FCMAT
FISCAL CRISIS & MANAGEMENT ASSISTANCE TEAM

San Bernardino County Superintendent of Schools

Extraordinary Audit of the

Oasis Charter Academy

July 24, 2008

Joel D. Montero
Chief Executive Officer

July 24, 2008

Herbert Fischer, Superintendent
San Bernardino County Superintendent of Schools
601 North E Street
San Bernardino, CA 92410

Dear Superintendent Fischer:

In May 2008, the Fiscal Crisis and Management Assistance Team (FCMAT) entered into an agreement with the San Bernardino County Superintendent of Schools office for FCMAT to perform the following:

1. To review Oasis Charter Academy payroll records for the current and two prior years and validate whether employee deductions and employer costs related to payroll have been processed and reported in compliance with state and federal statutes and program guidelines. Areas to be reviewed include, but are not limited to, the following:

   a. Employee state and federal payroll taxes; employee and employer portions of all statutory payroll deductions; W-2s, and 403(b) contributions.

FCMAT visited the Hesperia Unified School District on May 13 and the Oasis Charter Academy on May 28 and 29, 2008 to conduct interviews, collect data and review documentation. This report is the result of that effort. We appreciate the opportunity to serve you, and please give our regards to all the employees of the San Bernardino County Superintendent of Schools office.

Sincerely,

Joel D. Montero
Chief Executive Officer

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Foreword

FCMAT Background

The Fiscal Crisis and Management Assistance Team (FCMAT) was created by legislation in accordance with Assembly Bill 1200 in 1992 as a service to assist local educational agencies in complying with fiscal accountability standards.

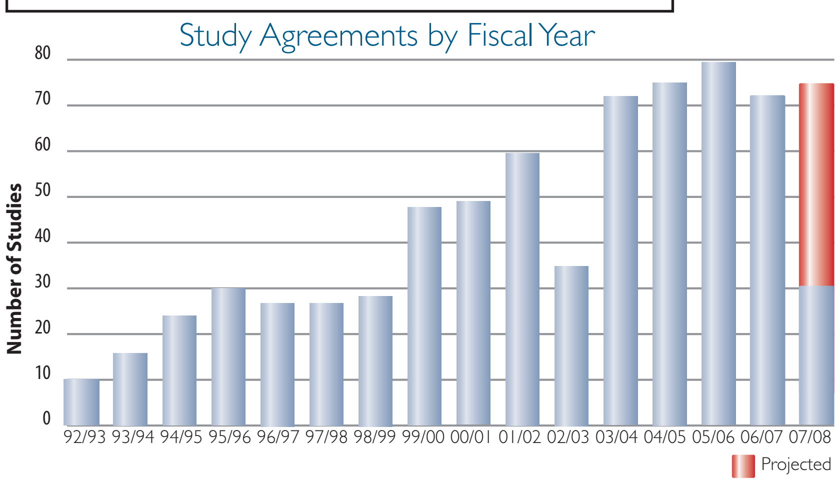
AB 1200 was established from a need to ensure that local educational agencies throughout California were adequately prepared to meet and sustain their financial obligations. AB 1200 is also a statewide plan for county offices of education and school districts to work together on a local level to improve fiscal procedures and accountability standards. The legislation expanded the role of the county office in monitoring school districts under certain fiscal constraints to ensure these districts could meet their financial commitments on a multiyear basis. AB 2756 provides specific responsibilities to FCMAT with regard to districts that have received emergency state loans. These include comprehensive assessments in five major operational areas and periodic reports that identify the district's progress on the improvement plans.

Since 1992, FCMAT has been engaged to perform nearly 700 reviews for local educational agencies, including school districts, county offices of education, charter schools and community colleges. Services range from fiscal crisis intervention to management review and assistance. FCMAT also provides professional development training. The Kern County Superintendent of Schools is the administrative agent for FCMAT. The agency is guided under the leadership of Joel D. Montero, Chief Executive Officer, with funding derived through appropriations in the state budget and a modest fee schedule for charges to requesting agencies.

Total Number of Studies............. 694
Total Number of Districts in CA 982

- Management Assistance.......... 658 (94.8%)
- Fiscal Crisis/Emergency............... 36 (5.2%)

Note: Some districts had multiple studies.
Districts (7) that have received emergency loans from the state.
(Rev. 2/21/08)



Introduction

Background

California Education Code Section 47600, also known as the Charter Schools Act of 1992, was enacted “to provide opportunities for teachers, parents, pupils, and community members to establish and maintain schools that operate independently from the existing school district structure.” Charter schools are a part of the public school system, but differ from traditional public schools because they are exempt from many state laws relating to specific educational programs. Specific goals and operating procedures for the charter school are detailed in an agreement, or “charter,” between the authorizing agency and the charter school organizers.

Charters offer a more flexible school governance model, but are accountable for student achievement and fiscal accountability. The chartering agency is responsible for adequate and appropriate oversight, including the determination that a charter is following good business practices and generally accepted accounting principles (GAAP) in accounting for revenues and expenditures and preparing financial reports.

The Oasis Charter Academy was authorized in July 2003 by the Hesperia Unified School District in San Bernardino County. Oasis is a direct-funded charter school governed by a three-member board. The charter school serves approximately 95 students in grades 7-12 in an independent study program.

FCMAT provides a variety of services to local educational agencies. Based on the provisions of Education Code Section 1241.5(c), a county superintendent may review or audit the expenditures and internal controls of any charter school in his or her county if he or she has reason to believe that fraud, misappropriation of funds, or other illegal fiscal practices have occurred that merit examination. The review or audit conducted by the county superintendent shall be focused on the alleged fraud, misappropriation of funds, or other illegal fiscal practices and shall be conducted in a timely and efficient manner.

In April 2008, the Fiscal Crisis and Management Assistance Team (FCMAT) received a request from the San Bernardino County Superintendent of Schools Office for an Assembly Bill (AB) 139 extraordinary audit of the Oasis Charter Academy. The superintendent of schools office had received information from the Hesperia Unified School District regarding the nonpayment of payroll taxes by Oasis.

