

The School Board of Broward County, Florida
AUDIT COMMITTEE

MINUTES OF AUDIT COMMITTEE MEETING

March 13, 2014

Dr. Henry Mack, 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. A moment of silence was observed for the men and women in the Armed Forces serving our country. Members and guests were introduced.

Members Present: Mr. Moses Barnes
Dr. Robin Behrman
Ms. Mary Fertig
Ms. Susan Grant
Mr. John Herbst
Mr. Gary Hines
Dr. Henry Mack
Mr. Robert Mayersohn
Mr. Andrew Medvin
Mr. Nick Sakhnovsky

Staff Present: Mr. Robert Runcie, Superintendent
Mr. Jeffrey Moquin, Chief of Staff
Mr. Paul Carland, SBBC, General Counsel
Ms. Shelley Meloni, Task Assigned Chief Facilities & Construction Officer
Dr. Desmond Blackburn, Chief School Performance & Accountability Officer
Mr. Dave Archer, Office of Facilities & Construction
Ms. Sonja Coley, Office of Facilities & Construction
Mr. Frank Girardi, Office of Facilities & Construction
Mr. Patrick Reilly, Chief Auditor, Office of the Chief Auditor (OCA)
Mr. Joe Wright, Auditor III, Facility Audits, OCA
Mr. Robert Goode, Manager, Facility Audits, OCA
Mr. Gerardo Usallan, Manager, Facility Audits, OCA
Mr. Mark Magli, Manager, Property & Inventory Control, OCA
Ms. Patricia McLaughlin, Confidential Clerk Specialist C, OCA
Ms. Megan Gonzalez, Confidential Clerk Specialist B, OCA

Guests Present: Mr. Brett Friedman, McGladrey, LLP
Ms. Jennifer Grant, Public Citizen

Dr. Mack asked the Committee members to introduce themselves and state their profession. The Committee members replied as follows:

Dr. Robin Behrman, retired School Principal from Miami Dade
Mr. Gary Hines, Broward School Board PPO Department
Mr. John Herbst, CPA, City Auditor for the City of Fort Lauderdale
Mr. Robert Mayersohn, representing the District Advisory Committee
Mr. Moses Barnes, retired High School Principal
Ms. Susan Grant, CPA and Deputy City Manager for the City of Coral Springs
Ms. Mary Fertig, Audit Committee Member
Mr. Andrew Medvin, CPA
Mr. Nick Sakhnovsky, Youth Services Librarian

Dr. Mack stated “Before we begin the agenda, we have some administrative matters to deal with. The first is my friend, Gary Hines, who I’ve known for many years, who is a School Board employee. To the best of my knowledge, a School Board employee serving on the Audit Committee has a conflict of interest, regardless of what policies state or don’t state. Mr. Superintendent, I’d like to exclude Mr. Hines from this discussion.” Mr. Hines left the room. “Dr. Mack stated “I’d like to ask for a legal opinion. I have served on Audit Committees since 1980, in Dade from 1980 to 2005. I’ve served on this Audit Committee since 1997. I have never heard of a School Board employee serving on the Audit Committee in this School District or in Dade County or in any other School District that I’ve been associated with. I have never heard of an employee in a private sector company serving on an Audit Committee for that company. Essentially, what I’m saying is that you cannot audit yourself.”

Mr. Runcie stated “Dr. Mack, I would concur. I started my career working at Arthur Andersen. I spent a decade working at another CPA firm involved in many different Audit Committees, including the Chicago Public Schools, and I’ve never seen a line employee as part of the Audit Committee.”

Dr. Mack asked Mr. Carland “What’s your opinion on this?”

Mr. Carland stated “Mr. Reilly contacted me yesterday to discuss the issue. I advised that I am unable to identify any specific rule, whether it be a School Board rule, State rule or Statute that expressly prohibits the appointment of an employee to this Committee. I’ve reviewed the Committee’s bylaws. As I understand, the membership section of the bylaws do not address it and there is not a policy enacted by the Board that otherwise establishes criteria for membership. Mr. Reilly also asked that I review the State Ethics Code, which I did. The only relevant opinion I could find from the State Ethics Commission was not related to an Audit Committee, but a State Ethics opinion found that there was no prohibition under the State Statute for the involvement of an employee on a committee of that organization. Again, that opinion was not related to an Audit Committee. I advised Mr. Reilly that the affected person who’s been appointed has the right to request an opinion from the State if they have a question regarding compliance or the ultimate authority over their employment, which would be the School Board.”

