

Internal Audit Report

Miami-Dade County Public Schools Office of Management and Compliance Audits



AUDIT OF DESIGNATED ELEMENTS OF SELECTED CONSTRUCTION PROJECTS



Opportunities identified to improve the process of bidding, awarding, and negotiating construction projects along with aligning operating procedures to actual practices.

**Reissued
May 2018**

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Superintendent of Schools

Mr. Alberto M. Carvalho

Office of Management and Compliance Audits

Ms. Iraida R. Mendez-Cartaya, CPA

Interim Chief Auditor

Contributors to This Report:

Audit Performed by:

Mrs. Jeny Priante, MBA

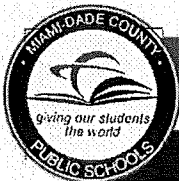
Ms. Teresita M. Rodriguez, CPA

Mr. Richard A. Yanez, CPA

Audit Reviewed and Supervised by:

Mr. Trevor L. Williams, CPA





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Ms. Iraida R. Mendez-Cartaya, CPA

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Dr. Marta Pérez

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May 10, 2018

Ladies and Gentlemen:

In accordance with the Audit Plan, an audit was conducted of ten construction projects funded by the General Obligation Bond (GOB). The primary objective was to determine whether adequate internal controls and safeguards were in place over the construction projects through the evaluation of certain elements of the award, design, and construction process for the selected projects.

While the Office of School Facilities has a comprehensive, well-designed and functioning process for selecting and awarding primary contracts for construction, we have identified several opportunities to improve the documentation of the process of bidding, awarding, and negotiating subcontracting. We also recommend updating the department's policies and procedures to reflect actual practices.

Subsequent to the printing of the report, the Office of Management and Compliance Audits and the Office of School Facilities met. As a result, management responses to Findings #2 and #3 were modified. We have reissued our report with the modified management response.

In closing, we would like to thank the Office of School Facilities for the cooperation and courtesies extended to staff during the audit.

Sincerely,

Iraida R. Mendez-Cartaya, CPA, Interim Chief Auditor
Office of Management and Compliance Audits

Office of Management and Compliance Audits

School Board Administration Building • 1450 N.E. 2nd Ave. • Suite 415 • Miami, FL 33132

305-995-1436 • 305-995-1331 (FAX) • <http://mca.dadeschools.net>

TABLE OF CONTENTS

	Page Number
EXECUTIVE SUMMARY	1
INTERNAL CONTROL	4
BACKGROUND	5
PARTIAL ORGANIZATIONAL CHART	7
OBJECTIVES, SCOPE AND METHODOLOGY	8
FINDINGS AND CONCLUSIONS –	
<u>SUMMARY OF OBSERVATIONS</u>	9
1. The process for selecting and awarding primary contracts for construction is well designed and functioning effectively.	9
2. The contractor requisition payment process was found to be operating effectively.	9
3. The internal controls over payments for Direct Purchase Order (DPO) materials and equipment were adequate.....	9
4. Our field visits conclude that the work in place observed agreed with the scopes of work examined.....	9
<u>SUMMARY OF FINDINGS AND RECOMMENDATIONS</u>	10
1. Policies and procedures used for managing the execution of the GOB Program need to be updated and enhanced	10
2. The GMP development process has several internal control weaknesses.....	12
3. Some Small and Micro Business Enterprise goals and Minority/Women-Owned Business Enterprise assistance levels committed to for subcontracting were not achieved.....	15

4. The recordkeeping and documentation pertaining to the project warranty phase needs improvement.....	19
5. One project went beyond its contractual substantial completion date and it is unclear whether another project did	21
DETAILS OF CONDITIONS NOTED FOR EACH CONSTRUCTION PROJECT AUDITED.....	24
Biscayne Elementary School.....	25
Frank C. Martin K-8.....	30
Gloria Floyd Elementary School.....	35
Hialeah Elementary School.....	39
MAST Academy (Two Projects – Sector 1 and Sector 2).....	44
Miami Coral Park Senior High School.....	56
Miami Lakes K-8 Center	58
Myrtle Grove K-8 Center.....	62
Van E. Blanton Elementary School	65
MANAGEMENT’S RESPONSE.....	70
Original Response	71
Revised Response to Findings Nos. 2 and 3.....	74

Background

In November 2012, the voters of Miami-Dade County, Florida, passed a \$1.2 billion General Obligation Bond (GOB) referendum to fund Miami-Dade County Public Schools' (M-DCPS) modernization and renovation capital construction initiative.

In fulfilling our oversight responsibility, we have identified a sample of projects that were completed or substantially completed for audit.

