

# CLARKSDALE MUNICIPAL SCHOOL DISTRICT MISSISSIPPI

## COMPLIANCE REPORT

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### LIMITED INTERNAL CONTROL AND COMPLIANCE REVIEW MANAGEMENT

For the year ended *June 30, 2023*

**SHAD WHITE, CFE**  
State Auditor

**Charlotte L. Duckworth**  
Director, *Compliance Audit Division*





**STATE OF MISSISSIPPI**  
**OFFICE OF THE STATE AUDITOR**  
**SHAD WHITE**  
AUDITOR

**July 24, 2024**

**Limited Internal Control and Compliance Review Management Report**

Clarksdale Municipal School District  
526 S Choctaw Street  
Clarksdale, MS 38614

Dear Members of the Clarksdale Municipal School Board:

Enclosed for your review are the Limited Internal Control and Compliance Review Findings for the **Clarksdale Municipal School District** for the fiscal year **2023**. In these findings, the Auditor's Office recommends the **Clarksdale Municipal School District**:

1. Strengthen Internal Controls Regarding Activity/Athletic Fund Receipts and Deposits;
2. Strengthen Internal Controls and Ensure Compliance with State Law Regarding Contract Policies and Incentive Programs;
3. Strengthen Internal Controls and Ensure Compliance with State Law Regarding Credit Card Approval, Usage, and Membership Card Justification;
4. Strengthen Internal Controls and Ensure Compliance with State Law Regarding Education Enhancement Fund (EEF) Procurement Cards;
5. Ensure Compliance with State Law Regarding Board Member Ethics and Nepotism;
6. Ensure Compliance with State Law Regarding Advertising and Approval of Depositories;
7. Ensure Compliance with State Law Regarding Monthly Financial Reports;
8. Ensure Compliance with State Law Regarding Purchasing Procedures and Documentation;
9. Ensure Compliance with State Law Regarding Donations with Public Funds;
10. Ensure Compliance with State Law Regarding Parent Incentives;
11. Ensure Compliance with State Law Regarding Certified Employees' Certifications, Background Checks, and Supplemental Contracts;
12. Ensure Compliance with State Law Regarding Sixteenth Section Educable Child Lists;
13. Ensure Compliance with State Law Regarding Reemployment of Retired Public Employees;
14. Ensure Compliance with State Law Regarding Surety Bonds; and
15. Ensure Compliance with Federal Law Regarding Children's Internet Protection Act (CIPA) Procedures.

During future engagements, we may review the findings in this management report to ensure procedures have been initiated to address these findings.

This report is intended solely for the information and use of management, individuals charged with governance and Members of the Legislature and is not intended to be and should not be used by anyone other than these specified parties. However, this report is a matter of public record and its distribution is not limited.

I hope our recommendations enable the **Clarksdale Municipal School District** to carry out its mission more efficiently. If you have any questions or need more information, please contact me.

Sincerely,



CHARLOTTE L. DUCKWORTH  
Director, *Compliance Audit*  
Office of the State Auditor

*The Office of the State Auditor does not discriminate on the basis of race, religion, national origin, sex, age, or disability.*

The Office of the State Auditor has completed its limited internal control and compliance review of the **Clarksdale Municipal School District** for the year ended **June 30, 2023**.

Our procedures and tests cannot and do not provide absolute assurance that all state legal requirements have been met. Also, our consideration of the internal control over financial reporting would not necessarily disclose all matters in the internal control over financial reporting that might be weaknesses. In accordance with *Section 7-7-211, Mississippi Code Annotated (1972)*, the Office of the State Auditor, when deemed necessary, may conduct additional procedures and tests of transactions for this or other fiscal years to ensure compliance with legal requirements.

A *deficiency in internal control* exists when the design or operation of a control does not allow management or employees, in the normal course of performing their assigned functions, to prevent, or detect and correct misstatements on a timely basis. A *significant deficiency* is a deficiency, or a combination of deficiencies, in internal control that is less severe than a material weakness, yet important enough to merit attention by those charged with governance. A *material weakness* is a deficiency, or a combination of deficiencies, in internal control such that there is a reasonable possibility that a material misstatement of the entity's financial statements will not be prevented, or detected and corrected on a timely basis.

We identified certain deficiencies in internal control that we consider to be *significant deficiencies* in internal control. These matters are noted under the headings **SIGNIFICANT DEFICIENCY**. We also identified other deficiencies that we have noted under the heading **OTHER DEFICIENCIES**.

In addition, while performing our review, we noted certain instances of noncompliance with state law that require the attention of management. These matters are noted under the heading **INSTANCES OF NONCOMPLIANCE WITH STATE LAW**.

In addition, while performing our review, we noted a certain instance of compliance with federal law that requires the attention of management. These matters are noted under the heading **INSTANCE OF NONCOMPLIANCE WITH FEDERAL LAW**.

Terms used in this Report.

OSA- *Office of the State Auditor*

AGO – *Attorney General's Office*

MS AG Op. – *Mississippi Attorney General's Opinion*

COSO - *The Internal Control-Integrated Framework published by the Committee of Sponsoring Organizations of the Treadway Commission*

District – *Clarksdale Municipal School District*

MDEAMSD – *Mississippi Department of Education Accounting Manual for School Districts*

PERS – *Public Employees' Retirement System of Mississippi*

Section – *Mississippi Code Annotated (1972)*

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## **SIGNIFICANT DEFICIENCY**

**Finding 1:** The District Should Strengthen Internal Controls Regarding Activity/Athletic Fund Cash Receipts and Deposits.

**Internal Control Deficiency:** The *COSO* specifies that a satisfactory control environment is only effective when there are adequate control activities in place. Good internal controls require the functions of processing, recording transactions, and maintaining custody of related assets be properly recorded to ensure the assets are safeguarded against loss from unauthorized use or theft.

