 27, 2011, the bonded indebtedness of the District stood at:

Bonded Indebtedness:	
Current principal, interest and fees due for FY11	$55,057.50
Future principal, interest and fees due	427,460.00
Total Liabilities for Debt Service:	482,517.50
Cash on Hand at May 23, 2011, (restricted for debt service):	88,293.57
Amount to be provided by future tax levies:	$394,422.93

Subsequent Events

Within days of the end of fieldwork, the "current" amounts due for bond principal and interest for FY11 were paid from the $88,294 reserved for debt service and were not outstanding at the June 30 year-end.

According to the annexation agreement, the two succeeding school districts agreed to split equally (50%-50%) the assets and property, "all debts, liabilities, etc., known or unknown," except that one district would "receive the Boynton-Moton School District gym and will also assume the outstanding indebtedness associated with the gym."

Haskell Public School District agreed to be the "lead" district for administering final bills for the Boynton-Moton School District. As of December 5, 2011, information provided by the Haskell Public School District indicated that approximately $145,000 had been paid on those final bills and liabilities, and that the IRS had filed a lien on the Boynton-Moton School District property for unpaid taxes in the amount of $16,558.

Based on that information, our original estimated amount of $159,115 for potential liabilities was "low" even with a $10,000 reserve added for "unknown." Consequently, the amount of expenditures in excess of legal appropriations would also have been more than the $64,500 to $74,500 we had estimated on that issue.

OBJECTIVE II. Review the salary increase of the Superintendent in the school's final year.

Background

In the midst of previous and ongoing financial difficulties and an OSAI audit report that covered the time period July 1, 2007 through December 31, 2009, Dr. Shelbie Williams was hired September 8, 2009, as District Superintendent, with an annual compensation of $36,000 for fiscal year FY10. Dr. Williams' contract for the subsequent FY11 school year increased to $90,400.

A 151% salary increase (including vehicle allowance) was provided to the superintendent during a time of continuing financial uncertainty concerning future state budget cuts, the struggle to pay final obligations for FY10, a decline in cash surplus, and student enrollment that had declined 49% since FY08.

Findings

Timeline and events, according to Board minutes.

In a June 14, 2010, board meeting, the Superintendent indicated that the District did not at that time have the approximate $75,000 necessary to pay its vendors for its end of the year accounts payable for FY10.

The minute's record:

> "The superintendent reported that we are working to pay bills owed to vendors but we may possibly be down around $75,000. We will work to get in donations, grants, and federal money to pay all bills…"

Just two weeks later, on June 28, 2010, the Superintendent reported some last minute funds had been received, and all FY10 bills would be paid, but also expressed uncertainty about the expectation of an unknown amount of *reduction or cuts* in State Aid for FY11.

The minutes for this meeting were obtained from a Board member, since the District's original minutes were apparently missing from school records.

Those minutes reflect in relevant part:

> The Superintendent of Schools reported that due to receiving grants and federal funds all bills owed by Boynton-Moton Schools for 2009-10 school year should be paid. We did not exceed appropriations. Some items were over-encumbered and we were able to decrease some of the encumbrances which will help pay bills. The insurance premiums will be lower in 2010-2011 school year. Many of the expenses for next year will be lower. *We are waiting on State Aid to see how much the decrease in funding will be for next school year…* (emphasis added)

During the same June 28th meeting, the Superintendent was rehired for the FY11 fiscal year. The minutes did not record *the amount of the contract* that was approved at the June 28th meeting.

Approximately 2½ months after approving what turned out to be the Superintendent's *$90,400* contract, it was reported that the District's State Aid would be cut from $408,110 to $280,780, a $127,330 or 31% decrease. Also, the District's American Recovery and Reinvestment Act (ARRA) federal stimulus funding would be cut from $36,656 to $25,904, a $10,752 or 29% decrease.

Due to the reduction in state and ARRA funding, the District was unable to hire a full-time English teacher and a full-time math teacher, resulting in the loss of accreditation for and the closure of the high school.