Objectives and Scope

The purpose of the audit was to determine whether adequate internal controls and safeguards were in place over GOB construction projects through the evaluation of certain elements of the award, design, and construction processes for selected projects by verifying the following:

- The Office of School Facilities (OSF) policies, procedures, and guidelines are current, clearly delineated, and effective.
- Processes are in place for awarding construction projects and in compliance with established Board Policies.
- Projects are completed in a timely manner.
- Contingencies, allowances, and change orders are justified, supported, properly approved, and executed prior to contractor payments.
- Warranty process after the construction close-out is functioning effectively.

The scope of our audit covered construction projects that were either completed or substantially completed by the OSF during FY's 2013 through 2016. We judgmentally selected 10 projects covering all nine School Board member districts. The sample included projects with the more significant dollar value as well as a project of lesser value. Our sample was designed to cover work that was completed in all areas of the county. This report presents our audit findings, conclusions, and recommendations for the 10 selected projects.



At A Glance

What We Found:

The Office of School Facilities (OSF) has a comprehensive, well designed, and functioning process for selecting and awarding primary contracts for construction. The process involves a two-phase competitive evaluative exercise, which includes a well-defined point system. We reviewed the contractor requisition payment process and found it to be operating effectively. Also, payments for Direct Purchase Order (DPO) purchased materials and equipment were accurate, properly approved and supported, and had the required propriety. Additionally, we found the work in place agreed with the scopes of work examined.

The policies and procedures used for managing projects are not always consistent with the practices routinely occurring. For example, key tasks routinely performed are not part of the procedures and existing required procedures are not always followed. Consequently, there is inconsistency in the way some matters are executed.

The Guaranteed Maximum Price (GMP) development process has several internal control weaknesses. The 10 GOB-funded projects reviewed collectively contained 103 disciplines for which 354 bids were received and tabulated. We found 142 exceptions related to these 354 bids, including instances of the Bid Tabulation Forms not signed by the appropriate parties and containing inconsistent and/or inaccurate information, as well as omissions; the apparent low bidders were not selected or an apparent non-responsive bid selected without the required documentation explaining the reason(s) for deviating from the norm and for the selection; and project scope performed by the Construction Manager (CM) without competitively bid pricing and a documented explanation or approval from OSF.

Four of the 10 projects had subcontracting goals established by the Goal Setting Committee (GSC), collectively four goals. Three of these goals (75 percent) were achieved and only four of the 13 "Assistance Levels or Aspirational Goals" (30.8 percent) committed to by the CM's for "African American" and "Women" Minority/Women-Owned Business Enterprise (M/WBE) categories were met, collectively, for the seven projects with CM imposed "Assistance Levels or Aspirational Goals." However, it should be noted that the five projects that did not have any GSC established participation goals did achieve SBE and/or MBE subcontractor participation ranging between 2.3 percent and 46 percent.

Based on a comparison of the substantial completion date reflected on the Certificate of Occupancy (CO) and the date reflected by the number of days allowed to complete the project per the construction contract, two of the 10 projects exceeded the contracted substantial completion dates by more than 30 days (32 and 37 days, respectively). However, it must be noted that inconsistencies in the documents reviewed make this determination unclear.

We Recommend That OSF:

Review its policies and procedures and update them to align with practices and documents currently being used.

Review the performance of the contracted program management firm as it relates to complying with documentation requirements and best practices relative to the bidding and contract guaranteed maximum price development process.

Document significant events occurring during a project's post-occupancy/warranty phase.

Clarify Board Policy 6320.02 related to CM's obligation for achieving established goals and assistance levels.

Ensure Program Manager, CM, and A/E's staffs assigned to district projects are trained in the requirements contained in the *Miscellaneous/CM@Risk Contracts Procedures*.

EXECUTIVE SUMMARY

This audit focused on 10 capital construction projects funded either in whole or part with the voter-approved \$1.2 billion General Obligation Bonds (GOB) intended for modernizing and constructing public school facilities throughout the District. The results of our audit are based on the testing performed related to the 10 sample projects and the policies and procedures used in managing these projects. We did not apply these auditing procedures to the universe of GOB funded projects undertaken by the OSF and have not interpreted our sampling results across that population, therefore, the findings and observations reported are specific to our sample of projects audited.

The results of our audit are presented in three distinct formats in this report: 1) an Executive Summary containing a high-level summary; 2) a summary of findings and conclusions section containing a detailed, contextualized discussion of the conditions discovered; and 3) a section detailing the conditions found for each project audited. We encourage you to read all sections of the report, as each is integral to the report.

