



State of New Jersey
COMMISSION OF INVESTIGATION
28 WEST STATE STREET
CN 045
TRENTON NJ 08625-0045
TEL (609) 292-6767
FAX (609) 633-7366

LESLIE Z. CELENTANO
Chair
M. KAREN THOMPSON
W. CARY EDWARDS
Commissioners

JAMES J. MORLEY
Executive Director
ROBERT J. CLARK
Deputy Director
HELEN K. GARDINER
Assistant Director
LEE C. SEGLEM
Executive Assistant
CHARLOTTE K. GAAL
ILEANA N. SAROS
Counsel

December 16, 1997

Hon. Gordon A. MacInnes
Senator, District 25
21 Bloomfield Avenue
Denville, NJ 07834

Dear Senator MacInnes:

In a letter dated September 10, 1996, you asked the Commission to examine certain critical issues involving New Jersey's school transportation industry. The request centered on allegations that the industry has been subverted by unscrupulous busing contractors who have engaged in a variety of improper acts, including collusion, bid rigging and fraud.

On October 23, 1996, the Commission, pursuant to statutory requirements, adopted a resolution authorizing an investigation into "whether, and to what extent, competition or integrity in the school transportation industry and related enterprises has been adversely affected by deficiencies or wrongdoing in public purchasing or contracting, by undue restraints or impediments to the operation of the free market system, or by corruption or improper influence involving public officers or employees."

This document recounts the background, findings and recommendations stemming from that investigation.

Background

School transportation in New Jersey is a major industry in which approximately 300 private bus companies serving 585 school districts transport nearly 672,000 students to and from school each day. The total cost to taxpayers is \$503,000,000 per year, of which \$243,000,000 is provided in the form of state aid.

Responsibility for engaging transportation services and establishing contracts with qualified vendors rests with local school districts. The State Department of Education (DOE) provides only limited oversight. Under the current system, each district must provide copies of contracts with successful bidders, as well as all relevant board of education minutes, to the office of the appropriate county school superintendent. Acting on behalf of the state, this office then reviews the materials to see that basic requirements, such as provision of adequate insurance, are fulfilled. No review of specific bids is conducted, although DOE is considering extending the county superintendents' duties to include this task.

New Jersey's school-busing industry is and has been vulnerable to abuse, as evidenced by criminal investigations and prosecutions in recent years. Between 1986 and 1989, the United States Attorney's Office for New Jersey and the State Division of Criminal Justice (DCJ) successfully prosecuted a series of cases involving corrupted transportation programs in school districts in Union and Middlesex counties. That probe, recounted in the 1992 SCI report, "Local Government Corruption," resulted in at least 15 convictions against busing contractors and school district officials charged with bribery, bid rigging and fraud. In August 1997, DCJ, assisted by the Monmouth County Prosecutor's Office, initiated a separate investigation into

questionable bids on school transportation routes for special education students in Monmouth County. On September 23, the Attorney General's Office announced the arrests of seven school-bus operators on charges of conspiring to obtain approximately \$2 million worth of school-bus contracts through collusive bidding on transportation routes for special-needs students in both Monmouth and Ocean counties.

The Commission's investigation consisted of gathering information concerning the school-busing industry and pursuing leads, particularly as they related to allegations of collusion and bid rigging. To those ends, Commission staff contacted the offices of the state's 21 county prosecutors, DCJ and the U.S. Attorney's Office for information relevant to any cases or complaints concerning school-bus transportation in New Jersey over the past five years. Extensive interviews were conducted with owners and principals of bus companies, school district transportation coordinators, county superintendents, representatives of special service districts, officials of DOE and the New Jersey School Boards Association, and members of the general public. Commission staff also reviewed extensive corporate records for numerous private bus companies.

