

**SCHOOL DISTRICT OF PHILADELPHIA
REVIEW OF SCHOOL DISTRICT VENDORS**

January 2009



CITY OF PHILADELPHIA

OFFICE OF THE CONTROLLER
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ALAN BUTKOVITZ
City Controller

ALBERT F. SCAPEROTTO
Deputy City Controller

February 18, 2009

Dr. Arlene C. Ackerman
Superintendent of Schools
School District of Philadelphia
440 North Broad Street
Philadelphia, Pennsylvania 19130

Re: Review of Vendor Information

Dear Dr. Ackerman:

We have examined the District's 2007 vendor information and matched it to the City's Revenue Department tax file. A synopsis of the results of our work is provided in the summary section of our report.

We discussed our findings and recommendations with your staff at an exit conference and included your written response to comments as part of the report. We believe that, if implemented by School District management, these recommendations will help to bring School District vendors into compliance with the city tax regulation and enhance revenue collection efforts.

We would like to express our thanks to you and your staff for the courtesy and cooperation displayed toward us during the conduct of our work.

Very truly yours,

A handwritten signature in black ink, appearing to read "Alan Butkovitz", written over a horizontal line.

ALAN BUTKOVITZ

cc: Members of the School Reform Commission
Michael Masch, Chief Business Officer
Honorable Michael Nutter, Mayor
Keith Richardson, Revenue Commissioner
Members of the Mayor's Cabinet



School District of Philadelphia Review of School District Vendors Executive Summary

Why the Controller's Office Conducted this Review

During our Controller's Office 2006 and 2007 annual audits of the School District of Philadelphia (District) we found the District was making payments to vendors who owed delinquent taxes to the City. As a follow up to these audits we performed an independent review of the District's vendor information to determine whether or not vendors doing business with the District are in compliance with Philadelphia's Business Privilege Tax Regulations.

What the Controller's Office Found

Our review found that 538 vendors earned less than \$600 and according to District personnel were not issued 1099's at year end. However, Philadelphia tax regulations require all earnings be reported for tax purposes. Therefore, while some of these individuals may not be subject to BPT regulations they may be liable for wage or earnings tax on their income. In addition the followings other findings are noted.

- 66 out-of-state vendors, who received payments in excess of \$600 from the School District were not registered as doing business within the city.
- 145 vendors who listed Pennsylvania as their state of residence did not have City registration.
- 64 vendors located within the city, who received more than \$600, were not registered.

What the Controller's Office Recommends

The City Controller's Office recommends the School District should share its vendor information listing with the City's Revenue Department on an annual basis. By sharing this information, the City will be able to determine what vendors, if any, are not in compliance with BPT regulations.

A memorandum of understanding between the Department of Revenue and the School District should be created outlining Revenue's responsibility for determining which School District vendors are not tax compliant.

The District should withhold payments to vendors identified by the Revenue Department as tax delinquents until all tax delinquencies have been addressed.

The School District with the Revenue Department should review Revenue's criteria for determining whether an individual should be treated as an employee rather than an independent contractor.

INTRODUCTION

BACKGROUND

Any person who engages in a taxable activity in Philadelphia or attributable to Philadelphia is subject to the Business Privilege Tax whether or not such person is a resident and whether or not such person has a permanent place of business in Philadelphia.

Philadelphia tax laws mandate that every individual, partnership, association, and corporation and every receiver, trustee, assignee and other person acting in a fiduciary capacity, whether appointed by a court or otherwise, and any combination of persons, carrying on or engaging in any trade, business profession, vocation or any manufacturing, commercial, service, financial, insurance, or utility business or activity in Philadelphia or attributable to Philadelphia must file a Business Privilege Tax return.¹

During our audits in fiscal year 2006 and 2007 we found that the Philadelphia School District was making payments to vendors who owed delinquent taxes to the city.

As a follow up of these audits and the tax regulations stated above the City Controller's Office performed an independent review to determine whether or not vendors doing business with the School District are in compliance with Philadelphia's Business Privilege Tax regulations.

OBJECTIVE, SCOPE, AND METHODOLOGY

The objective of our review was to determine if School District vendors who may be subject to Philadelphia Business Privilege Tax regulations were in fact registered with the City's Revenue Department.

Our work consisted of reviewing the District's calendar year 2007 vendor information listing and determining whether the vendors were properly licensed according to the regulations.

We conducted our work between June and August 2008.

¹ City of Philadelphia Business Privilege Tax Return Regulations, August 2001

What the Controller’s Office Found

The Controller’s Office obtained the School District’s listing of vendor payment information for calendar year 2007. For purposes of our review we excluded from the listing of 1,074 recipients all non-profit agencies, such as churches, schools, hospitals, and other charitable organizations that are exempt from filing Business Privilege Tax returns.