Dr. Mack stated “I asked for your opinion.”

Mr. Carland replied “I understand the concerns expressed in terms of best practice, but I cannot find any legal precedent that expressly prohibits what has occurred. The current policy for the Board regarding membership on Committees is left solely at the discretion of the appointing Board member.”

Dr. Mack asked “So, you don’t have an opinion, is that correct?”

Mr. Carland replied “My opinion is that, legally, I cannot say that the practice is prohibited.”

Mr. Herbst asked Mr. Carland “When you did your review, did you also look at the Rules of the Auditor General and did you look at the Office of Management and Budget?”

Mr. Carland replied “No.”

Mr. Herbst asked “So, you just looked at Florida Statutes. You didn’t look at the Rules of the Auditor General, which govern audits in the State of Florida?”

Mr. Carland replied “I did not.”

Dr. Mack stated “I would recommend that you do that. I want you to understand what that does to this Committee. It totally removes our independence. We are an independent body, and having an employee of the School Board on the Committee makes a mockery of us. Many of us have spent years, decades, serving on Audit Committees. The one thing that made us feel good and continue to serve was the fact that our opinions were held in the highest esteem and regard because of that independence. I now see that in jeopardy. I cannot conduct business with that person sitting here, although I’ve known Mr. Hines for many, many years. There are items on the agenda, for example, that affect him, in his job capacity that he may have influence over. Mr. Superintendent, I don’t know what you intend to do about this, but I’d like to hear the opinions from the other Committee members.”

Mr. Sakhnovsky stated “Certainly, if it is permitted for one School Board member to do this, then, theoretically, all School Board members could do that. It is conceivable, if the precedent were set, that all members of the Audit Committee could be employees. That’s a real concern for our independence. If this is permitted, what are the rules regarding recusal? Clearly, as Dr. Mack stated, it would be inappropriate to audit yourself.”

Mr. Carland replied “The Committee establishes that the statutory requirements for rules related to recusal under Chapter 112 would only be applicable if the person had a conflict under Chapter 112. As I indicated to you, the opinion I found relative to an employee serving on their own organization’s committee, found no conflict of interest. Again, that opinion did not concern an employee being on an Audit Committee. It was a Chief of Housing serving on a housing related committee. Generally speaking, those rules for criteria for recusal go to the special gain that the person recusing themselves would otherwise experience by participating in the vote.”

Dr. Mack stated “For that man, it would be like a swinging door, in and out of the Committee, because he wouldn’t be able to sit for this or vote on that.”

Mr. Medvin stated “As a CPA, I think it’s inappropriate for a School Board employee, no matter how qualified, to serve on the Committee.”

Ms. Fertig stated “Regarding Nick’s point on recusal, I know over the years I have recused myself, maybe three times on matters that I felt were a conflict. I know we’ve had other Committee members who have done the same thing. I’m assuming that, while it may not be in our bylaws, ethically, we’re required to recuse ourselves if it’s a matter where we have a personal interest or any knowledge.”

Mr. Carland stated “That’s generally the standard for conflicts existing under Chapter 112.”

Ms. Fertig stated “The answer to Nick would be anytime there was anything that impacted him, he would have to recuse himself. I would suggest that perhaps we draft a resolution to the Board requesting that we have that independence as a Committee, if it’s not in the bylaws now. Also, John brought up a good point about checking further on conflicts.”

Ms. Grant asked “Was this an employee who was appointed or a Committee Member who later got a job with the District?”

Dr. Mack replied “He’s been a long time employee recently appointed.”

Ms. Grant stated “I agree 100% that it is not a best practice at all to have an employee of an organization on the Committee. I would support a resolution from our group to the School Board to change the policy.”

