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To: Hon. Chairwoman Perla Tabares Hantman and Members  
Miami-Dade County School Board  
  
Alberto Carvalho, Superintendent, Miami-Dade County Public Schools

From: Mary T. Cagle, Inspector General 

Date: August 21, 2015

Subject: Transmittal and Executive Summary of the OIG's Final Audit Report on  
*M-DCPS Administration of Miscellaneous Continuing Contracts Awarded  
to Construction Management At-Risk Firms; Ref: SB 1314-1002*

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Attached, please find the above-captioned final audit report issued by the Office of the Inspector General (OIG). The report presents the results of our audit of Miami-Dade County Public Schools (M-DCPS) administration of miscellaneous continuing contracts awarded to construction management at-risk firms during the 2007 through 2011 commission period. This audit was performed as a precursor to future OIG oversight of the \$1.2 billion General Obligation Bond Capital Improvement Program.

Our work resulted in one finding and five observations, which are further detailed in the attached one-page Executive Summary and audit report. A draft copy of this report was provided to M-DCPS for its discretionary written response, which is attached as Appendix A.

We appreciate that M-DCPS was receptive to our recommendations, and is taking steps to address issues reported. As such, the OIG kindly requests that M-DCPS provide a follow-up status report within 90 days (no later than November 20, 2015), detailing progress toward achieving the following:

- Close-out of all remaining MCC projects commissioned during the 2007 – 2011 period, including those identified by the OIG in our audit sample
- Phase-out of the Fox Pro and CCTS legacy systems, and enhancement of the Inspect system

With the 90-day status report, please also provide a copy of the new procedures and practices designed to streamline the project close-out process, a copy of the new CMR procedures related to subcontractor substitution, and a summary of assignments during the current commission period.

Last, the OIG would like to thank M-DCPS personnel for making their time and records available during the course of our audit.

Attachment

cc: Walter J. Harvey, School Board Attorney, M-DCPS  
Jose Montes de Oca, Chief Auditor, M-DCPS  
Jaime G. Torrens, Chief Facilities Officer, M-DCPS  
Raul Perez, Assistant Superintendent, Construction Management, M-DCPS

## EXECUTIVE SUMMARY — FINAL AUDIT REPORT Ref: SB 1314-1002

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M-DCPS maintains a pool of pre-qualified Construction Manager at-Risk (CMR) firms contracted to provide pre-construction and construction management services for miscellaneous renovation, remodeling, and new construction projects. Pursuant to a Miscellaneous Continuing Contract (MCC) awarded by the School Board, these CMR firms provide services, including design review, value engineering analysis, subcontract bid and award, guaranteed maximum price (GMP) development, construction activities, and project closeout.

Under the MCC construction services acquisition method, M-DCPS projects are assigned to CMR firms based on their overall performance, experience, and existing workload, as well as job specifics and complexities. CMR firms are commissioned for up to four years, with extensions that may be exercised at the option of the School Board. During the 2007 – 2011 commission period, ten CMR firms worked on 186 construction and renovation projects of up to \$1 million per job. As of April 2015, M-DCPS had paid \$59.1 million to these ten firms for services on these projects.

The OIG evaluated M-DCPS' administration of the CMR MCC program for the 2007 – 2011 commission period, focusing on project assignment, utilization, and supervision. We also assessed CMR MCC program effectiveness in assuring fair competition, transparency, and accountability. This review is a precursor to future OIG oversight of similar M-DCPS commissioning activities for its current \$1.2 billion General Obligation Bond Program.

Our audit resulted in one finding and five observations related to M-DCPS project administration and documentation, as well as three recommendations to address the issues cited. The finding emanated from incomplete and/or inconsistent M-DCPS records, which precluded timely close-out of completed projects. Twenty-three of forty projects reviewed had not been closed, with one delayed by 1,706 business days. The \$135,303 in unreleased retainage from these 23 completed projects was less than one-percent of the \$17.2 million in payments-to-date for the 40 projects reviewed, but M-DCPS should take steps necessary to ensure timely closure of these and other future activities.

Two observations discuss incomplete M-DCPS project files, which lack reliable documentation of some critical project life cycle activities and/or milestones. Without substantiation of CMR subcontract awards and GMP development, subcontractor releases of liens, and CMR consents of surety, accountability and transparency of the CMR MCC program is diminished.

The third observation details a CMR's undocumented subcontractor substitutions after GMP approval. M-DCPS has amended the language in newer CMR agreements to address this issue. Our fourth observation was that a CMR altered subcontractor bids without written justification or authorization, allowing the CMR to perform the job as the low bidder, thus raising accountability and transparency concerns. The fifth observation arose from the lack of a requirement that project managers maintain written support for CMR project assignment decisions to preclude the potential perception of favoritism. We are encouraged, however, that during the current commission period, M-DCPS has instituted new procedures to improve project assignment, documentation, and close-out processes.

Overall, while our audit finding and observations had no apparent effect on the timeliness or cost of project completion, they emphasize the importance of ensuring accountability for decision-making and administration of the CMR MCC program. We appreciate the cooperation of M-DCPS during our audit, as well as its prompt and receptive response. Further, we encourage administration and staff to maintain exemplary professional standards, while holding CMR and A/E consultants similarly accountable, to assure transparency and integrity in the use of public funds.

# **Miami-Dade County Office of the Inspector General**



## **Final Audit Report**

**Miami-Dade County Public Schools**

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**Audit of M-DCPS Administration of Miscellaneous Continuing Contracts  
Awarded to Construction Management At-Risk Firms**

**SB 1314-1002**

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**August 21, 2015**

**OFFICE OF THE INSPECTOR GENERAL MIAMI-DADE COUNTY PUBLIC SCHOOLS**  
**OIG Final Audit Report**  
*M-DCPS Administration of Miscellaneous Continuing Contracts*  
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**TABLE OF CONTENTS**

I.	INTRODUCTION	1
II.	RESULTS SUMMARY	1
III.	AUDITEE RESPONSE	2
IV.	TERMS USED IN THIS REPORT	3
V.	OIG JURISDICTIONAL AUTHORITY	3
VI.	BACKGROUND	3
VII.	OBJECTIVES, SCOPE, AND METHODOLOGY	5
VIII.	FINDING AND OBSERVATIONS	6
IX.	CONCLUSION	15
X.	RECOMMENDATIONS	15

SCHEDULE 1      Audited Projects 2007 – 2011 Commission Period

APPENDIX A      Miami-Dade County Public Schools Response

**OFFICE OF THE INSPECTOR GENERAL MIAMI-DADE COUNTY PUBLIC SCHOOLS**  
**OIG Final Audit Report**  
*M-DCPS Administration of Miscellaneous Continuing Contracts*  
*Awarded to Construction Management At-Risk Firms*

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**I. INTRODUCTION**

The Office of the Inspector General (OIG) audited Miami-Dade County Public Schools' (M-DCPS) administration of Miscellaneous Continuing Contracts (MCC) awarded to Construction Management at-Risk (CMR) firms during the 2007 – 2011 commission period. We reviewed recordkeeping and reporting activities related to CMR subcontractor solicitation and subcontract award, project guaranteed maximum price (GMP) development, payment request submission, and project close-out. In addition, our audit evaluated selected oversight and recordkeeping activities of a project's Architect/Engineering (A/E) Consultant, and assessed M-DCPS contractor payment requisition processing and project records.

Our review is a precursor to future OIG oversight of similar commissioning activities that M-DCPS is using for its \$1.2 billion General Obligation Bond Program (Bond Program). This Program includes renovating facilities, updating technology, building school replacements, expanding student capacity, and enhancing facility safety.

**II. RESULTS SUMMARY**

Our audit resulted in one finding and five observations related to M-DCPS project administration and documentation. The finding emanated from incomplete and/or inconsistent M-DCPS records, which precluded timely close-out of completed projects. Twenty-three of forty projects reviewed had not been closed, with one delayed up to 1,706 business days. Unreleased retainage from these completed projects totaled \$135,393. While this represents less than one-percent of the \$17.2 million in payments-to-date for the 40 projects reviewed, M-DCPS should take steps necessary to close these 23 projects, and ensure timely closure of future activities.