The September 13, 2010, board minutes read in relevant part:

> There is difficult news from the Oklahoma State Department of Education because State Aid has been cut from $408,110.00 to $280,780.00. The total General Fund Appropriation on the Estimate of Needs has been cut from $921,411.38 to $726,901.00. This cut in total funding to Boynton-Moton Public Schools of $194,510.38. Last year Boynton-Moton spent $1,060.000 [sic]. *We have just been informed of these cuts* and they are listed in the budget to be approved later in the Agenda. These cuts will mean that we will not be able to afford to hire a full-time English teacher and a full-time math teacher at the high school level. Basically this means that we will not be able to be accredited and our high school students will need to transfer to another high school. (emphasis added)

From June 14, 2010 to September 13, 2010 (91 days), the circumstances during which the Superintendent's salary and vehicle allowance was increased from $36,000 to $90,400 evolved from the uncertainty of needing $75,000 to pay the District's final FY10 obligations, to receiving last minute funding and being able to pay the FY10 outstanding bills, to approving a 151% salary increase for the Superintendent, to losing the high school due to the inability of the District to hire two teachers due to the anticipated state budget cuts and scarcity of local funding.

The records of the Board's approval of the Superintendent's contract lacked detail, at best.

The Superintendent's contract for the FY11 fiscal year is dated June 28, 2010. The meeting minutes for June 28, 2010, reflect that the Superintendent was merely hired for FY11, with no mention of a contract or a stated salary.

According to the June 28, 2010, board minutes:

> Hubert made the motion to approve hiring Dr. Shelbie Williams as Superintendent of Schools for the 2010-2011 school year. Yolanda Wiggins seconded the motion. Ayes: Leonard Walker and Robert Lang.

Aside from the fact that the minutes only reflect the votes of two Board members, Leonard Walker and Robert Lang, we could not verify a *specific contract amount* that the Board had approved from the records available. Again, there was no mention of the Superintendent's "contract" or "compensation" in the minutes.

The president and clerk of the Board had signed the contract. The amounts for salary and vehicle allowance were blank lines filled in manually. The date stamp on the contract filed with the OSDE indicated a filing date of "July 14, 2010."

We attempted to make the determination as to whether there was a lack of documentation in the minutes, and the contract was approved, or whether the majority of the Board did not actually approve the contract. We contacted and interviewed the five members that were on the Board at the time the contract was executed.

The results of the interviews are summarized below:

- Rickey Lee was ill at the time of the June 28, 2010, meeting. Lee stated that the contract was brought to him for his signature while he was in the hospital.

- Hubert Adkins recalled discussing the Superintendent's salary and seeing the contract.
- Leonard Walker recalled a discussion on paying the Superintendent $88,000, but did not recall seeing a contract. However, we did note that Walker's signature was on the contract.
- Yolanda Wiggins indicated the Board voted to rehire the Superintendent with a salary increase, but no amount was specified during the meeting. Wiggins also stated Dr. Williams' employment contract was not presented at the meeting.
- Robert Lang did not recall if the contract was presented to the Board, but did remember voting to hire the Superintendent.

According to Dr. Williams, two contracts were provided to the Board in executive session; one with a base of $88,000 and the other was for either "$93,000 or $95,000." According to Williams, the Board opted for and approved the lesser contract of $88,000, which was signed by Leonard Walker and Rickey Lee.

We asked for executive session minutes to determine if a contract was presented and discussed; however, those minutes could not be provided.

Board members' explanations for approving the 151% increase varied.

We asked the five members of the Board listed above what their reasoning was for providing a 151% increase in the Superintendent's salary at a time the District was facing financial difficulties. The result of those interviews was equally as ambiguous and confusing as determining the circumstances of the contract's approval.

