

Vanguard Procurement Audit Report

Background: Vanguard Academy is a public charter school in West Valley City, UT authorized by the State Charter School Board (SCSB). It has been enrolling students since the 2016 school year (SY) and serves students from grade seven through grade twelve. In SY2020, Vanguard Academy enrolled 468 students with total revenues of about \$4.8M. They ended SY2020 with 140 days of unrestricted cash on hand (at a minimum, charter schools should have 30 days of unrestricted cash on hand). Using the 2018-2019 Utah School Report Card, Vanguard Academy's achievement rate (which is the percentage of students who demonstrate mastery of grade-level standards in each subject) in English, Mathematics, and Science were 49%, 73%, and 41% while the average achievement rate for the State was 49%, 38%, and 35% respectively. Vanguard Academy had a graduation rate of 97% in SY2020.

Purpose: The SCSB received multiple complaints and media inquiries from the public regarding Vanguard Academy's procurement processes. As a result, the SCSB conducted an audit of their procurement practices. The purpose of the audit was to determine if Vanguard Academy followed procurement laws and Board Rules as interpreted by the SCSB.

Scope: This audit focused only on SY2020 which is from July 2019 to June 2020. For this audit, SCSB staff selected twenty (20) transactions to test. The twenty vendors tested represented about 80% of Vanguard Academy's expenditures excluding salaries and benefits.

List of Vendors tested in the audit:

1. Joy Palmer
2. O'Brien Property Maintenance LLC
3. Hannah Owen
4. Ensign Learning Center, Inc.
5. Southwest Education
6. U.S.S.A.
7. AVID Center
8. Rachelle White
9. Standard Restaurant Equipment
10. TechRight
11. Love and Logic Institute
12. Successbook
13. Dell Marketing L.P.
14. AAA Security
15. Advanced Building Care LLC
16. ZMPC9
17. Wepay Purchase
18. Premier Catering & Food Services
19. S. T. Distributing LLC
20. Amazon.com

The audit focused on testing the following criteria:

- was there a documented contract in place between Vanguard Academy and the vendor?;
- would a reasonable person perceive that there was any personal relationship, favoritism, or bias in the procurement process?;
- did Vanguard Academy obtain the required number of bids/quotes required by Board Rule?; and
- were internal control deficiencies noted in the procurement process?

The audit was conducted by SCSB staff based on documents sent by Vanguard Academy. Such documents included contracts, invoices, bid scoring sheets etc. After the audit was completed, SCSB staff met with Vanguard Academy's Business Administrator and a Board Member from their Finance Committee to go over the findings and to give Vanguard Academy an opportunity to prepare a response for the upcoming (June 10, 2021) SCSB Board Meeting.

SCSB staff did not do an in-depth audit of Vanguard Academy's Lunch Program because this evaluation is performed by the Child Nutrition Program (CNP) Department of the Utah State Board of Education (USBE), as required by the United States Department of Agriculture (USDA).

As part of the audit, SCSB staff also reviewed Vanguard Academy's enrollment, lottery, and marketing practices and did not find any violations or practices that were unreasonable or uncommon.

Although, this report focuses on exceptions and findings discovered as part of the audit, it should not devalue all the other exceptional things that Vanguard Academy is doing for its students and community.

Listed below are the findings from the procurement audit.

Findings #1 (Not Resolved) –The owners of seven out of the twenty vendors tested (O'Brien Property Maintenance LLC, Ensign Learning Center, Standard Restaurant Equipment, TechRight, AAA Security, ZMPC9, and Premier Catering & Food Services) appear to have had prior personal relationships with Vanguard Academy because these business owners all share the same last name. Therefore, SCSB staff asserts that a reasonable person would perceive that there was some form of favoritism or bias that influenced Vanguard Academy's objectivity in the selection of these vendors. In addition, four of these seven vendors (O'Brien Property Maintenance LLC, Ensign Learning Center, Inc., Standard Restaurant Equipment, and ZMPC9) and a Board Member share the same registered agent and address. It appears very unlikely that all these vendors could be associated with the same registered agent and address without some sort of prior relationship.

Criteria - R33-24-106 prohibits personal relationships, favoritism, or bias that would appear from a reasonable person's perspective to influence the independence or objectivity in the procurement process.