Our review found that 538 vendors earned less than \$600 and according to District personnel were not issued 1099’s at year end. However, Philadelphia tax regulations require all earnings be reported for tax purposes. Therefore, while some of these individuals may not be subject to BPT regulations they may be liable for wage or earnings tax on their income

Listing of Vendor Payments by Category and Location				
	Less Than \$600*	At Least \$600 but Less than \$1,000	At Least \$1,000 but Less than \$10,000	More than \$10,000
In- State	511	34	203	130
Out-of-State	27	6	41	38

* No 1099 issued to these vendors.

Vendors Located Outside Pennsylvania

Our review found that 66 out-of-state vendors, who received payments in excess of \$600 from the School District were not registered as doing business within the city.

We examined payment vouchers for some of these vendors. The following is an example of what we found.

- A vendor with an Illinois address received \$50,400 in compensation for work performed as a band consultant.
- An equipment rental company located in New Jersey was paid \$11,604 for crane rentals.
- A professional consultant from the Chicago area was paid \$10,579 for educational consulting.
- A professional consulting group from Chicago received a payment of \$25,875 to consult on Grants Management functions for the School District.
- A professional consultant from Overland, Kansas was paid \$16,322 for unidentified consulting services rendered for January and February 2007.

A complete list of vendors located outside of Pennsylvania who do not have a BPT registration is included in Appendix 1. The services performed by these vendors may be subject to city business taxes.

Vendors Located Within Pennsylvania

Table of Payments for Vendors Located in Pennsylvania				
	Less Than \$600*	At Least \$600 but Less than \$1,000	At Least \$1,000 but Less than \$10,000	More than \$10,000
Philadelphia	428	24	116	68
Rest-of-State	83	10	87	62

* No 1099 issued to these vendors.

Of the vendors examined who listed Pennsylvania as their state of residence we found that 145 vendors did not have City registration. A complete list of these vendors is included in Appendix 2. Again the services performed by these vendors may be subject to City business taxes.

There were 64 vendors located within the city, who received more than \$600, that were not registered.

Our examination of the vendor listing found the following examples of businesses that have failed to comply with the city's BPT regulations.

- A consultant from Philadelphia was paid \$67,000 for curriculum support.
- A Philadelphia based vendor was paid approximately \$104,000 for the installation of bleachers at a Philadelphia High School.
- A Philadelphia based management consultant was paid \$40,000 in consulting fees.

Vendors Who Received Less than \$600

For the 511 vendors who earned less than \$600 during calendar 2007, we found that many of these people were actually temporary employees rather than independent contractors. The majority of these individuals received one-time payments of between \$250 and \$500 for being part of a classroom participation program. Others received payment for having taken part in a summer workshop program for non-public school teachers. Both these programs were funded from Title 1 money.

The classroom participation program participants were actually parents assigned to assist teachers in the classroom. Each parent was allowed to work 2 cycles per year, with a cycle being defined as three hours per day, five days a week for 10 weeks for a payment of \$250 for the cycle with a maximum of two cycles per year.

Generally, if an employer tells a person when to report, where to report, sets the working hours, and describes the duties to be performed the law defines such workers as an employee. Such individuals working for the School District should receive a School District check as temporary employees rather than a lump-sum payment. Payment as an employee will ensure that all taxes are paid to the proper government agency.

If the individuals in question were issued paychecks the city would be collecting wage taxes as opposed to requiring a BPT license.

What the Controller's Office Recommends

- 1) The School District should share its vendor information listing with the City's Revenue Department on an annual basis. By sharing this information, the City will be able to determine what vendors, if any, are not in compliance with BPT regulations.

- 2) The School District's standard contract language contains a provision that asks vendors to affirm they are not delinquent with respect to the payment of city taxes. We recommend the School District enforce the terms of its vendor contracts by the following:
 - Having the Revenue Department create a memorandum of understanding between themselves and the School District. The memorandum of understanding should communicate the Revenue Department's responsibilities for determining which School District vendors are not tax compliant and furnish a listing of these vendors on a periodic basis to the School District.

 - Withhold payments to vendors identified by the Revenue Department as tax delinquent until all tax delinquencies have been addressed.

- 3) The School District should meet with representatives of the Revenue Department and review Revenue's criteria for determining whether an individual is actually an employee rather than an independent contractor. In instances where it is determined that an individual is deemed an employee, that person should be classified as a temporary employee and issued a paycheck.