Mr. Mayersohn stated “New York State has their District Audit Committees. They prohibit their employees from serving on those committees. I would say we are a School District. My recommendation may be to talk to the Committee Member and see if he, being a reasonable person and understanding his roles and responsibilities as an Audit Committee Member, would be willing to step down or through the Chair or Superintendent, send a memo to the Board Member who appointed him. Maybe she would be willing to rescind her appointment. I think we all agree that to have a conflict of interest presents a problem for this Committee.”

Mr. Herbst stated “First, there are a different set of guidelines that govern us as a governmental entity than you might find in the private sector, but under private sector audit committees established pursuant to directions of the SEC, you are expressly prohibited from having an employee on the Audit Committee. I don’t know what the OMB says; I’ve been researching as we’re talking about it, as well as the Rules of the Auditor General. The basic concept behind this is that the Audit Committee and the Audit function must be independent of management. There is in no way a scenario that I can envision where an employee could be independent of management. They are, by definition, part of the organizational structure; therefore, it is wholly inappropriate for an employee to serve on an Audit Committee. I do believe if I continue to research this, I will probably find some guidance along those lines. I don’t know the gentleman; I’m sure he probably has the highest integrity and ethics, but his mere presence on the Audit Committee taints the very nature of the substance of the Audit Committee and I would be strongly opposed to it.”

Dr. Behrman stated “I believe that if you’re an independent committee, any employee, although they may tell you they are unbiased, I believe they do bring a bias with them. I would be uncomfortable with any employee on an independent committee.”

Mr. Herbst added “The City of Fort Lauderdale, by its Charter and bylaws and ordinance code, expressly prohibits any employee from serving on any Board or Committee of the City, except as

an ex officio non-voting member, where their professional expertise and competency might be of some value to the Board.”

Mr. Brett Friedman stated “I haven’t seen this in practice anywhere. As John said, it is explicitly prohibited for SEC under Sarbanes-Oxley Act.”

Mr. Patrick Reilly stated “My position is that independence is the most important thing. I don’t think you could have that independence if, for example, you have a report presented at the table that would affect the employee serving on the Audit Committee. I think, on an Audit Committee, you want independence, not an employee of the School District. You can’t really be independent if you’re an employee. There’s a perception that you would be requesting items that may lead to an audit of a certain department, because you have an ax to grind with that department. That may never happen, but there’s still that perception, and that’s not good for the integrity and independence of an Audit Committee.”

Mr. Runcie stated “I gave my opinion before. Based on my experience, I’ve never seen this before. I think it’s a bad practice. I think it sets a bad precedent. I don’t know how any matter that would come up in front of this body would not be something that would potentially impact any employee who is serving on this body. The Audit Committee has a stellar reputation. It is highly regarded and respected. This situation could dramatically change the whole posture and nature of what the Audit Committee does and represents for this District. I would be very cautious and conservative in terms of allowing this situation to move forward.”

Dr. Mack stated “I support your recommendation, Mary, that this Committee prepare a letter to the Chair of the School Board indicating our opinion and recommendation regarding this situation. I would ask that the Superintendent and Mr. Reilly jointly prepare that letter, which I will sign.”

Dr. Mack asked the Superintendent to excuse Mr. Hines from the meeting.

Dr. Mack stated “Let it be known to him that it is nothing about him personally. I would like that letter to be presented to the Board at their next meeting.”

Mr. Runcie stated “We’ll get it done within the next day or so and have it for your signature. The next Board meeting is Monday.”

Dr. Mack stated “First, we’ll need Mary to put that in the form of a motion.”

Ms. Fertig stated “I will do that. I believe that the nine Board Members, at this point, have the right to make any appointment pursuant to policy. I was going to ask them to amend the policy. I don’t want to put Mr. Runcie in a difficult position where he’s talking to his Board Members saying ‘you can’t do this’. Really, we as an independent body are recommending to the people who appointed us that they not do this. That’s my motion.”

Motion was seconded and approved unanimously.

Mr. Runcie left the meeting to speak with Mr. Hines.

Old Business

A motion was made to approve the minutes for the January 23, 2014 Audit Committee meeting.

Dr. Mack requested a correction to page 16 referring to the document that Mr. Sakhnovsky submitted regarding the responsibilities of an 'Audit Committee' member. It was requested to change 'Audit Committee' member to 'Facilities Task Force' member. This correction was agreed to by Mr. Sakhnovsky.