Effect - Personal relationship, favoritism, or bias in the evaluation of vendors is prohibited and prevents other vendors from having a fair opportunity to do business with Vanguard Academy. It could reduce the quality of services provided to Vanguard Academy and stifle innovation as these vendors would not feel the need to compete for Vanguard Academy's business.

SCSB Staff Recommendations – SCSB staff recommends that Vanguard Academy ask these vendors to reveal their owners (which is allowed as per 53G-5-404(12)) and redo the procurement process where other prospective vendors can compete. Vanguard Academy must ensure that the team that evaluates these vendors have no personal relationship, favoritism, or bias. Documentation for the bid evaluation should be kept.

Management Response – This finding was explained to Vanguard Academy and they are ready to provide a response to the SCSB in the upcoming (June 10, 2021) Board Meeting.

Finding #2 (Resolved) – The amount spent with Vanguard Academy's food vendor (Premier Catering & Food Services) appeared to be excessive. In SY2020, Vanguard Academy's food program expenditures were about 17% of their total revenue.

Criteria - Typically schools spend about 1-5% of their revenues on their lunch program.

Effect – This could be a violation of USDA's program and Vanguard Academy may not be reimbursed for their expenditures. Since these expenditures were significant (17% of total revenues), it could seriously affect Vanguard Academy's long-term financial viability.

SCSB Staff Recommendations – This finding has been resolved; therefore, SCSB staff does not have a recommendation.

Management Response – The excessive spending was due to Vanguard Academy participating in USDA's Summer Food Service Program and expects to be reimbursed for these expenditures.

Finding #3 (Not Resolved) – The food vendor (Premier Catering & Food Services) contract is for lunch meals but Vanguard Academy is also paying for breakfast meals. In addition, Vanguard Academy is paying the food vendor for employee meals.

Criteria – The food vendor should only provide services that are outlined in the contract and meals for employees should not be paid by Vanguard Academy.

Effect – Since the food vendor is providing breakfast, it indicates that Vanguard Academy and the food vendor are operating on an agreement that is not outlined in the contract. Using school funds to pay for employee meals misappropriates restricted funds that were allocated for student lunch meals.

SCSB Staff Recommendations – SCSB staff recommends Vanguard Academy conduct an RFP for breakfast meals and work with CNP with the process. Also, SCSB staff further recommends that Vanguard Academy stop paying for their employee meals and their employees should reimburse the lunch program for the meals that were paid.

Management Response – This finding was explained to Vanguard Academy and they are ready to provide a response to the SCSB in the upcoming (June 10, 2021) Board Meeting.

Finding #4 (Not Resolved) – Four requested vendor contracts (O'Brien Property Maintenance LLC, U.S.S.A., AAA Security, and ZMPC9) were not provided.

Criteria – When doing business with a vendor, it is important for both parties to have a signed contractual agreement because it outlines expectations for both parties, protects both parties if those expectations are not met, and specifies the price to be paid.

Effect – It appears that Vanguard Academy does not have a contract with these vendors. Without a contract, SCSB staff was unable to verify the amounts charged on the vendor's invoice to see if it agrees with the amounts that were agreed to.

SCSB Staff Recommendations – SCSB staff does not expect Vanguard Academy to enter a contract if the service is for something immaterial; however, if Vanguard Academy is getting continual service from a vendor or if the service amount is material, then Vanguard Academy should enter into a contractual agreement to protect both parties and to ensure that the expectations are outlined and met.

Management Response – Vanguard Academy acknowledged the need to enter contracts when doing business with vendors.

Finding #5 (Not Resolved) – Vanguard Academy did not obtain the required number of competitive bids or quotes for two of the transactions tested (AAA Security and Amazon.com).

Criteria – R33-5 requires Vanguard Academy to obtain a certain number of bids or quotes when procuring goods and services.

Effect – This is a violation of Board Rule and if Vanguard Academy does not obtain the required number of bids or quotes, then it does not allow other vendors to compete for business and it suggests that Vanguard Academy is not certain that they are getting the best deal available.