Appendix 1
School District Vendor File
Listing of School District Vendors Located Outside Pennsylvania Who
Did Not Have a BPT License Registration

Vendor Name	Address	City	State	Amount Paid
Hudson Construction Cnsltg	800 Hudson Square	Camden	NJ	669,535.20
Scholarship Card LLC	6 Commercial St.	Hicksville	NY	646,240.71
Sherpa Government Solution	13211 Farley	Overland Park	KS	236,890.00
TD Banknorth N.A.	For Zora Enterprise PO Box 9540	Portland	ME	142,500.00
Julani Thomas Ghana DBA	1201 Hampton Court	Thorofare	NJ	121,255.00
David Farrell	13211 Farley St.	Overland Park	KS	102,078.00
The Hollins Group	225 West Packer Drive Ste. 1575	Chicago	IL	94,840.62
ICDL-US LLC	354 Pequot Ave	Southport	Ct.	67,605.00
Pierre Newcoi LLC	5589 Paysphere Circle	Chicago	IL	64,200.00
Research for better teaching	One Action Place	Acton	Ma	60,946.00
Willie A.Naylor	17718 Cypress Ave.	Country Club Hil	IL	50,400.00
Council of the Great City	Suite 702 1301 Pennsylvania Ave. NW	Washington	D.C.	46,673.00
Audrey S. Gamm	1115 W. Altgeld	Chicago	IL	40,900.00
Armando M.Almendarez	1717 S.Prairie Ave. Unit 1005	Chicago	IL	31,500.00
First-For The Inspiration	200 Bedford St	Manchester	NH	30,000.00
Great Books Foundation	35 E.Wacker Dr.Ste.2300	Chicago	IL	28,000.00
Bronner Group LLC	120 N.Lansdale St.	Chicago	IL	25,875.00
Dr. Stacy Scott DBA	PO Box 5046	Berkley	Ca.	22,500.00
Don Todd Assoc.Inc Attn.Operations	PO Box 8195	Walnut Creek	Ca.	20,396.25
Project Grad USA	1100 Louisiana Suite 450	Houston	TX	15,891.55
Gilder Lehrman Institute of	19 West 44th St. Suite 500	New York	NY	15,000.00
Ryan Tierney	3 Palmer Dr.	Middleton	DE	14,750.00
Ameriflex	303 Fellowship Rd Ste 201	Mt Laurel	NJ.	14,583.50
United Rentals	PO Box 19633A	Newark	NJ.	11,604.88
Read Venture Two LLC	1000 S.Old Woodward Suite 105	Birmingham	MI	11,250.00
Speakers Etcetera	PO Box 8308	Inglewood	CA	10,768.25
Albert Bertani	1460 N.Sandburgh Terrace #2710	Chicago	IL	10,579.02
Anthony A. Goodman	402 Sonora Lane	Sicklerville	NJ.	9,535.35
Partners in ABA LLC DBA	3002 Lincoln Dr West Ste E	Marlton	NJ.	7,675.00
Edmund R. Becker PH D	2774 Hawthorne Drive NE	Atlanta	GA	7,459.69
Computer For Youth	322 8th Ave. Floor 12A	New York	NY	7,000.00
Judith A.Winston	Non Expense 1730 "M" Street NW Suite 413	Washington D.C.	D.C	6,548.55
Mario Beatty	10603 Hockberry Way	Beltsville	MD	6,500.00
Constance L. Hollinger	8306 Timberlane Rd.	Concord Twp.	OH	6,000.00
Cognitive Concepts Inc.	Houghton Mifflin Co. 14046 Collections Ctr. Dr.	Chicago	IL	6,000.00
Peter F. Burmham	97 Galloping Hill Road	Colts Neck	NJ	6,000.00
Salvatore Felicia Jr	PO Box 249	Medford	NJ.	5,916.00
National Seminars Group	6901 W. 63rd ST.	Shawnee Mission	KS	5,000.00
Terrel Bell & Associates	1917 South 1100 East	Salt Lake City	UT	5,000.00
Careertrack	University Enterprises Inc. 9757 Metcalf Ave.	Overland Park	KS	4,891.00
Valethia Watkins	10603 Hockberry Way	Beltsville	MD	4,500.00
Jeffrey Tener	301 N.Harrison St.Box 482	Princeton	NJ.	4,266.00
Kheira Tabet Aquil	3116 Donnegal Bay Drive	Las Vegas	NV	4,257.00
Fred Pryor Seminars	University Enterprises Inc. 9757 Metcalf Avenue	Overland Park	KS	3,698.00
National Coalition Title 1	ATTN Annie Carn TRES.PO Box 13	Claymont	DE	3,025.00
Rochelle Brenner Yedvarb DBA	2440 Terry Court	Cumming	GA	3,000.00
Imagestuff.com	1270 Avenida Acaso Unit C	Camarillo	CA	2,547.00
Western CPE	205 Haggerty Lane Suite 210	Bozeman	MT	2,547.00
Pewtroff & Rims Associates	33 Fairhaven Drive	Cherry Hill	NJ	2,500.00
James E.Lyons	17622 Acacia Dr.	Carson	Ca.	2,400.00

