



REBECCA OTTO
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January 19, 2012

Superintendent Kevin Borg
Westonka Public Schools
5901 Sunnyfield Road
Minnetrista, Minnesota 55364

Dear Superintendent Borg:

The Office of the State Auditor (“OSA”) received concerns about Independent School District No. 277 - Westonka Public Schools’ (“District”) decision to retain Ehlers & Associates (“Ehlers”) as the District’s financial advisor in connection with bonds approved by District voters in the fall of 2011. Specifically, the OSA was asked whether the work with Ehlers should have been competitively bid.

The District’s contract with Ehlers is a professional services contract that does not need to be competitively bid. Professional service contracts are not subject to Minnesota’s Municipal Contracting Law, which requires the sealed competitive bid process to be used for certain contracts.¹ Minnesota law recognizes that, given the nature of professional services, seeking the lowest priced responsible bidder may not always be the best decision for a public entity. Instead, qualified interested professionals may be allowed the opportunity to obtain public contracts through a Request for Proposals (“RFP”) process.

Prior to 2009, the District used Ehlers as its financial advisor. In 2009, the District used the RFP process to review its contract with Ehlers. The District obtained proposals dated August 27, 2009, from three public financial advisors: Northland Securities, Springsted, and Ehlers. Based upon the proposals received and interviews of the three public financial advisors, the District decided to remain with Ehlers.

It is our understanding that the District consulted with Ehlers in 2010 in preparation for the referenda submitted to and approved by the voters in 2011. At its January 9, 2012, meeting the School Board unanimously voted to authorize Ehlers to solicit proposals for the general obligation bond sales and to open, read and tabulate the proposals received for presentation to the School Board.

¹ See Minn. Stat. § 471.345.

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It appears the District complied with Minnesota law when it retained Ehlers as its financial advisor for the referenda submitted to and approved by the voters in 2011. In addition, the District engaged in a periodic review of its financial services advisor, as recommended by this Office, when it used the RFP process in 2009. As a result, the Office of the State Auditor will not be taking further action on this matter.

Sincerely,

/s/ Nancy J. Bode

Nancy J. Bode
Assistant Legal Counsel
651-297-5853

cc. The Honorable David Botts, School Board Chair
Kern, DeWenter, Viere, Ltd, School District's Auditor