The discussions are summarized below:

- As previously stated, Rickey Lee was in the hospital at the time of the June 28, 2010, meeting. Mr. Lee indicated that when the contract was brought to him it was already approved by the Board, so there was no reason not to sign it. He said, "It was a done deal." Lee went on to state "he about had another heart attack when he saw the amount." Lee felt the Superintendent deserved a raise, but knew the District did not have the funds for that size of an increase. Lee also stated he was involved in a discussion with the Superintendent in which she mentioned the idea of asking the

Board for a raise. He felt her salary should have been increased to around $55,000.00.

- Hubert Adkins felt the Superintendent deserved a salary increase but didn't think the District had the funds for an increase of that size. Adkins voted in favor of the increase because that is what the majority of the Board wanted.

- Leonard Walker stated that he believes the Board acted hastily in its decision to increase Dr. Williams' salary without adequate financial information. He indicated that he expressed his concern in the meeting that the District could not afford to pay that much in salary, but he was only one vote against four so he went along with the majority.

- Yolanda Wiggins did not recall how the decision to provide Dr. Williams with a raise was determined.

- Robert Lang stated that the Board was under the gun and Dr. Williams insisted on a base salary of $88,000.00. Lang stated he did not believe they could find another superintendent to replace Dr. Williams. Lang also indicated that he tried to negotiate the salary down to $60,000.00, but Dr. Williams would not consent to a lower offer. He felt Dr. Williams deserved a raise but thought $88,000.00 was far more than he considered reasonable.

When interviewed, the individual members of the Board disagreed with the amount of the Superintendent's compensation and thought it was either unreasonable or more than the District could afford; however, apparently the contract amount had somehow been approved. Although we could not find specific approval for the contract or the salary increase in the minutes, and the board interviews were conflicting in various respects, none of the Board members disputed Dr. Williams' claim that they had approved the contract and the salary increase.

The Superintendent's justification and/or rationalization for the 151% increase seemed insufficient under the circumstances.

We also spoke with Dr. Williams who indicated that in the prior year she worked seven days a week for $36,000 and, as she stated, "got the school back in the black." Dr. Williams commented that her salary was consistent with amounts other superintendents receive across the State and added that she had donated a lot to the school, specifically $42,000 in books. When asked if she had a receipt for the book donation, Dr. Williams stated she did not actually purchase the books. She obtained some books from friends and others from her home. The school principal assessed the value of her donation to be approximately $42,000.

The above was all that was offered as justification for a salary increase that arguably contributed to the District's ongoing financial problems and hastened the closure of the school. During the same meeting as the apparent contract approval, it was already known that budget cuts at the state level were going to happen. Only the amount of the cuts for the District was in question on June 28, 2010.

The FY11 contract for the former Superintendent exceeded the statutory limitation on administrative services expenditures found at 70 O.S. § 18-124.

Title 70 O.S. § 18-124 states, in part:

> C. Any school district with an average daily attendance (ADA) of five hundred (500) or fewer students for the preceding year which expends for ***administrative services*** in the 2005-06 school year or any school year thereafter, less expenditures for legal services, more than ten percent (10%) of the amount it expends for total expenditures, less expenditures for legal services, shall have the amount which exceeds the ten percent (10%) withheld the following year from the Foundation and Salary Incentive Aid for the school district. (emphasis added)

Section E of the same statute states that "the total amount of time" for a superintendent "shall be included as administrative services," without regard to whether the superintendent performed any other duties in addition to administration. The final budget/estimate of needs report for the District for FY11 totaled $866,742, including both original and supplemental appropriations.

The contract amount ($90,400) for the former Superintendent, without any other administrative costs, would have exceeded the 10% limitation. The final budget/estimate of needs report for FY11 shows $201,948 in "warrants issued" for "general" and "school" administration, or approximately 23.3% of total school expenditures in FY11, contrary to the above statute.

The 151% salary increase would impact potential severance pay calculations for the former Superintendent.

At a prior school district closure, OSDE records indicated Dr. Williams received $44,000 in severance pay from the State's "School Consolidation Assistance Fund" following the closure of Liberty School District in FY09. The FY08 Liberty contract included a $50,000 salary, with a "bonus" clause of $5,000, if that district's "account balances are in the black" at June 30, 2008. Liberty School was a dependent school district located in Okmulgee County.