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Listing of School District Vendors Located Outside Pennsylvania Who
Did Not Have a BPT License Registration

Vendor Name	Address	City	State	Amount Paid
Kenneth K.Wong	336 Benefit St.	Providence	RI	2,400.00
Daniel F.Brent	239 Shady Brook Lane	Princeton	NJ.	1,960.00
Health Occupations	6021 Morris Rd. Ste. 111	Flower Mound	TX	1,710.00
Heinemann Workshops	361 Hanover St.	Portsmouth	NH	1,551.00
American Association of Sch	C/O CMR 801 N.Quincy St. Suite 700	Arlington	VA	1,500.00
Deitrich P. Faison	702 Clifton Dr.	Bear	DE	1,500.00
Minority Aviation Education	PO Box 6870	Wheeling	WV	1,500.00
Audiology Associates	7113 Ambassador Rd.	Baltimore	MD	1,402.00
Kristen E Ehlman	59 Cantwell Dr.	Middletown	DE	1,100.00
Myriam Met	2313 Briarcroft Court	Edgewater	MD	1,000.00
Norris Thomas	17 Sandra Rd.	Voorhees	NJ	900.00
Thompson Publishing Group	PO Box 6292	Carol Steam	IL	879.20
C-Mor CO	PO Box 940	Garfield	NJ	812.40
Progress Publications Inc.	11616 "I" St.	Omaha	NE	764.36
Terrence Parrett	44 Asbury Drive	Smithtown NY	NY	660.00
Master Teachers	Leadership Lane PO Box 1207	Manhattan	KS	648.79

Appendix 2
School District Vendor File
Listing of School District Vendors Who
Did Not Have a BPT License Registration
Pennsylvania Vendors Only

