

The School Board of Broward County, Florida
AUDIT COMMITTEE

MINUTES OF AUDIT COMMITTEE MEETING

March 24, 2011

Mr. Steve Hurst, Vice Chair, called the Audit Committee meeting to order at 12:30 p.m. at the Kathleen C. Wright Building in the 1st Floor Board Room. Members and guests were introduced.

Members Present: Ms. Charlotte Greenbarg
Mr. Anthony De Meo, CPA
Mr. Ken Evans
Ms. Mary Fertig
Ms. Alex Mores
Mr. Andrew Medvin, CPA
Ms. Mary Lou Ruderman, CPA
Ms. Cynthia Samuel

Staff Present: Mr. James F. Notter, Superintendent, Superintendent of Schools
Ms. Marilyn Batista-McNamara, Interim General Counsel, Office of General Counsel
Mr. Thomas Cooney, Office of General Counsel
Ms. Lynette Tannis, Intern Superintendent, Superintendent's Office
Mr. Patrick Reilly, Chief Auditor, Office of the Chief Auditor (OCA)
Ms. Ann Conway, Director Operational Audits, OCA
Ms. Delores McKinley, Director Internal Audits, OCA
Mr. Dave Rhodes, Director Facility Audits, OCA
Mr. Joe Wright, Facility Auditor, OCA
Mr. Mark Magli, Supervisor, Property Audits, OCA
Ms. Patricia McLaughlin, Confidential Clerk Specialist C, OCA
Ms. Megan Gonzalez, Confidential Clerk Specialist B, OCA
Ms. Sharon Airaghi, North Area Superintendent
Dr. Desmond Blackburn, Central Area Superintendent
Dr. Joel Herbst, South Area Superintendent
Mr. Jeff Moquin, Executive Director, Support Operations
Mr. Oleg Gorokhovskiy, Accounting and Financial Reporting
Mr. Thomas Lindner, Acting Deputy Superintendent, F&CM
Mr. Denis Herrmann, Director, Design & Construction Contracts
Mr. Henry Robinson, Treasurer
Ms. Laurel E. Thompson, Student Services Department
Ms. Rosemary A. Russo, Student Services-Family Counseling Program
Ms. Sue Rockelman, Manager, Human Resources

Special Presentation

A New Member Orientation Meeting was held from 11:30 a.m. – 12:30 p.m. Members in attendance were Ms. Charlotte Greenbarg, Mr. Steve Hurst, Mr. Ken Evans, Ms. Alex Mores, Mr. Andrew Medvin, Ms. Mary Lou Ruderman, and Ms. Cynthia Samuel. Staff from the Office of the Chief Auditor included Mr. Dave Rhodes and Mark Magli.

Old Business

A motion was made to approve the minutes for the February 10, 2011 Audit Committee meeting.

Motion carried.

Current Status Report – Follow-Up Items

Follow-Up Item #1 - Update on the Audit of the Ashbritt, Inc. and C&B Services Invoices for District Portable Repairs Related to Hurricane Wilma – July 23, 2009

Mr. Patrick Reilly began “This is an update on the audit of the Ashbritt Inc. and C&B Services Invoices. The Committee asked for an update and asked whether a demand letter had ever been requested by the Committee last year. We have attached the Audit Committee minutes to the Follow-Up Report, which identified that there was a request by the Audit Committee at the January 28, 2010 meeting.”

Mr. Thomas Cooney stated “We are still involved in the discovery aspect of the lawsuit between Ashbritt and the School Board. Mr. Reilly suggested some additional discovery, which we did, and we’ve since provided you with copies of all the discovery pleadings to this point and will continue to keep you copied on those items. It’s ongoing and as I mentioned last month, will take several months to complete. There is really no new information that I could provide that would be helpful to you.”

Mr. Steve Hurst asked “Relative to the discovery, what teeth do you have, to say, at what point, do you seek an arbitrator, a mediator, or some sort of legal venue to say we need this discovery? Is there a time frame and/or a venue where you can pursue that so that we can understand the direction in which we are heading?”

Mr. Cooney replied “At this point, we have had some issues related to not wishing to give up discovery and we are pursuing that through the court system. We take that on a case-by-case basis, but in discovery, you’ve got very set deadlines when things must be submitted, unless you request an extension of time for good reason and are granted that time. It is a very orderly process that we will proceed through with the court’s guidance and direction and if we need to, enforcement. Once we get to the point and are confident that we’ve gotten everything we’ve asked for, that will be the point where we’ll go to the next phase, which would be trying to resolve the matter, if we can. If not, then we will proceed toward litigation. Our client is the School Board itself, so once we get to that point, we would come back to the School Board in a closed door session and receive guidance from them.”

Ms. Marylin Batista added “If we have a settlement interrogatories request or a request for production, for which we’re requesting documents or answers, and there is an objection from the other side, then we will go before a judge for a hearing. The judge rules on whether or not their objection is meritorious or whether we are entitled to have the documentation or responses that we are requesting.”