**School Board Policy:** *Section D, Fiscal Management, Policy Code DK – Student Activities Fund Management, Receipts*, states, "All activity funds received by a local school must be deposited into its activity fund bank account. The principal must maintain a permanent three-part receipt book in which to record all receipts. A person remitting activity funds to the

principal for deposit will be given the original receipt, the second copy will be attached to the transmittal report to the central office, and the third copy will be kept in the book and on permanent file in the principal's office. All of these prenumbered receipts must be accounted for. A copy of the deposit slip indicating the amounts of money deposited to the bank must also be attached to the transmittal report. The deposit slip should indicate the sequence of receipt numbers that particular deposit covers. ...”

**Applicable Administrative Guidance:** *MDEAMSD, Section B, Miscellaneous Issues, Section E, Receipt Files*, states, “All monies shall be receipted to the school district utilizing pre-numbered receipts (two parts) and be maintained in a bound book or ledger. Under no circumstance shall monies be deposited to any bank account without a proper receipting of such monies. Monies should be deposited to the bank timely (based on the district’s policy). Any documentation necessary to support the receipts shall be maintained on file. All receipts shall include date, received from, amount, account classification and signature of receiver, at a minimum. Electronic transfers of funds should also have receipts assigned for reporting purposes. Receipt files should be prepared and filed by month. These files should contain receipts filed in numerical order along with supporting documentation for each receipt.”

**Finding Detail:** During the review of the District’s activity/athletic fund revenue, the auditor noted the following exceptions:

- Three deposits were not made in a timely manner;
- There was a net overage of **\$1,646** between deposits and ticket sales for varsity basketball and football games; and
- Monthly transmittals for the fiscal year were not completed.

Inadequate internal controls related to athletic fund revenue collection, proper receipting and depositing could result in a loss of assets and improper revenue recognition.

**Recommendation:** We recommend the District strengthen internal controls by assuring all activity/athletic fund revenue is properly safeguarded, adequately recognized, and recorded.

**District’s Response:** A meeting was held with the Athletic Director to establish procedures that will protect reoccurrence of those items related to athletics. A monthly transmittal form has been developed and distributed to the schools. All other matters pertaining to activity funds will be discussed in the August 31, 2023 meeting.

**Repeat Finding:** No.

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## OTHER DEFICIENCIES AND INSTANCES OF NONCOMPLIANCE WITH STATE LAW

**Finding 2:** The District Should Strengthen Internal Controls and Ensure Compliance with State Law Regarding Contracts Policies and Incentive Programs.

**Internal Control Deficiency:** The Board of Education may establish or adopt any orders, resolutions, or ordinances with respect to District affairs, property, and finances that are consistent with other State Laws (Home Rule). The Board of Education must also establish and oversee the performance of the District in order to comply with applicable laws and internal controls. The *COSO* and *The Standards for Internal Control in the Federal Government (Greenbook)* dictate that to have a successful control environment, the organization must design and implement internal control policies and procedures that ensure compliance with all relevant regulations.

**Applicable Administrative Decisions and Guidance:** *MS AG Op., Gaskin at \*1 and \*2 (October 11, 2022)*. States in part: Regarding incentive pay, *Sections 66 and 96 of Article IV of the Mississippi Constitution* prohibit a public entity from paying employees extra compensation for past services because it would constitute an unlawful donation. *MS AG Op., Eleuteris at \*1 (Nov. 1, 2013)*. Payments in the form of bonuses are prohibited for this reason. *Id.* Employee incentive payments, however, that “are implemented prospectively and for which payment is made pursuant to conditions met in the future do

not run afoul of [the] constitutional provisions.” *MS AG Op., Campbell at \*1 (Apr. 12, 2010)*. Therefore, in order for the city to implement employee incentive pay, it must be “(1) contracted for between the parties or with the employee prior to the date when services are to be performed; (2) determined in accordance with objective standards of measurement; and (3) earned by personal services performed by the employees.” *MS AG Op., Chiles at \*1 (Nov. 10, 2020)*. Whether the proposed ordinance meets these requirements is a determination that must be made by the Council. You may also wish to consult with the Mississippi Office of the State Auditor to determine whether the American Rescue Plan Act’s State and Local Fiscal Recovery Funds may be used for the proposed incentive payments.”

**\*2** Additionally, while performance-based incentive pay for municipal employees may be authorized when the above-cited conditions are met, such payments are excluded from “earned compensation” as defined by *Section 25-11-103(k)* of the *Mississippi Code* and may not be reported to the state’s *Public Employees’ Retirement System (PERS)* for purposes of retirement. *Chiles at \*2*.

**Finding Detail:** During the review of the District’s contractual obligations and salary payments to employees, the auditor noted that the District adopted an “incentive pay” program to reward new teachers. The Mississippi Attorney General’s Office (AGO) has consistently opined that School Boards have the authority to adopt such programs as long as they meet the following criteria:

- 1.) The incentives are contracted for prior to the date when services are performed;
- 2.) The incentives are determined in accordance with objective standards of measurement; and
- 3.) The incentives are earned by personal services performed by the employees.

Further, the AGO has consistently opined that compliance with the above criteria are essential to ensure incentive payments do not constitute prohibited payments, such as bonuses or donations. The incentive programs designed by the District is not in compliance with State Law for the following reasons:

- The District described the payment as a "bonus" in communications to the School Board, employees, and general public for the 2022-2023 School Year; and
- The pay was not contracted for prior to the date the services were performed. The first pay was in September 2023. however, the teachers began working with the District on July 1, 2023.

Failure to properly document or account for how the school is in compliance with the criteria stated above could result in incentive payments being classified as improper payments to employees.

**Recommendation:** We recommend the District strengthen internal controls and ensure compliance over incentive payments by ensuring that all payments are in compliance with the required criteria. We further recommend that the School District consult with their Board Attorney, Mississippi Department of Education, or the Attorney General’s Office to ensure their incentive program is in compliance with the state law and regulations.