Vendor Name	Address	City	State	Amount Paid
Todd J. Kupper	2455 Byberry Rd.	Hatboro	PA	341,030.36
Karen Franzone	5 Woodstream Dr.	Wayne	Pa.	103,920.69
Harambee Contracting	120 Wyneva St.	Philadelphia	PA	103,787.50
Carey Dearnley	7128 Lincoln Drive	Philadelphia	PA	101,425.00
Elaine Culbertson	2401 Pennsylvania Ave #14B34	Philadelphia	Pa.	67,000.00
Andrew Fussner	7 Shirley Rd.	Narberth	PA	55,050.00
Mary Jo Witkowski Smith	714 Scott Lane	Wallingford	PA	52,998.40
HD Life Media LLC	PO Box 582	Bala Cynwyd	Pa.	49,725.00
The Paradigm Group	12 West Willow Grove Ave. Suite 174	Philadelphia	PA	40,000.00
Kathleen K. Blouch ED D	243 Apple Blossom Lane	Palmyra	PA	26,773.06
Louis Tenaglia	5456 Old Easton Rd.	Doylestown	Pa.	26,150.00
Lester Kranso	400 North Second St.	Philadelphia	PA	25,328.97
Greg Carr	4800 Pine St. Apt.107	Philadelphia	PA	25,000.00
Marilyn A Fox	405 Gordon Rd	Ambler	Pa.	21,625.00
Shelly Chasen	255 Moreland Rd.	Huntingdon Valley	PA	20,328.00
Eleone Dance Theatre	PO Box 54340	Philadelphia	PA	20,000.00
Steven H. Gumerman	1646 Fawn La.	Huntingdon Valley	PA	18,200.00
Siusanne T. Slawe	409 Ballystore Rd.	Wynnewood	PA	17,100.00
Elan Gepner	6349 Mc Callum St	Philadelphia	Pa.	15,812.50
Renee Robinson-Way	5841 Weymouth St.	Philadelphia	PA	14,989.91
Frederick Lee Davis	1615 Conlyn St.	Philadelphia	Pa.	14,900.00
Geoff Roth	797 Birney Hwy	Aston	Pa.	13,896.74
Barbara Chandler Allen	4115 Hain Drive	Lafayette Hill	PA	12,440.00
Nancy Turner Rugart	PO Box	Berwyn	PA	12,250.00
Francine S Cross DBA Financial	7124 Germantown Ave	Philadelphia	Pa.	11,700.00
Ariel Olivencia	1316 Devereaux Ave.	Philadelphia	PA	11,357.01
Robert Lefkovitz	662 Forge Springs Way	King of Prussia	Pa.	10,800.00
John Woodin	415 S.47th St.	Philadelphia	PA	10,576.00
Noel Perloff	8 Springhouse lane	Blue Bell	PA	10,150.00
Perfected Services	PO Box 48316	Philadelphia	PA	10,047.52
Martha B.Kroch	601 E.Gorgas Lane	Philadelphia	Pa.	10,000.00
Martin Kesselman	The Watermark Two Franklin Town Blvd. #2111	Philadelphia	PA	9,975.00
Child First LLC	PO Box 272	Yardley	Pa.	9,771.00
Aretha Marie Hall	639 Pierce St	Philadelphia	Pa.	9,600.00
Melissa Wolfson	3750 Main St.	Philadelphia	PA	8,000.00
Edward C.Sweeney Esquire	537 W. Uwclan Ave. Ste. 200	Downingtown	PA	7,985.28
Richard Aldorasi	2211 Locust Rd.	Morton	PA	7,000.00
Caroline Ebby	260 Hathaway Lane	Wynnewood	Pa.	6,784.00
Clearview Printing Co	114 Pheasant Run	Newtown	PA	6,125.00
Connie E. Cochran	3202 Ridgeway Rd	Philadelphia	PA	6,000.00
Diane Pieri	150 Maplewood Ave.	Philadelphia	PA	6,000.00
Randall M.Miller	77 Mill Race Place	Glenn Mills	PA	6,000.00
Francis Graham Lee	14 North Drexel Ave	Havertown	Pa.	6,000.00
Alfred V. Altopiedi PC	902 Old York Rd.	Springfield Pa.	PA	5,813.61
Douglas B.Marshall	1009 N.Elbow Lane	Yardley	Pa.	5,629.67
McElwee &Quinn LLC	612 Fox Fields Rd	Bryn Mawr	Pa.	5,556.00
Matt L. Zeller	1658 Heilmandale Rd.	Lebanon	PA	5,520.00
Imler's Poultry LP	3421 Beale Avenue	Altoona	PA	5,387.98
Ulrike Shapiro	226 W Haines St	Philadelphia	Pa.	5,150.00
Wayne David	5905 Devon Place	Philadelphia	PA	5,000.00
Deborah S.Yost	133 Gwynmont Drive	North Wales	Pa.	5,000.00

Appendix 2
School District Vendor File
Listing of School District Vendors Who
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Pennsylvania Vendors Only