Ms. Charlotte Greenberg asked “Regarding the demand letter, I believe we asked if the District had ever sent one, and the answer is ‘No’, the District had never sent Ashbritt a demand letter. Is that correct?”

Mr. Cooney and Ms. Batista confirmed that a demand letter had never been sent.

Ms. Greenberg added “Ashbritt is saying ‘We won’t give you the documents because they are not relevant to the issues as framed by the pleadings and not reasonably calculated to lead to the discovery of potentially visible evidence.’ I find that amusing.”

Ms. Batista said “That’s the normal response. That’s the general objection.”

Mr. Cooney added “You’re referring to an objection to a request we have from a non party, so we’re going to proceed in front of the court shortly on that.”

Ms. Greenberg continued “Having looked at this from ‘day one’ when that audit was presented, if this were my money or the personal money of the people dealing with it, I think it would have been handled a lot differently. This has been dragged out, \$177,000 worth of fees to an auditing company that was hired to look at our auditor’s work.”

Ms. Batista stated the correct amount was \$120,000. Those people will serve as the experts in the case if we need to have someone testify. The general thinking would be that it’s inappropriate to have employees of the District as experts testify for the case.”

Follow-Up Item #2 – Internal Fund Audits – January 28, 2010

Mr. Reilly stated “This item is regarding several discussions we had about the collection process of monies transacted at the schools that are due to the general fund. At the last meeting, a draft was requested relating to the activities to quantify the procedures for the reimbursement to the general fund for internal account activities of the school. Mr. Oleg Gorokhovskiy can give you a more in-depth update regarding what is needed on the budget side. On the internal side, an adjustment was made to the already existing Standard Practice Bulletin on other remittances, to include this type of remittance. There are similar remittances currently for facility rentals, sales tax and similar items.” He added that a “Due to General Fund” account would be added to address this issue.”

Mr. Gorokhovskiy stated “As stated in prior meetings, internal account transactions such as field trips, athletic activities, etc. represent wages for staff participating in internal account activities. These activities are charged to the District’s payroll and must be reimbursed by schools. There are three important points, as listed in the Standard Practice Bulletin that Mr. Reilly mentioned. One is that the schools having internal account balances due to the General Fund must be repaid monthly. Schools are aware of this, as this was implemented in late August and early September of 2010. The second point is that the Accounting/Financial Reporting Department will distribute

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“Due from Internal Accounts” reports to schools via email on a monthly basis. These reports are available to schools at any time. Thirdly, if any schools fail to pay their balances on a quarterly basis, we will charge those schools these amounts.” Discussion followed.

Ms. Greenberg thanked Mr. Gorokhovsky for his quick response and assistance.

Mr. De Meo asked “Are these authorized expenditures?”

Mr. Reilly said “Yes, for example, if a school was attending a field trip and needed a school bus, they would arrange for the bus. That Principal needs to approve that expense first and ask the Bookkeeper if that club/organization had the funds available for that expense prior to approving the expense.” Discussion followed.

Follow-Up Item #3 – Vending Machines – December 13, 2010

Mr. Reilly stated “There is no current update at this time. We are working on an audit program to address all the vendors that provide vending services to the District. We will bring this forward at a future Audit Committee meeting.”

Regular Agenda

Internal Audit Report – Audit of the Internal Funds of Selected Schools in the North, Central and South Areas

Mr. Reilly stated “This report contains 26 schools. There were 23 schools that complied with the policies and procedures for Internal Fund Accounting. There were 3 schools that contained some audit exceptions in the areas of facility rentals, negative account balances, internal advances, late remittances and improper use of student funds, used as the discontinued Principal’s discretionary funds. The issue related to facility rentals was the problem of allowing the rental of the facility prior to receiving payment, resulting in delays in receiving payment, which included an NSF check. In addition, the school did not receive payment for over a year after the facility rental.”

Ms. Greenberg asked “Where is the Principal now who was at McArthur High?”

Dr. Herbst answered “The Principal is now in the Student Services Department.”

Mr. Andrew Medvin asked “What was your basis for selection of these particular schools?”

Mr. Reilly replied “We are required to audit all schools annually and this was a scheduled group that we completed since the last meeting.”

Mr. Medvin said “Do you audit every transaction?”

Mr. Reilly answered “No, we develop an audit program each year and we sample various transactions within the internal fund accounts. It’s a customized audit program each year.”

Mr. Medvin asked “What does it mean on the report concerning payroll where it states ‘the school generally adhered to payroll procedures?’”

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Mr. Reilly replied “The school basically performed payroll procedures in accordance with the policies. There may have been some minor exceptions related to a missing signature on a leave document, but overall, the procedures were in place.”

Ms. Fertig asked if a schedule could be created that would show the schools that are not in compliance regarding use of vending commissions and verification of the commissions received by each machine.

Mr. Reilly said a schedule could be made.

Ms. Greenberg was happy to see improvement with the internal audits.

Mr. Hurst asked “On the schools that contained exceptions, was there any follow-up and how soon do they follow up on schools with repeat findings?”

