




**Christopher R. Mazzella**  
Inspector General  
Office of the Inspector General for Miami-Dade County Public Schools



## MEMORANDUM

To: Mr. Alberto M. Carvalho, Superintendent of Schools, M-DCPS

From: Patra Liu, Interim Inspector General 

Date: May 23, 2013

Subject: OIG Review of the PMSS Procurement Process; SBIG12-13-1003

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On May 8, 2013, the Office of School Facilities presented Agenda Item F-21, the Agreement for the Program Management Support Services (PMSS) between the School Board of Miami-Dade County, Florida, and Parsons Brinckerhoff, Inc., to the School Board for award. You requested that the Office of the Inspector General (OIG) conduct an independent review of the procurement process that resulted in Parsons Brinckerhoff being recommended for award of the aforementioned agreement. Attached are the results of our review. Overall, the OIG found no exceptions to the procurement process.

On May 14, 2013, the OIG met with M-DCPS staff who were involved with the procurement process and key members of the negotiating team. We have been provided all requested documentation. We reviewed and verified all aspects of the process, from advertisement of the solicitation through negotiations with the top-ranked firm, resulting in the final agreement. As noted above, the OIG found no exceptions to the process; nonetheless, we have two suggestions that you may wish to consider for future solicitations. Please do not hesitate to contact me should you have any questions.

### Attachment

cc: Hon. Chairwoman, Mrs. Perla Tabares Hantman  
and Members, Miami-Dade County School Board  
Walter J. Harvey, School Board Attorney  
Jose Montes de Oca, Chief Auditor, Office of Management & Compliance Audits  
Jaime G. Torrens, Chief Facilities Officer, Office of School Facilities

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***OIG Review of the PMSS Procurement Process***

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| <b>Procurement Process</b>        |  |
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| Solicitation                      | <ul style="list-style-type: none"><li>▪ The PMSS Request for Qualifications (RFQ) was advertised from November 19, 2012 through December 3, 2012 in the following: a) The Daily Business Review; b) Diario Las Americas; c) The Miami Times; and, 4) the M-DCPS Facilities webpage.</li><li>▪ Copies of the advertisements were provided to the OIG by the M-DCPS staff. The OIG also obtained a copy of the solicitation from the Facilities' webpage.</li><li>▪ No exceptions noted.</li></ul>   |
| Cone of Silence Notifications     | <ul style="list-style-type: none"><li>▪ The official Cone of Silence notification commenced in concurrence with the RFQ solicitation on November 19, 2012.</li><li>▪ The notification was also posted on the Facilities' webpage. It was also stated on the solicitation itself.</li><li>▪ No exceptions noted.</li></ul>  |
| Mandatory Pre-proposal Conference | <ul style="list-style-type: none"><li>▪ The mandatory pre-proposal conference was held on December 5, 2012.</li><li>▪ M-DCPS staff provided the OIG with copies of the following items related to the pre-proposal conference:<ul style="list-style-type: none"><li>▪ the pre-proposal conference handout, which included the solicitation; applicable School Board policies; and questions and answers (Q&amp;A) prior to the 12/05/12 conference</li><li>▪ the RFQ selection procedures</li><li>▪ the revised pre-proposal conference handout appended with the attendee sign-in sheets and post conference follow-up Q&amp;A</li><li>▪ a list of M-DCPS staff that attended and coordinated the meeting</li></ul></li><li>▪ The OIG also obtained copies of some of these documents from the Facilities' webpage.</li><li>▪ M-DCPS staff also provided the OIG with audio tapes of the pre-proposal conference, which we have listened to.</li><li>▪ No exceptions noted.</li></ul> |

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| Addendum              | <ul style="list-style-type: none"> <li>▪ No Addenda noted other than the Q&amp;A handouts noted above.</li> </ul>  |
| Receipts of Proposals | <ul style="list-style-type: none"> <li>▪ Eight (8) proposals were received on January 8, 2013.</li> </ul>  |
| Initial Screening     | <ul style="list-style-type: none"> <li>▪ The proposals were reviewed, evaluated and scored by staff utilizing a standardized form entitled <i>Qualifications Form 1</i>.</li> <li>▪ This initial screening of all eight (8) proposals were performed by M-DCPS staff and completed on March 21, 2013.</li> <li>▪ The following M-DCPS staff performed the initial screening:           <ul style="list-style-type: none"> <li>▪ The Executive Director for A/E Selection</li> <li>▪ Two (2) A/E Selection staff members holding the job classification of Analyst III</li> </ul> </li> <li>▪ M-DCPS staff informed the OIG that one firm was ineligible since it has an existing conflicting contract with M-DCPS.</li> <li>▪ Five (5) firms made the short-list.</li> <li>▪ The collective staff evaluations of the short-listed firms were provided to the OIG.</li> <li>▪ No exceptions noted.</li> </ul> |
| Selection Committee   | <ul style="list-style-type: none"> <li>▪ A request for appointment of Selection Committee members was issued via memo on January 14, 2013.</li> <li>▪ The Selection Committee initially comprised of seven (7) voting members and one (1) at-large member.</li> <li>▪ On the day of the oral presentations only six (6) Selection Committee members were present and, as such, the at-large member became the seventh voting member.</li> <li>▪ The Selection Committee members executed a <i>No Conflict of Interest Certification</i> on April 5, 2013, the date of the oral presentations.</li> <li>▪ Documents in reference to the Selection Committee member appointment process, members' responsibilities, procedures for evaluation of firms, and the <i>No Conflict of</i></li> </ul>   |