**District’s Response:** The District will ensure that future incentive payments are communicated properly to the Board and that the pay will be signed for prior to the employees beginning work.

**Repeat Finding:** No.

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**Finding 3:** The District Should Strengthen Internal Controls and Ensure Compliance with State Law Regarding Merchant-Specific and Membership Club Card Approval, Usage, and Justification.

**Internal Control Deficiency:** The *COSO* specifies that a satisfactory control environment is only effective when there are adequate control activities in place. Management is responsible for implementing proper internal controls surrounding the cash disbursement functions, maintaining and recording all credit card transactions into the general ledger.

**Applicable State Law:** *Section 31-7-9(1)(b)*, “The Office of Purchasing, Travel and Fleet Management may adopt purchasing regulations governing the use of credit cards, procurement cards and purchasing club membership cards to be used by state agencies, governing authorities of counties and municipalities, school districts and the Chickasawhay Natural Gas District. Use of the cards shall be in strict compliance with the regulations promulgated by the office. Any amounts due on the cards shall incur interest charges as set forth in *Section 31-7-305* and shall not be considered debt.”

**Applicable Administrative Guidance:** *Mississippi Procurement Manual, Chapter 10, 10.112.03, Merchant-Specific Credit Cards*, states, “Governing authorities desiring to obtain a merchant specific credit card shall submit to their governing board for approval, written justification for the need of a merchant specific credit card. Approval of such action shall be placed on the minutes of the board of the governing authority.”

*Mississippi Procurement Manual, Chapter 10, 10.112.04, Merchant-Specific Credit Card Minimum Requirements*, states, “Upon receipt of the monthly statement, the cardholder shall review all charges to assure accuracy, complete applicable dispute documents, reconcile the statement with copies of receipts and order logs, and approve and sign the statement... The appropriate agency official shall maintain a file with the statements and all applicable receipts and dispute documents”

*Mississippi Procurement Manual, Chapter 10, 10.112.05, Membership Club Cards*, states, “Membership card fee’s such as Sam’s club cards, are allowed but should be justified by the agency or governing authority to show that the anticipated savings using the card would exceed the cost of the card fee. This justification should be maintained on file with the government entity. Each subsequent year, the government entity shall document actual saving for the previous year which substantiate the cost of the card. This would not mean documenting saving on each and every purchase but enough documentation to substantiate adequate saving to justify the expense of the card.”

**Finding Detail:** During the review of the District’s credit cards, the auditor noted the following exceptions:

- Eight credit card statements were not on file within the District;
- Seven credit card statements did not have evidence of charge slips attached;
- Local and state taxes were paid on three credit card expenditures, totaling **\$695**;
- Two charge slips did not have signatures;
- There was no evidence that there was an independent review of credit card charges; and
- The District did not approve the use and justification for a merchant-specific credit card (Walmart) and membership club card (Sam’s).

Failure to have adequate controls surrounding the District’s procurement card purchases could result in waste, fraud, and abuse of public funds. Also, failure to approve merchant-specific and membership cards, and maintain on file the justification for their use resulted in noncompliance with state law and regulations.

**Recommendation:** We recommend the District strengthen internal controls and ensure compliance by implementing adequate policies and procedures concerning its credit card use, as required state law and regulations.

**District’s Response:** Approval is scheduled to be obtained in the September 2023 Board meeting. We have implemented procedures that will prevent reoccurrence.

**Repeat Finding:** No.

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**Finding 4:** The District Should Strengthen Internal Controls and Ensure Compliance with State Law Regarding Education Enhancement Fund (EEF) Procurement Cards.

**Internal Control Deficiency:** An effective system of internal control requires a complete and accurate roster for the distribution of Education Enhancement Fund Cards, as well as completed Teacher Cardholder Agreements should be maintained and emailed to the Mississippi Department of Education by District’s program Coordinator annually.

**Applicable State Law:** *Section 37-61-33(3)(a)(iii)*, "...Local school districts shall issue such credentials or procurement cards to classroom teachers at the beginning of the school year, but no later than August 1 of each year, and shall be issued in equal amounts per teacher determined by the total number of qualifying personnel and the current state appropriation for classroom supplies with the Education Enhancement Fund."

**Finding Detail:** During the review of the District's EEF procurement cards, the auditor noted the following exceptions out of 20 tested:

- Four certified teachers were not issued their EEF cards by the August 1<sup>st</sup> deadline;
- Two teachers' cardholder agreements were not on file; and
- The District could not provide evidence of cardholder agreements and rosters for all schools.

Failure to have adequate internal controls and procedures surrounding the District's EEF cards could result in the loss or misappropriation, fraud, waste, and abuse of public funds.

**Recommendation:** We recommend the District strengthen internal controls and ensure compliance implementing adequate policies and procedures to ensure EEF cards and agreements are properly issued, as required by state law. Also, the District should ensure that all agreements and rosters are maintained for all school locations.

**District's Response:** We will work to ensure that this does not reoccur.

**Repeat Finding:** No.

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## INSTANCES OF NONCOMPLIANCE WITH STATE LAW

**Finding 5:** The District Should Ensure Compliance with State Law Regarding Board Member Ethics and Nepotism.

**Applicable State Law:** *Section 25-4-105(1)*, "No public servant shall use his official position to obtain, or attempt to obtain, pecuniary benefit for himself other than that compensation provided for by law, or to obtain, or attempt to obtain, pecuniary benefit for any relative or any business with which he is associated."

*Section 37-9-21*, "It shall be illegal for any superintendent, principal, or other licensed employee is related within the third degree by blood or marriage according to the common law to a majority of the members of the school board. No member of the school board shall vote for any person as a superintendent, principals, or licensed employee who is related to him within the third degree by blood or marriage or who is dependent upon him in a financial way. Any contract entered into in violation of the provisions of this section shall be null and void."

