

PENNSYLVANIA DEPARTMENT OF THE AUDITOR GENERAL  
AUDITOR GENERAL, EUGENE A. DEPASQUALE

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*A Performance Audit:*

CENTRAL SUSQUEHANNA INTERMEDIATE UNIT 16  
EXECUTIVE DIRECTOR EMPLOYMENT CONTRACT PAYOUT

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JUNE 2013





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EUGENE A. DePASQUALE  
AUDITOR GENERAL

The Honorable Tom Corbett  
Governor  
Commonwealth of Pennsylvania  
Harrisburg, Pennsylvania 17120

Mr. Larry Breech, Board President  
Central Susquehanna Intermediate Unit 16  
90 Lawton Lane  
Milton, Pennsylvania 17847

Dear Governor Corbett and Mr. Breech:

The enclosed report contains the results of the Department of the Auditor General's (Department) performance audit of the Central Susquehanna Intermediate Unit 16 (IU) executive director's employment contract payout. This performance audit covered the period July 24, 2009 through May 1, 2012, and was conducted pursuant to 72 P.S. § 403 and in accordance with *Government Auditing Standards* issued by the Comptroller General of the United States. This performance audit is separate and distinct from the IU's cyclical performance audits, which the Department conducts approximately every two years. The IU's last completed cyclical performance audit was released on March 29, 2012.

Our audit found that the IU complied, in all significant respects, with the applicable state laws, contracts, and administrative procedures related to our objectives. However, we identified one matter unrelated to compliance that is reported as an observation. A synopsis of our results is presented in the Executive Summary section of this audit report.

Our audit observation and recommendations have been discussed with the IU's management, and its responses are included in this audit report. We believe the implementation of our recommendations will improve the IU's operations and facilitate compliance with legal and administrative requirements. We appreciate the IU's cooperation during the conduct of this audit.

Sincerely,

/s/

EUGENE A. DEPASQUALE  
Auditor General

June 26, 2013

cc: **CENTRAL SUSQUEHANNA INTERMEDIATE UNIT 16** Board Members

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## **Executive Summary**

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### **Audit Work**

In August 2011, the Pennsylvania Department of the Auditor General (Department) began immediately auditing instances where Local Education Agencies (LEA) prematurely ended or altered the employment contracts of their chief administrators. These performance audits do not replace the regular cyclical performance audits that the Department conducts of all Commonwealth LEAs. Instead, the Department performs these audits in addition to each LEA's regular review. The Department will still continue to audit the early separations of all other contracted administrators as part of each LEA's regular cyclical performance audit.

The Department made this policy change because LEAs who prematurely end or alter their chief administrators' contract frequently spend large sums of taxpayer dollars without receiving any services in return. In addition, these arrangements often involve confidentiality clauses that prevent the public from learning why the LEA undertook such an action. Conducting a performance audit of these agreements as soon as the LEAs enact them helps to ensure that taxpayers have more information about these arrangements and that these facts are available as quickly as possible.

### **LEA Background**

The Central Susquehanna Intermediate Unit (IU) is a legal entity established under the terms of Pennsylvania Law (Act 102, May 4, 1970) to function as a service agency for the 17 participating school districts, nonpublic schools, and institutions in Columbia, Northumberland, Montour, Snyder, and Union counties. The IU is governed by a

17-member board of directors appointed by the participating school districts on a rotating basis.

During the 2011-12 school year, the programs offered by the Intermediate Unit served 34,497 students in public schools and 3,716 students in nonpublic schools. The staff consisted of 92 administrators, 169 teachers, and 921 full-time and part-time support personnel.

### **Audit Conclusion and Results**

Our performance audit found that the IU complied, in all significant respects, with the applicable state laws, contracts, and administrative procedures related to our objectives (see page 3 and 4). However, as noted below, we identified one matter that we believe deserves further attention.

#### **Observation: Excessive \$806,597 Payout to Former Executive Director, Including Payment for Two Unused Sabbatical Leaves.**

Only one year into a four-year agreement (Agreement), the IU's Executive Director retired on August 5, 2011. The Agreement provided for a \$212,170 payment for two unused sabbatical leaves, \$238,761 for a post-employment insurance benefit, \$68,000 for medical expenses, \$166,050 for vacation leave, and \$121,616 for sick leave. We consider this \$806,597 payout to be excessive (see page 6).

## **Audit Recommendations**

### **Observation: Excessive \$806,597 Payout to Former Executive Director, Including Payment for Two Unused Sabbatical Leaves**

The IU's Board should:

1. Ensure that future employment contracts with prospective administrators contain adequate termination provisions sufficient to protect the interests of the IU and its member districts' taxpayers in the event that the employment ends prematurely for any reason.
2. When negotiating employee agreements consider the expectation of member districts' taxpayers that their money will be used for the education of the IU's students.
3. Review the cost of providing 17 years of post retirement health insurance to an employee and dependents, as it could be considered excessive.