Two of the five observations relate to the incompleteness of M-DCPS project files, which lack reliable documentation of some critical project life cycle activities and/or milestones. The absence of substantiation for CMR subcontract awards and GMP development, subcontractor releases of liens, and CMR consents of surety, diminishes accountability and transparency of the CMR MCC program.

Our third observation details CMR post-GMP approval subcontractor changes that were not properly documented during the past commission period covered by our audit scope. During the current commission period, however, M-DCPS implemented amended language in newer CMR agreements to address the issue. Under the current agreement, a CMR cannot change a subcontractor listed in its approved GMP proposal without M-DCPS written approval.

The fourth observation concerns the lack of written justification for cases where a CMR raised the lowest-priced subcontractor's bid and concurrently lowered its own price for the same work, allowing the CMR to self-perform the job as the low bidder.

**OFFICE OF THE INSPECTOR GENERAL MIAMI-DADE COUNTY PUBLIC SCHOOLS**  
**OIG Final Audit Report**  
*M-DCPS Administration of Miscellaneous Continuing Contracts*  
*Awarded to Construction Management At-Risk Firms*

---

While the CMR offered reasonable justification during our interviews, the lack of written contemporaneous records raises accountability and transparency concerns.

Our last observation involves M-DCPS assignment of projects among the various CMR firms in the MCC pool. While M-DCPS procedures state “Work will be assigned on the basis of the [CMR] firm’s workload and successful performance on previous assignments”, we saw no documented process requiring project managers to maintain written justification of assignments to CMRs. Thus, M-DCPS could not substantiate that staff properly considered the stated assignment criteria, which could foster a perception of favoritism. We are encouraged, however, that during the current commissioning period, M-DCPS has taken steps to improve project assignment practices.

Overall, although the finding and observations resulting from our audit had no apparent effect on the timeliness or cost of project completion, their significance is more a matter of ensuring accountability for decision-making and administration of the CMR MCC program. We appreciate M-DCPS’ prompt and receptive response to our audit, and further encourage administration and staff to maintain exemplary professional standards, while holding CMR and A/E consultants similarly accountable, to assure transparency and integrity in the use of public funds.

The noted conditions and our accompanying recommendations are further detailed in Section VII (Findings and Observations) of this report.

### **III. AUDITEE RESPONSE**

We provided a copy of this report, as a draft, to M-DCPS for its discretionary written response, which is attached as Appendix A. The OIG is pleased that M-DCPS concurred with our recommendations, and stated that it is revising procedures to streamline project close-out, and instituting checkpoints at key project stages to ensure completeness of records. M-DCPS further stated that these “modifications will continue to enhance its accountability and provide greater transparency in the administration [of] construction projects. This is of particular importance as the District moves forward with [its] \$1.2 billion GOB Program.”

**OFFICE OF THE INSPECTOR GENERAL MIAMI-DADE COUNTY PUBLIC SCHOOLS**  
**OIG Final Audit Report**  
*M-DCPS Administration of Miscellaneous Continuing Contracts*  
*Awarded to Construction Management At-Risk Firms*

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**IV. TERMS USED IN THIS REPORT**

A/E	Architect/Engineering Consultant
Bond Program	General Obligation Bond Program
CMR	Construction Manager at-Risk
GMP	Guaranteed Maximum Price
ILA	Interlocal Agreement
SBE/MBE	Small/Micro Business Enterprise Program
MCC	Miscellaneous Continuing Contract
M-DCPS	Miami-Dade County Public Schools
OCIP	Office of Capital Improvement Projects
OIG	Office of the Inspector General
ROL	Release of Lien

**V. OIG JURISDICTIONAL AUTHORITY**

The OIG provides inspector general services to M-DCPS pursuant to the Interlocal Agreement (ILA) between Miami-Dade County and the M-DCPS Board. The ILA governs the scope and jurisdiction of the OIG's activities. Among the authority, jurisdiction, responsibilities and functions conferred upon the OIG through the ILA is the authority and jurisdiction to make investigations of M-DCPS affairs, including the power to review past, present, and proposed programs, accounts, records, contracts and transactions. The OIG shall have the power to require reports and the production of records from the M-DCPS Superintendent, School Board members, School District departments and allied organizations, and School District officers and employees, regarding any matter within the jurisdiction of the OIG.

**VI. BACKGROUND**

M-DCPS maintains a pool of pre-qualified Construction Manager at-Risk (CMR) firms contracted to provide pre-construction and construction management services for miscellaneous renovation, remodeling, and new construction projects. These CMR firms provide services pursuant to a Miscellaneous Continuing Contract (MCC) awarded to them by the School Board. The contracted services include design review, value engineering analysis, subcontract bid and award, development of a GMP, construction activities, and project close-out.<sup>1</sup>

MCCs are an acquisition method to task and complete construction work at M-DCPS.<sup>2</sup> The M-DCPS Office of Capital Improvement Projects (OCIP) manages this program. Projects are assigned to a CMR firm based on its overall performance,

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<sup>1</sup> In addition to the CMR MCC program, M-DCPS may elect to use a conventional bid or job order contract (JOC) to obtain construction and related services.

<sup>2</sup> The MCC program also consists of architectural and engineering firms commissioned under separate contracts.

**OFFICE OF THE INSPECTOR GENERAL MIAMI-DADE COUNTY PUBLIC SCHOOLS**  
**OIG Final Audit Report**  
**M-DCPS Administration of Miscellaneous Continuing Contracts**  
**Awarded to Construction Management At-Risk Firms**

experience, existing workload, as well as project characteristics and complexities. CMR firms are commissioned for up to four years, with extensions that can be exercised at the option of the School Board. During the 2007 – 2011 commission period, ten CMR firms worked on 186 construction and renovation projects, with individual project costs of up to \$1 million. To date, M-DCPS has paid \$59.1 million to these firms for services on projects initiated during the 2007 – 2011 period (Table 1).

**Table 1: M-DCPS Payments to CMRs for 2007 – 2011 Commissioned Projects**

	<b>CMR Firm</b>	<b>Number of Projects</b>	<b>Amounts Paid as of April 2015*</b>	<b>% of Total Amounts Paid</b>
1	BDI Construction Company	43	\$15,470,248	26.2%
2	Veitia Padron, Inc.	23	\$11,018,596	18.7%
3	Kalex Construction & Development	35	\$7,550,556	12.8%
4	Coastal Construction Company	18	\$7,528,335	12.7%
5	Stobs Brothers, Inc.	18	\$6,901,579	11.7%
6	Hewett-Kier Construction, Inc.	13	\$4,702,250	8.0%
7	Gec Associates, Inc.	12	\$2,947,011	5.0%
8	Jasco Construction Company	5	\$1,506,204	2.5%
9	Zurqui Construction Svc., Inc.	10	\$760,808	1.3%
10	Thornton Construction Co., Inc.	9	\$691,116	1.2%
	<b>Totals</b>	<b>186</b>	<b>\$59,076,703</b>	<b>100.0%</b>

Source: M-DCPS Capital Payments System.

While we did not examine CMR projects begun during the current commission period (2012/13 – 2016/17), our audit of the 2007 – 2011 timeframe identified opportunities for improvement that M-DCPS can leverage going forward. Sixteen CMR firms were selected to provide services during the current period, including ten<sup>3</sup> commissioned in January 2012, with six others<sup>4</sup> added in 2013 to meet anticipated needs of the \$1.2 billion Bond Program. Individual project construction costs may not exceed \$2 million, and as of January 27, 2015, Year 1 work assigned to the 16 commissioned firms was valued at \$121.8 million.<sup>5</sup> Some of these firms were also awarded other Bond Program projects, independent of CMR MCC.

