

LANCASTER-LEBANON INTERMEDIATE UNIT #13

LANCASTER COUNTY, PENNSYLVANIA

PERFORMANCE AUDIT REPORT

JANUARY 2012

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

Dr. Richard Frerichs, Board President
Lancaster-Lebanon Intermediate Unit #13
1020 New Holland Avenue
Lancaster, Pennsylvania 17601

Dear Governor Corbett and Dr. Frerichs:

We conducted a performance audit of the Lancaster-Lebanon Intermediate Unit #13 (LLIU) to determine its compliance with applicable state laws, regulations, contracts, grant requirements and administrative procedures. Our audit covered the period March 17, 2010 through August 11, 2011, except as otherwise indicated in the report. Additionally, compliance specific to state subsidy and reimbursements was determined for the school years ended June 30, 2010 and June 30, 2009. Our audit was conducted pursuant to 72 P.S. § 403 and in accordance with *Government Auditing Standards* issued by the Comptroller General of the United States.

Our audit found that the LLIU complied, in all significant respects, with applicable state laws, regulations, contracts, grant requirements, and administrative procedures, except as detailed in the finding noted in this report. A summary of these results is presented in the Executive Summary section of the audit report.

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

Sincerely,

/s/

JACK WAGNER
Auditor General

January 11, 2012

cc: **LANCASTER-LEBANON INTERMEDIATE UNIT #13** Board Members



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Executive Summary

Audit Work

The Pennsylvania Department of the Auditor General conducted a performance audit of the Lancaster-Lebanon Intermediate Unit #13 (LLIU). Our audit sought to answer certain questions regarding the LLIU's compliance with applicable state laws, regulations, contracts, grant requirements, and administrative procedures.

Our audit scope covered the period March 17, 2010 through August 11, 2011, except as otherwise indicated in the audit scope, objectives, and methodology section of the report. Compliance specific to state subsidy and reimbursements was determined for school years 2009-10 and 2008-09.

Intermediate Unit Background

The 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 22 participating school districts, nonpublic schools, and institutions in Lancaster and Lebanon counties. The IU is governed by a 22 member board appointed by the participating school districts on a rotating basis. The administrative office is located at 1020 New Holland Avenue, Lancaster, Pennsylvania.

The programs offered by the IU served 1,817 students in public schools and 7,913 students in nonpublic schools. The staff consisted of 137 administrators, 495 teachers, and 681 full-time and part-time support personnel.

The accounts of the IU are organized on the basis of programs and account groups, each of which are considered a separate accounting entity. IU resources are allocated to, and accounted for, in individual programs based on purposes for which the funds are to be spent and the means by which spending activities are controlled.

The various programs which receive Commonwealth funds are accounted for in the following:

General Fund

The general fund is the primary operating fund of the IU. It is used to account for all financial resources and accounts for the general governmental activities of the IU.

Services provided to participating school districts through the general fund included:

- administration;
- curriculum development and instructional improvement;
- educational planning;
- instructional materials;
- management services;
- continuing professional education;
- pupil personnel;
- state and federal liaison; and
- nonpublic program subsidy - Act 89.

Lastly, the LLIU received more than \$14.7 million from the Commonwealth in general operating funds in school year 2009-10.

Special Revenue Fund

The special revenue fund accounts for the financial resources received to provide, maintain, administer, supervise and operate schools, classes, service programs, and transportation for exceptional children in accordance with the school laws of Pennsylvania and the approved IU plan for special education. The special revenue fund accounts for financial resources available for programs and services for exceptional children in state centers, state hospitals, private licensed facilities, and other child care institutions.

The special education program offered services at all grade levels for pupils whose physical, mental, or emotional needs required such services. If appropriate facilities were not available in a neighborhood school, the IU provided the necessary transportation.

Special education programs included:

- gifted support;
- learning support;
- life skilled support;
- emotional support;
- deaf or hearing impaired support;
- blind or visually impaired support;
- speech and language support;

- physical support;
- autistic support; and
- multi-handicapped support.

Act 25 of 1991 amended the Public School Code regarding the funding of special education services. IUs received direct funding for certain institutionalized children programs, CORE services, special payments to certain IUs, and a contingency fund.

Lastly, the LLIU received more than \$16.3 million from the Commonwealth in special revenue funds in school year 2009-10.

Audit Conclusion and Results

Our audit found that the LLIU complied, in all significant respects, with applicable state laws, regulations, contracts, grant requirements, and administrative procedures, except for one compliance-related matter reported as a finding.