Vendor Name	Address	City	State	Amount Paid
Traci Hall	663 Rose St	Yeadon	Pa.	5,000.00
Stephanie C.McKissic	7721 Crefeld	Philadelphia	Pa.	5,000.00
Education 4 Educators LLC	416 Newbold Rd	Jenkintown	Pa.	4,800.00
Sharon Goines	PO Box 7163	Audubon	PA	4,598.00
Deborah A.Johnson	306 Lorimer Ave.	Wyncote	PA	4,316.66
June Burris	1343 E. Sedgewick St. 2nd Floor	Philadelphia	PA	4,021.80
Edward Moss	950 Haverford Rd.Ste.306	Bryn Mawr	Pa.	3,805.00
School Bus Parts Co.	6124 Potters Ln PO Box 10	Plumsteadville	Pa.	3,755.95
Tanya Borman-Voit	120 Cedar St.	Jenkintown	PA	3,748.75
Alvin F. De Levie Esquire	940 Public Ledger Bldg. 150 Independence Mall West	Philadelphia	PA	3,643.24
Mark W. Voight	600 Germantown Pike Suite 400	Plymouth Meeting	PA	3,534.00
James B. Gillock	118 Wood St.	Doylestown	Pa.	3,500.00
After School Activities	230 S Broad St STE 403	Philadelphia	Pa.	3,491.42
Ilene Young ESQ	50 East Court St	Doylestown	Pa.	3,460.00
John D. Pallente Esq.	1528 Walnut St.	Philadelphia	PA	3,459.75
Kenneth R. Schuster Esq.	334 W. Front St.	Media	PA	3,310.00
GSS Travel & Tours	6809 Torresdale Ave.	Philadelphia	PA	3,150.00
James J. Jandrisitz	8111 Oxford Ave.	Philadelphia	PA	3,142.25
Tina Salvesen	4444 Begstrom Rd.	Doylestown	PA	3,000.00
Sister's Sanctuary	1510 Cecil B.Moore Ave.	Philadelphia	PA	3,000.00
Bonnie Stone	7207 Boyer St.	Philadelphia	Pa.	3,000.00
Elena Drozdova	221 Greenwood Ave	Jenkintown	Pa.	3,000.00
Dr. Belinda Williams	4 Kinder Road	Miquon	Pa	2,644.40
The Daecher Consulting	3780 Trindle Rd.	Camp Hill	Pa.	2,502.50
Carol Royer	609 Wadsworth Avenue	Philadelphia	PA	2,500.00
Bonnie Socket PH.D	122 South Church St.	West Chester	Pa.	2,500.00
Laura Wentz	7549 Parkview Rd	Upper Darby	Pa.	2,500.00
Arthur Chodoroff	12 Caldwell Circle	Newtown	Pa.	2,500.00
Wesley C Pugh	910 E. Haines St	Philadelphia	Pa.	2,500.00
Margaret J. Kay & Associates	2818 Lititz Pike	Lancaster	PA	2,475.00
Isaac Mell	405 Kenmore Rd.	Havertown	PA	2,400.00
Digiprint Solutions LLC	PO Box 1701 1296 Adams Rd	Bensalem	Pa.	2,227.37
Karen Berberian LLC	233 E.Lancaster Ave. Suite 303A	Ardmore	Pa.	2,035.00
Robert B.Gidding Esquire	Two Bala Plaza Suite 300	Bala Cywyd	PA	2,000.00
Daud M. Watts AKA	225 Harrogate Rd.	Wynnewood	PA	2,000.00
Anne Marie Warren	312 Fell Lane	Schwenksville	PA	1,930.00
Joseph V Pinto ESQ	858 Welsh Rd Ste 5	Maple Glen	Pa.	1,888.54
Sir Anthony Spease	6154 Old York Rd	Philadelphia	Pa.	1,875.00
Alma Faye Lovrinic	1703 Langhorne-Newtown Rd.	Langhorne	PA	1,800.00
Youngest in charge dance	6154 Old York Rd	Philadelphia	Pa.	1,750.00
Kenneth Wong	107 Starduct Dr.	Holand	PA	1,650.00
George Krapf & Sons INC	1060 Saunders Lane	West Chester	PA	1,550.00
Dr. John McGovern	57 Wooddale Rd.	Philadelphia	PA	1,500.00
William H.Cunliffe Jr.	1600 Walnut St.#1201	Philadelphia	Pa.	1,500.00
Patricia Kilbride	3306 E. Allens La.	Philadelphia	PA	1,400.00
Mary Tremper	329 Owen Ave.	Lansdowne	PA	1,400.00
Lanore Spearing	555 Gates St.	Philadelphia	PA	1,400.00
Deborah Jaster	1225 Brennan Dr.	Warminster	PA	1,400.00
Mary Harkins	3441 Cottman Ave.	Philadelphia	PA	1,400.00
Jane F.Ries-Jacoby	112 Gordon Rd.	Erdenheim	PA	1,400.00