We also noted that Jasco Construction and Zurqui Construction, which were participating CMRs during the 2007 – 2011 commission period audited (Table 1), were excluded from the current period. According to M-DCPS staff, at the time of the current period commission, Jasco had been dissolved and Zurqui was in bankruptcy. Existing project agreements with Jasco were terminated for convenience in 2010, while those with Zurqui were terminated for cause in 2012.

<sup>3</sup> Agenda Item F-21 from the January 18, 2012 School Board Meeting.

<sup>4</sup> Agenda Item F-21 from the April 17, 2013 School Board Meeting and Agenda Item F-25 from the August 7, 2013 School Board Meeting.

<sup>5</sup> Project awards noted per the M-DCPS GOB Capital Projects Dashboard as of January 27, 2015.

**OFFICE OF THE INSPECTOR GENERAL MIAMI-DADE COUNTY PUBLIC SCHOOLS**  
**OIG Final Audit Report**  
***M-DCPS Administration of Miscellaneous Continuing Contracts***  
***Awarded to Construction Management At-Risk Firms***

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In early 2014, M-DCPS added a Small Business Enterprise (SBE) and a Micro Business Enterprise (MBE) Sheltered Market to its CMR MCC program to assist with smaller Bond Program projects. This increased project capacity and promoted distribution of some work to smaller firms. SBE firms were assigned miscellaneous construction projects up to \$1 million, with MBEs limited to \$200,000 per project. In mid-2014, nine SBE CMR firms were commissioned<sup>6</sup> and assigned 47 Year 2 projects valued at \$40.6 million, and seven MBEs were commissioned<sup>7</sup> and assigned seven Year 2 projects valued at \$1.6 million.<sup>8</sup> M-DCPS also assigned some smaller projects to several SBE/MBE A/E firms and CMRs under the Bond Program.

**VII. OBJECTIVES, SCOPES, AND METHODOLOGY**

Our audit evaluated M-DCPS administration of the CMR MCC program during the 2007 – 2011 commission period, focusing on project assignment, utilization of firms, and supervision of work. We also assessed CMR MCC practices relative to fair competition, transparency, and accountability.

M-DCPS provided the OIG copies of project files, payment records, and other documents, such as bid advertisements and awards, approved GMP proposals, board agenda items, contracts, policies and procedures, purchase/work orders, and approved payment requests. We also received a comprehensive listing of all CMR MCC projects awarded during the 2007 – 2011 commission period. Additionally, we met with several M-DCPS department directors, project managers and other staff involved to gain an understanding of the M-DCPS CMR MCC program. Further, we met with a CMR representative and one of the firm's subcontractors, as well as with an assigned MCC A/E tasked with oversight of project design, construction, close-out, and CMR payment request review/approval.

We judgmentally selected nine projects for initial review using an M-DCPS project listing. One project was composed of 12 mini-projects, each with a unique identifier associated with the main project. Subsequently, we similarly selected another 20 projects, limiting our review to their close-out processes. GMPs for the 40 projects/mini-projects ranged from \$12,000 to \$1.69 million<sup>9</sup>, and totaled \$18.3 million (Schedule 1). Payments to these CMR firms totaled \$17.2 million through April 2015.

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<sup>6</sup> Agenda Item F-22 from the March 12, 2014 School Board Meeting.

<sup>7</sup> Agenda Item F-22 from the April 9, 2014 School Board Meeting.

<sup>8</sup> Financial amounts noted on the M-DCPS GOB Capital Projects Dashboard as of January 27, 2015.

<sup>9</sup> One project, the Nathaniel Powell Stadium – ADA Corrections & Renovations (Project #00412200), had its scope augmented to include additional needed structural repair, fire alarm, and painting. As a result, construction costs exceeded the \$1 million threshold.

**OFFICE OF THE INSPECTOR GENERAL MIAMI-DADE COUNTY PUBLIC SCHOOLS**  
**OIG Final Audit Report**  
*M-DCPS Administration of Miscellaneous Continuing Contracts*  
*Awarded to Construction Management At-Risk Firms*

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**VIII. FINDING AND OBSERVATIONS**

As mentioned earlier, our audit evaluated M-DCPS administration of the CMR MCC program during the 2007 – 2011 commission period, focusing on project assignment, utilization, and supervision, as well as whether the CMR program promoted a competitive, transparent, and accountable process. As detailed in this section, our work resulted in one finding and five observations regarding project administration and documentation.

**Finding No. 1      Completed projects were not timely closed out, resulting in retainage being withheld for an inordinate length of time.**

As of April 15, 2015, only 17 of 40 projects reviewed were identified as having a “closed” status, and of the remainder, 18 were substantially completed 452 to 1,706 business days earlier, while five lacked sufficient information to determine timeframes (Schedule 1). Unreleased retainage on these projects totaled \$135,393, which was less than one-percent of the \$17.2 million in payments-to-date for the 40 projects reviewed. Delays in project close-out may relate to open inspection items not corrected by the A/E or CMR, or whose correction was not reflected in one or more of M-DCPS’ three automated systems. Other factors delaying recording of project close-out may include pending requests from the CMR for records, such as warranties, manuals, as-built drawings, and shop drawings. Nonetheless, M-DCPS should take steps necessary to ensure timely closure of these and other future activities.

The OCIP Executive Director in charge of project close-out said the open items we noted were not material and did not affect the operational safety of the schools. He further stated that the close-out process is tedious, and that his staff began closing out projects in 2011, but still has almost 500 still pending close-out. For some projects, CMR and A/E records may have been archived and are no longer readily available, or the CMR and A/E may no longer do business with the School District. The Executive Director further explained that most of the open items may have been addressed by the A/E and/or CMR, and may have been re-inspected, although the databases were not accordingly updated.

According to the Executive Director, once a project reaches substantial completion, the CMR prepares an *M-DCPS Certificate of Occupancy and/or Completion Form* (FM 5463) and forwards it to the project’s A/E to be signed and sealed. The A/E inspects the project site, and if it agrees with the CMR, signs and seals its portion of Form 5463. The A/E then forwards the form to the M-DCPS Building Code Compliance Inspector, who inspects the project site, and if in agreement with the CMR and the A/E, signs the form and forwards it to the M-DCPS Building Official, who is the final approver. After the Building Official’s approval is obtained, retainage is released to the CMR upon submission of a final payment request, and the project is officially closed.

**OFFICE OF THE INSPECTOR GENERAL MIAMI-DADE COUNTY PUBLIC SCHOOLS**  
**OIG Final Audit Report**  
***M-DCPS Administration of Miscellaneous Continuing Contracts***  
***Awarded to Construction Management At-Risk Firms***

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A key factor in some of the untimely project closings is that M-DCPS uses three different, non-interfaced database systems.<sup>10</sup> The first system, Fox-Pro, is used by School District in-house building inspectors. The second system, INSPECT, is used by M-DCPS staff and consultants, i.e., Building Code Compliance, who verify that construction was completed in accordance with Florida's *State Requirements for Educational Facilities*. The last system, Q&A, is an outdated MS-DOS application, maintained in-house by M-DCPS Document Control. According to M-DCPS staff, INSPECT will be augmented to accommodate the functionality of Q&A, which will be retained as a repository of historical data.

Although much of the data in the three systems is duplicative, and each is used by a different group, every project must be reviewed in all three systems to ensure recognition and resolution of any outstanding issues before project closure. M-DCPS personnel responsible for these reviews said that the process is very time-consuming.

**Observation No. 1      M-DCPS project files were missing key records of CMR subcontract awards and GMP development.**

This observation pertains to the CMR's subcontract solicitation and award process, and development of a project GMP. Standard practice requires the CMR to subdivide a project's total scope of work by trade, such as site preparation, painting, electrical, mechanical/HVAC, and the like. The CMR then solicits subcontractor bids for each trade, receives and opens the bids, and enters them on a bid tabulation form prepared for each trade scope of work. Bid tabulations list the names of the submitting subcontractors and their bid prices. Should a CMR elect to perform one or more of the work scopes itself, it must submit its bid at this time for recording on the bid tabulation. M-DCPS personnel are present during bid opening and recording.

