

To: William Brammer
Subject: RE: 2013-14 SY USP audit

From: Thompson, Lois D. [mailto:lthompson@proskauer.com]
Sent: Monday, August 04, 2014 7:11 AM
To: William Brammer
Cc: wdh@umd.edu; rsjr3@aol.com; Bhargava, Anurima (CRT); Savitsky, Zoe (CRT); julie.tolleson@tusd1.org; Juan Rodriguez (jrodriguez@MALDEF.org); Balentine, Vicki Eileen - (vbalenti) (vbalenti@email.arizona.edu)
Subject: 2013-14 SY USP audit

Dear Bill Brammer,

I write in response to your email below.

With respect, the issue is not whether to allow the auditors to make professional judgments, as you reference below, but, rather, that there be an audit, as explicitly required by the USP (Section X,B,7).

What the District provided for the 2012-13 fiscal year was not an audit but, in the words of the "independent accountants", a "report on applying agreed-upon procedures." Further, that report states (at page 2): "We were not engaged to, and did not, conduct an audit...." (See "Independent Accountant's Report on Applying Agreed-Upon Procedures" dated May 20, 2014.)

We ask that the District immediately confirm that it will direct the "external auditors" to whom you refer below to conduct an audit to "indicate whether the funds allocated in the USP Budget [for the 2013-14 fiscal year] were spent in accordance with that budget" and to present "such other information as may be necessary to provide the Plaintiffs, the Special Master, and the public with full disclosure concerning how funds allocated to the USP Budget were spent." (USP, Section X,B, 7.) If the District fails to provide this confirmation within 10 days, pursuant to USP Section X,E,6 we will ask the Special Master to bring this instance of noncompliance with the USP to the Court's attention so that this issue can be resolved in as timely a manner as possible with the goal of receiving an "audit report...by January 31...." (USP, Section X,B,7.)

Lois D. Thompson
Partner

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greenspaces
Please consider the environment before printing this email.

From: William Brammer [mailto:WBrammer@rllaz.com]
Sent: Friday, July 25, 2014 2:34 PM

From: Rubin Salter, Jr. <rsjr3@aol.com>
Sent: Tuesday, August 5, 2014 4:09 PM
To: brammer@rllaz.com
Cc: rsjr3@aol.com; lthompson@proskauer.com; jrodriguez@maldef.org; anurima.bhargava@usdoj.gov; zoe.savitsky@usdoj.gov; Brown, Samuel; tusd@rllaz.com; Desegregation; wdh@umd.edu; tsaenz@maldef.org
Subject: District's Use of External Auditor to Conduct Evaluation Pursuant to USP X.B.7
Attachments: Fisher_Plaintiffs'_Comments_20140805.pdf

Dear Mr. Brammer:

Attached, please find Fisher Plaintiffs' outstanding comments, concerns, and objections to the District's use of External Auditor to Conduct Evaluation Pursuant to Unitary Status Plan, Section X.B.7.

Sincerely,
Rubin

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FISHER PLAINTIFFS' COMMENTS ON THE DISTRICT'S USE OF 'EXTERNAL AUDITOR' TO CONDUCT 'INDEPENDENT' EVALUATION PURSUANT TO UNITARY STATUS PLAN, § X.B.7

AUGUST 5, 2014

Introduction

Fisher Plaintiffs, have reviewed both the email from Bill Brammer sent to Special Master Hawley (cc'd: Fisher Plaintiffs, Mendoza Plaintiffs, and District) on July 25, 2014 and the email from Lois Thompson to Bill Brammer (cc'd: Fisher Plaintiffs, Special Master, and Mendoza Plaintiffs) on August 1, 2014. After reviewing both, the Fisher Plaintiffs concur with Mendoza Plaintiffs in their comments and objections and wish to provide additional commentary and concerns specific to the issues of Fisher Plaintiffs. These concerns, comments, and objects are provided herein.

Outstanding Commentary and Concerns

The Fisher Plaintiffs have major outstanding concerns and once again reiterate these concerns which they believe critical to the District's resolution.