A motion was made to approve the minutes with above mentioned correction. Motion carried.

Dr. Mack stated "I would like to remind you that this is an Audit Committee. Our primary function is to respond to audit reports. As I look at some of the discussions that took place in my absence during the last meeting, it looked like we were functioning in the capacity of an Inspector General. Some of the things that were asked for were beyond the realm of the interests and responsibilities of the Audit Committee. I know when you get emotionally involved in some of these situations, you might get carried away, but in order to maintain our credibility, let's deal with audit reports. Remember, when you ask the Chief Auditor to get you information, his priorities change. It's disruptive to his work plans, and if we don't need the information for the purposes of responding to an audit report, let's not do it. We have an audit plan that we approve each year. Please pay very close attention to it so we can follow up to ensure that all those audits are performed."

Dr. Mack stated "Mr. Reilly, before you begin the follow up items, Item #3 is none of the business of the Audit Committee. That is the Superintendent's function. I'd like to discuss items #4 and 5. It's obvious that some of the newer members are not familiar with how little influence we have on Charter Schools. While we're charged with the responsibility for the Charter Schools, we are not given the tools or the authority to enforce anything. All we have permission to do is to receive their annual audit reports, which are performed by independent auditors of their choosing, not ours. Based upon those audit reports, the Chief Auditor makes recommendations regarding the financial liability of the schools, whether they should be closed due to fiscal irresponsibility, particularly in terms of fund balances and expenses exceeding revenues. A lot of the money that comes from the District to Charter Schools is used to pay outside firms to form the schools, because they don't know how to set up the schools. That to me is a red flag. If they are going to open a Charter School, they should know what they are doing. There is nothing we can do if they don't know what they're doing."

Mr. Runcie returned. Mr. Hines returned. Mr. Runcie stated to Dr. Mack that Mr. Hines was attending in the capacity of a public citizen.

FOLLOW-UP ITEMS

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. Paul Carland stated "As the Committee knows, the District has been engaging in discussions with the parties to that litigation and the essential terms of the settlement have been reached in line with the Board's direction. It is the plan of the parties to have that placed on the agenda for the Board's consideration and approval in April."

Item #2 – Norcrest Elementary Audit – November 14, 2013

Dr. Mack asked “Who requested this item?”

It was stated that Ms. Greenbarg requested it.

Dr. Mack stated “I’m not asking for it. You can skip that.”

Item #4 – Matrix of Charter Schools – January 23, 2014

Mr. Reilly stated “There were seven Charter Schools that were closed during the 2013-14 fiscal year and six were closed during the 2012-13 fiscal year. This information is being distributed to the Committee now.”

Dr. Mack asked “What are we supposed to do with this information? Who asked for this?”

Mr. Sakhnovsky stated “I was interested in it; I don’t know if I specifically asked for it.”

Dr. Mack stated “This is an example of what I’m saying about asking for stuff from the Chief Auditor. We requested this list of schools. This you could get on Google or reading the newspaper. Let’s not do this to our Audit Department, please.”

Ms. Fertig stated “Regarding the Norcrest audit, the reason that came up in this follow up was because we were supplied by the Chief Auditor’s Office with new information after the original conversation. That’s why it was a follow up item.”

Dr. Mack stated “We respond to what’s in the Audit report. Any additional information that comes in, we can’t deal with, because it’s not part of the report. We cannot allow ourselves, as a Committee, to go off and deal with something other than an audit report.”

Ms. Fertig stated “The information that was supplied to us by the Chief Auditor’s Office was information that came in that showed that responses he had received during that audit were incorrect. It was an update correction on the audit that was submitted. That came about because of the additional information that was emailed to us. What’s the purpose of sending us something if it’s not to get a response? I’d like an answer to that, maybe not today.”

Dr. Mack stated “The correspondence that was received corroborated what was in the Chief Auditor’s report. Is that correct?”