Using the lowest bids from responsible subcontractors, the CMR prepares a GMP proposal for M-DCPS approval. If the lowest bid is not selected, the CMR must provide an explanation and obtain M-DCPS approval for its choice. The subcontractors listed in the approved GMP proposal are expected to perform the work. Each M-DCPS project file should contain the approved GMP proposal listing the individual trade scopes of work and corresponding prices; bid tabulations for each trade scope of work in the approved GMP proposal; and bids submitted by the subcontractors listed on the bid tabulation. Maintaining complete, accurate documentation for each project is critical to assuring accountability, transparency, and fiscal responsibility.

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<sup>10</sup> In addition, M-DCPS has available other automated systems and databases that it uses during a project's life cycle, including project inception and project-related financial activities; however, project close-out is primarily affected by the three databases described herein.

**OFFICE OF THE INSPECTOR GENERAL MIAMI-DADE COUNTY PUBLIC SCHOOLS**  
**OIG Final Audit Report**  
***M-DCPS Administration of Miscellaneous Continuing Contracts***  
***Awarded to Construction Management At-Risk Firms***

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Nonetheless, OIG testing of nine project files disclosed that seven were incomplete, reflecting one or more of the following conditions:<sup>11</sup>

- Two project files [nos. 00454400, 00437900] were missing all the bid documents, precluding verification of bid amounts listed in the CMR's GMP proposal.
- Five project files [nos. 00438200, 00412200, 00500900, 00711600, AO74206] were collectively missing 26 bids documents, including 22 from subcontractors and four submitted by the CMR. Thus, corresponding bid amounts listed in the CMR's GMP proposal could not be verified.
- Six project files [nos. 00438200, 00500900, 00454400, 00711600, AO74206, 00437900] were missing bid tabulations for the various trades and/or scopes of work. Five had work scopes and amounts included on the approved GMP proposal as CMR "self-performed" work, but there was no evidence, e.g., other independently solicited bids, that the CMR's price was competitively derived, i.e., the CMR did not submit a bid.

Incomplete project files hinder M-DCPS' ability to substantiate that the approved GMP amounts were competitively derived, i.e., that the project's GMP represented the lowest responsive bid prices received by the CMR. Further, project files tested by OIG Auditors were obtained from the Document Control unit of M-DCPS' Office of Capital Improvement Projects (OCIP), which maintains the official repository of project records. However, we understand that project managers and CMRs maintain their own files, and Document Control relies on submissions from these parties as being complete. OCIP project management staff facilitated in subsequently locating some of the missing records in off-site archives, but many were not found.

**Observation No. 2      M-DCPS project files lacked the required release of lien or CMR consent of surety for each subcontractor.**

A subcontractor's release of lien (ROL) validates receipt of payment for work performed, while CMR consents of surety give assurance that the CMR will pay the listed subcontractor the amount shown on the document. One of these two documents must be submitted to complete the CMR payment requisition approval process. Five of nine project files reviewed were missing ROLs, while two had CMR consents of surety that did not list the applicable subcontractors. In addition to assuring subcontractors are paid for their services, these documents substantiate that the subcontractors listed in the approved GMP actually provided the services.

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<sup>11</sup> The ninth project was comprised of 12 mini-projects, whose files were reviewed separately (see OIG Observation No. 4). The 20 projects later added to this audit were not included in this part of our review, but were tested for project closure and release of retainage only (see Finding No. 1).

**OFFICE OF THE INSPECTOR GENERAL MIAMI-DADE COUNTY PUBLIC SCHOOLS**  
**OIG Final Audit Report**  
***M-DCPS Administration of Miscellaneous Continuing Contracts***  
***Awarded to Construction Management At-Risk Firms***

---

Responsibility for determining whether an “approved subcontractor”<sup>12</sup> is performing the work and being paid lies with the project’s A/E. According to M-DCPS procedures, the A/E is tasked with reviewing and certifying/assuring proper support for CMR payment requests. The A/E’s certification serves as a recommendation for payment. In addition, procedures state that such support should include subcontractor releases of lien or CMR consent of surety listing the subcontractors and amounts due. Article IV Section 4.9.10.1 of the Architectural / Engineering Project Consultant Miscellaneous Agreement<sup>13</sup> states, in part:

All Requisitions for Payment received from the Contractor shall be processed by the A/E and paid by the Board in accordance with the requirements of the Prompt Payment Act, Board rules, and the Construction Documents. The A/E shall review the Contractor’s notarized Requisitions for Payment, the schedule of values, subcontractors’ partial releases of lien, and the Contractor’s updated Project Schedule. For each Requisition for Payment, the A/E shall determine the amounts, which, in the A/E’s opinion, should be paid to the Contractor, and shall recommend, for the Board’s approval, Certificates for Payments in such amounts. (OIG emphasis added)

Additionally, Article 4 Section 4.2.5 of the General Conditions of the Contract for Construction<sup>14</sup> states, in part:

Contractor shall provide the A/E with Contractor’s and Subcontractors’ partial releases of claim for provision to [the] Board prior to processing the next month’s Requisition for Payment. The A/E’s certification is a representation by the A/E to [the] Owner that all required items noted herein are submitted and proper and serves as a recommendation for payment only. (OIG emphasis added)

For one project (00438200), we contacted the associated A/E to determine why some ROLs were missing from the CMR’s payment requests. The A/E explained that the CMR might use either ROLs or consents of surety to validate payments made to its subcontractors. The A/E further stated that he verifies that all listed subcontractors are paid by conducting a project site walk-through to confirm that the work completed corresponds with CMR payment requests. The A/E added that he maintains a log of all the subcontractors on the project to ensure that personnel on-site are associated with approved subcontractors and appropriate payment requests are paid. The A/E also stated that all documents received as part of the CMR payment request are forwarded to the School District.

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<sup>12</sup> A subcontractor listed on an M-DPCS approved CMR-submitted GMP proposal.

<sup>13</sup> Rev. 3-2008.

<sup>14</sup> Rev. 12-05-2011.

**OFFICE OF THE INSPECTOR GENERAL MIAMI-DADE COUNTY PUBLIC SCHOOLS**  
**OIG Final Audit Report**  
*M-DCPS Administration of Miscellaneous Continuing Contracts*  
*Awarded to Construction Management At-Risk Firms*

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This explanation, however, does not address why certain CMR payment requests did not have ROLs for all subcontractors, or did not have consents of surety inclusive of all subcontractors and amounts due. We acknowledge that obtaining an ROL from smaller subcontractors for small dollar value work may be problematic, but CMRs should be encouraged to always obtain ROLs or provide all-inclusive consents of surety. In particular, it is important that M-DCPS obtain assurance that smaller subcontractors are paid. Nonetheless, nothing came to our attention during our audit to suggest that subcontractors were not paid.

**Observation No. 3**      **M-DCPS project files were missing key records documenting subcontractor substitutions after the GMP was approved.**

As noted in Observation No. 2, subcontractor ROLs or all-inclusive consents of surety listing approved subcontractors were not always included with CMR payment requests. Four missing ROLs or listings in CMR consents of surety resulted from CMR subcontractor substitutions after M-DCPS approved the GMP. There was no indication of substitution approval in project files, but at the time, CMRs were not required to notify or obtain approval from M-DCPS for making substitutions. However, this requirement is a best practice to help ensure CMR accountability and process transparency. As noted later in this observation, M-DCPS modified its procedures to require that CMRs provide notice to and seek written approval from M-DCPS of subcontractor substitutions.

For Project No. 00412200, OIG Auditors observed an ROL in the CMR payment requests for a roofing subcontractor not originally listed on the approved GMP summary. The project manager said that the original roofing subcontractor was replaced because it could not meet the project's specifications. The project manager further said that the CMR contacted the two remaining bidders. Ultimately, the third lowest bidder performed the work at the original subcontractor's proposed cost of \$14,314, which was lower than its own \$16,000 bid. The \$14,314 proposed cost was confirmed via its listing on the CMR's approved GMP, and noted on the replacement subcontractor's ROL. Nonetheless, there was no documentation of the subcontractor substitution, other than the replacement subcontractor's ROL.