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|                             | <p><i>Interest Certifications</i> were provided to the OIG.</p> <ul style="list-style-type: none"> <li>▪ No exceptions noted.</li> </ul>   |
| <p>Oral Presentations</p>   | <ul style="list-style-type: none"> <li>▪ The five (5) short-listed firms were invited to provide oral presentations on April 5, 2013.</li> <li>▪ OIG staff attended the presentations and noted that it was structured and well-organized.</li> <li>▪ The Selection Committee's final evaluations of the five firms were completed on the evening of April 5, 2013.</li> <li>▪ Parsons Brinckerhoff was the highest-ranked firm.</li> <li>▪ Selection Committee member's evaluations of each of the five (5) firms was provided to the OIG.</li> <li>▪ No exceptions noted.</li> </ul>   |
| <p>Protest of Bid Award</p> | <ul style="list-style-type: none"> <li>▪ School Board Policy 6320 states the following:<br/>Any person who is adversely affected by the agency decision or intended decision, shall file with the agency a Notice of Protest in writing within seventy-two (72) hours after the posting of the bid tabulation or after receipt of the notice of the agency decision or intended decision and shall file a Formal Written Protest within ten (10) calendar days after filing the Notice of Protest. The protesting bidder shall also be required to post a bond, consistent with this rule. Failure to file a Notice of Protest or failure to file a Formal Written Protest shall constitute a waiver of proceedings under F.S. Chapter 120.57.</li> <li>▪ No bid protest was filed.</li> </ul> |
| <p>Negotiations</p>         | <ul style="list-style-type: none"> <li>▪ The M-DCPS negotiation team consisted of four (4) individuals: <ul style="list-style-type: none"> <li>▪ The Executive Director for A/E Selection</li> <li>▪ An A/E Selection Analyst III</li> <li>▪ The Assistant Superintendent for Maintenance</li> </ul> </li> </ul>   |

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|                                      | <p style="text-align: center;">Operations</p> <ul style="list-style-type: none"><li>▪ A Senior Design &amp; Construction Officer for the Office of Capital Improvement Projects</li><li>▪ Negotiation meetings were conducted with Parsons Brinckerhoff on 4/23/13, 4/26/13, 4/29/13 and 5/01/13.</li><li>▪ The first meeting was held on M-DCPS premises. Follow-up negotiation meetings were held via conference call on the remaining dates.</li><li>▪ The OIG was provided with audio tapes of the negotiation meetings noted above, which we have listened to.</li><li>▪ The OIG was also provided with e-mail correspondence relative to the negotiations, including edits to the proposal agreement, which we have reviewed.</li><li>▪ The OIG was able to track the progress of the negotiations.</li><li>▪ No exceptions noted.</li></ul> |
| Recommendation of Award to the Board | <ul style="list-style-type: none"><li>▪ The PMSS agreement with Parsons Brinckerhoff was submitted to the Board for award on May 8, 2013.</li><li>▪ The item passed unanimously.</li><li>▪ No exceptions noted.</li></ul>  |

### **Due Diligence**

On May 14, 2013, during our meeting with M-DCPS staff, we inquired about the due diligence performed on Parsons Brinckerhoff, the top-ranked proposer. We were informed that during the Initial Screening stage staff contacted the firms' references that they listed in their proposals.

While Parsons Brinckerhoff did not list Miami-Dade Transit (MDT) as a reference on its proposal, M-DCPS staff did contact MDT (after Parsons Brinckerhoff was recommended for award) to inquire of its compliance with the Miami-Dade County's small business goals.

Other jurisdictions contacted by M-DCPS staff include Orange County Public Schools (FL), Los Angeles Unified School District, Houston Independent School District and Chicago Public Schools. Some of these discussions related to the compensation of the program management firms.