Findings

- **Conditions which foster and permit collusive bidding and related abuses are prevalent throughout New Jersey's school transportation system.** Commission staff was told that collusion is "built-in," reflective of the fact that bus company owners routinely refuse to submit bids in districts where others already are operating. It is understood within the industry that some form of retaliation will result if this informal system of customer allocation is violated.
- **Trends in pupil transportation in New Jersey reflect the appearance and growing dominance of large, multi-state bus companies that are both under-bidding and buying out smaller competitors.** These large companies often are the only entities capable of providing service to larger school districts through bulk bids, which require a company to serve all of a district's routes.
- **Many school district transportation programs involve vendors selected through an extremely narrow bidding**

process. Many district transportation coordinators told Commission staff that, despite efforts to solicit bids, they often receive no more than a few or only one. On the other hand, the Commission found instances where only select vendors were solicited for informal quotes, rather than all of those located within reasonable proximity to the bus routes. Lacking comparative data, district officials are unable to determine the reasonableness of single bids. One school district reported having had a single bidder for the last 35 years. Another has engaged a solitary bidder for the past 27 years. In some instances, special arrangements were noted between bus companies and school districts or municipalities which favored the successful vendor over would-be competitors. In an effort to encourage competition, one local official actively solicited bids from prospective transportation vendors within a 50-mile radius only to receive a single bid – from the district’s longtime lone bidder.

- **Insufficient training is provided to local district officials responsible for handling transportation contracts.** As a result, many transportation coordinators are ill-equipped to handle the responsibilities of their jobs.
- **Poor record keeping by some school districts and special services transportation offices has contributed to lax oversight.** There are no enforcement procedures for lack of record keeping compliance, and the offices of county superintendents, in general, provide little or no independent review of the bid process.
- **Costs have been driven up in some instances by the failure of local district officials to take advantage of obvious economies in transportation arrangements.** For example, a busing program in one school district was awarded on a bulk basis, rather than a per-route basis. The latter would have resulted in savings of more than \$1 million in just the first year of the contract.
- **Violations of the state’s Administrative Code and applicable statutes were noted.** A DOE audit of one district, for example, revealed numerous violations, including the awarding of contracts for nonpublic

transportation in amounts that exceeded what is allowed for aid-in-lieu-of-transportation payments; the awarding of "temporary" routes for periods longer than the allowable 90 days, and in amounts in excess of the bid threshold; the cancellation of routes that later were reinstated without competitive bidding; the awarding of temporary routes without solicitation of bids; and the separate awarding of contracts on a "to-and-from" basis rather than "round trip."

Recommendations

The Commission makes the following recommendations for consideration as part of an overall effort to provide an environment that fosters competition, minimizes costs and reduces the likelihood of collusion:

1. Regionalize Pupil Transportation

New efforts under the direct supervision of DOE should be undertaken to regionalize pupil transportation. Legislation enacted during the Commission's investigation, commonly known as the *Regionalized Public Transportation Services Act, Laws of 1997, Chapter 53*, provides an initial framework for regionalizing transportation of county vocational and special education pupils. The law calls for identification of agencies that supply cooperative transportation services, such as local boards of education, educational services commissions and county special services school districts. School districts responsible for transportation of county vocational pupils or special education pupils must utilize one of the identified agencies unless the district can provide the transportation at a lower cost or to do so would violate policies of the resident school district. The law also provides for exploration of cost-saving alternatives to payment in lieu of transportation of nonpublic school pupils. Finally, the legislation directs the Commissioner of Education to report to the Governor and the Legislature within three years concerning the bill's effectiveness in promoting a regionalized transportation service and the advisability of expanding regionalized transportation services to other students. The Commission endorses this requirement.

The following additional considerations should be incorporated in any regionalization effort:

- Artificial boundaries, such as county lines, should not be used to determine regionalized busing areas. Multiple transportation regions, for example, might serve a single county. In other instances, more than one county should coordinate pupil busing in a single regionalized network.
- The state's DOENET computer system should be utilized as a computerized routing system to assist in coordinating routes among school districts.

2. Tiering and Consolidation of Busing

Maximum advantage should be taken of tiering of bus routes, flexible school opening/closing times and coordinated calendars and schedules of public and nonpublic schools. Further, consolidation and streamlining of extracurricular, athletic and other special transportation needs should be undertaken. Methods include combining sports teams or separate groups on one bus and utilizing small vans where practicable.

3. Improve Overall Quality of Transportation Coordinators

High priority should be given to the selection of qualified individuals to serve as transportation coordinators. The DOE should establish minimum qualifying standards for these positions. The Pupil Transportation Supervisor Program, sponsored by the DOE, should be expanded and required of all transportation coordinators to enhance their skills, provide them with tools necessary to perform their jobs effectively and efficiently, and prepare them in advance for changes in the industry.