Mr. Reilly replied “It’s on a case by case basis. If it is felt that a school should be re-checked or training be provided, it would be prioritized accordingly. In most cases, the Area Superintendent sends someone to follow up on the school, as well as our Audit staff in some instances.”

Mr. Hurst asked “What is Great Plains?”

Mr. Reilly stated “It is the electronic general ledger program for internal funds.”

Mr. Hurst asked “It has the feature where you can review from any location the transactions from any school/location through a server. Is that correct?”

Mr. Reilly replied “Yes.”

Mr. Hurst asked if it was possible to put the property information on this program.

Mr. Reilly answered “Yes.”

Mr. Hurst asked the Area Superintendents “What follow ups have occurred with these three schools that had exceptions?”

Dr. Herbst answered “Generally, we follow up with the Area Office and Area Directors and Ms. McKinley does a great job working with us in following up with schools that have exceptions. Often, inservice training is provided to the individual, as needed.”

Mr. Hurst asked “Is it a concern that we’re again seeing funds used as Principal’s discretionary monies?”

Dr. Herbst replied “Mr. Reilly and I have talked in great lengths about getting a procedure in place to educate the Principals and also what would be permissible for the use of these funds.” Discussion followed.

A motion was made to transmit. Motion carried.

Internal Audit Report – Property and Inventory Audits of Selected Locations

Mr. Reilly stated “This report contained fifty-three locations. There were forty-five locations that complied with procedures and policies related to property and inventory. There were eight locations that had some type of audit exception noted during the physical inventory audit. As you can see on the schedules on page 4, the number of unlocated items is significantly reduced to single digit exceptions in most cases.”

Mr. Mark Magli stated “There were some responses related to downplaying the number of items unlocated since they were fully depreciated. These items still need to be accounted for, especially if they are still useful assets.”

Mr. Hurst asked if there were any additional items located after the audit.

Mr. Magli stated “No. Some of the improvements had been made, for example, Cypress Bay, when we first audited them, had over 800 errors in the recording of asset information. This time there was a significant improvement, due to corrections they made.”

Ms. Greenberg discussed schools with repeat exceptions and stated that these were not acceptable and asked where the Principals were now who were at these schools when these exceptions occurred.”

The Area Superintendents provided that information.

Discussions followed pertaining to equipment that was out on repair that was not properly documented.

Mr. Magli stated he had met with those Principals to ensure that they were aware of the procedures for handling equipment out for repairs or issued on property passes.

Mr. Medvin asked “What was your basis for selection of these particular schools?”

Mr. Magli replied “We are required to audit all schools annually, although it’s difficult with a limited staff.”

Mr. Medvin asked if the schools maintained a list of assets.

Mr. Magli said “Yes, they need to account for all items exceeding \$1,000. Many items have slipped through the cracks, such as computers that are purchased for slightly less than \$1,000, and those items should be added to an inventory list. A Business Practice Bulletin was completed, which suggests all items, such as computers, be tracked, that are under the \$1,000 threshold.”

Mr. Medvin asked if the biggest problem was with laptops.

Mr. Magli replied “Laptops are a main problem. Often items are there, but are not recorded on the master list.”

Mr. Medvin asked “Does each individual school order their own equipment?”

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Mr. Notter stated “The schools and departments can purchase equipment with their grant funds. Equipment is also donated to schools or departments.”

Mr. Medvin asked who was responsible for the monitoring of equipment at each location.

Mr. Magli stated it was the Principal or Department head.

Ms. Fertig asked regarding page 60 “What was the reason that the process improvements were not implemented by Dr. Melita and Lynn Strong?”

Mr. Magli replied “I can’t answer that, but I do know the proponents for monitoring were not implemented.” Discussion followed.

Ms. Fertig said she liked Mr. Golt’s response. “I hope we have the same standards for departments as for schools.”

Mr. Ken Evans asked “When was this report done for Tradewinds Elementary School? Are audits done at the end of each school year?”

Mr. Magli replied “They need to perform a download of their PNI 811 and review their inventory.”

Mr. Evans asked “Are these computers used by staff or students?”

Ms. Sharon Airaghi stated “These computers were in a lab and since they were no longer under warranty and could not run the newer software, some of them were sent to B-Stock, and some of the paperwork was not done correctly. I’m sending someone out to do a random sampling of their inventory.”

Mr. Hurst asked if the SIU Department was under the Area Superintendents. The answer was no.

Mr. Hurst asked “The older stuff that we keep seeing, what can be done to prevent these repeat findings?”

Dr. Herbst said “We need to continue training our Principals into a new mindset, so they don’t view equipment with a date stamp on it, rather they review it as equipment. We want to ensure we have the correct paperwork, etc.”

Mr. Hurst asked “Does anything address the procedure when staff loses equipment?”

Dr. Herbst replied “If equipment is assigned to an individual using a property pass, and it is lost or stolen, the District will replace the item.”

Mr. Hurst asked “What if the equipment is lost a second time by an individual? Is the person responsible for repaying the District?”

Dr. Herbst answered “No, Sir. Contractually, we could not charge a teacher or administrator for a lost or stolen item.”