## Audit Scope, Objectives, and Methodology

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### Scope

*What is a cyclical performance audit?*

Cyclical performance audits allow the Pennsylvania Department of the Auditor General to determine whether local education agencies (LEAs) are spending their state funds, including school subsidies, according to the purposes and guidelines that govern the use of those funds.

Additionally, our audits examine the appropriateness of certain administrative and operational practices at each LEA. The Department shares the results of these audits with LEA management, the Governor, the Pennsylvania Department of Education, and other concerned entities. According to the Public School Code, LEAs include all school districts, charter and cyber charter schools, intermediate units, and area vocational-technical schools.

This performance audit, conducted under authority of 72 P.S. § 403, is not a substitute for the local annual audit required by the Public School Code of 1949, as amended, or for the Department's regular cyclical performance audit (see text box left). This performance audit focused exclusively on the circumstances surrounding the early separation of the LEA's top administrator. This audit was completed in accordance with *Government Auditing Standards* issued by the Comptroller General of the United States.

Our audit covered the period July 24, 2009 through May 1, 2012.

While all LEAs have the same school years, some have different fiscal years. Therefore, for the purposes of our audit work and to be consistent with Pennsylvania Department of Education reporting guidelines, we use the term school year rather than fiscal year throughout this report. A school year covers the period July 1 to June 30.

### Objectives

*What is a performance audit?*

Performance audits allow the Pennsylvania Department of the Auditor General to immediately review instances where local education agencies prematurely ended or altered the employment contracts of their chief administrators. These audits do not replace the Department's regular cyclical audit, but are instead, performed in addition to that review.

Performance audits draw conclusions based on an evaluation of sufficient, appropriate evidence. Evidence is measured against criteria, such as laws and defined business practices. Our audit focused on assessing the IU's compliance with applicable state laws, contracts, and administrative procedures. However, as we conducted our audit procedures, we sought to determine answers to the following questions, which serve as our audit objectives:

- ✓ Did employment contracts with the executive director or other administration officials contain adequate separation provisions sufficient to protect the interests of the IU, its students, and its member districts' taxpayers in the event the employment of the administrators ends prematurely for any reason?

- ✓ Did the IU provide as much information as possible to its member districts' taxpayers explaining the reasons for the executive director's separation and justifying the expenditure of funds by or through the IU in order to terminate the contract early?
- ✓ Did the IU enter into employment contracts with the executive director at the three-year minimum provided by state law in order to limit potential financial liability by the IU and its member districts' taxpayers in the event financial liability was not adequately limited through contract provisions?
- ✓ To the greatest degree possible, what is the total financial cost of the executive director or other administration officials' early contract termination, including funds received by the IU from private individuals or other entities to facilitate the buy-out?
- ✓ Was the separation agreement transparent and without confidentiality clauses so member districts' taxpayers are aware of why the termination occurred?

## Methodology

### *What are internal controls?*

Internal controls are processes designed by management to provide reasonable assurance of achieving objectives in areas such as:

- Effectiveness and efficiency of operations.
- Relevance and reliability of operational and financial information.
- Compliance with applicable laws, contracts, requirements, and administrative procedures.

*Government Auditing Standards* require that we plan and perform the audit to obtain sufficient, appropriate evidence to provide a reasonable basis for our results and conclusions based on our audit objectives. We believe that the evidence we obtained in this audit engagement provides a reasonable foundation for our results and conclusions based on our audit objectives.

The District's management is responsible for establishing and maintaining effective internal controls to provide reasonable assurance that the District is in compliance with applicable laws, contracts, grant requirements, and administrative procedures. In conducting our audit, we obtained an understanding of the District's internal controls, including any information technology controls, as they relate to the District's compliance with applicable state laws, regulations, contracts, grant requirements, and administrative procedures that we consider to be significant within the context of our audit objectives. We assessed whether those controls were properly designed and implemented. Any deficiencies in internal control that were identified during the conduct of our audit and determined to be significant within the context of our audit objectives are included in this report.

As part of our audit procedures, we obtained copies of employment agreements and other relevant documents associated with the top administrative official's employment. We also interviewed select administrators and support personnel associated with the IU's operations.



## Findings and Observations

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### Observation

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### **Excessive \$806,597 Payout to Former Executive Director, Including Payment for Two Unused Sabbatical Leaves**

*Public School Code and criteria relevant to the observation:*

Section 1073(a) of the Public School Code provides, in part:

“[T]he board shall elect or approve a properly qualified district superintendent to serve a term of from three to five years from the first day of July next following his election or from a time mutually agreed upon by the duly elected district superintendent and the board of school directors.”