In May 2008, FCMAT and the superintendent of schools office entered into an agreement for study that would perform the following:

1. Review Oasis Charter Academy payroll records for the current and two prior years and validate whether employee deductions and employer costs related to payroll have been processed and reported in compliance with state and federal statutes and program guidelines. Areas to be reviewed include, but are not limited to, the following:

   a. Employee state and federal payroll taxes; employee and employer portions of all statutory payroll deductions; W-2's, and 403(b) contributions.

Study Guidelines

FCMAT visited the Hesperia Unified School District on May 13 and the Oasis Charter Academy on May 28 and 29, 2008 to conduct interviews, collect data and review documentation. This report is the result of those activities and is divided into the following sections:

1. Executive Summary
II. Employee State and Federal Personal Income Taxes
III Employee and Employer Portions of Statutory Payroll Deductions
IV. W-2 Forms
V. 403(b) Contributions
VI. Workers' Compensation Insurance
VII. Health and Welfare Benefits
VIII. Payroll Records
IX. Appendices

Study Team

The FCMAT study team was composed of the following members:

Diane Branham
FCMAT Fiscal Intervention Specialist
Bakersfield, CA

Laura Haywood
FCMAT Public Information Specialist
Bakersfield, CA

Julie Auvil, CPA*
Chief Administrator of Business Services
Tehachapi Unified School District
Tehachapi, CA

*As a member of this study team, this consultant was not representing her employer but was working solely as an independent contractor for FCMAT.

Executive Summary

During 2007-08, the Hesperia Unified School District became concerned about the fiscal accountability and ongoing financial condition of the Oasis Charter Academy. Based on correspondence with the Director of the charter school, the district learned that the charter had not paid state and federal payroll taxes when due. The correspondence indicated that the charter did not have a sufficient cash balance to make the required tax payments. The charter's 2007-08 cash flow statement dated May 25, 2008 indicates a negative beginning cash balance of $3,979, negative ending cash balances in each month of the fiscal year, and a negative ending cash balance of $194,692 (Appendix A).

Federal and state laws require employers to withhold personal income taxes and certain statutory benefits from the salaries and wages paid to their employees. Federal law requires employers to withhold both Social Security and Medicare taxes from employees' wages and contribute matching amounts representing the employer's portion of these taxes. California law requires that employers contribute funds for State Unemployment Insurance (SUI) and Employment Training Tax (ETT) based on a percentage of payroll. In addition, the charter school has opted to participate in the State Disability Insurance (SDI) program and withholds funds for this insurance from employee salaries. The amounts withheld from employees' salaries and wages are to be treated as a trust fund and deposited with the Internal Revenue Service (IRS) for federal tax payments and the Employment Development Department (EDD) for state tax payments.

Failure to pay the taxes to the IRS and EDD on time can result in late penalties and interest. There are additional penalties for failure to withhold payroll taxes and deposit them with the EDD, which can result in a misdemeanor charge. If convicted, the person or employer can be fined up to $1,000 or sentenced to jail for up to one year.

The charter school's paydays are scheduled on the first and sixteenth of each month. FCMAT's review of the payroll transactions found that the charter school has not followed the schedules established by the IRS and EDD for payment of taxes. Instead of submitting payments on the semiweekly schedule after each payday as outlined by the IRS and EDD, the charter has made payments on a monthly schedule.

Each quarter, the charter school is responsible for reporting to the IRS and EDD the total wages paid and amounts withheld from employees' wages for income taxes and submitting the funds to the IRS and EDD based on the semiweekly payment schedule. In addition, the charter is required to submit an Annual Reconciliation Statement to the EDD. It appears that the Director of the Oasis Charter Academy was diligent in filing these returns during the time period reviewed by FCMAT, however, during calendar years 2007 and 2008, payments were not made in full to either the IRS or EDD. This resulted in the assessment of penalties and interest. The total liability to the IRS and EDD is estimated to be $79,420. This includes interest and penalties based on correspondence from the IRS dated January 28 and February 11, 2008, but excludes penalties and interest yet to be levied by the EDD or the most current interest and penalties that have yet to be levied by the IRS. The past amounts due should immediately be sent to the IRS and EDD, and all future payments for payroll taxes should be sent on time. The amounts withheld from employees' salaries and wages are to be treated as a trust fund and deposited with the Internal Revenue Service (IRS) for federal tax payments and the Employment Development Department (EDD) for state tax payments. Deductions from employee wages should not be used by the charter school for other purposes.

The Payroll Transactions by Payee report for fiscal year 2005-06 indicates that additional paychecks were issued to Employee Number 3 in July 2005, however, FCMAT did not receive time sheet records or Governing Board minutes reflecting authorization for these payments.

The charter school provides a program to allow employees to contribute to a 403(b) plan. It is estimated that $1,100 has been withheld from employees' wages, but not forwarded to the 403(b) plan vendor, Oppenheimer. The past due amount should immediately be paid to Oppenheimer, and all future payments should be sent on time.

California law requires employers to have workers' compensation insurance. Payments to the workers' compensation insurance provider have not been consistently paid on a monthly basis. It was not possible to determine whether the provider received the total premium due for workers' compensation insurance each fiscal year because the payments reflected appear to be for insurance policies in addition to workers' compensation. The charter should consider processing the payments for workers' compensation through the payroll system since they are a salary-driven cost.

According to the Oasis Charter Academy Employee Handbook, full-time employees are eligible for medical coverage. As of May 25, 2008, it appears that $521.97 is owed to California Choice for the employees' portion of these costs. The charter should consider processing both the employee and employer share of the health and welfare benefits costs through the payroll system since they are an employee- /employer-driven cost.

The FCMAT study team found that some personnel/payroll files for current and former charter school employees were missing necessary documents, including one I-9/W-4 Form, one fingerprint clearance, resignation letters, employment agreements and time sheets. Based on the charter's policy, each payroll file should include these documents. In addition, the employee's start date should be included on his or her employment agreement. The charter school uses an I-9/W-4 Form that is not consistent with the current forms provided by the IRS and the Department of Homeland Security. The current forms can be accessed and downloaded from the following Web site: www.irs.gov.