Mr. Magli emphasized the importance of downloading a PNI 811 and performing a semi-annual inventory check, and the removal of surplus inventory.

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Mr. Notter stated “Going back to the comment Ms. Fertig made about SIU, when administrators are in DROP or scheduled for retirement, we should do a property audit prior to their leaving.”

Ms. Greenbarg asked if the Business Practice Bulletin was the one that was started a couple of years ago.

Mr. Magli replied “Yes.”

Mr. Notter said “When we take a look at the inventory items and categorize them, there’s value in taking a look at high frequency loss items, come up with at least a recommendation of what should be done. We should take some of these audit recommendations that the Audit Committee has made and codify them. Whether we have the funding or not, we can keep the item open for future implementation, for example, the GPS system for PPO trucks. I think we need to include these things in our budget process and keep them active until funds are available.”

Mr. Hurst recommended that we develop a schedule of audit recommendations to be provided to the School Board as suggestions for cost saving ideas coming from the Internal Audit Department. A motion was made and seconded.

Mr. Reilly stated that he would like to see a Director of Property Audits position created in the Office of the Chief Auditor.

A motion was made to transmit. Motion carried.

Audit of the Family Counseling Behavioral Health Program Grant

Mr. Reilly presented the Audit of the Family Counseling Behavioral Health Program Grant. He presented the Statement of Grant Assistance for the period ended September 30, 2010. Mr. Reilly stated that this Statement was presented fairly in all material respects; cash receipts and cash disbursements were tested. This grant is audited on an annual basis in accordance with the grant agreement.”

Ms. Greenbarg asked “How were the expenditures in the amount of \$7,409 covered that were in excess of the School Board’s approved amount?”

Ms. Ann Conway replied “It comes from the General Fund.”

Ms. Rosemary Russo explained the services provided by this grant. Discussion followed.

Ms. Alex Mores asked if any compliance audits were performed.

Ms. Conway stated “We perform a financial audit. Broward County performs a compliance audit. Ms. Russo does an excellent job with this program. The annual audit we perform is a county contract requirement.”

A motion was made to transmit. Motion carried.

Current Status Update of the Operational Audit of the Facilities & Construction Management Division

Mr. Reilly stated “In March 2010, we performed an operational audit of the Facilities & Construction Management Division at the request of the Superintendent. What we’re presenting today is a current status update of that audit. The original audit had seven findings/recommendations, of which four are identified as “in progress” and three are “completed”. The three completed findings/recommendations related to payroll and mileage procedural deficiencies, based on the reviewed sample, have now been corrected. Of the four construction related findings/recommendations in progress, two are in litigation and two are related to Notices to Proceed and contract administration. Two of the findings have led to additional findings, based on our current status review related to reimbursable monies from contractors and negotiated fee processes.”

Mr. Dave Rhodes began “The first new finding was related to the analysis and the agreement not to pursue reimbursement on the amounts that were identified in the original audit. As part of the documentation we had asked for, the analysis that Facilities had performed, leading up to the decision, when we looked at those transactions and tried to compare those to the contract, we determined that approximately \$26,000 of the \$101,000 were monies that the contractor was entitled to. The remaining \$75,000 was for items that were either not properly documented or change orders were not processed to authorize expenditures and were ultimately paid. As of now, the only way to resolve this is through a reimbursement. While we were looking at the contract terms and conditions and tracking those amounts, we identified some additional findings. The first of five, beginning on page 10, identifies that, as a result of the contract stating that no changes, amendments or modifications of any of the terms and conditions shall be valid unless reduced to writing and signed by both parties. We identified that there was a duty by both sides, the TPM and the School Board, not to submit invoices by the TPM and not to process those invoices by the District, respectively. That was just for those amounts that we identified that were disallowed out of that total of \$101,000. On Item #2 of this finding, looking at the responsibility of the Project Managers to enforce the terms and conditions of the contract and ensure that the contract is being administered and they’re not approving invoices or any portion of an invoice without first having identified that the appropriate back-up documentation is there and that it ties back to the terms and conditions of the contract. Item #3 was identified when we were looking at this; we went back to the original RFP and determined that there were some specific requirements outlined during the solicitation process that said to the prospective TPM firms that you have to provide this District with permittable drawings within 60 days of your 365 day contract. When we first observed that, we were concerned because we realized that a lot of these different projects, we documented that they were between 7 months to over a year old and still had not received a building permit. We started questioning if there was a potential that the District not only be owed back for the amounts of money that were involved in the overpayments, but is there a potential, because it’s a TPM, (Total Program Management) turn-key type contract, that there could be money owed back to the District because the firms were tardy. We looked at and determined that the terms and conditions of the RFP were not expressly included in the contract, and so we asked our attorneys the specific question, which is included in one of the exhibits, whether or not the terms and conditions are automatically included as a part of the agreement (contract). The answer was no. Because the answer was no, we felt that it was appropriate to request and recommend that on all Invitations to Bid, Requests for Qualifications

and Requests for Proposals, that the terms and conditions stated in the solicitation process and any of the other material pieces be included into the executed contract as a matter of fact on all future construction related contracts. Again, in this instance, there was a 60 day timeframe, which did not carry over into the contract.”