Title **70 O.S. 7-203 (c.)** provides for "severance" pay for school personnel that are left without employment following a school closure situation. That statute reads, in part:

> "c. employment assistance for personnel of the several districts who are not employed by the consolidated or annexing district. Employment assistance may include provision of a severance allowance for administrators, teachers and support personnel not to exceed eighty percent (80%) of the individual's salary or wages, exclusive of fringe benefits, *for the school year preceding the consolidation or annexation*." (emphasis added)

The interview with Board Member Lang indicates he had tried to negotiate a lesser salary, but Dr. Williams would not agree to anything less than $88,000. As the District's chief executive officer, it is reasonable to conclude Dr. Williams was as knowledgeable or more knowledgeable of the precarious financial condition of the District as anyone involved.

The difference in *potential severance pay* between the FY10 contract for $36,000 compared to the new FY11 contract for $88,000 amounted to $41,600 ($88,000 - $36,000 = $52,000 X 80% = $41,600). The potential *increase in severance pay* from the FY11 raise would be more than the *original FY10 total salary figure.*

The Superintendent received early payment of approximately $16,400 of her salary *due to a 20% advance salary payment clause* in her new FY11 employment contract.

The amount of reduced State Aid to the District was known in July 2010 and had been electronically delivered to school districts statewide on *July 20, 2010*. A report, detailing the State Aid budget cuts for all school districts in the state, was posted on the OSDE website, as of July 27, 2010.

The report can still be viewed on the State Department of Education's website at:

http://www.sde.state.ok.us/Finance/StAid/pdf/CompStateAidFunding.pdf

In August 2010, the month prior to the September 13 meeting in which the state's budget cuts were announced to the Board, the Superintendent was paid her regular monthly salary, plus an additional salary amount of $16,436. The additional salary was due to a clause in the new FY11 employment contract that provided for one payment of 20% of the total contract amount by August 1, 2010.

The new contract for Dr. Williams also included a "vehicle allowance" of $200 per month, or $2,400 annually. In July 2010, the first month of FY11, Dr. Williams was paid the contractual monthly salary plus vehicle allowance of $7,533.33 ($90,400 / 12 months = $7,533.33). In August, according to the "employee earnings audit" report for the District, she was paid a gross monthly salary of $23,969.70. The intention of the additional salary paid in August was to fulfill the contract provision mentioned above, which reads:

> The superintendent's salary shall be *paid in one payment of twenty percent of the total amount of this contract by August 1, 2010* and twelve monthly installments in the same manner as salary payment of the District's other twelve-month employees and subject to all lawful withholdings. (emphasis added)

Payment prior to goods or services being rendered is contrary to a provision of the Constitution of Oklahoma.

Article X § 15A of the Constitution of Oklahoma:

> A. Except as provided by this section, the credit of the State shall not be given, pledged, or ***loaned*** to any ***individual***, company, corporation, or association, municipality, or political subdivision of the State, nor shall the State become an owner or stockholder in, nor make donation by gift…to any company, association, or corporation. (emphasis added)

In general, a significant portion of school employees' compensation is funded by the State. In addition, another section in the Constitution of Oklahoma uses similar wording to explicitly apply the same standard to political subdivisions of the State.

Article X § 17 of the Constitution of Oklahoma:

> The Legislature shall not authorize any county or subdivision thereof, city, town, or incorporated district, to become a stockholder in any company, association, or corporation, or to obtain or appropriate money for, or levy any tax for, or to *loan* its credit to any corporation, association, or *individual*. (emphasis added)

In the government sector, goods and services are billed or claimed when rendered, not in "advance." The Oklahoma Central Purchasing Act, **74 § 85.44B** states, in part:

> Payment for products or services pursuant to a contract executed by a state agency, whether or not such state agency is subject to the Oklahoma Central Purchasing Act, Section 85.1 et seq. of this title, *shall be made only after products have been provided or services rendered*. (emphasis added)

The above statute is an example of the practical implementation of **Art. X § 15A** on the state level. Paying a portion of the Superintendent's employment contract, prior to the appropriate time period of that salary having been earned, is for all practical purposes a noninterest bearing "loan" of public funds to Dr. Williams and contrary to **Art. X § 17,** and to the following.