Mr. Reilly replied “Yes. It was information that came after the report that had the same type of recommendation, which supported our audit. The report had been issued in November. This was just additional information. The question was whether the applications for payment were reviewed by an outside consultant and whether the Committee relied on that information. The question from the Committee was why we were still using that vendor. It turns out that they did not perform the function of reviewing applications for payment. The consultant only performed the function of change order reviews and the final close-out. That was the information that was brought forward. That’s what triggered additional questions and information.”

Dr. Mack replied “That’s enough of that.”

REGULAR AGENDA

Internal Audit Report – Audit of the Internal Funds of Selected Schools

Mr. Reilly stated “This is an audit of internal funds of selected schools. There were nine schools in the report; six complied with the policies and procedures for internal funds accounting. There were three schools that had some exceptions related to the non-compliance of the Standard Practice Bulletins; one being the Principal’s Monthly Reports that needed to be signed and reviewed by the school’s administration that were not being provided by the Business Support Center. That’s been cleared now. That is one of the services of the Business Support Center to ensure that the Principals get a copy of their monthly statements. Secondly, there was an issue related to the purchasing of supplies with budgeted funds and the use of the Internal Funds for those purchases. One school had significant missing funds, multiple issues with depositing of funds, late deposits and the improper handling of funds at the school. The effect of that was an investigation on the school’s bookkeeper, who resigned, and made restitution on a prior audit finding where approximately \$6,000 was missing. Now there is a second investigation. This was the last year of that person’s employment at the school. There is approximately \$44,000 in missing funds, for which the Principal requested an investigation after the audit was performed.”

Mr. Sakhnovsky asked “Are you referencing South Broward High?”

Mr. Reilly replied “Yes.”

Mr. Sakhnovsky stated “I would like clarification. The Principal’s letter referred to the previous referral, I believe, to the School Police. Is that correct?”

Mr. Reilly replied “Yes, there was a formal investigation and a criminal case.”

Mr. Sakhnovsky stated “That was the first case, correct?”

Mr. Reilly stated “Yes.”

Mr. Sakhnovsky asked “What was the employment status of that person? If that was going on, I would assume that person would have been reassigned and wouldn’t have had further opportunities, or is that because the audits were a year behind?”

Mr. Reilly replied “They were a year behind. When the first investigation occurred, the person was moved out of the bookkeeper’s position, but they had just completed a second year, so it was a timing issue.”

Mr. Sakhnovsky asked “The current Principal was the Principal during that second year. The referral to the authorities occurred during that year?”

Mr. Reilly replied “Right, a second audit uncovered those missing funds.”

Mr. Sakhnovsky asked “So, that \$44,000 has not been restituted, correct?”

Mr. Reilly replied “No, they have not.”

Mr. Sakhnovsky asked “Do we have an update of where the investigation stands now?”

Mr. Reilly replied “I spoke with Mr. Golt and he is in charge of the investigation at this point. It is ongoing.”

Dr. Mack asked for a follow up from management regarding the case and whether restitution is being made for the \$44,000.

Mr. Barnes asked “The Business Support Center seems to be handling many of the Elementary Schools. Under the old system, the Bookkeeper responded to the Principal. Under the Business Support Center system, I see that Nell Johnson supervises the Business Support Center. Are there individual bookkeepers assigned to each school or is there just a cadre of them?”

Mr. Reilly replied “The Business Center has bookkeepers that are basically like an outside accounting service for the schools. The Principals, if they choose this service, rather than an in-house bookkeeper, they have the services of the Business Center to perform accounting services for them.”

Mr. Barnes stated “I noticed on one of the exceptions, it involved a Principal not signing a document.

Mr. Reilly stated “I think that was a growing pains issue during the first year of the Business Center. Now all the schools get those monthly reports. We have discussed this with Nell Johnson and she has agreed that the Principals will receive monthly reports from the Business Center.”

Dr. Mack asked that Nell Johnson attend the next meeting to discuss the operations of the Business Support Center. The Audit Committee agreed.

Mr. Sakhnovsky asked “Is South Broward High in the Business Support Center?”

Mr. Reilly stated “No.”