Finding: School Bus Driver Qualification Deficiencies. Our audit of personnel records for current bus drivers found one individual did not possess all the required clearances (see page 6).

Status of Prior Audit Findings and Observations. There were no findings or observations included in our prior audit report.

Audit Scope, Objectives, and Methodology

Scope

What is a school performance audit?

School performance audits allow the Department of the Auditor General to determine whether state funds, including school subsidies, are being used 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 Local Education Agency (LEA). The results of these audits are shared with LEA management, the Governor, the PA Department of Education, and other concerned entities.

Our 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. We conducted our audit in accordance with *Government Auditing Standards* issued by the Comptroller General of the United States.

Our audit covered the period March 17, 2010 through August 11, 2011 except for the verification of professional employee certification which was performed for the period February 25, 2010 through August 9, 2011.

Regarding state subsidy and reimbursements, our audit covered school years 2009-10 and 2008-09.

While all LEAs have the same school years, some LEAs have different fiscal years. Therefore, for the purposes of our audit work and to be consistent with 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 the difference between a finding and an observation?

Our performance audits may contain findings and/or observations related to our audit objectives. Findings describe noncompliance with a law, regulation, contract, grant requirement, or administrative procedure. Observations are reported when we believe corrective action should be taken to remedy a potential problem not rising to the level of noncompliance with specific criteria.

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

- ✓ Were professional employees certified for the positions they held?
- ✓ Is the IU's pupil transportation department, including any contracted vendors, in compliance with applicable state laws and procedures?
- ✓ Are there any declining fund balances which may impose risk to the fiscal viability of the IU?

- ✓ Did the IU pursue a contract buyout with an administrator and if so, what was the total cost of the buy-out, reasons for the termination/settlement, and do the current employment contract(s) contain adequate termination provisions?
- ✓ Were there any other areas of concern reported by local auditors, citizens, or other interested parties which warrant further attention during our audit?
- ✓ Is the IU taking appropriate steps to ensure school safety?
- ✓ Did the IU use an outside vendor to maintain its membership data and if so, are there internal controls in place related to vendor access?

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, regulations, contracts, grant 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 findings, observations and conclusions based on our audit objectives. We believe that the evidence obtained provides a reasonable basis for our findings and conclusions based on our audit objectives.

LLIU management is responsible for establishing and maintaining effective internal controls to provide reasonable assurance that the IU is in compliance with applicable laws, regulations, contracts, grant requirements, and administrative procedures. Within the context of our audit objectives, we obtained an understanding of internal controls and assessed whether those controls were properly designed and implemented.

Any significant deficiencies found during the audit are included in this report.

In order to properly plan our audit and to guide us in possible audit areas, we performed analytical procedures in the areas of state subsidies/reimbursement, pupil transportation, and comparative financial information.

Our audit examined the following:

- Records pertaining to pupil transportation, bus driver qualifications, professional employee certification, and financial stability.
- Items such as Board meeting minutes and pupil membership records.

Additionally, we interviewed selected administrators and support personnel associated with LLIU operations.

Findings and Observations

Finding

School Bus Driver Qualification Deficiencies

Criteria relevant to the finding:

Public School Code (PSC) Section 111 (24 P.S. § 1-111) requires prospective school employees who would have direct contact with children, including independent contractors and their employees, to submit a report of criminal history record information obtained from the Pennsylvania State Police. Section 111 lists convictions of certain criminal offenses that, if indicated on the report to have occurred within the preceding five years, would prohibit the individual from being hired. Section 111 also requires applicants to submit a copy of the Federal criminal history record with the application for employment.

Section 22 Pa Code 8.2(a) of the State Board of Education Regulations requires that the criminal history background check may not be more than one year old at the time of employment or engagement of contracted services.

State Board of Education regulations, 22 Pa Code 8.1, define the criminal history background check as a report of criminal history record information from, or a statement that no information is on file with, the State Police.

Our audit of personnel records for current bus drivers found one individual did not possess an updated Pennsylvania State Police criminal background check (Act 34) or the federal criminal history record information (Act 114) required by PSC Section 111. This individual was hired by the transportation contractor in 2006, but only began transporting Lancaster-Lebanon Intermediate Unit #13 (LLIU) students in 2010.