The Payroll Transactions by Payee report for fiscal year 2007-08 indicates that five employees received delayed paychecks throughout the year. The charter should pay employees on the established paydays.

The Oasis Charter Academy's Board of Directors meeting minutes dated May 19, 2006 included Action Item #8.5, One Time Incentive to Staff. The minutes show that the item was approved, however, the member who is listed as seconding the motion is also listed as absent. Therefore, it is unclear whether the item was approved by the Board of Directors.

It is within the discretion of the charter's Governing Board to raise salaries. However, it is not within the charter's discretion to give employees a reward for work already performed as this would constitute a gift of public funds.

Findings and Recommendations

Employee State and Federal Personal Income Taxes

Legal Provisions

Federal law and California law require employers to withhold personal income taxes from the salaries and wages paid to their employees based on information provided by the employee from Form W-4 (Employee's Withholding Allowance Certificate) and DE 4 (Employee's Withholding Allowance Certificate). The amounts withheld from employees' salaries and wages are to be treated as a trust fund and deposited with the Internal Revenue Service (IRS) for federal tax payments and the Employment Development Department (EDD) for state tax payments. The schedule of the deposits to the IRS depends on the total tax liability reported for the previous four quarters. The schedule of deposits to the EDD depends on the entity's federal deposit status. To report the withholdings, employers file quarterly reports with the IRS and EDD. The EDD also requires an Annual Reconciliation Statement that addresses the withholdings as well as unemployment insurance, employment training tax and state disability insurance payments.

Failure to pay sums to the IRS on time can result in late penalties (per IRC Section 6651), which are initially a half percent of the unpaid tax for each month or part of a month in which the tax is unpaid. Interest is also levied according to IRC Section 6601 and is calculated on both the unpaid portion and any penalties assessed from the due date of the return (regardless of extensions) to the date payment is received in full. The interest rate is variable, may change quarterly and has ranged from 4% to 9% since July 1, 1995. It is presently set at an annual rate of 7%.

The EDD also charges a penalty of 10% for late payroll tax deposits. Daily interest is charged on both the penalty and total delinquent amount. Interest rates are established every six months and are currently at an annual rate of 8%. There are additional penalties for failure to withhold payroll taxes and deposit them with the EDD. Such a failure can result in a misdemeanor charge against any person or employer and if convicted, the person or employer can be fined up to $1,000 or sentenced to jail for up to one year.

Charter School Responsibilities

Each quarter, the charter school is responsible for reporting to the IRS on Form 941 (Employer's Quarterly Federal Tax Return) the total wages paid and amounts withheld from employees wages for payment of federal income taxes. Per the instructions for Form 941, the charter school is required to deposit these funds based on the semiweekly payment schedule.

Each quarter, the charter school is responsible for reporting to the EDD on Form DE 6 (Quarterly Wage and Withholding Report) the total wages for each employee, the personal income tax (PIT) wages for each employee, and the PIT withheld from each employee. Per the Employer's Guide for Payroll Tax Deposits, Form DE 88, the charter school is required to deposit these funds with the EDD on the Wednesday or Friday immediately following the pay date (depending on which weekday the pay date falls).

Charter School Practice

The charter school assigns the Director to file quarterly returns and pay taxes. It appears that the Director has been diligent in filing these returns during the period of review, however, during calendar years 2007 and 2008, payments were not made in full to either the IRS or EDD. This resulted in penalties and interest being assessed. The total liability to the IRS and EDD is estimated to be $79,420. This total is based on FCMAT's review of amounts calculated by the charter school's payroll system compared to amounts paid to the IRS and EDD as reported on the charter's Payroll Transactions by Payee reports. The total includes interest and penalties as related by correspondence from the IRS dated January 28 and February 11, 2008. It excludes penalties and interest levied by the EDD since FCMAT was not provided with documentation from EDD to the charter school regarding those amounts. The total estimated liability also excludes additional interest and penalties that may have been levied by the IRS to date.

FCMAT's review of the payroll transactions found that the charter school has not followed the semiweekly payment schedule established by the IRS and the Wednesday/Friday schedule established by the EDD. The payments were instead made monthly.

A review of quarterly EDD filings found mathematical errors. The charter's payroll system does not provide a total amount per employee for use in the EDD quarterly reports. This requires a manual calculation that resulted in these errors. While the errors were corrected in the annual report, it is important to ensure that quarterly filings are also accurate. In addition, the charter school is not consistent in its EDD quarterly reporting of state wages for employees. In some quarters, the amounts withheld for employee 403(b) contributions are included in the total, and in others, they are excluded.

Recommendations

The charter should:

1. Immediately pay all past-due amounts owed to the IRS and EDD and seek to have the penalties and interest waived. The payment should include all penalties and interest levied to date while negotiating for a waiver to avoid further penalties/interest. If the charter is financially unable to pay the amounts due, it should file the necessary forms to seek an Offer in Compromise with both the IRS and EDD and attempt to negotiate a lesser amount.

2. Pay all future amounts withheld from employee wages and due to the IRS on time based on the semiweekly payment schedule.

3. Pay all future amounts withheld from employee wages and due to the EDD on time on the Wednesday or Friday following the pay date (depending on which weekday the pay date falls).

4. Develop a system to cross-check the total employee wages for use in the quarterly tax reports. The charter should utilize the Employee Earnings Summary, total all wages and then compare that total with the total wages by employee. Any discrepancies should be investigated and corrected.

5. Ensure that the state wages for employees are reported correctly on the EDD quarterly filings and do not include employee 403(b) contributions.

Employee and Employer Portions of Statutory Payroll Deductions

Legal Provisions

Federal law requires employers to withhold both Social Security and Medicare taxes from employees wages as well as to contribute matching amounts representing the employer's portion of these taxes. The amounts withheld from employees' salaries and wages are to be treated as a trust fund and deposited with the IRS along with the employer's portions. The schedule of deposits to the IRS depends on the total tax liability reported for the previous four quarters. To report the withholdings/contributions, employers file Form 941 (Employer's Quarterly Federal Tax Return) with the IRS quarterly.