Prompted by this subcontractor substitution, we reviewed the finishes division (Division 9) for three other projects in our original sample.<sup>15</sup> Finishes work includes metal framing, drywall and stucco, ceramic tiles and quarry/VCT, acoustic ceiling, and painting. For Project No. 00438200, the finishes scope was divided among four subcontractors, but the CMR payment requests included an ROL for only one of them. We were told that the CMR self-performed some of the finishes work.

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<sup>15</sup> For the remaining two, Project No. 31161300, the CMR was the lowest bid and performed the work, and for Project No. 0041220, there were ROLs for all subcontractors.

**OFFICE OF THE INSPECTOR GENERAL MIAMI-DADE COUNTY PUBLIC SCHOOLS**  
**OIG Final Audit Report**  
***M-DCPS Administration of Miscellaneous Continuing Contracts***  
***Awarded to Construction Management At-Risk Firms***

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OIG auditors contacted the A/E, one of the previous project managers, the CMR, and attempted to contact all four subcontractors. These parties concurred that the CMR completed some of the work. According to the A/E, after the GMP negotiation, it was determined that the project would be done in phases, adding that he believed the subcontractors felt it was not cost effective to visit the school multiple times to complete work of a relatively small dollar value.<sup>16</sup> The A/E also said that the CMR completed a portion of the work at no additional cost beyond approved GMP amounts (which were based on the lowest subcontractor bids). This was confirmed on the CMR's schedule of values submitted with the payment request packages; however, there was no written justification supporting the substitution and subsequent approval by M-DCPS.

According to the A/E, substitution of the subcontractors in favor of CMR self-performing the work was discussed with M-DCPS, but he could not recall whether approval was documented. The prior project manager could not recall details as to which subcontractors performed the work. While OIG Auditors requested relevant supporting documents from both the A/E and the prior project manager, neither provided any written records. OIG auditors later spoke with the CMR, who confirmed the A/E's statements, but did not provide documentation to support replacing the subcontractors with self-performed work.

OIG Auditors also attempted to contact all four subcontractors listed in the finishes section of the GMP proposal. Three confirmed that they bid on the project, while the fourth could not be reached – its telephone number was disconnected and there was no new listing. Of the three subcontractors contacted, the one who bid on metal framing, drywall & stucco, could not recall why it did not perform any work, as significant time had passed. Another stated that it performed work (acoustic ceiling) and was fully paid, while the third subcontractor, whose ROL was noted in the payment records, stated that it did a small amount of work (ceramic tiles & quarry/VCT ) for which it was paid; however, it was not called back to complete the remaining work. The GMP summary and CMR schedule of values showed the third subcontractor had a total scope valued at \$10,700, with \$4,173 completed at the time the ROL was signed. The ROL amount was for \$2,248. As for the fourth subcontractor (painting) who could not be reached, the A/E provided receipts submitted for painting and supplies bought by the CMR. Copies of these receipts were not noted in the CMR payment requests submitted to M-DCPS for payment.

Procedures for changing subcontractors after GMP approval were not explicitly addressed in the Miscellaneous Construction Manager at-Risk Agreement procedures for the November 2007 – 2011 commission period. However, Article VI Section 6.6.2 of

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<sup>16</sup> As noted on the GMP summary and on the CMR's schedule of values, the finishes division was broken down into five sub-divisions with four different subcontractors. The cost of work for each sub-division ranged from \$1,400 to \$56,230. The scope for \$56,230 (metal framing, drywall, and stucco) was presumably completed by the CMR.

**OFFICE OF THE INSPECTOR GENERAL MIAMI-DADE COUNTY PUBLIC SCHOOLS**  
**OIG Final Audit Report**  
*M-DCPS Administration of Miscellaneous Continuing Contracts*  
*Awarded to Construction Management At-Risk Firms*

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the current Miscellaneous Construction Manager at-Risk Agreement (Rev 12-2011) states that:

Upon acceptance and execution of the Exhibit-1 GMP Amendment, by the BOARD, the CM shall enter into subcontract agreements with the Subcontractors selected for the amounts included in the accepted GMP Proposal for that subcontract work, and shall function as a GC and comply with the Contract Documents accordingly with regard to the Project as well as a CM with regard to other services required by the Contract Documents. The CM shall request and obtain written approval from the Board<sup>17</sup> prior to changing or substituting any of the Subcontractors included in the accepted GMP Proposal. Approval of the substitution of any Subcontractor shall be at the sole discretion of the Board.  
(OIG emphasis added)

We acknowledged that parties queried by the OIG explained the substitutions, but their explanations were omitted from project files. Further, while costs of work were unchanged, as noted on the approved GMP, reasons for subcontractor substitutions and the District's subsequent approvals should be memorialized in project records to preclude the appearance of favoritism to a CMR or subcontractor, and maintain accountability and transparency. This is particularly important when project dollars shift from a subcontractor to the CMR for self-performed work.

**Observation No. 4      M-DCPS project files were missing key records justifying alterations by the CMR to a prospective subcontractor's bids.**

OIG Auditors observed that a CMR altered some subcontractor bids on one of its projects without written justification. The subject project – Project #A0825, “M-DCPS Modular Program – A/C Retrofit Various Locations” (Project) – was composed of 12 sub-projects at separate locations/facilities throughout the School District. Each sub-project had its own approved GMP, ranging from \$12,181 to \$45,410, with seven between \$25,000 and \$30,000. The sub-projects all had January 14, 2010 start dates and April 7, 2010 substantial completion dates.

The Project was divided into four components – concrete/demo/site prep/debris removal; fencing; electrical; and mechanical. The CMR solicited bids for this Project as a package deal, i.e., the cumulative lowest bid price for each of the four divisions would be selected to perform all 12 sub-projects. Prospective subcontractors submitted bids for each sub-project.

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<sup>17</sup> OCIP or as otherwise delegated by the Board.

**OFFICE OF THE INSPECTOR GENERAL MIAMI-DADE COUNTY PUBLIC SCHOOLS**  
**OIG Final Audit Report**  
***M-DCPS Administration of Miscellaneous Continuing Contracts***  
***Awarded to Construction Management At-Risk Firms***

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Our concern centers on how the CMR processed subcontractor bids for the concrete/demo/site prep/debris removal work scope. One subcontractor was the lowest bidder for all 12 sub-projects – even less than the CMR’s bids to self-perform the work, which were up to 300% higher.<sup>18</sup> However, bid tabulations subsequently prepared reflected add-ons to the subcontractor’s bid amounts, and reductions to those of the CMR. The net effect was that the CMR became the lowest bidder for all 12 sub-projects. The M-DCPS approved GMPs showed that the CMR was selected to self-perform the work for all 12 sub-projects.

M-DCPS project files contain no explanation of what appears to be CMR bid manipulation to deprive a subcontractor of the award. The OIG interviewed representatives from M-DCPS, the CMR, and the subcontractor about this matter. We learned that the subcontractor’s bids did not cover the entire work scope (the subcontractor’s principal work is landscaping, which was only a portion of the stated work scope). We also were told that the CMR later accepted verbal quotes from the subcontractor. It was further explained that the subject work scopes were made up of many small issues that could not be easily quantified for bidding purposes. Lastly, we learned that the subcontractor actually worked on some of the sub-projects and was paid by the CMR, although it was not included in the approved GMP. We acknowledge that there may be valid operational reasons justifying such bid alterations, but the absence of contemporaneous written records raises concerns about CMR accountability and process transparency.

On February 20, 2015, M-DCPS terminated its MCC agreement with this CMR due to questions about the accuracy of information on the CMR’s contractor prequalification application in mid-2014. The School Board ratified the termination for convenience on July 15, 2015.<sup>19</sup> The OIG did not review the cause for termination.