**Applicable Administrative Decisions and Guidance:** *Mississippi Ethics Opinion 07-059-E* and *14-050-E* provide that a Board must recuse himself or herself from any matter which would result in a pecuniary benefit to the child or in-law, even if they are financially independent.

*Mississippi Ethics Opinion 10-014E*, provides that a Board Member should avoid participating in budget matters which do not directly affect the relatives but from which the relative may indirectly benefit. This opinion also provides the Board Member would not be required to recuse himself or herself from the approval of budgets where the relative is a licensed employee of the school district whose salary is set by the Mississippi Department of Education and the District has not supplemented that employee's salary, or provided other discretionary salary or benefits to the relative. When possible, a school board may separate the budget into parts and vote on parts separately, even when such separation is not necessary to maintain a quorum. The guiding requirement is that a board member must recuse from actions which would result in a monetary benefit to the board member's relative. Therefore, a school trustee who's financially independent child is employed by the school district as a certified teacher may vote on the adoption of a budget, provided that all local salary or



other supplemental benefits are excluded from the budget as voted upon and acted upon separately by the other trustees, even when such separation is not so required to obtain a quorum. Additionally, the Board Member may not use his or her position to avoid a monetary detriment to his or her relative, such as termination or unpaid furlough. There should be a total and complete recusal the Board Member in matters of relatives described in *Mississippi Code Section 25-4-103(q)*. This action should be spread upon the district's minutes.

**Finding Detail:** During the review of the District's related party questionnaires and Board minutes, the auditor noted that one Board Member approved the recommendation to rehire their daughter (certified teacher). Additionally, the Board Member approved the budgets and salary scales included local supplements with would directly benefit their relative.

Failure to ensure the Board Member recused themselves from the vote of the rehire, salary schedules and budgets that include the salaries of relatives within the first degree resulted in a noncompliance with state law and regulations.

**Recommendation:** We recommend the District ensure compliance by assuring all personnel procedures are in compliance with state law and regulations. Additionally, this matter will be forwarded to the *Mississippi Ethics Commission*.

**District's Response:** The District will be sure that in the future meetings Board Members recuse themselves from personnel recommendations, budgets, and any other actions involving their family members.

**Repeat Finding:** No.

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**Finding 6:** The District Should Ensure Compliance with State Law Regarding Advertising and Approval of Depositories.

**Applicable State Law:** *Section 37-7-333*, requires all such allotments or funds shall be placed in the depository or depositories selected by the school board in the same manner as provided in *Section 27-105-305* for the selection of county depositories. Provided however, the annual notice to be given by the school board to financial institutions may be given by the school board at any regular meeting subsequent to the board's regular December meeting but prior to the regular May meeting. The bids of financial institutions for the privilege of keeping school funds may be received by the school board at some subsequent meeting, but no later than the regular June meeting; and the selection by the school board of the depository or depositories shall be effective on July 1 of each year. School boards shall advertise and accept bids for depositories, no less than once every three (3) years, when such board determines that it can obtain a more favorable rate of interest and less administrative processing. Such depository shall place on deposit with the superintendent of schools the same securities as required in *Section 27-105-315*.

**Finding Detail:** During the review of the District's depositories, the auditor noted the following exceptions:

- The District did not advertise for bids of its depositories; and
- The District did not spread upon its minutes the depository approved by the School Board.

Failure to ensure the District advertises and spread upon its Board minutes the depository bid selection resulted in noncompliance with state law.

**Recommendation:** We recommend the District ensure compliance by assuring to properly advertise for depository bids and spread upon the minutes the selection of the District's depository, as required by state law.

**District's Response:** We will work to ensure that this does not reoccur.

**Repeat Finding:** No.

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**Finding 7:** The District Should Ensure Compliance with State Law Regarding Monthly Financial Reports.

**Applicable State Law:** *Section 37-9-18(1)(a) (i-iv)*, “The State Board of Education shall promulgate rules and regulations concerning the type of financial reports required to be submitted by the superintendent of schools to the local school board, and the frequency with which the reports shall be submitted by the superintendent of schools to the local school board, and the frequency with which the reports shall be submitted....”

**Applicable Administrative Guidance:** *Mississippi State Board of Education Policy Manual, Chapter 71, Rule 71.3, Required Monthly Reports to be Furnished to Local School Board* provides:

“1. The State Board of Education is directed by *Miss. Code Ann. §37-9-18* to promulgate rules and regulations concerning the type of financial reports required to be submitted by the superintendent of schools to the local school board, and the frequency with which the reports shall be submitted. At a minimum, the superintendent of schools shall furnish to the local school board the following required financial reports each month at the regular school board meeting:

- a. Reconciled Bank Statements...
- b. Statement of Revenues and Expenditures ...
- c. Current Budget Status...
- d. Cash Flow Statement by Month...
- e. Combined Balance Sheet ...
- OR
- f. Current Fund Equity Balances...

**Finding Detail:** During the review of the District’s financial reports, the auditor noted that a complete set of monthly financial reports was not presented to the Board and spread upon its minutes for fiscal year 2023.

Failure to submit a complete set of financial reports to the School Board monthly could result in the loss or misappropriation of public funds and resulted in noncompliance with state law.

**Recommendation:** We recommend the District ensure compliance by assuring a complete set of financial reports is submitted to the Board each month, as required by state law.

**District’s Response:** The proper financial reports are now being submitted to the Board monthly.

**Repeat Finding:** No.

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**Finding 8:** The District Should Ensure Compliance with State Law Regarding Purchasing Procedures and Documentation.

**School Board Policy:** *Section D, Fiscal Management, Policy Code DJEG, Purchase Orders and Contracts*, requires that purchase orders are issued by the school district to vendors ordering items requested by departments, divisions, or teachers. Prior to paying any claim, the accounts payable clerk should match the purchase requisitions, purchase orders, receiving report or signed invoice, and vendor invoice.