Employers must also contribute amounts toward State Unemployment Insurance (SUI) and Employment Training Tax (ETT). No funds are to be withheld from employees' wages for these taxes. Oasis Charter also participates in the State Disability Insurance (SDI) program, and amounts for SDI are withheld from the employees' wages. These taxes are computed and deposited with the EDD on Form DE 88 (Payroll Tax Deposit). The schedule of deposits to the EDD depends on the entity's federal deposit status. SUI, ETT and SDI are calculated and reconciled annually on Form DE 7 (Annual Reconciliation Statement).

Failure to pay the IRS on time can result in late penalties (per IRC Section 6651), which are initially one-half percent of the unpaid tax for each month or part of a month in which the tax is unpaid. Interest is also levied according to IRC Section 6601 and is calculated on both the unpaid portion and any penalties assessed from the due date of the return (regardless of extensions) to the date payment is received in full. The interest rate is variable, may change quarterly, and has ranged from 4% to 9% since July 1, 1995. It is presently set at an annual rate of 7%.

Penalties and interest are also assessed by the EDD for late payroll tax payments. The EDD charges a penalty of 10% for late payroll tax deposits. Daily interest is charged on both the penalty and total delinquent amount. Interest rates are established every six months and are currently established at an annual rate of 8%. There are additional penalties for failure to withhold payroll taxes and deposit them with the EDD. Such a failure can result in a misdemeanor charge against any person or employer and, if convicted, the person or employer can be fined up to $1,000 or sentenced to jail for up to one year. The EDD has an additional penalty of $1,000 or 5% of the taxes required to be reconciled for failure to file the annual DE 7 within 30 days of the notice to employer for failure to file.

Charter School Responsibilities

Each quarter, the charter school is responsible for reporting to the IRS on Form 941 (Employer's Quarterly Federal Tax Return) the total wages paid, Social Security and Medicare, including the employer's portions of Social Security and Medicare. The charter school is required to deposit these funds with the IRS based on the semiweekly payment schedule.

The EDD requires calculation of the SUI, ETT and SDI taxes each payroll period and provides a worksheet for this calculation. The amounts are then included on Form DE 88 for deposit on the Wednesday or Friday after the pay date (depending upon the weekday where the pay date falls). The EDD also requires Form DE 7 to be filed annually. This form reports the total amount of wages paid and recalculates the ETT and SDI tax based on rates set by the state. The form also recalculates the SUI rate as set by the state in an employer's first three years. Thereafter, it is based on the employer's experience and balance in the UI fund. Those rates for the charter school have ranged from 3.4% to 4.3% for SUI, 0.1% for ETT and from 0.6% to 1.08% for SDI over the past three years. If the annual recalculation reported on Form DE 7 finds that further sums are due, payment is to be made immediately to the EDD.

Charter School Practice

The charter school assigns the Director to file quarterly and annual returns as well as pay taxes. It appears that the Director has been diligent in filing these returns during the period of review, however, during calendar years 2007 and 2008, payments were not made in full to the IRS and EDD. This resulted in penalties and interest being assessed. The total liability to the IRS and EDD is estimated to be $79,420. This total is based on FCMAT's review of amounts calculated by the charter school's payroll system compared to amounts paid to the IRS and EDD as reflected on the charter's Payroll Transactions by Payee reports. The total includes interest and penalties as related by correspondence from the IRS dated January 28 and February 11, 2008. It excludes penalties and interest levied by the EDD since FCMAT was not provided with documentation from EDD to the charter school regarding these amounts. The total estimated liability also excludes additional interest and penalties that may have been levied by the IRS to date.

FCMAT's review of payroll transactions found that the charter school has not been following the semiweekly payment schedule established by the IRS and the Wednesday/Friday schedule set by the EDD. The payments are instead made monthly.

Table 1 includes the estimated balance due for federal and state personal income taxes, employee and employer statutory deductions, and penalties and interest per IRS correspondence dated January 28, 2008 and February 11, 2008.

In addition to the estimated amounts owed for 2007 and 2008, Table 1 shows that for Calendar Year 2005, there is a balance of $211.09 due to the IRS. In reviewing the charter's bank reconciliations, some payments to the IRS and EDD are reflected as "Bill Pmt Checks" rather than payroll system checks, however, the remaining balance of $211.09 due to the IRS was not found in either system.

OASIS CHARTER ACADEMY

Payments Due

	Calendar Year 2005			Calendar Year 2006			Calendar Year 2007			Calendar Year 2008*		
	Emp Earnings Summary	Paid**	Balance Due	Emp Earnings Summary	Paid**	Balance Due	Emp Earnings Summary	Paid**	Balance Due	Emp Earnings Summary	Paid**	Balance Due
Federal	$ 68,564.10	$ 68,353.01	$ 211.09 #	$ 109,939.66	$109,939.66	$ -	$ 92,066.38	$ 43,644.26	$ 48,422.12	$ 44,836.34	$ 31,624.64	$ 13,211.70
State	$ 16,349.70	$ 16,349.70	$ - &	$ 27,856.93	$ 27,856.93	$ -	$ 20,353.78	$ 9,549.54	$ 10,804.24	$ 11,506.51	$ 6,856.20	$ 4,650.31
Penalties	$ -	$ -	$ -	$ -	$ -	$ -	$ -	$ -	$ -	$ 1,856.73	$ -	$ 1,856.73 ^
Interest	$ -	$ -	$ -	$ -	$ -	$ -	$ -	$ -	$ -	$ 263.73	$ -	$ 263.73 ^
TOTAL	$ 84,913.80	$ 84,702.71	$ 211.09	$ 137,796.59	$137,796.59	$ -	$ 112,420.16	$ 53,193.80	$ 59,226.36	$ 58,463.31	$ 38,480.84	$ 19,982.47
TOTAL TAX BALANCE DUE												$ 79,419.92
403(b)	$ 15,850.00	$ 15,350.00	$ 500.00	$ 2,950.00	$ 2,950.00	$ -	$ 2,400.00	$ 600.00	$ 1,800.00	$ 900.00	$ 2,100.00	$ (1,200.00)
TOTAL 403(b) BALANCE DUE												$ 1,100.00
Health & Welfare	$ -	$ -	$ -	$ 2,878.99	$ 2,878.99	$ -	$ 7,649.41	$ 7,649.41	$ -	$ 2,575.73	$ 2,053.76	$ 521.97
TOTAL HEALTH & WELFARE BALANCE DUE												$ 521.97