Mr. Mayersohn asked “On page 26, it states ‘we recommend that the Principal ensures that she signs the monthly Principal’s report. This audit deals with fiscal year 2012-13. At that time, the Principal was Dr. Ryan Reardon. In Dr. Blackburn’s response, he talks about the current Principal, but not anything about the Principal who failed to sign the documents. Has Dr. Blackburn spoken to the Principal who was responsible for this audit exception?”

Dr. Desmond Blackburn replied “Regardless of the tenure, when the Principal signs off to be the Principal of that school, that Principal is now held accountable for procedures and processes. Yes, we do. If the prior Principal is still a part of the District’s leadership team, we do go back and have those conversations to ensure that what they contributed to regarding the audit finding have been corrected in their leadership, as well.”

Dr. Mack asked “In the past, we had the Principal who was on board with the District when the exception occurred respond to each of the exceptions, in addition to the current Principal. Had that been done, he wouldn’t have this question. I would recommend that you consider doing that again.”

A motion was made to transmit. Motion carried.

Internal Audit Report – Property and Inventory Audits of Selected Locations

Mr. Reilly stated “This audit contains thirty-four locations, thirty-three schools and one department. Thirty-three of the locations complied with the property and inventory procedures and policies. One location had some unlocated items. Overall, the total number of assets reviewed can be found on page 3. The total amount of unlocated items totaled 116. Over 33,000 items were reviewed and audited.”

A motion was made to transmit. Motion carried.

Internal Audit Report – Current Status Update of the Cooper City High School Design Build Project #1931/P000877 Shell Subcontractor’s Performance & Payment Bonds Status

Mr. Reilly stated “We performed this audit a year ago. It relates to a request from Mr. Runcie regarding the performance and payment expenditures. We performed a follow up on the three findings in the original report. Two of the items were related to administrative compliance issues. We’ve made some recommendations to improve the information that is gathered at the beginning of the project related to subcontractors and which ones have to fulfill bonding requirements. Basically, we require the bonding of the five larger disciplines, such as electrical, plumbing, and in this case, the shell contractor. We also made a recommendation to Article 13, which speaks of the subcontractors’ performance requirements, so that the document is in line with the information on that form. This will ensure that the process will be consistently clear when a contractor is self-performing the work, rather than using the subcontractor that was originally arranged to be part of the project. The other item is an issue where we are requesting a credit for the performance and payment bond that the contractor no longer incurred, since the contractor chose to self-perform the work. Everyone agrees that this credit is due, but there is a difference in the amount that we believe is due (page 27). We feel that the credit is closer to \$36,000; however, the vendor believes it to be \$15,000.”

Note from the Office of the Chief Auditor: The original audit report disclosed that the General Contractor did not use the subcontractor that was listed on the proposed list of subcontractors that was submitted to the District. It was determined that the replacement subcontractor was not bondable. The General Contractor chose to self-perform, using the staff of the un-bondable subcontractor.

Mr. Medvin asked “Are the paid subcontractors required to be bonded?”

Mr. Reilly replied “There were certain ones in this particular division that we require to be bonded. That price that the contract provided included a payment and performance bond.”

Mr. Medvin asked “Is the General Contractor required to be bonded for the whole job?”

Mr. Reilly stated “Yes, he would be bonded, so now self-performing, he would be covered under the umbrella of his own insurance.”

Mr. Sakhnovsky asked “I’m concerned about what the responses will be, particularly as they relate to subs who are minority and women enterprises. If a General Contractor complies with all the regulations and then some of the subs are minorities and they suddenly disappear and the General

Contractor self-performs, is there any follow up by the District to ensure they are still in compliance with those minority and women's enterprise requirements?"

Dr. Mack stated "They have included women's enterprises and minority business enterprises on their bids to satisfy our requirement of having that level of participation. Once they get the contract, then they do the self-performance thing without our knowledge or the School District's. The women and minority contractors are then out of business."

Ms. Shelley Meloni stated "We actually have maintained our monthly utilization percentages and complied with the contracts."

Dr. Mack stated "We are referring to before work begins."

Mr. Robert Goode stated "Two of the other recommendations address that issue. We've asked Facilities to develop a checklist, a subcontractor list that's presented at bid time. A check mark will also ensure that the original subs that bid the job are the ones who remain on the job. You cannot substitute without asking the District. Another issue is that they are able to ensure that the sub bonds, that the big five have to provide us, are provided on the subcontractor checklist. Recommendations #1 and 3 actually address that issue."