**Applicable State Law:** *Section 31-7-12(2)*, “Governing authorities may purchase commodities approved by the Department of Finance and Administration from the state contract vendor, or from any source offering the identical commodity, at a price not exceeding the state contract price established by the Department of Finance and Administration for such commodity, without obtaining or advertising for competitive bids.”

*Section 31-7-13* provides in part:

- (b) “ states, Purchases which involve an expenditure of more than Five Thousand Dollars (\$5,000.00) but not more than Seventy-five Thousand Dollars (\$75,000.00), exclusive of freight and shipping charges, may be made from

the lowest and best bidder without publishing or posting advertisement for bids, provided at least two (2) competitive written bids have been obtained. Any state agency or community or junior college purchasing commodities or procuring construction pursuant to this paragraph (b) may authorize its purchasing agent, or his designee, to accept the lowest competitive written bid under Seventy-five Thousand Dollars (\$75,000.00). Any governing authority purchasing commodities pursuant to this paragraph (b) may authorize its purchasing agent, or his designee, with regard to governing authorities other than counties, or its purchase clerk, or his designee, with regard to counties, to accept the lowest and best competitive written bid. Such authorization shall be made in writing by the governing authority and shall be maintained on file in the primary office of the agency and recorded in the official minutes of the governing authority, as appropriate. The purchasing agent or the purchase clerk, or his designee, as the case may be, and not the governing authority, shall be liable for any penalties and/or damages as may be imposed by law for any act or omission of the purchasing agent or purchase clerk, or his designee, constituting a violation of law in accepting any bid without approval by the governing authority. The term "competitive written bid" shall mean a bid submitted on a bid form furnished by the buying agency or governing authority and signed by authorized personnel representing the vendor, or a bid submitted on a vendor's letterhead or identifiable bid form and signed by authorized personnel representing the vendor. "Competitive" shall mean that the bids are developed based upon comparable identification of the needs and are developed independently and without knowledge of other bids or prospective bids. Any bid item for construction in excess of Five Thousand Dollars (\$5,000.00) shall be broken down by components to provide detail of component description and pricing. These details shall be submitted with the written bids and become part of the bid evaluation criteria. Bids may be submitted by facsimile, electronic mail or other generally accepted method of information distribution. Bids submitted by electronic transmission shall not require the signature of the vendor's representative unless required by agencies or governing authorities."

(c)(1) "Purchases which involve an expenditure of more than Seventy-five Thousand Dollars (\$75,000.00), exclusive of freight and shipping charges, may be made from the lowest and best bidder after advertising for competitive bids once each week for two (2) consecutive weeks in a regular newspaper published in the county or municipality in which such agency or governing authority is located..."

(d)(i), "...If any governing authority accepts a bid other than the lowest bid actually submitted, it shall place on its minutes detailed calculations and narrative summary showing that the accepted bid was determined to be the lowest and best bid, including the dollar amount of the accepted bid and the dollar amount of the lowest bid..."

(k), "If the governing authority, or the governing authority acting through its designee, shall determine that an emergency exists in regard to the purchase of any commodities or repair contracts, so that the delay incident to giving opportunity for competitive bidding would be detrimental to the interest of the governing authority, then the provisions herein for competitive bidding shall not apply and any officer or agent of such governing authority having general or special authority therefor in making such purchase or repair shall approve the bill presented therefor, and he shall certify in writing thereon from whom such purchase was made, or with whom such a repair contract was made. At the board meeting next following the emergency purchase or repair contract, documentation of the purchase or repair contract, including a description of the commodity purchased, the price thereof and the nature of the emergency shall be presented to the board and shall be placed on the minutes of the board of such governing authority. Purchases under the grant program established under Section 37-68-7 in response to COVID-19 and the directive that school districts create a distance learning plan and fulfill technology needs expeditiously shall be deemed an emergency purchase for purposes of this paragraph (k)."

(o), "No contract or purchase as herein authorized shall be made for the purpose of circumventing the provisions of this section requiring competitive bids, nor shall it be lawful for any person or concern to submit individual invoice for amounts within authorized for a contract or purchase where the actual value of the contract or commodity purchased exceeds the authorized amount and the invoices therefore are split so to appear to be authorized as purchases for which competitive bids are not required."

*Section 31-7-113*, “The State Department of Audit shall design and prescribe the form of the inventory to be made, the form of the purchase order, the form of the receiving report; prescribe system of filling and prescribe the system of records necessary for the maintenance of a central purchasing system.”

*Section 31-7-305(2)*, “All public bodies that are authorized to issue checks in payment of goods and services and are not required to issue requisitions for payment to the State Fiscal Management Board shall mail or otherwise deliver such checks no later than forty-five (45) days after receipt of the invoice and receipt, inspection and approval of the goods or services.”

**Applicable Administrative Decisions and Guidance:** *MS AG Op., Mitchell at \*2 (April 18, 2012)*. States in part: “...\*2 The ultimate goal of the public purchasing statute, found at Mississippi Code Annotated Section 31-7-13, is to encourage competition to ensure efficiency and economy in purchases made by public entities. In fact, Section 31-7-13(c)(iv)(1) specifically prohibits a public entity from writing bid specifications that exclude comparable equipment. However, clearly, the Legislature intended, in its adoption of Section 31-7-13(c)(iv)(1), to create an exemption to that prohibition. Section 31-7-13(c)(iv)(1) provides the following: \*2 Specifications pertinent to such bidding shall be written so as not to exclude comparable equipment of domestic manufacture. However, if valid justification is presented, the Department of Finance and Administration or the board of a governing authority may approve a request for specific equipment necessary to perform a specific job. Further, such justification, when placed on the minutes of the board of a governing authority, may serve as authority for that governing authority to write specifications to require a specific item of equipment needed to perform a specific job.”