SCSB Staff Recommendations – SCSB staff recommends that Vanguard Academy put procedures in place to ensure that the required number of bids or quotes are always obtained as per Board Rule. SCSB staff also recommends that Vanguard Academy renegotiate these services and obtain the required number of bids or quotes to ensure that other vendors can compete for Vanguard Academy's business.

Management Response – School acknowledged this finding and will work to correct their procurement process so that the required number of bids or quotes are always obtained as required.

Finding #6 (Not Resolved) – SCSB staff noted that the gym facility Vanguard Academy uses (ZMPC9) states on their website that, “you must be a member of the LDCC in order to use the gym facility.” SCSB staff does not know what LDCC stands for; however, this was concerning to SCSB staff because it appears to exclude students that are not members of LDCC.

Criteria – Schools must provide services to all students and should not require a certain type of membership to use the gym facility.

Effect – Requiring a LDCC membership to use the gym facility discriminates against students that are not members of LDCC.

SCSB Staff Recommendations – SCSB staff recommends that Vanguard Academy enter into a contractual agreement with the facility that outlines that all students, even those that are not members of LDCC, can use the gym facility. If possible, they should ask the vendor to state on their website that if the gym is rented by Vanguard Academy, then they will not require participants to be LDCC members.

Management Response – Vanguard Academy explained that all students are allowed to use the gym facility regardless if they are not LDCC members. They stated that, “When rented by Vanguard, it is open to all staff, students, and guests of Vanguard.”

Finding #7 (Not Resolved) – One vendor (ZMPC9) bills their invoices as donations and these payments are not reported as donations in Vanguard Academy’s audited financial statements.

Criteria – Vanguard Academy is paying for a service therefore payments should not be billed as a donation.

Effect – A payment is the transfer of money from one party to another. A payment is usually made in exchange for the provision of goods, services or both, or to fulfill a legal obligation while a donation is a gift given for charitable purposes and/or to benefit a cause. If such payments are donations, then they should be reported as such on their audited financial statements.

SCSB Staff Recommendations – SCSB staff recommends that Vanguard Academy carefully review each invoice to ensure that they are not being invoiced as donations. Vanguard Academy should have the vendor write a letter acknowledging that past payments were actual payments for services received and were not donations.

Management Response – Vanguard Academy was not aware that the vendor’s invoice stated “donations” and will contact the vendor to correct their invoices.

Finding #8 (Not Resolved) - Two facility lease amendments with Vanguard Academy's landlord (Ensign Learning Center, Inc.) were not submitted to the SCSB for review and advice as per Utah Code 53G-5-404(9).

Criteria – 53G-5-404(9) states that, “[...] a charter school, [...] shall submit any lease, lease-purchase agreement, or other contract or agreement relating to the charter school's facilities or financing of the charter school's facilities to Vanguard Academy's authorizer and an attorney for review and advice before the charter school enters the lease, agreement, or contract.”

Effect – The facility lease review by the SCSB helps prevent charter schools from getting into unfavorable facility agreements. It provides another set of eyes to help review the agreement to ensure that it is reasonable and in line with the charter school's goals.

SCSB Staff Recommendations – SCSB staff recommends that all future lease agreements or amendments be sent to the SCSB for review and advice prior to entering into the agreement.

Management Response – Vanguard Academy acknowledged this finding and is ready to provide a response to the SCSB in the upcoming (June 10, 2021) Board Meeting.

Finding #9 (Not Resolved) – The facility lease agreement (Ensign Learning Center, Inc.) was signed by Vanguard Academy's Director instead of the Board Chair.

Criteria – Typically, facility lease agreements are signed by the Board Chair in order to have proper segregation of duties and to allow the Board to exercise proper due diligence. SCSB staff reviewed the lease agreements of ten other charter schools authorized by the SCSB and noted that they were all signed by their respective Board Chairs.

Effect – Since Vanguard Academy's governing board is in charge of oversight, it should be the one that signs the agreement in order to demonstrate proper due diligence and oversight of their largest expenditure.

SCSB Staff Recommendations – SCSB staff recommends that Vanguard Academy amend their facility lease agreement so that it can be signed by their Board Chair.