* Thru May 25, 2008
**Based on Payroll Transactions by Payee reports
^ IRS correspondence dated:
1/28/08 (Tax Period September 30, 2007)
2/11/08 (Tax Period June 30, 2007)
$684.67 paid on 1/4/06 by Bill Pmt Check #926
& $213.56 paid on 1/25/06 by Bill Pmt Check #947

Recommendations

The charter should:

1. Immediately pay all amounts past due to the IRS and EDD and seek to have the penalties and interest waived. The payment should include all penalties and interest levied to date while negotiating for a waiver to avoid further penalties/ interest. If the charter is financially unable to pay the amounts due, it should file the necessary forms to seek an Offer in Compromise with both the IRS and EDD and attempt to negotiate a lesser amount.

2. Pay all future amounts withheld from employee wages as well as employer portions of Social Security and Medicare on time based on the semiweekly payment schedule.

3. Pay all future amounts due for SUI, ETT and SDI on the Wednesday or Friday immediately following the pay date (depending on which weekday the pay date falls).

4. Investigate the payments made to the IRS for 2005 to determine whether there is an outstanding balance due.

W-2 Forms

Employers are required to compile the wages paid and taxes withheld for each employee and provide each employee with a Form W-2 (Wage and Tax Statement) by January 31 of each calendar year. Employers are also required to submit copies of the W-2 to the Social Security Department and EDD by the last day of February or March 31 (if filing electronically) of each year.

The charter school assigns the Director to prepare and file its W-2s. No discrepancies were found in a comparison of the amounts calculated by the charter school's payroll system with the amounts reported on the W-2 Forms during the period of review. Table 2 shows the comparison of payroll system records to W-2 Forms for the 2005, 2006 and 2007 calendar years. No correspondence from the Social Security Department or EDD was provided by the charter school that would indicate the charter was delinquent in its annual submission of the W-2s.

OASIS CHARTER ACADEMY

Comparison of Payroll System Records to W-2s

Employee Number	2005 Total System Compensation	2005 W-2	2005 Difference	2006 Total System Compensation	2006 W-2	2006 Difference	2007 Total System Compensation	2007 W-2	2007 Difference
01	$ 42,436.58	$ 41,236.58	$ 1,200.00 E	$ 68,747.55	$ 67,347.55	$ 1,400.00 E	$ 68,093.70	$ 65,693.70	$ 2,400.00 E
02	$ 13,230.71	$ 12,580.71	$ 650.00 E	$ 486.75	$ 486.75	$ -	$ -	$ -	$ -
03	$ 137,231.66	$ 123,231.66	$ 14,000.00 E	$ 174,777.96	$ 173,227.96	$ 1,550.00 E	$ 87,266.63	$ 87,266.63	$ -
04	$ 24,740.66	$ 24,740.66	$ -	$ 30,973.34	$ 30,973.34	$ -	$ 24,028.93	$ 24,028.93	$ -
05	$ 18,548.90	$ 18,548.90	$ -	$ -	$ -	$ -	$ -	$ -	$ -
06	$ 26,865.44	$ 26,865.44	$ -	$ 29,156.26	$ 29,156.26	$ -	$ 24,915.60	$ 24,915.60	$ -
07	$ 2,763.37	$ 2,763.37	$ -	$ 19,282.37	$ 19,282.37	$ -	$ 15,455.19	$ 15,455.19	$ -
08	$ 3,861.07	$ 3,861.07	$ -	$ -	$ -	$ -	$ -	$ -	$ -
09	$ -	$ -	$ -	$ 288.75	$ 288.75	$ -	$ 563.50	$ 563.50	$ -
10	$ -	$ -	$ -	$ 7,159.45	$ 7,159.45	$ -	$ 15,102.93	$ 15,102.93	$ -
11	$ -	$ -	$ -	$ 4,750.00	$ 4,750.00	$ -	$ 3,800.00	$ 3,800.00	$ -
12	$ -	$ -	$ -	$ 13,114.47	$ 13,114.47	$ -	$ -	$ -	$ -
13	$ -	$ -	$ -	$ 35,617.95	$ 35,617.95	$ -	$ -	$ -	$ -
14	$ -	$ -	$ -	$ 14,483.66	$ 14,483.66	$ -	$ 44,115.40	$ 44,115.40	$ -
15	$ -	$ -	$ -	$ -	$ -	$ -	$ 20,826.32	$ 20,826.32	$ -
16	$ -	$ -	$ -	$ -	$ -	$ -	$ 13,666.58	$ 13,666.58	$ -
17	$ -	$ -	$ -	$ -	$ -	$ -	$ 1,656.35	$ 1,656.35	$ -
18	$ -	$ -	$ -	$ -	$ -	$ -	$ 4,740.00	$ 4,740.00	$ -
19	$ -	$ -	$ -	$ -	$ -	$ -	$ 1,425.00	$ 1,425.00	$ -
	$ 269,678.39	$ 253,828.39	$ 15,850.00	$ 398,838.51	$ 395,888.51	$ 2,950.00	$ 325,656.13	$ 323,256.13	$ 2,400.00

E - Amounts withheld for 403(b) plan.

A review of the W-2 Forms found a large variance in the annual earnings of Employee Number 3. The employee's time sheet records for 2006 included a request for payment of $63,125 for services rendered in 2002-03 prior to the opening of the charter school. Attached to the time sheet were meeting minutes of the Board of Directors dated July 26, 2006, indicating that two board members were present and approved the request. The Payroll Transactions by Payee report for fiscal year 2005-06 also show that five additional paychecks dated July 18, 2005 were issued to Employee Number 3, however, FCMAT did not receive time sheet records or Governing Board minutes authorizing these payments.