Article X § 11 of the Constitution of Oklahoma provides:

> The receiving, directly or indirectly, by any officer of the State, or of any county, city, or town, or member or officer of the Legislature, of any interest, profit, or perquisites, *arising from the use or loan of public funds in his hands,* or moneys to be raised through his agency for State, city, town, *district*, or county purposes shall be deemed a felony. Said offense shall be punished as may be prescribed by law, a part of which punishment shall be disqualification to hold office. (emphasis added)

Summary & Conclusion

Although the District's financial condition was still precarious, Dr. Williams negotiated a 151% increase in her salary and vehicle allowance for FY11, in spite of the certainty of budget cuts that were anticipated. In the month (July 2010) following the approval of her new contract at the end of June 2010, the OSDE electronically notified the District, then posted a report of the extent of the state's budget cuts on its website.

Since Dr. Williams was the chief executive officer for the District, and chiefly responsible for the overall administration of the District, it can be presumed that she became, or should have become, aware of the amount of budget cuts shortly after the notification and posting by OSDE. Dr. Williams had a fiduciary duty to disclose to the Board the amount of the budget cuts and to make an assessment of the likely impact of those budget cuts on the District, *as soon as that information became available*.

Instead, according to Board minutes, the budget cut information was ***not*** provided to the Board, until the September 13th board meeting, seven to eight weeks after the electronic notification sent to the District and the State Aid funding report had been posted on the OSDE website, ***and*** after Dr. Williams had already processed, or caused to be processed, the potentially illegal "advance" salary payment of $18,080 ($90,400 X 20% = $18,080).

The difference between the 20% advance figure and the $16,436 excess paid in August is the difference between the monthly salary calculated *prior* to the 20% advance and the monthly salary calculated for the balance of the contract *following* the advance.

In addition, following the state budget cuts that became known at the start of the fiscal year, Dr. Williams had a fiduciary duty to the Board *and a legal duty* to make any necessary adjustments to the District's appropriations and expenditures, in order to keep the District in compliance with statutory budget restrictions in **68 O.S. § 3019**, **70 O.S. § 5-135** and **70 O.S. § 18-124.**

With regard to certification requirements for school superintendent, **70 O.S. § 6-189 (F)** provides:

> "Certificates may be revoked by the State Board of Education for willful violation of any rule of the Board or of any federal *or state law or other proper cause* but only after sufficient hearing has been given before the Board."

Recommendation The State Board of Education should determine if action is warranted for this matter.

OBJECTIVE III. Review travel claims submitted for reimbursement.

Procedure

A previous audit performed by our office for the period July 1, 2007 through December 31, 2009, identified problems with documentation of mileage reimbursements. To determine if corrective action had been taken, we reviewed travel claims paid during FY11 to the end of fieldwork date of May 27, 2011.

Finding

The District had little funding for travel in its final year. There was a minimal number of travel claims submitted during FY11. The claims we reviewed appeared to be adequately documented.

We noted one payment to the Superintendent for $1,340 with no corresponding travel claim filed. After inquiring about the October 2010 travel claim that supported the reimbursement, the document was provided by the Superintendent.

The payment was for 2,680 miles claimed for the first quarter period (July-Sept) of FY11, at a rate of $0.50 per mile. Dr. Williams was reimbursed $1,340 for "mileage," while *also receiving* a $200 a month vehicle allowance, based on a provision in her contract.

The contract states in relevant part:

> The Superintendent shall be entitled to receive $200 per month vehicle allowance for the twelve months of the contract.

