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July 12, 2024

VIA EMAIL TO [REDACTED]

Daniel Rosenberg
Auditor-in-Charge, Audit Division
State of New Jersey
Office of the State Comptroller
PO Box 024
Trenton, NJ 08625

RE: Educational Services Commission of New Jersey – Draft Audit Report

Dear Mr. Rosenberg:

This firm represents the Educational Services Commission of New Jersey (“ESCNJ”). The ESCNJ is in receipt of the Office of the State Comptroller (“OSC”) Draft Performance Audit of Selected Fiscal and Operating Practices Report, last edited July 10, 2024 (“Report”). Please accept this letter as the ESCNJ’s position with respect to the Report’s findings and recommendations pursuant to N.J.A.C. 17:44-2.7.

1. Services Contract Procurement.

The ESCNJ appreciates the OSC’s guidance and recommendations regarding the use of Requests for Proposals and additional scope-of-work clarity needed for professional services and extraordinary unspecifiable services agreements. The ESCNJ has started implementing internal procedures to address these issues going forward. An RFP for insurance brokerage services is already being generated and RFPs for other relevant services will be utilized as existing agreements expire.

The ESCNJ also agrees that it should receive more detailed billing regarding professional services dedicated to addressing legislative and related issues. These services have generally not been utilized for the purpose of “lobbying” as that term is defined by statute, but have instead largely focused on collaborating and fostering discussions with non-legislative groups such as trade unions regarding issues that might otherwise negatively impact the ESCNJ’s services and operations. However, the ESCNJ agrees with the OSC’s recommendations and will ensure that the attorney providing these services submit detailed bills outlining the work performed.

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2. State Comptroller Notification

The ESCNJ acknowledges that OSC notification procedures were not consistently implemented when cooperative pricing system or direct contracts were anticipated to or did exceed the requisite reporting thresholds. The ESCNJ has already addressed this issue internally and has begun filing the required reports to the OSC retroactively for contracts dating back to March 2024. Proper procedures are also now in place to ensure OSC is notified on all relevant future contracts.

The ESCNJ is also contracting with James Shoop of Shoop SBA, LLC to provide a 12-hour course on Public School Purchasing and Public School Bidding to six (6) ESCNJ staff who have responsibilities for procurement procedures for the Commission. The ESCNJ also intends to utilize Mr. Shoop's services in August 2024 to provide additional professional development regarding procurement to all administrators and support staff.

3. Health Benefits

The ESCNJ's insurance brokers have advised the Commission that the Report's finding that there was an "overpayment" of health insurance claims in the amount of \$343,000 is inaccurate. As noted in the Report, the ESCNJ's health benefits administrator, Horizon Blue Cross, utilizes both diagnostic-related group (DRG) and Case Rate pricing methodologies, which processes utilize a combination of fixed pricing and history evaluative procedures to determine costs beyond just individual invoices. The brokers also identified at least one claim flagged by the OSC as incorrectly listed in the Report. Specifically, the Report includes within the alleged overpayments a claim said to have been invoiced at \$0.08 but the brokers state that was actually invoiced at \$12,833.44 and paid at \$7,501.11 (i.e., less than was invoiced). However, the ESCNJ agrees with the OSC's recommendation to explore changes to the health benefits administrator's agreement to determine if additional cost savings can be realized.

With respect to making comparisons between the ESCNJ's self-insurance plan and the State Health Benefits Plan(s), the ESCNJ is required by its respective collective bargaining agreements to offer certain benefits that make direct comparisons of plans difficult. If the ESCNJ were to enroll in the SEHBP/SHBP, the ESCNJ would have to negotiate the impact of this change with the local unions and may not be able to realize any savings identified in the Report. However, the ESCNJ will attempt to address these issues in future collective bargaining sessions.

The ESCNJ agrees with the recommendation that it engage in a regular cost analysis regarding the viability of remaining self-insured – ESCNJ administration does already meet regularly with the broker regarding renewal rates as well as the success and issues with the plan.

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To date, it has been more beneficial to remain self-insured, but the ESCNJ acknowledges that this could change in the future.

4. General Fund Balance

The ESCNJ agrees that it needs an internal policy that sets clear goals and guidance regarding the general fund balance needed for business continuity in future years. The ESCNJ is in the process of developing this policy.

The ESCNJ thanks the OSC for its collaboration and guidance throughout this process and looks forward to continuing our goal of providing excellent services and cost savings to its members while remaining in compliance with all applicable rules and regulations.

Sincerely,

THE BUSCH LAW GROUP LLC

Douglas M. Silvestro

Douglas M. Silvestro
Partner

cc: Nadia Romano, Superintendent (via email)
Steve Robinson, Interim Business Administrator/Board Secretary (via email)