**Finding Detail:** During the review of the District’s purchasing expenditures, the auditor noted the following exceptions:

- Six invoices were paid, totaling **\$43,334**; however, there was no evidence of a purchase order being issued;
- Three vendor purchases were made from the Express Products List #3760, totaling **\$141,456**; however, a second bid/quote was not obtained, which is required in the EPL instructions;
- Two purchases did not have evidence of two bids/quotes, totaling **\$28,333**;
  - Cooper Algernon **\$ 7,800**
  - Eman’s **\$20,533**
- Two vendor purchases may have been split in order to circumvent purchase law, totaling **\$10,240**;
  - Central Restaurant **\$ 5,060**
  - Champion Teamwear **\$ 5,180**
- Two purchases were classified as emergency purchases totaling **\$32,101**; however, the Board did not approve a declaration of emergency and it was not spread across the minutes;
  - Garrett Electronics **\$17,200**
  - Waters Trucks **\$14,901**
- Two quotes did not have signatures or evidence that indicated they were received electronically;
- Two invoices were paid more than 45 days after being received;
- One vendor purchase was approved as other than the lowest bid by the Board; however, the justification was not spread upon the Board minutes;
- One sole – source purchase from Apple, Inc., totaling **\$5,395**, was approved by the Board based on letters from the vendor; however, as defined in state law and by the Attorney General, vendors cannot claim sole-source distinction based on trademark or copyright of a brand; and
- The Board approved a vendor purchase as a state contract, totaling **\$284,774**; however, only **\$51,395** was included in the state contract.

Failure to follow proper purchasing procedures could result in fraud or misappropriation of public monies and resulted in noncompliance with state law and regulations.

**Recommendation:** We recommend the District ensure compliance by assuring all proper purchase procedures are being followed and monitored and invoices are paid within 45 days of being received, as required by state law and regulations.

**District's Response:** A meeting with Principals and Department Heads has been scheduled for August 31, 2023 to review purchasing laws and procedures. The recommendation will be made to the Board to implement policies and procedures that will hold employees financially responsible when goods/services are obtained.

**Repeat Finding:** No.

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**Finding 9:** The District Should Ensure Compliance with State Law Regarding Donations with Public Funds.

**Applicable State Law:** *Article 4, Section 66 of the Mississippi Constitution*, states, "No law granting a donation or gratuity in favor of any person or object shall be enacted except by the concurrence of two-thirds of the members elect of each branch of the Legislature, nor by any vote for a sectarian purpose or use."

**Applicable Administrative Decisions and Guidance:** *MS AG Op., Adams at \*1 (February 8, 2019)*. States in part: "... funds donated to a school district become public funds upon receipt by the school district and must be accounted for and expended in the same manner as other public funds. *MS AG Op., Davis (March 13, 2006)*..."

**Finding Detail:** During the review of the District's Board minutes and purchase expenditures, the auditor noted on December 15, 2022, the Board accepted a donation from six individuals totaling **\$135,000**. On January 16, 2023, the Board approved to make a donation to the Spring Initiative, which is a private entity totaling **\$105,000**.

Improper donations of public funds to a private entity resulted in noncompliance with state law and regulations

**Recommendation:** We recommend the District ensure compliance by assuring public funds are not improperly donated to private entities, as required by the state law and regulations.

**District's Response:** The payment to Spring Initiative is not a donation. Spring Initiative provides services to our Pre-K Students. They provide afterschool tutoring, behavioral support; they check in with the daily teachers at regular intervals to track students' progress; they take students on field trips and much more.

**Auditor's Note:** The invoice submitted to the District from the Spring Initiative requested the payment of donations of individual contributions in the amount of **\$105,000**. Per state law and regulations cited above, once a District receives a donation those funds become public funds. Therefore, those funds cannot be donated to a private entity.

**Repeat Finding:** No.

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**Finding 10:** The District Should Ensure Compliance with State Law Regarding Parental Incentives.

**Applicable State Law:** *Article 4, Section 66 of the Mississippi Constitution* provides that no law granting a donation or gratuity in favor of any person or object shall be enacted except by the concurrence of two-thirds of the members elect of each branch of the Legislature, nor by any vote for a sectarian purpose or use.

**Finding Detail:** During the review of the District's purchases, the auditor noted the District purchased 300 adult hoodies and 69 backpacks for the parents within the District, totaling **\$11,714**.

Failure to ensure public funds were not donated to parents of the District resulted in noncompliance with state law.

**Recommendation:** We recommend the District ensure compliance by assuring public funds are not improperly donated, as required by state law.

**District's Response:** The Clarksdale Municipal School District is committed to serving as good stewards of public funds. As such, we will comply with procurement regulations as defined by local, state, and federal government. Moreover, CMSD will closely monitor all purchases prohibiting the purchase of apparel for any activity. The District's procedural purchasing manual will be revisited to ensure the language coincides with District expectations. Additional ongoing training will be provided to team members to prevent future occurrences.

**Repeat Finding:** No.

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**Finding 11:** The District Should Ensure Compliance with State Law Regarding Certified Employees' Certifications, Background Checks, and Supplemental Contracts.

**Applicable State Law:** *Section 37-9-17(2)*, "Current criminal records background checks and current child abuse registry checks are obtained, and that such criminal record information and registry checks are on file for any new hires applying for employment as a licensed or non-licensed employee at a school and not previously employed in such school under the purview of the State Board or at such local school district prior to July 1, 2000." Ultimately, the criminal records information and registry must be kept on file for any and all new hires. Additionally, employees employed under the recommendation of a personnel supervisor may not be paid compensation in excess of their approved contract without Board approval.

*Section 37-9-33(1)*, "In employing and contracting with appointed superintendents, principals, and certified employees, the school board shall in all cases determine whether the amount of salary to be paid such superintendent, principal, and certified employees is in compliance with the provisions of the adequate education program. No contracts shall be entered into where the salary of a superintendent, principal, or certified employee is to be paid, in whole or in part, from adequate education program funds except where the reimbursements of said chapter as to the amount of salary are fully met... The allowance in the Mississippi Adequate Education Program for teachers' salaries in each county and separate school district shall be determined and paid in accordance with the scale for teachers' salaries as provided in this subsection."