Mr. De Meo asked “You’re asking for a simple incorporation of the language into the contract?”

Mr. Rhodes answered “Yes, that’s what we’re asking for. In regard to liquidated damages with a construction portion of a contract, but when you’re dealing with a Total Program Manager, who holds all the contracts, there could have arguably been money that was due back to the District, because of them not getting their drawings permitted in the timeframe that was originally identified during the solicitation process. Either way, we felt that was an important part that we have that included in all future design and construction contracts. Item #4 – At the time this agenda item where this contract was awarded to this contractor, the agenda item stated that they were recommending that the Board approve the contract and at the same time, that the Board authorize for them to begin negotiations. What we identified is that one of the exhibits of that Board item was a matrix of the already negotiated fees. What we’re saying, simply, is that you put the cart before the horse. Get the authorization, do the negotiations, and then bring those forward for approval at a later time. Item #5 is simply an example of contract language that was problematic and identified that the contract, in general, needs to be looked at and strengthened if the TPM template is to be used again. The example given here was the firm had identified that the invoice for \$18,488 was for bidding and award phase fees. The contract states that bidding and award phase fees shall be payable upon presentation of the guaranteed maximum price to the SBBC by the Total Program Manager. In other words, they can hand us something, but whether we approve it, understand it, agree or disagree with it, but because they submitted it to us, they are now able to bill us for the bid and award phase fees, although we’re not sure whether we’re going to give them authorization to go to the next stage. What we stated was simply an example of what the contract could read that would say bidding and award phase fees shall be billable upon approval of the GMP and upon issuance of that Notice to Proceed with that bid and award phase. Now we’ve got a check and balance in place whereby the Board has to approve that guaranteed maximum price before they’re able to bill. What we found was three of the four projects that are in this finding; we actually identified that there were GMP’s in whatever condition issued so that we gave them credit for those three GMP’s and the actual bid and award percentage that they had asked for, and that’s part of the \$26,000 that we actually documented for which they should have been entitled. With those five points, they all tied back to things that we found while trying to perform the current status.”

Mr. Rhodes continued “In the new Finding #2, we identified through asking for documentation that gave us a sense of certainty that they had actually performed the bid and award process, we asked them for miscellaneous supporting documents. One of the sets of documents that we received from them was the different advertisements that they had pulled in the Sun Sentinel, Miami Herald and another construction journal. This identified that for the fees that they were being paid in the amount of \$10,100,000, they were only advertising for three of the sixteen construction disciplines, let’s say, for the purposes of this discussion. All we were saying in this finding is that if you’re going to give a flat rate fee based on the value of the contract, then the District is not getting the best bargain, when you see someone else is getting 15% fees to manage and administer fourteen to sixteen of those different divisions of construction, being anything

from building shelves, roofing, air conditioning, electrical. All those things, in this case, were identified as only having taken bids to manage three of those fifteen categories, but were being paid 25% fees, based on project costs, so we need to make sure that the scope of the work is looked at, as well as the budget, when determining what percentage of fees is applicable, because, they were not doing one fifth of the work of some of the contractors who have done this for the same or less fees in the past. We felt that it was important to at least identify that we looked at the scope, as well as the project budget when that negotiation process is happening.”

Mr. Notter asked “On Finding #5, I know I’ve sat through Audit Committee meetings and Board meetings where we’ve had multiple GMP’s. Is this clear enough for Tom or should we say ‘final GMP?’”

Mr. Rhodes stated “I think each individual project had a separate negotiated guaranteed maximum price, but we’re only talking right now about the fee structure. That’s as far as this group of projects has gotten. We’ve also made past recommendations that in the future, this contract was executed before those recommendations were made, but we’ve made since then that any future contracts do not include multiple guaranteed maximum prices for multiple projects in a single contract. It makes cancellation or reconciling a GMP problematic, in some instances. Because we’re talking about each individual project having a separately negotiated GMP, whether it be in a single contract from the past or a single contract moving forward, I don’t think this language is problematic.”

Mr. De Meo said he agreed that the GMP should stand on its own and be identifiable individually.

Mr. Rhodes said “Each of those individual projects needs to be accounted for separately to allow for proper reconciliation, so the owner can realize any owner savings that are available from the project.”

Mr. De Meo stated “I think the language needs to be more comprehensive. I don’t think it says that yet.”

Mr. Rhodes said “Yes and no. The intention of the finding is a result of language that we found that needed to be strengthened to ensure that the next phase, bid and award, would not be allowed to happen until something more concrete had been identified. This finding and this language was not meant to address the specific question Mr. Notter asked. Again, because each GMP is something that should be accounted for, one by one, on the negotiated amounts, and eventually, a cost of work, that is generally where we get any money back. That’s a different animal. I think this language proposed is sufficient for what the scope is and what it is addressing. I think it’s a very important piece that we should take forward.” Discussion followed.