1. Fisher Plaintiffs concur with Mendoza Plaintiffs in that an external auditor perform an *actual external audit* as opposed to a mere independent evaluation. This external audit is a required element of the Unitary Status Plan, § X.B.7.
2. Fisher Plaintiffs additionally believe and insist the external auditor should be someone other than the accounting firm that performed the independent evaluation of 2012-2013. Specifically, there was no bidding process (i.e. Request for Proposal) in the selection of an accounting firm to conduct this external audit. The firm used to conduct this audit has been associated with TUSD and has represented the District for many years. There is, in essence, an air of nepotism by the selection of this particular firm. During the period of auditing, the District has been found to be in noncompliance with Federal regulations leading to severe penalties. Because of this relationship, Fisher Plaintiffs feel that a Request for Proposal should be issued thus providing any interested firm an opportunity to submit a bid.
3. The District proposes the purpose of the audit report is to (1) demonstrate the funds spent at the end of the year match with the funds as allocated in the beginning of the year and (2) provide with other information as may be necessary to provide the Plaintiffs, the Special Master and the public with full disclosure concerning how USP budgeted funds were spent. However, the District proposes the external auditing firm utilize *their professional*

judgment as opposed to the reporting requirements of the USP to make the determination of what information is released. Fisher Plaintiffs believe the only instructions provided to the accounting firm should be to follow the accepted protocol as required by the USP § X.B.7 when conducting the external audits.

Closing Comments

For these reasons, Fisher Plaintiffs realize disposition is contrary to the general opinions of the Special Master and, to a limited degree, in opposition to the position of the Mendoza Plaintiffs. The Fisher Plaintiffs' position is based on years of complaints brought to Fishers' attention about the manner and method that this particular accounting firm has performed external audits for the District. The auditing procedure has been questioned by authorities with the United States Department of Education. Fisher Plaintiffs cannot have confidence with this accounting firm auditing the District's programs knowing that it has approved accounting procedures that were later disapproved.

-----Original Message-----

From: Willis D. Hawley [<mailto:wdh@umd.edu>]
Sent: Friday, August 08, 2014 2:39 PM
To: Thompson, Lois D.; William Brammer
Cc: rsjr3@aol.com; Bhargava, Anurima (CRT); Savitsky, Zoe (CRT); julie.tolleson@tusd1.org; Juan Rodriguez (jrodriguez@MALDEF.org); Balentine, Vicki Eileen - (vbalenti) (vbalenti@email.arizona.edu)
Subject: RE: 2013-14 SY USP audit

I agree with the position taken by the Mendoza plaintiffs below. The audit of the USP budget should proceed in accordance with guidelines established by the auditor Gen. of the state of Arizona.

The report of the auditors shared with the plaintiff and the special master show extraordinary variation in expenditures in comparison to the budget. Please explain why there is such variation. This level of variation renders the work done in the development of the budget as it is submitted to the Board meaningless.

The purpose of the audit is to allow the plaintiffs and the special master to determine the extent to which the District expended funds as it indicated it would at the time the budget was approved. Of course, changes need to be made throughout the year and significant changes should be explained. It is important to the purposes of the audit that expenditures are assessed in relation to the programs and practices intended to implement the USP, i.e., the programs and policies identified in the Implementation Addendum.

Please submit a brief report to the plaintiff and to me explaining (1) why there is such extraordinary variation in expenditures that were audited and (2) what the District proposes to instruct the auditors to do as they carry out their audit of the 2013-4 budget year. Since the audit report is due in January, it would be appreciated if the District's response to these questions was provided before the budget audit begins and well enough before that so a common understanding about what will be done can be achieved.

While understand the concern of the Fisher plaintiffs about the use of the District's auditors to conduct the audit, I do not object to their engagement.

Bill Hawley

-----Original Message-----

From: Thompson, Lois D. [<mailto:lthompson@proskauer.com>]
Sent: Monday, August 04, 2014 10:11 AM
To: wbrammer@rllaz.com