Management Response – Vanguard Academy's Director was involved in the procurement of the facility and was aware of the negotiations that took place. Therefore, Vanguard Academy felt that it was ok to have the Director sign the agreement. Vanguard Academy acknowledged this finding and is ready to provide a response to the SCSB in the upcoming (June 10, 2021) Board Meeting.

Finding #10 (Not Resolved) - For one of the twenty transactions tested (TechRight), although three bids were received, however, one of the evaluators appears to have a personal relationship (extended family) with the owner of the business. Although this evaluator and the owner of the business are not considered to be family as defined by 63G-6a-2402(3) which states that, “a family member means a father, mother, husband, wife, son, daughter, sister, brother, uncle, aunt, nephew, niece, first cousin, mother-in-law, father-in-law, brother-in-law,

sister-in-law, son-in-law, or daughter-in-law.”, it appears that this evaluator’s independence and/or objectivity may have been influenced due to the perceived prior relationship.

Criteria - R33-24-106 prohibits personal relationships, favoritism, or bias that would appear from a reasonable person’s perspective to influence the independence or objectivity in the procurement process.

Effect - Personal relationship, favoritism, or bias in the evaluation of vendors is prohibited and prevents other vendors from having a fair opportunity to do business with Vanguard Academy. It could reduce the quality of services provided and stifle innovation as these vendors would not feel the need to compete for Vanguard Academy’s business.

SCSB Staff Recommendations – SCSB staff recommends that Vanguard Academy review their procurement procedures and put proper controls in place to prevent evaluators from having perceived personal relationships, favoritism, or bias with the vendor being evaluated.

Management Response – Vanguard Academy acknowledged that this was not their intention but they could see how it could be perceived this way. Vanguard Academy is ready to provide a response to the SCSB in the upcoming (June 10, 2021) Board Meeting about how they plan to correct this finding.

Finding #11 (Not Resolved) - School paid a signing bonus to a new employee (Rachelle White) but could not provide any documentation showing who approved the bonus or that it was approved by their Board.

Criteria – SCSB staff expects to see documentation showing who approved the signing bonus and some type of rationale for the amount paid.

Effect – Without proper documentation showing who approved the signing bonus or a policy that demonstrates how much the signing bonus should be, there is no way for Vanguard Academy to demonstrate that the bonus was approved and justified.

SCSB Staff Recommendations – SCSB staff recommends that Vanguard Academy develop a policy to address the payment of signing bonuses. This policy should demonstrate who can approve a signing bonus and should stipulate a range of amounts that can be paid. Anything paid outside of that range should require additional approvals by Vanguard Academy’s Board.

Management Response – Vanguard Academy stated that they pay signing bonuses to attract highly qualified employees. They acknowledged this finding and is ready to provide a response to the SCSB in the upcoming (June 10, 2021) Board Meeting.

Finding #12 (Resolved) – Vanguard Academy has approximately twelve related party teachers and/or counselors but did not appear to have a policy that addressed the hiring of relatives.

Criteria – Since Vanguard Academy hires a significant number of related party teachers and counselors, they should have a policy in place.

Effect – Hiring many related party teachers and counselors could prevent Vanguard Academy from hiring other qualified staff.

SCSB Staff Recommendations – This finding has been resolved; therefore, SCSB staff does not have a recommendation.

Management Response – Vanguard Academy provided their Employment of Relatives policy to SCSB staff.

Finding #13 (Not Resolved) Vanguard Academy's Procurement Policy states that purchases of goods and services over \$5,000 need Finance committee approval. However, six of the twenty transactions tested (O'Brien Property Maintenance LLC, Ensign Learning Center, Inc., Southwest Education, AVID Center, Premier Catering & Food Services, and Amazon.com) were over \$5,000 and there was no documentation showing their Finance Committee approval.

Criteria – Vanguard Academy's Procurement Policy requires their Finance Committee to approve transactions over \$5,000. Documentation for such approvals should be kept.

Effect – It appears that Vanguard Academy is not following their own internal Procurement Policy which demonstrates a lack of internal controls.

SCSB Staff Recommendations – SCSB staff recommends that Vanguard Academy follow their internal Procurement Policy and keep documentation of the approval.

Management Response – This finding was explained to Vanguard Academy and they are ready to provide a response to the SCSB in the upcoming (June 10, 2021) Board Meeting.