4. Improve the Bid Process

A number of bidding issues that directly, yet independently, impact the cost of pupil transportation should be addressed in conjunction with regionalization and upgrading the position of transportation coordinator:

- A pre-qualification process utilizing a model administered by the DOE should streamline bid

proposals. Establishment of a central repository of duplicative parts of bid proposals (proof of insurance, bonding, and ownership) should cut costs and improve efficiency. Uniform statewide manuals for such requirements as accident procedures and insurance should be established. A statewide method of pricing bids should be developed to aid in price comparisons and to provide uniformity in proposals. Utilizing different pricing structures, such as per diem and annual pricing, only obfuscates cost analysis.

- Rules and regulations should be uniform and consistently enforced. Unreasonable or excessive fines and penalty practices impact the bidding process because vendors factor those costs into their bids.
- Every effort should be made to build more time into both the bidding and the implementation processes to foster competition and competitive prices. The Commission found instances where insufficient time was provided to prepare bids and implement contracts. It was not unusual for bid requests to be issued in August for transportation routes to be provided in September. In many instances, routes could have been released for bid in June, allowing bus companies additional time to secure buses, drivers and facilities to perform the contracts. Therefore, the contracting entity should (1) solicit bids with as early a return date as possible, and (2) award the contract to allow as much time as possible between the award and implementation of the contract. Any additional effort regarding classification and designation of special education and special needs students to complete this process in a timely manner should be expended to allow bids to be advertised and contract to be awarded as quickly as possible.
- Vendors should be paid within a reasonable amount of time (45 days or less) to prevent inflation of bid prices to compensate for slow payment practices.
- Cost-of-living increases should serve to contain costs better than the 30% cap on increases above the original contractual agreement currently in place on renewed contracts. Instances were noted where, upon renewal, contracts reached the 30% increase rapidly and then were continually renewed for many years

without an increase, thus suggesting the awards and early increases were inflated.

- Where applicable, the process of obtaining quotes should not be used to parcel out work to favored vendors. All bus companies within a reasonable distance should be contacted to submit quotes.
- Awarding transportation contracts for multiple years, rather than bidding on an annual basis, should be pursued. A vendor may be more likely to bid and to submit a competitive price if the contract will be in place for several years since considerable costs and investment may be involved. It is difficult for bus companies to base business plans on one-year contracts. Absent a secure return for his investment, a bidder may decline to bid. Moreover, financial institutions may be reluctant to extend credit to businesses whose ability to repay loans may be hampered by short-term contracts where competition is being encouraged.
- In order to foster competition and to minimize conditions that breed collusion, routes should be bid in packages that may be performed efficiently. "All-or-none" proposals tend to limit competition to only the largest bidders. Smaller companies may not have the resources available to meet an entire district's transportation needs.

5. Debarments

A number of individuals who were the subjects of earlier law enforcement probes remain in the school transportation business in New Jersey, and the Commission is concerned that their continued presence may serve to undermine the integrity of the industry as a whole. Exclusion of potential bidders or contractors to satisfy integrity and performance concerns presently involves a convoluted system governed by a state executive order, criminal statutes and local policies. In its September 1992 report, "Local Government Corruption", the Commission recommended the creation of a comprehensive, well-enforced system of debarments, suspensions and disqualifications. Under this proposal, which the Commission reiterates here, individuals or companies that have violated standards of integrity or performance would be barred from publicly funded pupil transportation jobs.

6. Maintenance of a Fleet of Publicly Operated Buses

Vendors may submit more reasonably priced bids if districts or regions possess some measure of publicly owned transportation. Bidders will be aware that they are not the only option. Moreover, the contracting entity will have more information as to repair costs, etc. Maintaining an in-house fleet might also result in the negotiation of concessions from bus drivers, thus providing for an alternate, cost-effective means of transportation supplied by the contracting entity itself. Such an alternative would be particularly helpful in a regionalized approach because the publicly operated transportation service may well be able to

provide a competitive alternative to single or excessive bids.

7. Subscription Busing

Where appropriate, consideration should be given to the offering of subscription busing at an annual fee to those students who live less than the minimum distance from schools for which school districts are required to provide transportation. This practice should maximize the efficient use of buses, provide a safe means of transporting the pupils to school, and provide revenues to offset overall transportation costs.

Very truly yours,



LESLIE Z. CELENTANO
Chair



M. KAREN THOMPSON
Commissioner



W. CARY EDWARDS
Commissioner

cc: Hon. Christine Todd Whitman
Hon. Donald T. DiFrancesco
Hon. Jack Collins