Mr. Tom Lindner stated “First off, the concept of TPM, in actuality, you should be in Total Program Management, regardless of if you have 10 different projects and if you bundle them together, you should come up with a TPM environment with one GMP. If you’re going to break out projects, and you want to account for each one of those, there should not be such a thing as multiple GMPs. Those projects should be split out and done individually, in the classic TPM model. We have created an accounting system in the TPM model, which allows us to track individual cost per project, which is counter-intuitive to the original design of the TPM process.

We executed it wrong. That's just based upon the classic model, the way I learned it back in the day and the way it's done in the real world. The second issue is in the contracts that were written, some of them we know, they're in overhaul; we've got a full-time person working on those contracts, and we're working very closely with Legal. I absolutely agree that the contracts have been written; we're the customer. Our contracts do not support us as the customer. This has always been an issue. We've had similar issues in the past with our purchasing contracts, which we overhauled five or six years ago. We had similar issues that we corrected. This is just the next stop in the chain. It's not necessarily the contract either. When you really dig down into this, it's the execution of the contract that was flawed; the failure to enforce the mechanisms that the contract allowed us to leverage against the performance of the contract. There's always this human element here which really is what drives most of these issues that I discovered over at Facilities."

Mr. De Meo said "What language do you think should be in the contract?"

Mr. Lindner replied "There should be very specific contractual language, if you're going to account for multiple GMPs; it should be in your contract and it should discuss the accounting methodology as well as the requirements that involve . . . Normally, in TPM, for instance, the contractor has the freedom to move money anywhere inside that total program, so if he comes up against something in another school where, let's say, he's doing 10 schools, and he has to transfer funds to pay for the sub-contractor who's working at that school, he has the freedom to do that. That's not the way we do business. Our TPM contracts aren't structured under the real classic TPM model. What we really should be doing is, if we're going to do individual projects like this, we should put them out individually. We may not see the benefit, the perceived benefit, the reason you bundle this is because you're hoping to get a volume discount. Our real experience was not really that. With the classic model, you should put it out for bid, or as a separate project."

Ms. Greenberg stated "I think it's important that the auditors and the attorneys sit down and hash out what's wrong with the contracts on a collaborative basis and fix them."

Mr. Rhodes said "I agree with that. Secondly, the part that becomes problematic is a cost plus fee delivery method. The idea is that any savings that are shared, in our case, generally revert back to the owner. The problem is with what Tom is saying is it makes it harder for us to hold the contractors' feet to the fire if there is the ability to move cost of work, let's call it available amounts from one job to another, because then there's really no guarantee on any single project. Where he says go to a single project, single contract, single guaranteed maximum price, I agree that's a much better way to do it and a much better way for us to understand and realize the savings and account for them. When we're administering a contract, it's not at the discretion of the contractor to move funds within that contract. That's why the owner has change orders and contingency use directives, another version of a change order, and that is so the owner has the final authorization and final say as to whether those funds can or should be used in the way that the contractor wanted to use them. I think what Tom was saying is that in that delivery method, it can be utilized, but in the way we use it."

Mr. Lindner agreed. "The only savings you get in a TPM are in direct owner purchases and unused contingency."

Mr. Rhodes added “And savings on sub buy-outs. If they actually put in their GMP, for example, for \$5 million in construction costs, their bids come in at \$4 million, that million dollars reverts to the owner. That’s another place, other than contingency, that the savings can come from.”

Mr. Lindner stated “In TPM, they bid before they give us the GMP, so we’ve already gotten the buy-out in a classic TPM model, so we essentially get that up front.”

Ms. Greenberg added “We want them to come up with a contract that’s acceptable.”

Mr. De Meo added that the appropriate District staff should meet to improve the contract language to contain sufficient language to ensure compliance for each delivery method and there should be a timeframe attached.

Mr. Lindner stated he would provide a written status update at the next Audit Committee meeting.

Mr. Notter asked if he could get an update on the four that were in process first.

Mr. Hurst also wanted to include a timeframe for the revisions to the contracts.

Ms. Fertig discussed the West Broward auditorium and her concerns regarding issues of removing the original scope of work related to the auditorium. Discussion followed.

Mr. Rhodes stated “This is already in our Audit Plan.”

Mr. Lindner discussed other contracts that were in the process of being revised. “I can probably get the TPM project done in the next 45 days. The CM at Risk is a good delivery method when executed properly and really needs to be revised every time it is used.”

Mr. Reilly stated “We have been involved with contract revisions; particularly we’ve had our Right to Audit clause updated on more than one occasion.”

Discussion followed.

Mr. De Meo made a motion stating “All contracts be reviewed for key provisions, but more specifically, those provisions related to multiple GMPs that allow for tracking, compliance and accounting for each major component and that the change order process be clearly identified and be compared to the requirements currently for such provisions to make sure that they are in compliance. The group should work together, Mr. Lindner, the Superintendent, the Auditors, the Attorney, Mr. Carter, and Mr. Waremburg.”

Ms. Fertig seconded the motion. Motion carried.

Ms. Greenberg asked about the reimbursement shown on page 10. “Are we supposed to be getting a reimbursement, since the work was not done properly, per the contract?”