Furthermore, prior to our obtaining the contract from the State Department of Education, Dr. Williams confirmed that she would be seeking reimbursement for an additional $1,569 she was claiming for mileage incurred after October 2010. She requested that we include the $1,569 claim in the listing of estimated liabilities reported in **Objective I**.

Typically, there are three methods that public entities use for vehicle travel and travel reimbursements:

- Employees may be provided a district-owned vehicle to use for district related travel.

- Employees may be paid a set amount for a vehicle or travel "allowance," generally established as a part of the employee's contracted compensation.
- Or, employees may submit a mileage claim for reimbursement for a personal vehicle used for District purposes at an authorized rate per mile.

Any of the methods a district chooses is permissible; however, it is generally not intended for two or more of the methods to be used simultaneously, as was done in this case.

The $1,340 received by the Superintendent for "mileage reimbursement" appeared to be an expense for which the Superintendent was already being compensated with the $200 monthly vehicle allowance in her contract.

Recommendation The State Department of Education and/or the succeeding school districts should consider filing a claim on Dr. Williams to recover the $1,340 mileage reimbursement, or at a minimum, to recover the $600 vehicle allowance paid for the July-Sept period of FY11.

OBJECTIVE IV. Review payroll and contracts.

Procedure

A previous audit performed by our office noted several findings relating to payroll and employee contracts for the period July 1, 2007 through December 31, 2009. These findings included:

- Employees were paid without contracts
- Employees were paid with unsigned contracts
- Employees were paid in excess of contract provisions

The focus of this objective was to follow-up on these findings to determine if corrective action had been taken. For FY11, we compared compensation paid to employees to the amount authorized by the employment contracts.

Finding

We noted that amounts paid to employees were consistent with the amounts authorized by the employment contracts. We did note three instances in which contracts were not on file with the District:

- The Superintendent's contract was missing from the school's records. We obtained a copy from the State Department of Education. The Superintendent's contract was addressed separately in Objective II.
- Contracts for two support employees, Jeffery Ward and Valorie Reed, were not in the District's files.

OBJECTIVE V. Perform a test of fixed assets.

Procedure

In normal audit procedures, when testing the fixed asset inventory (equipment), we would select a sample of equipment from an inventory list and visually verify each item's existence. However, contrary to Oklahoma Administrative Code 210:25-5-4, the District did not maintain an inventory list or other inventory records. Section 210:25-5-4 provides, in part:

> (h) Inventory cards or data processing records shall be kept on all equipment and removable fixtures, showing purchase order number when known, date of purchase (when known, if not known an estimated date shall be used), amount of purchase (if known, if not known present value must be estimated) a description of the item, the serial number (when applicable) and the location of the item.

Since there were no inventory records available, we reviewed vendor invoices for the fiscal years FY10 and FY11 and prepared a schedule of equipment purchases.

The school's equipment purchases in the last two fiscal years primarily consisted of computers and monitors. However, the descriptions on the invoices did not contain serial numbers; therefore, invoices could not be matched with any specific computer or monitor.

Typically, with computer equipment, an item that has a higher appeal and is more compact, such as a laptop, is more likely to "disappear."

Finding

At the time of our test, vendor files were not available prior to FY10; therefore, we could not determine an accurate estimate of computers, monitors, or other equipment items, that should have been on hand. The number of computers and monitors present at the District exceeded the number that had been purchased in the last two fiscal years.

Of the three laptops purchased in the two years tested, a laptop containing the description *ProBook WH286UT Notebook* with a cost of $925 was missing. Based on the District's counterclaim against the former business manager, the District believed the computer was in the possession of that individual.

DISCLAIMER

In this report there may be references to state statutes and legal authorities which appear to be potentially relevant to the issues reviewed by this Office. The State Auditor and Inspector has no jurisdiction, authority, purpose, or intent by the issuance of this report to determine the guilt, innocence, culpability, or liability, if any, of any person or entity for any act, omission, or transaction reviewed. Such determinations are within the exclusive jurisdiction of regulatory, law enforcement and judicial authorities designated by law.

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