**Observation No. 5      M-DCPS project files were missing key records justifying project assignments to the CMRs.**

M-DCPS procedures state “Work will be assigned on the basis of the [CMR] firm’s workload and successful performance on previous assignments.” Although M-DCPS representatives described various practices employed when making CMR assignments, there was no requirement to document this process. Thus, M-DCPS could not provide written substantiation of criteria staff considered in assigning projects.

According to the Assistant Superintendent, Construction Management, CMR MCC projects were assigned based on each project’s specifics and complexity, a firm’s current workload (including non-CMR MCC projects), experience and overall past

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<sup>18</sup> A third firm was listed on the bid tabulations; however, it is stated on the bid tabulations that the firm did not submit any bids.

<sup>19</sup> Agenda Item G-2 from the July 15, 2015 School Board Meeting.

**OFFICE OF THE INSPECTOR GENERAL MIAMI-DADE COUNTY PUBLIC SCHOOLS**  
**OIG Final Audit Report**  
*M-DCPS Administration of Miscellaneous Continuing Contracts*  
*Awarded to Construction Management At-Risk Firms*

---

performance, and whether the firm was already working at the site. While performance evaluations of the firms were prepared, documentation of project assignments was lacking, and we were unable to determine if projects were awarded per the stated criteria.

Additionally, although M-DCPS procedures do not require equitable distribution of work among the commissioned CMRs, the apparent disparity in the number of commissioned projects assigned to and subsequent payments made to the ten CMRs (see Table 1 on page 4) raises concerns. The top five CMRs were assigned almost 74% (137 of 186) of the projects, and received 82% (\$48.5 million of \$59.1 million) of the payments. In fact, the top two firms were assigned 35% (66 out of 186) of the projects and received almost 45% (\$26 million of \$59.1 million) of the payments made.

Overall, the lack of information showing how M-DCPS staff made CMR project assignments diminishes accountability and transparency, and could foster perceptions of favoritism. Project assignments made without written justification documenting a CMR's "workload and successful performance on previous assignments" may be vulnerable to criticism, particularly when the data shows an uneven distribution of project awards.

We are encouraged, however, that under the Bond Program and current commissioning period, M-DCPS has revised its practices for CMR MCC project assignments. M-DCPS senior staff overseeing this program told the OIG that these more recent CMR MCC project assignments were governed by a new two-part process, using both a firm's final ranking score received during the commissioning process, as well as consideration of its performance on prior CMR MCC and other work.

CMR MCC Year One projects are assigned on a "tiered-basis." The first-tier firms (i.e., the five highest-ranked firms) are assigned five projects. Second-tier firms (i.e., the next five highest-ranked firms) are assigned four projects; and so on, until all 16 firms have received a share of the first 66 projects (the lowest ranked firm was assigned two projects). Additionally, more experienced A/E and CMR firms are matched with the less experienced firms. A similar project assignment process was followed for the Sheltered Market Program. Projects in the subsequent years will be assigned to CMRs after each successful completion of a previously assigned project and assessment of its current workload, including performance on non-CMR MCC projects. However, as previously stated, key to the success of this process is ensuring that future project assignments are fully documented in written records that are included in M-DCPS' official repository of project-related files.

**OFFICE OF THE INSPECTOR GENERAL MIAMI-DADE COUNTY PUBLIC SCHOOLS**  
**OIG Final Audit Report**  
*M-DCPS Administration of Miscellaneous Continuing Contracts*  
*Awarded to Construction Management At-Risk Firms*

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**IX. CONCLUSION**

The necessity of maintaining complete project records is undeniable, as without them, M-DCPS cannot assure that its stewardship of significant public funds is prudent, accountable, and transparent. For example, M-DCPS should ensure that all CMR payment requests – prior to M-DCPS approval – include releases of liens from all subcontractors, or CMR consents of surety listing all subcontractors and the amounts due. The need to expedite a project is not justification for accepting incomplete records.

M-DCPS records should include written justification of each CMR project assignment. Further, prior to GMP approval, M-DCPS should be provided a CMR-prepared scope of work listing all divisions/trades, solicitation records of all subcontractors contacted and bids received, bid tabulations, and GMP proposals. Moreover, when necessary, CMRs should provide written explanations describing the circumstances underlying any decision to self-perform work and how it derived a reasonable price for the work, particularly without substantiated competition. In addition, there should be full CMR-prepared explanation for each instance where it elected to substitute a contractor – either with another subcontractor or by self-performing work – accompanied by M-DCPS written approval. M-DCPS should also require submission of complete records before proceeding to subsequent process steps, even if it means rejecting a CMR GMP proposal or payment request.

We believe M-DCPS recognizes that strengthening current policies, procedures, and practices will enhance efficiency and accountability, as well as increase the transparency of its CMR assignment and subcontracting processes. While M-DCPS has taken measures toward improvement, it should also assess the adequacy of staffing and information systems involved in project recordkeeping, management, and close-out to remedy the conditions noted in this report.

**X. RECOMMENDATIONS**

- 1a. M-DCPS should implement policies, procedures, and practices to ensure project closings are timely completed. All personnel involved, whether from M-DCPS, a CMR, an A/E, or Building Code Compliance, should complete their work, prepare and submit appropriate forms, and respond promptly to any requests for additional work or records. M-DCPS may wish to consider consolidating its various project databases and establishing an enforceable deadline for project closure.
- 1b. M-DCPS should close out all open projects, and resolve all unreleased retainage issues, as soon as possible.

**OFFICE OF THE INSPECTOR GENERAL MIAMI-DADE COUNTY PUBLIC SCHOOLS**  
**OIG Final Audit Report**  
*M-DCPS Administration of Miscellaneous Continuing Contracts*  
*Awarded to Construction Management At-Risk Firms*

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2. M-DCPS should implement policies, procedures, and practices to ensure that project records received from a CMR or A/E are complete, and, if not, to promptly obtain the records before continuing toward approving a GMP proposal or CMR payment request.
3. M-DCPS should require written documentation of all project assignments, and its inclusion in permanent project files.

We appreciate M-DCPS' positive response to our recommendations (see attached Appendix A). As such, the OIG kindly requests to be provided with a follow-up status report within 90 days (no later than November 20, 2015), detailing progress toward achieving the following:

- Close-out of all remaining MCC projects commissioned during the 2007 – 2011 period, including those identified by the OIG in our audit sample
- Phase-out of the Fox Pro and CCTS legacy systems, and enhancement of the Inspect system;

With the 90-day status report, please also provide a copy of the new procedures and practices designed to streamline the project close-out process, a copy of the new CMR procedures related to subcontractor substitution, and a summary of assignments during the current commission period.

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*The OIG would like to thank M-DCPS personnel for making themselves and their records available to us in a timely manner and for the courtesies extended to the OIG during the course of this review. We also appreciate that M-DCPS responded positively to our recommendations.*

**Miami-Dade County**  
**Office of the Inspector General**



**OIG Final Audit Report**  
**Schedule 1**

**Miami-Dade County Public Schools**

**Audited Projects 2007 – 2011 Commission Period**

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**Audit of M-DCPS Administration of Miscellaneous Continuing Contracts  
Awarded to Construction Management at-Risk Firms**

**SB 1314-1002**

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**Office of the Inspector General Miami-Dade County Public Schools**  
**M-DCPS Miscellaneous Continuing Contracts Awarded to Construction Management at-Risk Firms**  
**Schedule 1**  
**Audited Projects 2007 - 2011 Commission Period**