Mr. Lindner replied “Actually, the work was performed. The execution of that work was not performed in accordance with the contract, so in reality, I think ethically, since we received a deliverable, and we got the work that was performed, the work was necessary to be performed, based upon the assumption that we were going to move forward with that project. For instance, the tree trimming, to move trees, you have to trim the roots six months before you move them. If

we had waited to award the work to start construction and we trimmed them the first day, we would have been six months behind in the process. They came to us and said ‘if you want to move these trees and you want to get this moving, and by the way, we were a year behind, we need to trim those roots.’ The Project Manager agreed to do it. They trimmed the roots. Is that the way it should have been done? No, not according to the contract, but they did trim the roots.”

Mr. Hurst said “A decision was made by a School Board representative that this work should go forward and be done on a timely basis?”

Mr. Lindner said “It’s the same thing with the surveys. The contract says we needed to have ‘as built’ surveys, the District will provide them; we didn’t have them, so we released the contractor to perform them. The contractor performed them and delivered them to us. Did we execute the payment process properly? No, should have been a change order, Dave was right. The work was performed. I don’t have a problem. There are 30 of these issues in the General Counsel’s office and it’s one that I think when staff sits at the table with the arbitrator before it goes to trial, we’ll all say, I won’t, but staff will say ‘yes we did order the work and yes we did receive it, and this is one that we’ll probably lose.” Legally, they didn’t perform the work in accordance with the contract. I understand the auditor’s stand on this, so this is one that will end up in Legal.”

Ms. Fertig stated “I don’t want to lose track of the audit on West Broward.”

Mr. Hurst said “It’s on the Audit Plan.”

Mr. Reilly added “We will look at the audit schedule and staffing issues. We may begin with the change orders and report on that first.”

Mr. De Meo stated “First of all, this is really a good report. It allows us to grasp the facts and I think your findings are correct. I think when it comes to these reimbursements, Legal and the Construction Department should decide whether to pursue reimbursement and the Auditors simply monitor it. I’m not telling you what to do.”

Mr. Rhodes said “That’s how we always do it. We perform the audit and turn it over to Legal.”

Ms. Greenburg said “This is not the way we want to do business.”

Mr. Lindner said “I don’t disagree. This happened back in 2007-2008. We all know what was going on back then. Right now, Capital Budget does not pay an invoice without an NTP signed with my name on it as the approver. I sign every single invoice myself. There are hundreds of ATPs and NTPs, Dave will attest to this, that we have paid, and Capital Budget has paid them, with no approval signatures. It’s a huge exposure for us, and there are hundreds of them like that. We don’t do that anymore. I agree with you, Ms. Fertig, the sooner after the project is audited and West Broward is not closed out yet, the sooner after we complete the actual work, the better it is for the District, and the better it is for staff’s impression and our ability to deal with the issues that were people involved. It is better for the District to do it sooner, rather than how we are doing it now.”

A motion was made to transit. Motion carried.

Audit Advisory of Supplements for 2010-2011

Mr. Reilly began “This is an audit advisory related to supplements. At the request of Ms. Bartleman and in conjunction with the budget preparation process for the 2011-2012 fiscal year, we performed a preliminary review of supplements being paid by the District for the 2010-2011 fiscal year. We ran a Supplement report from the SAP system and determined there are 217 different types of supplements being paid to staff throughout the District totaling over \$14 million. There are many typical supplements, such as for Athletic coaches, Technology, Benefits Coordinator, Inservice Coordinator, etc. We looked at some supplements that could be eliminated, due to the implementation of the ESS (Employee Self Service) program in the SAP system, which allows employees to access many services, such as benefits, registering on-line for training, etc. The District has significantly reduced the need for many school/department supplements. For example, there are 193 school or department employees who receive the Benefits Coordinator supplement in the amount of approximately \$625 annually for a District cost of \$105,940 for this current year. We noted that although some locations had five employees, while others had over 300, the supplement was the same amount. Also, many locations performed the same functions without any supplement. One of the other concerns is that the supplement should not be performed during regular work hours. We noted in some cases, the Payroll Processor received a supplement, as well as overtime, although it was not determined whether the overtime was related to payroll processing. Further review of this will be completed. Currently, there are 44 school or department employees who receive a Payroll Processor supplement. Only 12 schools are paying this supplement and there are over 200 schools; therefore, a large number of locations are performing payroll duties without receiving a supplement. We also noted the function for payroll data entry and recordkeeping varies greatly, due to the fact that some locations have three employees and others have several hundred. Some locations with very few employees have multiple payroll processors receiving this supplement, while other locations with more employees have only one payroll processor receiving a supplement and some locations have payroll processors not receiving supplements. Overall, we identified more than \$400,000 in supplements that could be eliminated to reduce the budget shortage. Further review is needed to determine other savings. Are there any questions?”

Ms. Fertig stated that the report showed potential savings, particularly with the Benefits Coordinator.

Ms. Greenbarg stated “I’d love to see the District take this audit and start coming up with serious ways to save money.”