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Vendor Name	Address	City	State	Amount Paid
Sharon R.Haugh	1805 Makefield Rd.	Yardley	PA	1,400.00
Mary Katz	702 Warwick Rd.	Fairless Hills	PA	1,400.00
Kathleen Reardon	13 Hatters Ct.	Hatboro	PA	1,400.00
Anne Gallo	933 Laurens Lane	Warwick	PA	1,400.00
Mary Jeanne Olexa Smith	301 Whitemarsh Vly	Ft. Washington	PA	1,400.00
Teri Tadley	603 Arthur St.	Philadelphia	PA	1,400.00
Santa Avender	6327 Drexel Rd.	Philadelphia	PA	1,400.00
Lynne Wlodarczyk	17 Millwood Dr.	Middletown	PA	1,400.00
Jane Ring	2021 Maplewood Ave.	Abington	PA	1,400.00
S Jo Ann Abate	6226 Rising Sun Ave	Philadelphia	Pa.	1,400.00
Kathleen Burgess	211 North Front Street	Darby	Pa	1,400.00
Ahlam Hasan	5931 Andale St.	Philadelphia	PA	1,200.00
Gwendolyn McCurry	2223 N.16th St.	Philadelphia	PA	1,200.00
Shirley V. Pennington	1251 N.27th St. Apt A	Philadelphia	PA	1,200.00
Catherine A.Fiorelli	20 Hewett Rd.	Wyncote	Pa.	1,200.00
Delores Booker	2201 N. VanPelt St.	Philadelphia	PA	1,129.08
Patrinella Parker	222 E. Wishart St.	Philadelphia	PA	1,103.00
Evelyn McDonald	767 N 37th St	Philadelphia	Pa.	1,039.92
Edward S. Shapiro	526 N. 40th St.	Allentown	PA	1,000.00
Fabric Printing Co of Phila	5443 Gainor Rd.	Philadelphia	PA	1,000.00
Elizabeth B.Weller	3440 Market St. Ste. 200	Philadelphia	PA	1,000.00
Roger Allen	4115 Hain Drive	Lafayette Hill	Pa.	1,000.00
Jeanne Ruddy Dance	1515 Brandywine St.	Philadelphia	PA	925.00
Errol Clayton Manley	808 South St.	Philadelphia	PA	900.00
Cynthia Depoulter	1390 Mount Vernon St.	Philadelphia	PA	835.00
William R.Pearce	5336 Route 240 Hwy.	Cherry Tree	PA	800.00
Kathleen Sahasaylo	62 Clearview Avenue	Huntingdon Valley	Pa	795.00
Ann Fleming	3339 Coral St.	Philadelphia	PA	750.00
Valerie Barnes	1437 N. 59th Street	Philadelphia	PA	750.00
Alease Braxton	267 S.56th Street	Philadelphia	PA	750.00
Marilyn Gross	6831 Sylvester St.	Philadelphia	PA	750.00
Christina Dempsey	2132 Pierce St	Philadelphia	Pa.	750.00
Main Line Clinical Assoc	121 N Wayne Ave STE 300	Wayne	Pa.	750.00
Kionna Shareefah King	1936 S.Woodstock St.	Philadelphia	PA	734.00
Latrice Davis	2715 Chalmers Ave.	Philadelphia	PA	716.42
Patricia McGuire	303 Tacielynn Drive	West Chester	PA	700.00
Elaine Lyons	122 Berwick Pl.	Lansdale	PA	700.00
Marianne B. Korchynsky	882 Twickenham Ct.	West Chester	PA	700.00
Deborah Ross	1942 N. Myrtlewood St.	Philadelphia	PA	671.16
Alfreda Clark	5657 Boyer St.	Philadelphia	PA	617.63
Starr Tours	2531 E. State Rd.	Philadelphia	PA	611.10
Anita Minton	1817 Hoffman Street	Philadelphia	PA	600.00
Richard White Jr.	PO Box 56244	Philadelphia	PA	600.00
Advanced Training Systems	1013 Davisville Road	Southampton	PA	600.00

THE SCHOOL DISTRICT OF PHILADELPHIA

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February 6, 2009

Honorable Alan Butkovitz
City Controller
The City of Philadelphia
Municipal Services Building
12th Floor
1401 John F. Kennedy Boulevard
Philadelphia, Pennsylvania 19102

Re: ***Review of School District Vendors***

Dear Mr. Butkovitz:

On behalf of The School District of Philadelphia (the "School District"), let me express our appreciation for the work of the Controller's Office in your January 2009 Report, Review of School District Vendors (the "Report"). We thank you for the opportunity to respond to the Report, and respectfully request that you include this response in your final Report.

We remain concerned that the Report does not quantify taxes owed by School District vendors, or consider whether vendors who perform their work entirely outside the City incur any tax obligation to the City. Without this, the parties cannot assess the materiality of the Report's findings. We will work with City staff hereafter to assess the actual impact on City revenues.

A. *What the Controller's Office Recommends.*

1. *The School District should share its vendor information listing with the City's Revenue Department on an annual basis. By sharing this information, the City will be able to determine what vendors, if any, are not in compliance with BPT Regulations.*

School District response:

The School District accedes to the City Controller's request and will promptly seek to implement such a process with The City of Philadelphia (the "City"). The City's Law Department has raised this issue as well, and the School District will address this issue with the City as part of the City-School District Shared Services Task Force now at work, provided that the City understands that the School District must of necessity rely on the City and vendors to address and resolve the vendor's tax status and tax obligations.

2. *The School District's standard contract language contains a provision that asks vendors to affirm they are not delinquent with respect to the payment of city taxes. We recommend the School District enforce the terms of its vendor contracts by the following:*

- *Having the Revenue Department create a memorandum of understanding between themselves and the School District. The memorandum of understanding should communicate the Revenue Department's responsibilities for determining which School District vendors are not tax compliant and furnish a listing of these vendors on a periodic basis to the School District.*
- *Withhold payments to vendors identified by the Revenue Department as tax delinquent until all tax delinquencies have been addressed.*

School District response:

The School District will shortly notify all vendors listed on Appendices 1 and 2 to the Report with payments over \$25,000, directing them to advise us promptly that they have resolved all tax delinquencies, if any, and to identify all compliance duties they may owe to the City.