*Section 37-9-43*, "It shall be unlawful for any appointed superintendent, principal or licensed employee to be paid for any services as such until a written contract has been executed as is provided and required by this chapter. If any school district superintendent shall make any such payment prior to the execution of the contract he shall be civilly liable for the amount thereof, and, in addition, shall be liable upon his bond. If any licensed employee, appointed superintendent or principal shall willfully and without just cause breach his contract and abandon his employment he shall not be entitled to any further salary payments either for services rendered prior to such breach or for services which were thereafter to have been rendered. Nothing in this section, however, shall prevent the employment and payment of substitute teachers without a written contract."

**Applicable Administrative Guidance:** *MDEAMSD, Section B, Miscellaneous Issues, Subject D, Personnel Files*, states, "There shall be individual personnel files in the school district central office, which include contracts, a copy of teacher certificates, wage authorizations, federal and state withholding authorizations, and other deduction information. Individual personnel files shall stand alone to support payroll checks issued to individuals." Additionally, all new hired licensed and non-licensed employees are required to have criminal records background and child abuse registry checks.

**Finding Detail:** During the review of the District's personnel files, the auditor noted the following exceptions:

- Eleven certified employees' personnel files did not have evidence of educator certifications;
- Ten certified employees received additional supplements totaling **\$42,253**; however, there was no evidence of a supplemental contract within their personnel files;
- Nine certified employees did not have background checks documented within their personnel files; and
- There was no evidence of the District obtaining verification of previous employment for two certified employees.

Failure to have adequate internal controls and proper procedures surrounding contracts and payroll resulted in noncompliance with state law.

**Recommendation:** We recommend the District ensure compliance by ensuring all criminal background checks, verification of prior employment, and certifications are obtained and maintained in the personnel files of its employees, as required by state law. Also, the District should ensure supplemental contracts are issued and approved by the Board.

**District's Response:** We will now provide supplemental agreements for all jobs/payments. We are currently auditing personnel files to ensure they contain all necessary documentation. Going forward, we will ensure that all documents are present before employees begin working.

**Repeat Finding:** No.

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**Finding 12:** The District Should Ensure Compliance with State Law Regarding Sixteenth Section Educable Child Lists.

**Applicable State Law:** *Section 29-3-121*, "It shall be the duty of the superintendent of each school district to make or cause to be made annual lists of the children enrolled in the schools of such district and who reside in such district, which lists shall be based upon the end of the first month enrollment required to be reported to the State Department of Education for the then current school year. The lists shall be made separately as to the townships in which such children reside. Such lists shall be filed with the superintendent of the custodial school district on or before December 31 of each year and the lists shall be used in making the division of the available funds of each township during the ensuing calendar year as provided by *Section 29-3-119, Mississippi Code Annotated (1972).*"

**Finding Detail:** During the review of the District's educable child lists, the auditor noted an educable child letter was not filed with Coahoma County School District by December 31<sup>st</sup>.

Failure to file an educable child list with the custodial district could result in forfeiting funds that the District would otherwise be entitled to, and resulted in noncompliance with state law.

**Recommendation:** We recommend the District ensure compliance by assuring all educable child lists are prepared and filed with the Superintendents of custodial district by December 31<sup>st</sup> of each year, as required by state law.

**District's Response:** We will ensure that this does not reoccur.

**Repeat Finding:** No.

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**Finding 13:** The District Should Ensure Compliance with State Law Regarding Reemployment of Retired Public Employees.

**Applicable State Law:** *Section 25-11-127*, requires that *PERS Board Regulation 34 Reemployment* after retirement provides that the employer certifies to PERS the normal working days and hours for its full-time position.

*Section 25-11-127 (1)(a)*, "No person who is being paid a retirement allowance or a pension after retirement under this article shall be employed or paid for any service by the State of Mississippi, including services as an employee, contract worker, contractual employee or independent contractor, until the retired person has been retired for not less than ninety (90) consecutive days from his or her effective date of retirement. After the person has been retired for not less than ninety (90) consecutive days from his or her effective date of retirement or such later date as established by the board, he or she may be reemployed while being paid a retirement allowance under the terms and conditions provided in this section."

*Section 25-11-127(4)(a)(b)*, “The provisions of this section shall not be construed to prohibit any retiree, regardless of age, from being employed and drawing a retirement allowance either: (a) For a period of time not to exceed one-half (½) of the normal working days for the position in any fiscal year during which the retiree will receive no more than one-half (½) of the salary in effect for the position at the time of employment, or (b) For a period of time in any fiscal year sufficient in length to permit a retiree to earn not in excess of twenty-five percent (25%) of retiree’s average compensation.” Additionally, it is the responsibility of the employer to certify to PERS the normal working days and hours for its retirees.

**Finding Detail:** During the review of the District’s PERS retirees, the auditor noted the following: Upon inquiry of the Business Manager and a representative from PERS, there is no evidence of PERS Form 4Bs being filed for fiscal year 2023. Due to this, OSA could not verify that properly rehired and paid seven retirees after their retirement.

Failure to have adequate internal controls regarding the rehire off retirees resulted in noncompliance with state law.

**Recommendation:** We recommend the District ensure compliance by assuring all PERS Form 4Bs are properly filed with PERS and maintained within the District, as required by state law.

**District’s Response:** We will work to ensure that this does not reoccur.

**Repeat Finding:** No.

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**Finding 14:** The District Should Ensure Compliance with State Law Regarding Surety Bonds.

**School Board Policy:** *Section D, Fiscal Management, Policy Code DJEA Purchasing Authority*, provides that the School Board designates the Superintendent, Business Manager, Director of Auxiliary, Director of Maintenance, and Principals as Purchase Agents.