Mr. Hurst asked “Obviously, these supplements represent additional monies for a person. Are these supplements used in the form of an incentive or inducement? Does anyone feel comfortable in answering this?”

Ms. Gracie Diaz stated “The way you described it, it’s used that way, but it’s also used, for example, if a school needs coverage during bus duty, to ensure that the students are safe and getting on the right bus. I ask the staff; I advertise the supplement to see who is interested in doing that supplement. Generally, it’s a task that you need accomplished at your location beyond the normal hours and work day.”

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Mr. Hurst asked “The monies for that, it almost sounds like a little mini grant. How do the monies come to the school to pay for that supplement?”

Ms. Diaz replied “They are general fund dollars. They look at what the school has spent in the past and they allocate those funds that way and they’ve been cutting each year. Certainly, as the Principals reduce their budgets, they may reduce the Area supplements, knowing they will have to take on additional duties themselves. It’s tricky, because we’ve reduced so many positions, but there are still tasks that have to be accomplished. We have to be very careful not to use supplements as a way, as you mentioned, as a perk because someone is a great employee and works hard. That’s not the purpose for supplements.”

Ms. Fertig asked “For example, the Band Director receives a supplement. Is that because he has night time activities?”

Ms. Diaz said “Exactly.”

Ms. Fertig said “I think, Mr. Notter, this is a great thing for you to take to your new Budget Committee. There are 143 people being paid a supplement for bus duty, although you have many more people performing bus duty around the District, so everyone is not receiving a supplement.”

Mr. Reilly stated “There are more areas that we will be looking at regarding supplements. One area is the approval process. All supplements are to be approved by the Principal, and then by the Area, then it actually goes to the Board for approval. We noted some activities that had already been completed, for example, certain athletic activities which had already occurred, the season was ended, the supplement was paid, then the supplement request was presented to the Board for approval. We also noted approximately 588 employees who were being paid for 3 or more supplements. There are some controls in this area. The supplements are supposed to be advertised and if there are more than two supplements for any employee, there should be a waiver on file. We will be looking at this further.”

Mr. De Meo said “I’m sure these are useful expenditures, but if there’s any way this money could be reallocated, as opposed to layoffs of 1,000 employees, that should be reviewed.”

Mr. Ken Evans asked how the average amounts were calculated on the report.

Mr. Reilly explained “Some supplements are priced differently for Elementary, Middle and High schools; however, some of the supplements were categorized together. Therefore, an average amount was used for some of the samples reviewed. There were other cases where employees received different amounts for the same supplements at the same grade levels. There will be further review on this also.”

Mr. Medvin added “It seems to me that if an employee is contracted to work a 7 hour day or an 8 hour day, that’s what they should be paid for. If they are doing work on additional time, it may be appropriate (to receive a supplement). However, if they are receiving additional monies for work done during their work hours, that is inappropriate. In this type of budget economy, I think that should be looked at very carefully.”

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Mr. Reilly explained there would be no need to transmit this report, since at this point, this report was informational only.

Ms. Greenburg added that the Budget Committee would like to look into this, as well.

Other Discussions

Ms. Greenburg asked that the auditors take a look at Beachside Montessori School.

Ms. Fertig added that the sooner this could be done, the more beneficial it would be.

Ms. Greenburg added that she would like to have Hallandale High School reviewed also, as she heard it was in terrible physical condition.

Ms. Fertig added that she thought the Diversity Committee was addressing that issue.

Ms. Greenburg asked if the auditors could concentrate on Beachside and West Broward High.

Mr. Reilly added that he wanted the Audit Committee's input, per School Board request, as to the hiring of an outside firm to perform a 3rd party audit to find inefficiencies in the District.

Ms. Fertig asked that any monies available for this purpose be allocated to increase the staff of the Office of the Chief Auditor, rather than hiring an external third party audit firm. "Was there any consideration given to that? For those new members, they (Internal Audit Department) have recovered a lot of money through the audits they've done and they've helped put practices in place and have prevented things from happening that cost us money. I can't even imagine why they would want to spend money on an external group, rather than adding (staff) to your group. I'll put that in the form of a motion that they consider expanding your staff, rather than hiring another external group."

Mr. Medvin added "I think, if anything, they should increase the scope of the outside auditor's (currently Moore Stephens Lovelace, P.A.) job. That's their job to look at your systems. If they want to look in more detail at IT, for example, I think that's their job. To bring another group of outside consultants in here is just a complete waste of money. If we're going to look at the IT systems; that is part of what the outside auditors do. I think they did look at that."

Mr. Hurst said "Yes, they did."

Mr. Medvin added "Additional personnel for your department? I think that's a no-brainer."

Ms. Greenburg seconded Ms. Fertig's motion above.

It was also stated that the Office of the Chief Auditor has a cadre of external auditors that could be utilized for more specific audits, such as the performance of an IT audit. A motion was made that "rather than spending money on a third party auditing entity, to increase the staff of the Office of the Chief Auditor". Motion carried.

Meeting adjourned at 3:10 p.m.