Note: Act 82 of 2012 amends state law relevant to this issue, effective November 1, 2012. This finding is based on the law in effect at the time of the events discussed herein.

On September 16, 2009, the Central Susquehanna Intermediate Unit 16 (IU) Board of Directors (Board) entered into an Executive Director’s Employment Agreement (Agreement) with the IU’s former Executive Director. The Agreement had a four-year term from July 18, 2010 through July 17, 2014. After the former Executive Director had served only one year of his four-year Agreement, the former Executive Director retired, prematurely ending his Agreement.

On May 18, 2011, the Board accepted the former Executive Director’s retirement letter, effective August 5, 2011. The Agreement provided for a \$212,170 payment for two unused sabbatical leaves, \$238,761 for a post-employment insurance benefit, \$68,000 for medical expenses, \$166,050 for unused vacation leave, and \$121,616 for unused sick leave. We consider this \$806,597 payout to be excessive.

#### Terms of the Agreement

During our audit, we found that the former Executive Director received payment of \$212,170 into a 403(b) tax-deferred retirement plan account for two waived sabbatical leaves per his contract. His contract provision stated:

“In the event the Executive Director does not take a sabbatical leave(s) in the eligible year(s) as described in Section 5.03(a) under Sections 1166 and 1170 of the Public School Code the following will be applicable and available to the Executive Director. This waived sabbatical benefit shall be funded from the sum total of the waived sabbatical leave(s) salary plus interest at five (5) percent per year, compounded annually, from the date the Executive Director was eligible for each leave.”

Although the former Executive Director was eligible for sabbatical leave, it is our opinion that his compensation for not taking sabbatical leave is excessive and a questionable use of taxpayer dollars. A sabbatical leave is itself a benefit. Therefore, if an administrator chooses not to exercise this leave option, then he or she should not be compensated for it. The taxpayers of the IU's member districts have the right to expect that their hard-earned money will be spent on the education of the IU's students and not on excess benefits to individuals.

The former Executive Director's Agreement also included a post-employment insurance benefit which provided one year of health insurance benefits for himself and his eligible dependents for each of his 17 years of service to the IU. Currently, the insurance benefit is \$14,044.80 per year. With the former Executive Director's 17 years of service, the potential cost of this benefit to the IU is \$238,762.

Furthermore, the Agreement included an annual sum of \$4,000 for unreimbursed expenses, plus any personal tax liability for life insurance, long term care, elder care, and/or unreimbursed medical expenses for himself and/or his spouse. The potential cost of this benefit is \$68,000.

The Agreement also granted the former Executive Director a vacation leave payout of \$166,050 for 138 days, and a sick leave payout of \$121,616 for 100 days. All of these benefits total \$806,597, which is an excessive retirement payout. The former Executive Director was paid in accordance with his contract. He did not have a separation agreement and his contract did not contain any early termination or separation provisions.

## **Recommendations**

The *Central Susquehanna Intermediate Unit 16* Board should:

1. Ensure that future employment contracts with prospective administrators contain adequate termination provisions sufficient to protect the interests of the IU and its member districts' taxpayers in the event that the employment ends prematurely for any reason.
2. Work with successors to the Executive Director to include in their current and future employment

contracts provisions that address the compensation and benefits payable to, or on behalf of, said administrators in the event of a premature termination of their contracts.

3. When negotiating employee agreements consider the expectation of member districts' taxpayers that their money will be used for the education of the IU's students.
4. Review the cost of providing 17 years of post retirement health insurance to an employee and dependents, as it could be considered excessive.

### **Management Response**

Management stated the following:

“CSIU Management concurs with the Auditor General’s (AG) stated observation that the final disbursement pursuant to the former executive director’s contract was ‘excessive.’ This disbursement came as a result of a series of minor adjustments in the contract, which compounded over seventeen years. The CSIU Board has taken several steps to prevent this from reoccurring. They have significantly lowered the contract salary for the current executive director and also have significantly curtailed benefits. Further, they have directed the administration to annually review contracts for any and all employee groups with the Board Finance Committee.”

## **Distribution List**

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This report was initially distributed to the Executive Director of the IU, the Board Directors, our website at [www.auditorgen.state.pa.us](http://www.auditorgen.state.pa.us), and the following stakeholders:

The Honorable Tom Corbett  
Governor  
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The Honorable William E. Harner  
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This report is a matter of public record and is available online at [www.auditorgen.state.pa.us](http://www.auditorgen.state.pa.us). Media questions about the report can be directed to the Pennsylvania Department of the Auditor General, Office of Communications, 231 Finance Building, Harrisburg, PA 17120; via email to: [news@auditorgen.state.pa.us](mailto:news@auditorgen.state.pa.us).