Mr. Barnes stated "Findings #1 and 2 tell me that for any project that begins under the jurisdiction of the District, the District is responsible, correct?"

Ms. Meloni replied "Ultimately, yes."

Mr. Barnes asked "If a project manager is assigned to a project, it's my understanding that the project manager should be in a position to catch some of these issues before they happen."

Ms. Meloni stated "In this case, the contractor was unable to get a subcontractor that was bondable. That's why we had to make the change. The contractor recommended making the change and it was approved. There was an approval process to go from the subcontractor that was listed at bid time, versus, in this particular case, the contractor self-performing."

Mr. Barnes asked "If I was the original contractor, and I told you I was going to use a particular sub, but then that sub couldn't perform, so then you go back for a change order credit?"

Ms. Meloni stated "It resulted in a change order, but it was a change in the structure. Rather than having a sub do the shell, it was determined that the contractor would do the shell work."

Mr. Barnes asked "Does that entail a cost increase?"

Ms. Meloni replied "No, not a cost increase. In this particular case, a credit is due. We will be receiving a credit for the bond that we did not have to pay for the subcontractor."

Dr. Mack stated "You've addressed what happens once the prime contractor has been selected. Their concerns are regarding what takes place before that happens. For example, if I, as a General Contractor, state that I'm going to use Nick as a subcontractor, I should be required to determine if he's bondable, before I list him as a sub. Is that reasonable?"

Ms. Meloni stated “Yes.”

Dr. Mack stated “That’s the point we’re making. Those determinations should be made before the contract is awarded. Unlike the monitoring process, we’d like to know what you are doing to ensure that a General Contractor assures that his sub is bondable.”

Ms. Meloni stated “Regarding that issue, we will follow up on the recommendations of the Audit Department, which are indicated here. We will also look to strengthen some of the language in the Design Build contracts.”

Ms. Fertig asked “When that change order goes in for the credit, that will be a simultaneous occurrence?”

Ms. Meloni stated “Yes.”

Ms. Fertig stated “I know that you’re constantly changing the contracts, so I would hope there would be some process for addressing these issues.”

Ms. Meloni stated “Yes.”

Mr. Frank Girardi added “There is one thing to clear up regarding this type of contract. It is a Design Build, where the contractor gives us a price without any drawings. It’s a conceptual design and design changes. When they put this bid together and gave us a Schedule of Values, our contract requires that the contractor list subcontractors. There really are no subcontractors, because there are no drawings for them to bid. What eventually happens is when we do finally get the design process completed and the bids go out to the subcontractors, the ones that were listed may not be the lowest bidders. That’s why in this type of contract, we had listed 6 or 7 subcontractors. That’s very common, because we’re going to go with the low bidder. The one that helped them put this bid together; if they didn’t get the lowest price, then they will not get the project.”

Dr. Mack stated “We would expect that you would protect us from that type of situation.”

Ms. Meloni stated “We would have language to address that.”

Dr. Mack stated “If we see it again, it would not be a comfortable situation. We have successfully kept the female and minority businesses quiet, but they are no longer going to be quiet. Give us that kind of assurance, to ensure that we don’t have any M/WBE issues. Pat, make sure you include that in your M/WBE audit.”

Mr. Sakhnovsky asked “What do you think the average is of the District’s not accepting a self-performance request?”

Ms. Meloni stated “I don’t have those statistics.”

Mr. Sakhnovsky stated “Do you remember any cases where you did not accept the request?”

Ms. Meloni stated “Not offhand.”

Mr. Goode stated “I’d like to clear up a difference in opinion from what Mr. Girardi just said. Contractually, we own the bid. It’s a design build hard bid for \$18 million. They don’t get any more money. The plans, they can be conceptual; I believe these are a little closer to 50% CDs (construction documents). Beyond that, they have an Ed-Spec (Educational Specifications) and a design criteria package. We bought everything in there; the square feet of the building. It was an \$18 million job. Once that’s occurred and that’s awarded, he gives us a Schedule of Values. The Schedule of Values lists everything from the footings to the roof, the walls, the shell, etc. When we add up that amount of money, we bought the bond. We don’t really care what happens afterward. Give us our bond; we’re satisfied. Don’t give us the bond, then we’re entitled to the premium fee that was in the bid. That’s all we’re asking in return, because he’s self-performing the job.”