Recommendation

The charter should:

1. Consider changing to an electronic filing format for W-2 Forms. This would allow the charter school additional time to revise W-2s if corrections are required and provide for faster receipt of the information by the reporting authority.

403(b) Contributions

There are no legal requirements regarding the date employers are required to send employee contributions to 403(b) plans to the investment vendor after they are deducted from the employee's wages. The deducted amounts are to be treated as trust funds and promptly paid to the investment vendor. Failure to do so may be viewed by the employee as lost earnings, and the employee may use other legal means to seek their return from the employer.

The charter school assigns the responsibility of all 403(b) contribution payments to its Director and uses Oppenheimer Funds Service (Oppenheimer) for its investment vendor.

FCMAT's analysis of the Employee Earnings Summary reports for withholdings from employees' wages as contributions to the 403(b) plan was compared with the amounts paid to Oppenheimer. This comparison found that an estimated $1,100 was withheld from employees' wages, but not forwarded to Oppenheimer. Table 1 above includes the comparison data and the estimated amount due to Oppenheimer. FCMAT has not estimated an amount for lost earnings on these funds.

Recommendations

The charter should:

1. Establish for each pay period a deadline to forward 403(b) contributions to Oppenheimer.

2. Immediately send all past-due payments to Oppenheimer.

Workers' Compensation Insurance

California employers are required by law to have workers' compensation insurance. The charter school has obtained its workers' compensation insurance through the Hartford Underwriters Insurance Company (Hartford) via its insurance agent, ISU Lovering Insurance Services (Lovering). No funds are to be withheld from employee wages as payment for this insurance.

It appears that payments have been made fairly regularly (but not always on a consistent monthly basis) to Hartford and Lovering of $25,623.28 for September 30, 2005 to September 30, 2006, $24,870.42 for October 1, 2006 to September 30, 2007 and $13,359.19 for October 1, 2007 to March 31, 2008. However, FCMAT was not provided with monthly workers' compensation insurance statements to trace payments made during these periods. FCMAT was provided with a copy of the Audit Adjustment from Hartford for September 30, 2005 to September 30, 2006, showing a total premium of $12,782 and a credit of $5,105 as of November 27, 2006. A copy of the estimated premium for the period ending September 30, 2008 was also provided to FCMAT and reflects an expected $7,920 due for the September 30, 2007 to September 30, 2008 plan year. The payments made by the charter school to Hartford and Lovering do not appear to have a direct relationship to workers' compensation insurance alone and seem to reflect payments for other insurance policies held by the charter school. Consequently, it was not possible to determine whether Hartford/Lovering received the total premium due for workers' compensation insurance during any one fiscal or plan year.

Although workers' compensation insurance is a salary-driven cost, the charter school does not reflect these costs through its payroll system. The charter is using the "Bill Pmt Check" system for workers' compensation payments.

Recommendations

The charter should:

1. Ensure that all amounts owed to the workers' compensation insurance carrier are paid on time.

2. Consider processing workers' compensation payments to the insurance carrier through the payroll system.

Health and Welfare Benefits

The Oasis Charter Academy Employee Handbook, Section III, A. Medical Coverage, states, “Following 30 days from the start of employment you are eligible for medical coverage if you are working full time for the School. Full time at Oasis Charter Academy are those employees who work 30 hours per week or more or are scheduled at ¾ salary time or more. The School health plan does cover the cost of medical coverage for dependents at the partial cost of the employee.”

The Payroll Transactions by Payee and Employee Earnings Summary reports indicate that the charter began making payments to California Choice for medical benefits through its payroll system on April 10, 2006. However, a review of the charter’s bank reconciliations of the 2005-06 fiscal year indicate that payments were made to Blue Shield and California Choice beginning in July 2005, utilizing the “Bill Pmt Check” process.

Table 1 above shows a comparison of the Employee Earnings Summary report with the amount that was paid through the payroll system to California Choice as of May 25, 2008. The comparison indicates that $521.97 is owed to California Choice. In reviewing bank reconciliations, the amounts paid to California Choice do not appear to be consistent. FCMAT did not receive statements from California Choice to verify the balance owed.

Recommendations

The charter should:

1. Ensure that all amounts owed to the health and welfare benefit provider are paid on time.

2. Consider utilizing the payroll system for both the employee and employer contributions to health and welfare since this is an employee- /employer-driven cost.

Payroll Records

FCMAT's review of payroll files found that some files for current and former charter school employees were missing necessary documents, including one I-9/W-4 Form, one fingerprint clearance, resignation letters, employment agreements and time sheets. Based on the charter's procedures, each payroll file should include these documents, and the employee's start date should be included on his or her employment agreement. The charter school uses an I-9/W-4 Form, which is not consistent with the current forms provided by the IRS and the Department of Homeland Security. The current forms can be accessed and downloaded from the following Web site: www.irs.gov.

The Oasis Charter Academy Employee Handbook, Section II, P. Criminal Background Checks, states "It is the policy of the School to require fingerprinting and background checks for its employees consistent with legal requirements." According to Education Code Sections 45125 through 45126, employees are to be fingerprinted, and background checks are to be performed. In reviewing payroll records, one employee file was missing fingerprint clearance documentation.

The Employee Handbook, Section II, K. Hours of Work, Overtime and Paydays, states that the first pay period of the month extends from the first day through the fifteenth day of the calendar month. The second pay period extends from the sixteenth through the last day of the month. The handbook states that paydays are scheduled on the first and sixteenth of each calendar month. The Payroll Transaction by Payee report for fiscal year 2007-08 indicates that five employees received delayed pay checks during the year. Three time sheets for the pay period of July 1-15, 2007 were paid on August 27, September 1 and September 6, 2007 respectively; one time sheet for the pay period of August 1-15, 2007 was paid on August 31, 2007; one time sheet for the pay period of September 1-15, 2007 was paid on November 30, 2007; and two time sheets for the pay period of November 1-15, 2007 were paid on November 30, 2007.

The Oasis Charter Academy's Board of Directors meeting minutes dated May 19, 2006 included Action Item #8.5, One Time Incentive to Staff. The minutes indicate that the item was approved, however, the member listed as seconding this motion is also listed as being absent. Therefore, it is unclear whether this item was approved by the Board of Directors.