**Applicable State Law:** *Section 25-1-12(1)*, “Notwithstanding any other provision of law to the contrary, any public officer or employee handling or having the custody of public funds, by virtue of his or her office or employment, shall give an individual bond or be covered by a blanket bond. The amount of such bonds shall not be less than Twenty-five Thousand Dollars (\$25,000.00) for each public officer or employee, unless a specific amount is otherwise required by law. The provisions of this section shall not apply to any public officer or employee whose activity of handling or having custody of public funds is incidental to his or her employment or job duties, as defined by the regulations of the State Auditor’s office.”

*Section 25-1-15(2)*, “A new bond in an amount not less than that required by law shall be secured upon employment and coverage shall continue by the securing of a new bond every four (4) years concurrent with the normal election cycle of the Governor or with the normal election cycle of the local government applicable to the employee.”

*Section 25-1-19(1)*, “The bond of all other county officers and employees, or officers and employees for any district, subdivision, board or commission of a county, including public school districts, shall be approved by the board of supervisors of such county. All the bonds shall be filed and recorded in the chancery court of the county...”

*Section 37-6-15(1)(2)*, “Before entering upon the discharge of the duties of his office, each member of the school board shall give a surety bond in the penal sum of Fifty Thousand Dollars (\$50,000), with sufficient surety, to be payable conditioned and approved in the manner provided by law. The school board may execute a blanket bond for each school district official and employee (including school business managers and any other employee who receipts and/or disburses school district funds) in the penalty of Fifty Thousand Dollars (\$50,000), unless a different penalty is prescribed by statute, to be payable, conditioned and approved in the manner provided by law. The premium on said bond shall be paid out of the school district maintenance fund.”

*Section 37-9-27*, “The superintendent of any school district, before entering upon the duties of his office, shall furnish a good and sufficient surety bond in the penal sum of One Hundred Thousand Dollars (\$100,000.00), with sufficient surety...”



*Section 37-9-31*, “All school principals and attendance center principals shall furnish good and sufficient surety bonds in like manner as required of superintendents. The amount of such bonds shall be not less than Fifty Thousand Dollars (\$50,000), with sufficient surety.”

*Section 37-39-21*, “The purchasing agent of any school board, before entering upon his official duties in such capacity, shall furnish a good and sufficient surety bond in the penal sum of Fifty Thousand Dollars (\$50,000), with sufficient surety.”

**Finding Detail:** During the review of the District’s surety bonds, the auditor noted the following exceptions:

- The following nine individuals were covered by a continuation certificate; instead of an official bond:
  - Superintendent;
  - Business Manager;
  - CTE Director;
  - One Board Member;
  - One Purchasing Agent;
  - One Bookkeeper; and
  - Three Principals.
- Bonds were not filed in the Chancery Clerk’s office for the following 12 individuals:
  - Superintendent;
  - Business Manager;
  - CTE Director;
  - One Purchasing Agent;
  - Four Board Members;
  - Three Principals; and
  - One Bookkeeper.
- One Principal’s bond was not on file within the District nor the Chancery Clerk’s office;
- The District’s purchasing authority policy designates the Superintendent, Business Manager, Director of Maintenance, Director of Auxiliary, and Principals as Purchase Agents; however, the Superintendent is the only individual bonded as such; and
- The Board did not make a finding upon its Board minutes that employees working as cafeteria cashiers, bookkeepers, and unidentified list of gatekeepers jobs handling of public funds is incidental to their job duties.

A continuation certificate is a document that extends the life of the original surety bond. A continuation certificate only covers the current bonding period rather than both the current and previous periods. In the event of fraud or misappropriation of funds, having continuation certificates instead of new bonds could limit the amount available for recovery if the loss occurred over multiple terms.

Failure to have a bond in place for a specific term of office could limit the amount available for recovery if a loss occurred over multiple terms and result in the loss of public funds. Additionally, failure to ensure all employees are correctly and sufficiently bonded, and the official bonds are filed with the Chancery Clerk’s resulted in noncompliance with state law and regulations.

**Recommendation:** We recommend the District ensure compliance by assuring all employees are properly and sufficiently bonded, as required by state law. Additionally, the District should ensure all bonds for employees and officials are filed with the Chancery Clerk’s office.

**District’s Response:** We are working to ensure compliance going forward. We have already gathered the names of potential gate-workers, bookkeepers and others who handle cash to obtain a blanket bond.

**Repeat Finding:** No.

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## INSTANCE OF NONCOMPLIANCE WITH FEDERAL LAW

**Finding 15:** The District Should Ensure Compliance with Federal Law Regarding Children's Internet Protection Act (CIPA) Procedures.

**Applicable Federal Law:** *Children's Internet Protection Act*, states, "Schools and libraries subject to CIPA may not receive the discounts offered by the E-rate program unless they certify that they have an Internet safety policy that includes technology protection measures. The protection measures must block or filter Internet access to pictures that are: (a) obscene; (b) child pornography; or (c) harmful to minors (for computers that are accessed by minors). Before adopting this Internet safety policy, schools and libraries must provide reasonable notice and hold at least one public hearing or meeting to address the proposal... Schools and libraries subject to *CIPA* are required to adopt and implement an Internet safety policy addressing:

- Access by minors to inappropriate matter on the Internet;
- The safety and security of minors when using electronic mail, chat rooms and other forms of direct electronic communications;
- Unauthorized access, including so-called "hacking," and other unlawful activities by minors online;
- Unauthorized disclosure, use, and dissemination of personal information regarding minors; and
- Measures restricting minors' access to materials harmful to them."

**Finding Detail:** During the review of the District's CIPA procedures, the auditor noted the District failed to educate minors about appropriate online behavior.

Failure to ensure that inappropriate online content was effectively blocked or filtered resulted in noncompliance with federal law.

**Recommendation:** We recommend the District ensure compliance by implementing adequate policies and procedures to ensure that children are being educated properly on appropriate online behavior, as required by federal law.

**District's Response:** This has been corrected and is now being implemented through the Computer Science curriculum.

**Repeat Finding:** No.

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End of Report