Dr. Mack stated “What did he say, in English?”

Mr. Goode stated “I’m saying that there’s a self-bond involved. We bought it. They didn’t give it to us. Give us our money back.”

Ms. Fertig asked “Where do they go from here, between the \$15,000 and the \$36,000?”

Mr. Girardi stated “We’ll have to get the contractor involved and have a meeting with the auditors. I looked at the breakdown that the auditors show. There was \$1.3 million in structural steel. There was hardly any structural steel that ended up being used in the project. The design changed to pre-cast, so that original line item of \$1.3 million was still there, but the biggest steel portion of the project was the steel stairs, so there wasn’t any steel structure. The contractor did come back to me with the actual cost of the structure and it was \$2 million. We have to get together and go over what’s actual, because usually your bond is on the actual contract, not on the Schedule of Values. It’s the actual contract. When they go to contractors, the bond is 1% of that contract. We’ve got some back and forth to do to come up with the final number. There is no disagreement that a credit is due, it’s just what is forecasted and what is actual.”

Ms. Meloni stated “We will reconcile those numbers.”

Dr. Mack stated “Once you do that, please give us an update.”

Mr. Reilly stated “From an audit standpoint, you may want to take another look at it. We went through the steps to determine that the original company on that schedule of subcontractors was Christina’s Concrete. Their bonding rate was 1.5%, so there was a difference with the number we’re using. One of the specific line items that should be included is the shell and concrete work.”

A motion was made to transmit. Motion carried.

Internal Audit Report – Current Status Update of the McGladrey, LLP Operational Review of the Office of Facilities & Construction dated February 28, 2013

Mr. Reilly stated “This is a follow up on McGladrey’s original report, which was completed in June 2012. In March 2013, they performed a follow up. There were 43 observations and recommendations. There were some items that were completed; some were implemented, but not in use. There are certain contracts that haven’t gone to the Board yet for different types of delivery methods that the District hasn’t used yet. Some of the new construction bulletins that have been

put in place may or may not have been used yet, depending on the delivery method. We basically went through all of the items with the staff from the Office of Facilities & Construction. We double checked to see if the bulletins recommended by McGladrey, such as checklists for reviewing applications for payment and reconciliations with direct order purchases, were being utilized. We reviewed each of the items in the report. There were twenty items implemented, five were implemented, but not in use, so they couldn't be tested. That was one of the issues that the Board asked us to review. We have eighteen items that are ongoing, mainly having to do with getting some contracts to the Board for approval and some items that require funding such as upgrading equipment for the Office of Facilities & Construction, such as laptops and software. Our report outlines each of the items and our follow up with management's responses."

Mr. Mayersohn asked for a clarification regarding the status of the observations #9 and 10 on pages 11 and 12. Both were listed in the Office of the Chief Auditor's as ongoing. On pages #59 and 61, it states Status as ongoing.

Mr. Reilly stated "The responses from management on pages 59-61 are the responses that were broken out on the original McGladrey report. When we create our matrix, we show them as ongoing because they still need to be presented to the Board for approval. What McGladrey shows on their original report in February, they made redline changes to the contracts, they reviewed them and they also mentioned that it was accepted by the General Counsel. The final step for these is that these contracts be presented to the Board. That's why they are ongoing. The matrix is probably the best thing to look at. It's word for word from each of the previous reports."

Discussion followed.

A motion was made to transmit. Motion carried.

Other Matters

It was decided to nominate a Vice Chair at the next Audit Committee meeting.

Ms. Fertig stated to Dr. Mack "I would like to see you write a letter to the Board to commend Ms. Greenbarg for her many years of service to the Committee. I think you and she helped to frame what this Committee has become. I would like to ask if we, as a group, can authorize you to speak on her behalf and express to the Board how much we appreciate her service."

Dr. Mack agreed.

Meeting adjourned at 2:00 p.m.