No.	Project Location - Description	Project #	CMR Firm	GMP Amount <sup>1</sup>	CMR Payments as of Apr 2015 <sup>1</sup>	Substantial Completion Date	Project Closed <sup>2</sup>	Days Since Substantial Completion <sup>3</sup>	Unreleased Retainage as of April 2015
1	Fienberg Fisher Elementary - Replacement of 4 Classrooms in Building 6	01131301	Veitia Padron Inc.	\$913,590	\$803,456	01/10/13	No	568	\$37,241
2	Nathaniel Powell Stadium - ADA Corrections & Renovations	00412200	Stobs Brothers Construction Company	\$1,689,710	\$1,659,962	06/26/13	No	452	\$28,885
3	Coral Reef Elementary - ADA Design Package 8	00500900	Coastal Construction Company	\$331,788	\$282,595	08/16/12	No	667	\$2,703
4	Biscayne Nature Center - Structural Integrity Investigation and Repairs	00454400	GEC Associates	\$164,401	\$160,524	01/09/13	No	569	\$2,121
5	Hialeah Gardens Senior High - Bleachers & Concrete Pads (pull-out)	A074206	Thornton Construction Company	\$289,485	\$256,582	12/28/12	No	576	\$2,182
6	Arvida Middle -Renovations - Pullout Project to correct Code Issues	A0825W6021CM02 <sup>4</sup>	Kalex Construction & Development, Inc.	\$27,057	\$25,791	04/07/10	No	1261	\$199
7	Eugenia B Thomas Elementary - Renovations - Pullout Project to correct Code Issues	A0825S0071CM01 <sup>4</sup>	Kalex Construction & Development, Inc.	\$25,682	\$24,029	None Noted	No	Unable to determine	\$1,559
8	Felix Varela Senior High - Renovations - Pullout Project to correct Code Issues	A0825W7781CM01 <sup>4</sup>	Kalex Construction & Development, Inc.	\$45,410	\$42,667	None Noted	No	Unable to determine	\$1,963
9	Frank C Martin Elementary - Renovations - Pullout Project to correct Code Issues	A0825W3101CM01 <sup>4</sup>	Kalex Construction & Development, Inc.	\$12,181	\$11,647	04/07/10	No	1261	\$239

**Office of the Inspector General Miami-Dade County Public Schools**  
**M-DCPS Miscellaneous Continuing Contracts Awarded to Construction Management at-Risk Firms**  
**Schedule 1**  
**Audited Projects 2007 - 2011 Commission Period**

No.	Project Location - Description	Project #	CMR Firm	GMP Amount <sup>1</sup>	CMR Payments as of Apr 2015 <sup>1</sup>	Substantial Completion Date	Project Closed <sup>2</sup>	Days Since Substantial Completion <sup>3</sup>	Unreleased Retainage as of April 2015
10	Greenglades Elementary - Renovations - Pullout Project to correct Code Issues	A0825W2261CM01 <sup>4</sup>	Kalex Construction & Development, Inc.	\$18,408	\$17,168	04/07/10	No	1261	\$796
11	Southwood Middle - Renovations - Pullout Project to correct Code Issues	A0825W6861CM01 <sup>4</sup>	Kalex Construction & Development, Inc.	\$21,418	\$20,391	None Noted	No	Unable to determine	\$377
12	Norland Middle - Renovations - Pullout Project to correct Code Issues	A0825S6571CM01 <sup>4</sup>	Kalex Construction & Development, Inc.	\$27,537	\$25,540	None Noted	No	Unable to determine	\$1,505
13	Hialeah Miami Lakes Senior High - Renovations - Pullout Project to correct Code Issues	A0825S7131CM01 <sup>4</sup>	Kalex Construction & Development, Inc.	\$29,848	\$28,841	04/07/10	No	1261	\$316
14	Miami Southbridge Senior High - Renovations - Pullout Project to correct Code Issues	A0825W7731CM02 <sup>4</sup>	Kalex Construction & Development, Inc.	\$27,408	\$25,725	04/07/10	No	1261	\$1,525
15	Bob Graham Education Center - Pull Out to expedite de-muck & fill of bldg. area & parking lot	00731701 <sup>5</sup>	BDI Construction Company	\$909,665	\$909,665	08/23/11	No	914	\$0
16	Carol City Elementary - Work plan renovations - paint and site improvements	00258300	Coastal Construction Company	\$951,660	\$793,014	03/05/13	No	532	\$0
17	Miami Northwestern Senior High - Cosmetology Lab	00457700	Hewett-Kier Construction, Inc.	\$276,000	\$276,000	06/26/08	No	1706	\$0
18	Miami Northwestern Senior High - Pull Out for Cooling Tower Replacement	A0109601	Hewett-Kier Construction, Inc.	\$705,064	\$556,191	12/09/08	No	1593	\$0

**Office of the Inspector General Miami-Dade County Public Schools**  
**M-DCPS Miscellaneous Continuing Contracts Awarded to Construction Management at-Risk Firms**  
**Schedule 1**  
**Audited Projects 2007 - 2011 Commission Period**

No.	Project Location - Description	Project #	CMR Firm	GMP Amount <sup>1</sup>	CMR Payments as of Apr 2015 <sup>1</sup>	Substantial Completion Date	Project Closed <sup>2</sup>	Days Since Substantial Completion <sup>3</sup>	Unreleased Retainage as of April 2015
19	Hialeah-Miami Lakes Senior High - ADA Corrections (package 6) and new drop-off	00345300	Stobs Brothers Inc	\$746,000	\$641,573	09/24/10	No	1142	\$8,508
20	Miami MacArthur South - Pull Out for Part 1 (at Naranja ES site)	00316902	Stobs Brothers Inc	\$892,210	\$843,876	None Noted	No	Unable to determine	\$44,875
21	Jane S. Roberts K-8 Center - Half basketball court, stair enclosure, chiller sound enclosure and PE shelter	00170202	Thornton Construction Co Inc	\$224,258	\$221,949	04/25/11	No	998	\$0
22	Coral Gables Preparatory Academy - Phase II interior renovations & remodeling	00885201	Veitia Padron Inc	\$720,384	\$716,421	08/19/11	No	916	\$400
23	Bent Tree Elementary - ADA Design Package 8	00500800	Zurqui Construction Svc Inc	\$119,730	\$107,628	12/12/11	No	839	\$0
24	George T. Baker Aviation - Relocation of Donated Aircraft	00711600	Veitia Padron Inc.	\$32,313	\$32,313	None Noted	Yes	N/A	\$0
25	Colonial Drive Elementary - ADA Renovations	00437900	BDI Construction Company	\$460,813	\$434,787	08/09/11	12/17/13	N/A	\$0
26	John A. Ferguson Senior High - On site traffic improvements	00788300	Zurqui Construction Svc Inc	\$123,733	\$108,733	05/25/12	05/10/13	N/A	\$0
27	Richmond Heights Middle - ADA Renovation, Maintenance & Repairs	00438200	Kalex Construction & Development, Inc.	\$629,798	\$606,518	03/24/11	05/07/13	N/A	\$0

**Office of the Inspector General Miami-Dade County Public Schools**  
**M-DCPS Miscellaneous Continuing Contracts Awarded to Construction Management at-Risk Firms**  
**Schedule 1**  
**Audited Projects 2007 - 2011 Commission Period**

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28	Alonzo and Tracy Mourning Senior High Biscayne Bay Campus - Off site drainage, crosswalk, signage, sidewalk, paving & fleebars	00784800	Coastal Construction Company	\$658,774	\$656,334	09/29/11	09/13/12	N/A	\$0
29	Nathan B. Young Elementary - Renovations - Pull out for scope reduction	A0111901	BDI Construction Company	\$749,694	\$644,619	05/19/11	06/21/12	N/A	\$0
30	Bob Graham Educational Center - Renovations - Pullout Project to correct Code Issues	A0825W7731CM01 <sup>4</sup>	Kalex Construction & Development, Inc.	\$28,585	\$28,202	04/07/10	10/13/11	N/A	\$0
31	Blue Lakes Elementary - Renovations - Pullout Project	00161101	BDI Construction Company	\$889,865	\$841,532	11/02/10	10/13/11	N/A	\$0
32	Citrus Grove Eslementary - Pull Out for tree removal, relocation, repairs	00414801	Kalex Construction & Development	\$940,318	\$920,965	10/19/10	09/27/11	N/A	\$0
33	Calusa Elementary - Renovations - Pullout Project to correct Code Issues	A0825W0671CM01 <sup>4</sup>	Kalex Construction & Development, Inc.	\$15,578	\$14,685	04/07/10	09/26/11	N/A	\$0
34	South Miami Middle - Sewer Connection VA	KV0638; KV0638CM150; KV0638CMJA150	Jasco Construction Company Inc / Traveler's Casualty & Surety	\$999,000	\$994,195	05/17/11	08/17/11	N/A	\$0
35	Coral Way K-8 Center - Utility installations for leased portables & demo of MDCPS portables	00395801	Veitia Padron Inc	\$947,377	\$929,359	06/01/09	06/28/11	N/A	\$0
36	Homestead Senior High - Renovations - Pullout Project to correct Code Issues	A0825W7151CM01 <sup>4</sup>	Kalex Construction & Development, Inc.	\$27,172	\$27,014	04/07/10	01/25/11	N/A	\$0