The School District will work with the City to assess the terms of a workable Intergovernmental Cooperation Agreement with the City, which would establish appropriate coordination of tax collection efforts, and address costs and logistics. We have committed to City representatives and your office to take up this issue with the City in the City-School District Shared Services Task Force.

To complete such an agreement, the parties must carefully assess implementation and the associated costs (*e.g.*, commitments of staff time and system enhancements necessary to automate such a process), which may require cost reimbursement by the City. Careful analysis of the associated costs of the collection and enforcement efforts as compared to the benefits should be considered. Some approaches, *e.g.*, a tax compliance check prior to execution of each contract, and prior to each vendor payment, could unduly delay contract completion, impede timely delivery of necessary services to students, could trigger other defaults by the School District, may contravene existing School District policies, and could potentially disrupt good relations with the City and/or vendors.

Further, the School District must in some infrequent circumstances reserve discretion to maintain contracts (and make new contracts) with, and make payments to a vendor, if circumstances require, *e.g.*, to implement required services under a student's individualized education plan or settlement agreement.

The School District's standard contracts have for many years required vendors to represent and warrant that they have no unresolved tax obligations to the City or Commonwealth. Vendor tax delinquency breaches the contract, entitling the School District to seek remedies for breach, including termination of the contract. The School District will, where necessary and appropriate, continue to enforce the terms of our contracts with our vendors to ensure that our vendors meet their obligations as taxpayers to the City and the Commonwealth. Our contracts permit us to withhold payment to vendors. This is not a right of set-off and the School District does not serve as an agent of either the City or the vendor for tax payment and tax compliance (we could not and would not remit payment to the City on account of taxes owed, but would withhold payment to encourage vendors to resolve tax issues directly with the City, making payment to the vendor once the vendor has resolved such issues with the City). We will terminate contracts where necessary and appropriate.

3. *The School District should meet with representatives of the Revenue Department and review Revenue's criteria for determining whether an individual is actually an employee rather than an independent contractor. In instances where it is determined that an individual is deemed an employee, that person should be classified as a temporary employee and issued a paycheck.*

School District response:

The School District will comply with our own duties concerning City taxes for our employees, and we will take appropriate steps to ensure that our vendors comply with their duties as City taxpayers.

Having said that, the School District reserves the right in its discretion, as provided by applicable law, to determine who works as an employee and who works as an independent contractor. The characterization of the relationship under City tax ordinances remains relevant to that determination, but not controlling. Among other things, employees have a right to defense and indemnity under the official immunity provisions of the Pennsylvania Political Subdivision Tort Claims Act, while independent contractors have no such right. Characterization of parents as employees would add increased costs and risk exposure to the School District.

Many of the individuals discussed in the Report are parents from low income families who are given a nominal \$500 annual stipend to encourage participation in their child's school and to offset incidental expenses they may incur by doing so. Parents receiving such a stipend may work for only one semester in a school year and many volunteer several hours/days per week in addition. All hours they are at the school are recorded by the Principal and reported to the Title I office.

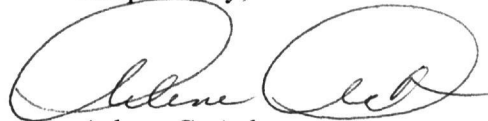
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The School District is open to discussing the policy and cost-value benefits of the tax treatment of these stipends with City representatives, in the hope and expectation that the City will concur that value exists in paying such stipends as a means to encourage parental participation in schools and to treat tax compliance implications and impacts appropriately given these other policy considerations.

We believe our stakeholders could question the merits of such a tax compliance program on its own merits, as such a program of necessity will require intensive bureaucratic efforts to enforce, and will produce little incremental revenue, all while burdening those parents – *a resource we frankly cherish* – who take the initiative to support their children in our schools.

Again, we thank you and your staff for all your work preparing the Report. We look forward to working with our colleagues at the City to implement appropriate systems to ensure that our vendors meet their obligations as taxpayers to the City. Please reach out to us if you have any questions concerning our response.

Respectfully,



Arlene C. Ackerman
Chief Executive Officer

ACA/pnmcc

cc: Michael Masch, Chief Business Officer
Sherry A. Swirsky, General Counsel
Ellen Steiker, Deputy Chief Business Officer
Marcy Blender, Comptroller
Lori Shorr, Ph.D., Chief Education Advisor, The City of Philadelphia
Daniel W. Cantú-Hertzler, Chair, Corporate and Tax Group,
The City of Philadelphia