It is within the discretion of the charter's Governing Board to raise salaries. However, it is not within the charter's discretion to give employees a reward for work already performed as this would constitute a gift of public funds.

Recommendations

The charter should:

1. Include an I-9 Form, W-4 Form, proof of fingerprint clearance, employment agreement and resignation letter (if applicable) in each personnel/payroll file.

2. Include the employee's start date on their employment agreement.

3. Use the current I-9 and W-4 forms available from the IRS and Department of Homeland Security.

4. Immediately obtain fingerprint clearance for the custodial employee that did not have this documentation in his or her personnel/payroll file.

5. Promptly pay employees based on the established pay periods.

6. Review the May 19, 2006 Board of Directors meeting minutes to determine whether Action Item #8.5 was approved.

Appendices

A. Cash Flow Statement

B. Study Agreement

Oasis Charter Academy - 2007-08 cash flow

Revenue	Budget	July	August	September	October	November	December	January	February	March	April	May	June	Totals	Rev. Rec.
State Aid	590,127.75	-	22,331.00	44,663.00	35,982.00	65,370.00	-	31,685.00	31,685.00	81,972.00	36,594.00	36,594.00	36,594.00	423,470.00	166,657.75
Prior Year Adjustments	16,723.00	10,787.00	-	-	-	-	-	-	-	5,936.00	-	-	-	16,723.00	-
In-Lieu of Prop. Tax	27,937.50	-	-	-	-	-	-	14,402.00	-	2,880.00	2,880.00	2,880.00	2,880.00	25,922.00	2,015.50
Cat. Block Grant	43,230.00	-	-	-	10,071.00	6,198.00	-	3,099.00	3,099.00	6,710.00	3,281.00	3,281.00	3,281.00	39,020.00	4,210.00
Lottery-Unrestricted	11,343.75	2,760.00	-	-	2,554.00	-	-	-	-	-	1,687.00	-	-	7,001.00	4,342.75
Lottery- Instr. Matl.	2,062.50	503.00	-	-	409.00	-	-	125.00	-	-	236.00	-	-	1,273.00	789.50
Other State Revenue	8,110.00	1,926.00	-	-	2,663.00	-	3,491.00	30.00	-	-	-	-	-	8,110.00	-
Interest	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-
Special Education	21,696.00	-	-	-	-	-	21,696.00	-	-	-	-	-	-	21,696.00	-
Other Sources	16,500.00	4,500.00	-	-	-	2,000.00	-	10,000.00	-	-	-	-	-	16,500.00	-
Grant	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-
Accounts Receivable		31,305.00	-	-	-	-	-	-	-	-	-	-	-	31,305.00	-
Total Revenues	**737,730.50**	51,781.00	22,331.00	44,663.00	51,679.00	73,568.00	25,187.00	59,341.00	34,784.00	97,498.00	44,678.00	42,755.00	42,755.00	591,020.00	178,015.50
Expenditures															
Certificated Salaries	296,470.00	5,134.00	27,485.00	19,131.00	25,883.00	39,975.00	20,593.00	21,755.00	25,753.00	31,504.00	33,004.00	30,736.00	15,517.00	296,470.00	-
Classified Salaries	35,940.00	2,180.00	2,842.00	1,946.00	3,668.00	4,263.00	3,463.00	1,857.00	3,125.00	3,125.00	3,125.00	3,171.00	3,175.00	35,940.00	(0.00)
Employee Benefits	61,769.03	650.00	5,059.00	2,535.00	5,097.00	5,707.00	5,707.00	5,707.00	6,300.00	6,300.00	6,300.00	6,300.00	6,107.03	61,769.03	(0.00)
Books & Supplies	89,092.00	1,093.00	915.00	4,116.00	5,604.00	840.00	6,511.00	3,024.00	2,150.00	28,600.00	950.00	450.00	1,254.00	55,507.00	33,585.00
Services/Operating Expenses	142,955.00	8,059.00	7,818.00	12,893.00	11,472.00	7,318.00	8,337.00	12,309.00	13,336.00	9,314.00	8,579.00	5,820.91	34,309.00	139,564.91	3,390.09
Capital Outlay	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-
Other Outgo	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-
Debt Service	43,373.00	-	-	-	6,108.00	6,108.00	6,108.00	6,108.00	6,108.00	6,108.00	-	6,725.00	-	43,373.00	-
Accounts Payable	-	149,110.00	-	-	-	-	-	-	-	-	-	-	-	149,110.00	-
Total Expenditures	**669,599.03**	166,226.00	44,119.00	40,621.00	57,832.00	64,211.00	50,719.00	50,760.00	56,772.00	84,951.00	51,958.00	53,202.91	60,362.03	781,733.94	36,975.09
Change in Balance	68,131.47	(114,445.00)	(21,788.00)	4,042.00	(6,153.00)	9,357.00	(25,532.00)	8,581.00	(21,988.00)	12,547.00	(7,280.00)	(10,447.91)	(17,607.03)	(190,713.94)	190,713.94
Beginning Balance	(3,979.00)	(3,979.00)	(118,424.00)	(140,212.00)	(136,170.00)	(142,323.00)	(132,966.00)	(158,498.00)	(149,917.00)	(171,905.00)	(159,358.00)	(166,638.00)	(177,085.91)	(3,979.00)	(194,692.94)
Ending Balance	64,152.47	(118,424.00)	(140,212.00)	(136,170.00)	(142,323.00)	(132,966.00)	(158,498.00)	(149,917.00)	(171,905.00)	(159,358.00)	(166,638.00)	(177,085.91)	(194,692.94)	(194,692.94)	(3,979.00)

FCMAT
FISCAL CRISIS & MANAGEMENT ASSISTANCE TEAM
CSIS California School Information Services

FISCAL CRISIS & MANAGEMENT ASSISTANCE TEAM
STUDY AGREEMENT
May 7, 2008

The FISCAL CRISIS AND MANAGEMENT ASSISTANCE TEAM (FCMAT), hereinafter referred to as the Team, and the San Bernardino County Superintendent of Schools hereinafter referred to as the COE, mutually agree as follows:

1. BASIS OF AGREEMENT

The Team provides a variety of services to school districts and county offices of education upon request. Based on the provisions of Education Code Section 1241.5 (c), a County Superintendent of Schools may review or audit the expenditures and internal controls of any charter school in his or her county if he or she has reason to believe that fraud, misappropriation of funds, or other illegal fiscal practices have occurred that merit examination. The review or audit conducted by the county superintendent shall be focused on the alleged fraud, misappropriation of funds, or other illegal fiscal practices and shall be conducted in a timely and efficient manner.