**Office of the Inspector General Miami-Dade County Public Schools**  
**M-DCPS Miscellaneous Continuing Contracts Awarded to Construction Management at-Risk Firms**  
**Schedule 1**  
**Audited Projects 2007 - 2011 Commission Period**

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37	Oliver Hoover Elementary - ADA Corrections (package 6) including new F.A.	00345800	Gec Associates Inc	\$556,272	\$533,125	02/04/09	12/03/10	N/A	\$0
38	Dr Michael M. Krop SHS - Dining Shelter	00373200	Kalex Construction & Development	\$882,897	\$861,509	12/23/08	09/23/10	N/A	\$0
39	Ernest R Graham K-8 Center - Interior Paint; Misc carpet replacement & fixtures	00479200	Hewett-Kier Construction, Inc.	\$271,499	\$258,571	02/17/09	09/16/10	N/A	\$0
40	Hammocks Middle - Fire Alarm	00347700	Veitia Padron Inc	\$883,890	\$838,752	12/01/08	11/18/09	N/A	\$0
			<b>TOTALS</b>	<b>\$18,266,472</b>	<b>\$17,182,448</b>				<b>\$135,393</b>

<sup>1</sup> Excludes pre-construction costs and payments

<sup>2</sup> All projects not closed have pending deliverables or open code compliance issues, as of March 2015.

<sup>3</sup> Number of days, as of April 15, 2015. (excluding weekends and public holidays).

<sup>4</sup> Sub-project of M-DCPS Modular Program -A/C Retrofit Various Locations (Project #A0825).

<sup>5</sup> Delay in project close-out is due to litigation with bond company. Project was originally assigned to Zurqui Construction.

**Miami-Dade County**  
**Office of the Inspector General**



**OIG Final Audit Report**  
**Appendix A**

**Miami-Dade County Public Schools Response**

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**Audit of M-DCPS Administration of Miscellaneous Continuing Contracts  
Awarded to Construction Management at-Risk Firms**

**SB 1314-1002**

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# Miami-Dade County Public Schools

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Alberto M. Carvalho

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Susie V. Castillo  
Dr. Wilbert "Tee" Holloway  
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July 2, 2015

Ms. Mary T. Cagle, Inspector General  
Office of Inspector General Miami-Dade County  
19 W. Flagler Street, Suite 220  
Miami, Florida 33130

**RE: OIG DRAFT AUDIT REPORT: M-DCPS ADMINISTRATION OF  
MISCELLANEOUS CONTINUING CONTRACTS AWARDED TO  
CONSTRUCTION MANAGEMENT AT-RISK FIRMS, SB-1314-1002**

Dear Ms. Cagle:

As requested, please find management's response to the above subject draft report from the Office of Inspector General. Thank you for your attention and assistance with this matter.

Sincerely,

Alberto M. Carvalho  
Superintendent of Schools

AMC:cb  
L009

Attachment

cc: Mr. Jaime G. Torrens  
Mr. Raul F. Perez

STAFF RESPONSE TO OIG AUDIT REPORT: M-DCPS ADMINISTRATION  
OF MISCELLANEOUS CONTINUING CONTRACTS AWARDED TO  
CONSTRUCTION MANAGEMENT AT-RISK FIRMS

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**Recommendation 1a:**

M-DCPS should implement policies, procedures and practices that will ensure that project's closings are completed timely. M-DCPS might want to consider consolidating its various projects databases and establishing an enforceable deadline within which projects must be closed.

**Recommendation 1b:**

M-DCPS needs to close out all of the open projects and resolve all unreleased retainage issues, as soon as possible.

**Staff Response:**

Staff concurs with the recommendations and is implementing changes to procedures and practices to streamline the project close out process. Specifically, digital project information is being consolidated into a common database to facilitate management of submittals, forms and contract documents. The "Inspect" database is being enhanced to enable both contracted and in-house inspectors to access forms as well as outstanding review and inspection comments in real time. Additionally, the Fox Pro and CCTS legacy systems have been phased out for new projects. Of 23 open projects cited by the IG, 11 have already been closed and resources have been directed to complete the administrative close out process for the remaining projects as soon as possible; the remaining retainage amounts are minimal.

As a result of the above-mentioned process improvements and greater emphasis by management on timely close-out, we are pleased to report that of 35 recently-completed Year-1 General Obligation Bond (GOB) projects, 20 have already been closed out with the time required to accomplish it reduced to approximately 90 days.

**Recommendation 2:**

M-DCPS should ensure that project records received from a CMR or A/E are complete and if not, to promptly obtain the records before continuing the process, whether it be approving a GMP proposal or a CMR payment request.

**Staff Response:**

Staff concurs with the recommendation that project records received from a CMR or A/E must be checked for completeness at key stages of each project.

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The observations regarding incomplete project files are being addressed by incorporating checkpoints at four different stages of each project. Relevant documentation is now being reviewed for completeness at each stage and signed off by the responsible staff member before the project is allowed to proceed. Additionally, proper record keeping and pay requisition completeness are emphasized during weekly training with project managers since they represent the front line in managing CM contracts.

Staff must confirm that key records of CMR subcontractor bids, awards and GMP development are included with the GMP Book before issuance of the Notice to Proceed (NTP), including records explaining and justifying alterations by the CMR to a prospective subcontractor's bids. In some instances, subcontractor bids are incomplete or qualify a certain aspect of the project's scope requiring the CMR to request clarifications from the subcontractor that could modify the bid price. The CMR then includes this modified price with the subcontractor's concurrence in the GMP. In these instances, such information will be included in the GMP book.

Current practice requires that releases of lien and consents of surety be submitted with each pay requisition as a condition for payment to the CMR. Staff has been directed to confirm that subcontractor releases of lien or CMR consents of surety are placed in the official project file, with each pay requisition.

To ensure records documenting subcontractor substitution after GMP approval receive the District's written approval, the CMR procedures manual (referenced in the CMR contract article 6.1) is being revised to require contract compliance review as a condition of payment at specific milestones during the project's construction.

An added layer of verification regarding subcontractor substitution will be provided by a new compliance monitoring system procured and maintained by the District's Office of Economic Opportunity. The B2Gnow program will track subcontractor payment and provide notification if any subcontractors are changed on a project.

Project management staffing is important to the integrity of project records. As such, project managers are currently assigned during the scoping phase and remain responsible for their projects through close-out. During the audit period which immediately preceded the GOB Program, the District's capital revenue plummeted, requiring drastic reductions-in-force impacting project managers, and consequently continuity of project oversight.

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**Recommendation 3:**

M-DCPS should require that all project assignments be documented in written records that are made part of a project's and CMR's official files.

**Staff Response:**

Staff concurs with the recommendation to include documentation regarding CMR projects assignments in each official project official files. Consequently, CMR assignment documentation is now included with the GMP Book before issuance of the Notice to Proceed.

**Conclusion:**

The above noted modifications will continue to enhance accountability and provide greater transparency in the administration construction projects. This is of particular importance as the District moves forward with \$1.2 billion GOB Program.