### **Agreement Terms & Conditions**

Prior to the Superintendent's request that the OIG perform this Procurement Process Review, the OIG, on its own initiative, met with Mr. Jaime Torrens, Chief Facilities Officer; Ms. Ana Rijo-Conde, Economic Sustainability Officer; and, Mr. Paul Washington, Board Attorney, to discuss the draft PMSS agreement. This meeting took place on April 3, 2013, after the OIG had an opportunity to review an early draft of the agreement.

The OIG submitted comments and suggestions to Mr. Torrens on April 8, 2013. (Attachment A). On April 17, 2013, the OIG was provided with a revised draft agreement. We have also thoroughly reviewed the final agreement. Several of the OIG's comments and suggestions were incorporated into the agreement; notably the *Conflict of Interest Affidavit* that will be executed by the employees of the Program Manager and employees of the sub-consultants (see Schedules G and H of the final agreement).

### **OIG Observations & Suggestions**

- The OIG previously commented on the lack of a maximum contract ceiling dollar amount. As such, we believe that the monthly reports, which will be submitted to Board, should identify the number and dollar value of work orders issued pursuant to this agreement. The reporting should include the dollar amounts encumbered (through work order issuance) and the dollar amounts expended.
- The OIG observed that while Selection Committee members execute a *No Conflict of Interest Certification*, M-DCPS staff members who comprise the Initial Screening evaluation team and comprise the Negotiations team do not execute the same type of form. We were advised that staff on an annual basis executes a general no conflict form. However, because the Initial Screening and Negotiations rounds are key components of the overall procurement process, we suggest that all individuals involved in the process execute the same certification—a certification that is specific to the procurement at hand, as opposed to annual general statement.

## Rose Stanek, Arleen (OIG)

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**From:** Liu, Patra (OIG)  
**Sent:** Monday, April 08, 2013 5:04 PM  
**To:** 'JTorrens@dadeschools.net'  
**Cc:** ALBERTO CARVALHO (ACarvalho@dadeschools.net); Mazzella, Christopher (OIG); 'PaulWashington@dadeschools.net'; 'ARijo@dadeschools.net'  
**Subject:** Follow-up to meeting on April 3, 2013  
**Attachments:** Sample Affidavit for Staff Conflict of Interest.pdf

Jamie:

I am glad that we got the opportunity to meet last week regarding the 21<sup>st</sup> C. Bond Program, and more specifically the current RPQ for Program Management Support Services (PMSS). At our meeting, I advised that we would put our comments and suggestions in writing. Here they are:

1. Inclusion of a merger clause. We noted that it seemed to be missing. Reference should be made to provisions of the RPQ, addendum, and representations made by the vendor in its proposal. Order of precedence should be stated.
2. Inclusion of Delay Damages. Depending on the scope of work in the work order, damages for delay may be appropriate.
3. Business Code of Ethics. Reference is made to this School Board Rule in the RPQ. Given its importance, we believe it should be expressly stated as a provision of the Professional Services Agreement.
4. Duration and Contract Ceiling Amount. Both should be expressly stated with inclusion of OTRs, and funding amounts for the OTRs. If not, Board approval would be required to replenish funding during the OTRs.
5. Organizational Conflict of Interest. As I mentioned during the meeting, MD-WASD has language in its draft PM/CM Agreement. We are checking with MD-WASD about sharing this language with you.
6. Personal Conflict of Interest (Consultant Personnel): Attached please find a copy of the affidavit that was implemented by MD-WASD for Hazen & Sawyer personnel working on So. Dade Waste Water Treatment High Yield Disinfection Project. While the affidavit was written for inspectional personnel, it was actually implanted for all program management consultant staff. We strongly urge you to consider a similar requirement.
7. Acknowledgment of OIG Authority. I advised that I would provide proposed language.

Program Manager acknowledges the authority of the Office of the Inspector General, as established by School Board Rule 6Gx13-8A-1.07, School Board Rule 6Gx13-8A-1.08, and the Interlocal Agreement between the School Board of Miami-Dade County and Miami-Dade County, as may be amended from time to time, to make investigations of School Board affairs and the power to review past, present and proposed School Board programs, accounts, records, contracts and transactions, and contracts; and all other powers provided by the aforementioned authorities. The OIG is a duly authorized agent or representative of the Board for purposes of access to Program Manager's records as provided by in Article 6 of this Agreement.

**ATTACHMENT A**

8. Professional Liability Insurance. Not clear if Professional Liability Insurance is included in the Schedule D of Insurance Coverages. Section 8.2.2. references all insurance policies other than Professional Liability and Workers Compensation.
9. Can you please provide us with the draft schedules intended to be included in the agreement?

We look forward to providing more input as the drafting and negotiations processes continue. And please do not hesitate to contact us should you need assistance with any matter.

Regards,

Patra Liu  
Assistant Inspector General  
(305) 375-1946