The COE has requested that the Team provide for the assignment of professionals to study specific aspects of the Oasis Charter Academy, hereinafter referred to as the Charter. Hesperia Unified School District is the sponsoring district for the charter school and has requested the COE call for an audit of specific issues related to the Charter's payroll processes. These professionals may include staff of the Team, County Offices of Education, the California State Department of Education, school districts, or private contractors. All work shall be performed in accordance with the terms and conditions of this Agreement.

2. SCOPE OF THE WORK

A. Scope and Objectives of the Study

The scope and objectives of this study pursuant to the provisions of Education Code Section 1241.5 (c) are:

1) To review Oasis Charter Academy payroll records for the current and two prior years and validate whether employee deductions and employer costs related to payroll have been processed and reported in compliance with state and federal statutes and program guidelines. Areas to be reviewed include, but are not limited to, the following:

a. Employee State and Federal payroll taxes; employee and employer portions of all statutory payroll deductions; W-2's, and 403B contributions.

B. <u>Services and Products to be Provided</u>

1) Orientation Meeting - The Team will conduct an orientation session at the COE to brief COE management and supervisory personnel on the procedures of the Team and on the purpose and schedule of the study.

2) On-site Review - The Team will conduct an on-site review at the Charter office and at school sites if necessary; and will continue to review pertinent documents off-site.

3) Progress Reports - The Team will inform the COE of material issues as the review is performed.

4) Draft Reports - Sufficient copies of a preliminary draft report will be delivered to the COE administration for review and comment.

6) Final Report - Sufficient copies of the final study report will be delivered to the COE following completion of the review.

7) Follow-Up Support - Subsequent to the completion of the study, the Team will meet with the COE, if requested, to verify the level of progress made by the Charter in response to the recommendations included in the final report.

3. <u>PROJECT PERSONNEL</u>

The study team will be supervised by Anthony L. Bridges, Deputy Executive Officer, Fiscal Crisis and Management Assistance Team, Kern County Superintendent of Schools Office. The study team may also include:

A. Diane Branham, FCMAT Fiscal Intervention Specialist
B. FCMAT Fiscal Consultant

Other equally qualified consultants will be substituted in the event one of the above noted individuals is unable to participate in the study.

4. <u>PROJECT COSTS</u>

The cost for studies requested pursuant to E.C. 42127.8 (d) (1) shall be:

A. $500.00 per day for each Team Member while on site, conducting fieldwork at other locations, preparing and presenting reports, or participating in meetings.

B. All out-of-pocket expenses, including travel, meals, lodging, etc. Based on the elements noted in section 2 A and the uncertainty of the availability of records for the current and two prior fiscal years, the total cost of the study is <u>estimated</u> at $7,500. The COE will be invoiced at actual costs, with 50% of the estimated cost due following the completion of the on-site review and the remaining amount due upon acceptance of the final report by the COE.

C. Any change to the scope of work or lack of supporting documentation will affect the estimate of total cost. The COE is eligible for 100% reimbursement of the cost incurred for this review under the provisions of AB 139, following approval of the claim for reimbursement by the California Departments of Education and Finance.

Payments for FCMAT services are payable to Kern County Superintendent of Schools-Administrative Agent.

5. RESPONSIBILITIES OF THE COE

A. The COE/Charter will provide office and conference room space while on-site reviews are in progress.

B. The COE will request in advance that the Charter provide access to FCMAT, or official copies of, documentation for the following information; and for any additional information that may be requested while this review is underway:

1) Access to all Charter payroll records for 2005-06, 2006-07, and 2007-08.
2) Charter cash flow statements by month, for 2005-06 and 2006-07.
3) Charter cash flow projections by month for 2007-08.
4) Access to Charter bank statements, by month for 2005-06 through 2007-08
5) Access to documentation of transmittal of employee tax deductions to Federal and State agencies, and employee and employer contributions for other payroll deductions including OASDI, Medicare, UI, Workers Comp, TSA's, retirement contributions, etc.
6) Annual independent audits of the Charter for 2005-06 and 2006-07
7) Letters and memos from Hesperia Unified School District or other fiscal oversight agencies regarding the fiscal practices and viability of the Charter.
8) Access to employee W-2 information for 2005, 2006, and 2007
9) Charter State and Federal Quarterly Tax Returns

C. The COE Administration will review a preliminary draft copy of the study. Any comments regarding the accuracy of the data presented in the report or the practicability of the recommendations will be reviewed with the Team prior to completion of the final report.

Pursuant to EC 45125.1(c), representatives of FCMAT will have limited contact with Oasis Charter Academy pupils. The COE shall take appropriate steps to comply with EC 45125.1(c).

6. PROJECT SCHEDULE

The following schedule outlines the planned completion dates for key study milestones:

Orientation:	May 13, 2008
Staff Interviews:	To be determined, based on availability of data
Exit Interviews:	To be determined, based on availability of data
Preliminary Report Submitted	To be determined
Final Report Submitted	To be determined
Board Presentation	To be determined

7. CONTACT PERSON

Please print name of contact person: George Velarde, Director of Fiscal Management & Advisory Services

Telephone 909 433-4630 FAX 909 433-4809

Internet Address george_velarde@sbcss.k12.ca.us

Mary Jane Andersen May 8, 2008

Mary Jane Andersen, Program Manager Date
Purchasing and Contracts
San Bernardino County Superintendent of Schools

Barbara Dean May 7, 2008

Barbara Dean, Deputy Administrative Officer Date
Fiscal Crisis and Management Assistance Team