Several different state statutes and regulations establish the minimum required qualifications for school bus drivers. The ultimate purpose of these requirements is to ensure the protection of the safety and welfare of the students transported in school buses. We reviewed the following requirements:

1. Possession of a valid driver's license;
2. Completion of school bus driver skills and safety training;
3. Passing a physical examination;
4. Lack of convictions for certain criminal offenses; and
5. Official child abuse clearance statement.

The first three requirements were set by regulations issued by the Pennsylvania Department of Transportation and the fifth requirement was set by Section 6355 of the Child Protective Services Law. As explained further in the box to the left, the fourth requirement was set by the PSC and State Board of Education regulations.

Department of Education School Services Unit website provides that subsequent to December 1, 2008, official paper copies of the Act 114 clearance would no longer be available; they are instead maintained electronically for one year. Results are made available electronically for schools to review to determine the fitness of the bus driver to have direct contact with children. Access to the database is not permitted for independent contractors. After one year the clearance is destroyed.

We reviewed the personnel records of 5 of 133 bus drivers currently employed by the LLIU's transportation contractors. Since errors were noted in our initial review, testing was expanded to include an additional 28 bus drivers, or a total of 25 percent of the total bus drivers' population. No additional errors were noted in the expanded testing.

On July 27, 2011, we informed LLIU personnel of the missing documentation and instructed them to obtain the necessary documents. On August 2, 2011, LLIU personnel provided us with a valid Act 34 clearance. As of August 11, 2011 (fieldwork completion date), the Act 114 clearance had not yet been obtained.

The LLIU obtained all pertinent clearances from the contractor for individuals at the time of hire; however, the contractor was not receiving updated clearances for the individuals for their beginning date of service with the LLIU.

Recommendations

The *Lancaster-Lebanon Intermediate Unit #13* should:

1. Obtain all clearances for all individuals employed by the contractor prior to allowing them to transport students.
2. Ensure that the LLIU's transportation coordinator reviews each driver's qualifications prior to the individual transporting students for the LLIU to ensure clearances are up to date and qualifications are on record.
3. Establish procedures to ensure that the LLIU's obtains clearances for individuals when they begin service with the LLIU.

Management Response

Management stated the following:

Lancaster-Lebanon IU 13 agrees with the finding "School Bus Driver Certification Deficiencies." The finding involved a bus driver employed by [the bus contractor] whose clearances were obtained in 2006, which was when the driver was hired by the bus company.

Lancaster-Lebanon IU 13 started contracting with [the bus contractor] in the early 1990's; however, this specific

driver did not become a permanent driver for the Lancaster-Lebanon IU 13 until 2010.

The problem was that [the bus contractor] and Lancaster-Lebanon IU #13, in its relationship with the transportation contractor, did not require new clearances when the driver began [driving] for IU 13. In conversation with the state auditor and review of the school code, we believe that the driver may be required to obtain new clearances because there was a change of the *school entity* assignment of the driver. The distinction between contractor and contractor's employees for the purpose of determining the need for new clearances remains unclear to us in the light of the direction we have been given that updated clearances are not required when there is no break in service; however, in an effort to be most conservative when ensuring the safety of students in Lancaster-Lebanon IU #13 programs, updated clearances will be required by all bus drivers not previously assigned to Lancaster-Lebanon IU #13.

Lancaster-Lebanon IU 13's corrective action plan will require updated clearances for all bus drivers based on their start date as an IU 13 contracted transportation service provider. The Contract Compliance Office will be meeting with all the bus contractors on August 9, 2011, to review contract and clearance requirements, and stress the importance of maintaining compliance with clearance requirements. Each agency will have a point of contact employee designated for consistency in communication and maintaining contractor clearance compliancy with the Lancaster-Lebanon IU 13 Contract Office.

Lancaster-Lebanon IU 13 Contract Office will disseminate a Contractor Employee List to each bus company listing all drivers who have fulfilled clearance compliancy under the Lancaster-Lebanon IU 13 contract, which will be reviewed and verified by the Point of Contact Designee at the bus company.

The attached documentations [not reproduced here] will be disbursed to the bus companies to establish and enhance clarification surrounding contractor clearance compliancy under Lancaster-Lebanon IU 13 contracts.

The attached internal procedures [not reproduced here] have been implemented.

Status of Prior Audit Findings and Observations

Our prior audit of the Lancaster-Lebanon Intermediate Unit #13 resulted in no findings or observations.

Distribution List

This report was initially distributed to the executive director of the intermediate unit, the board members, our website address at www.auditorgen.state.pa.us, and the following:

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