Our audit disclosed the following:

- The policies and procedures the Office of School Facilities (OSF) uses to manage the District's Capital Program do not fully align with routine practices performed by the OSF and the contracted program manager personnel. For instance, some documents routinely generated and/or used during a construction project's life cycle were not included in the *Miscellaneous/CM@Risk Contracts Procedures*, the principal manual used for construction projects initiated by the District using the Construction Manager at Risk project delivery model. While some situations are routinely encountered, there is no guidance in the *Procedures* on how to handle them. Consequently, the situations were handled in an inconsistent manner.
- The Guaranteed Maximum Price (GMP) development process has several internal control weaknesses, including the Bid Tabulation Forms reviewed, of which five out of 10 were not signed by the appropriate parties. The bids for seven non-winning bidders and four winning bidders were not provided for audit. Thirty-six sections/disciplines of project scope were self-performed by the Construction Manager (CM) without competitively bid pricing and a documented explanation or approval on file for this action. Forty-two instances of amounts reflected on the Bid Tabulation Form did not agree with the bid proposals. There were seven cases noted where the apparent low bidders were not selected and the reason(s) for the selection were not documented, in writing, as required. Two instances where matching bids by different subcontractors were received and a selection made;

however, there was no documented explanation of the basis for selecting one over the other. We found two instances where an apparent non-responsive bid was selected without the required documentation explaining the reason(s) for the waiver of bid requirements and the selection. There were 17 instances where only one bid was received for multiple disciplines or sections of project scope and were awarded without documented explanation of the measures taken to ensure competition (refer to Finding No. 3 and the "Details of Conditions Noted for Each Construction Project Audited" section of this report for further details about the conditions noted herein).

- Three of the four goals (75 percent) established by the District's Goal Setting Committee (GSC) were achieved, but only four of the 13 "Aspirational Goals or Assistance Levels" (30.8 percent) committed to by the CM's for "African American" and "Women" Minority/Women-Owned Business Enterprise (M/WBE) categories were met collectively for the seven projects with CM imposed "Assistance Levels or Aspirational Goals." This commitment was established by the CM's signing a notarized "*CM-at-Risk Statement of Commitment to Fulfill the Established M/WBE Assistance Levels (Form 6024)*" with stated M/WBE assistance levels, and in the case of MAST Academy, through an approved School Board item. Also, it must be noted that the five projects that did not have any GSC established participation goals did achieve SBE and/or MBE subcontractor participation ranging between 2.3 percent and 46 percent.
- No documentation was provided to verify the "Final Walk-Through/End-of-Warranty" meeting had occurred. The District administrator in charge of the warranty process indicated that the production of these documents is the responsibility of the project A/E. In some instances, we could not determine whether: 1) reported warranty-related claims have been resolved or 2) proper communication with school Principals on warranty procedures and coverage has been established, due to lack of supporting documentation. While the Warranty Unit has written procedures to guide school Principals on their responsibilities during a project's warranty phase, it has few written procedures pertaining to the administration of its department's operations.
- Two of the 10 projects exceeded their contracted substantial completion dates by more than 30 days, based on the substantial completion date reflected on the Certificate of Occupancy (CO) for the projects. The delays were 32 days and 37 days. It must be noted that for one of these projects, Biscayne Elementary, there are inconsistencies in various construction documents (GMP Agreement, Notice to Proceed, and form FM-6998) pertaining to the expected substantial completion date.

We have made 12 recommendations to management to address the findings and conditions disclosed during our audit. The Office of Management and Compliance Audits will follow up on the implementation of the recommendations as a function of future audits in facilities construction, as deemed appropriate.

INTERNAL CONTROLS

The chart below generally summarizes our overall assessment of the internal controls in place over the management of the GOB projects.

INTERNAL CONTROLS RATING			
CRITERIA	SATISFACTORY	NEEDS IMPROVEMENT	INADEQUATE
Process Controls		X	
Policy & Procedures Compliance		X	
Effect	X		
Information Risk		X	
External Risk	X		

INTERNAL CONTROLS LEGEND			
CRITERIA	SATISFACTORY	NEEDS IMPROVEMENT	INADEQUATE
Process Controls	Effective	Opportunities exist for improvement	Non-existent or unreliable
Policy & Procedures Compliance	In compliance	Non-compliance issues exist	Non-compliance issues are pervasive, significant, or have severe consequences
Effect	Not likely to impact operations or program outcomes	Impact on outcomes contained	Negative impact on outcomes
Information Risk	Information systems are reliable	Data systems are mostly secure but can be improved	Systems produce incomplete or inaccurate data which may cause inappropriate decisions.
External Risk	None or low	Potential for damage	Severe risk of damage

BACKGROUND

On November 6, 2012, the voters of Miami-Dade County approved a referendum authorizing the School Board to issue \$1.2 billion General Obligation Bonds (GOB) intended for modernizing and constructing public school facilities throughout the District, including educational technology upgrades. The initiative, labeled the "21st Century Schools," is projected to have a positive economic impact; providing more than 9,000 jobs in the near-term and more than 18,000 sustainable jobs in the community.¹ This bond initiative will naturally result in a dramatic increase in construction activity at M-DCPS. The OSF is responsible for managing the GOB program.

Based on information the OSF presented to the *21st Century Schools Bond Advisory Committee* in a report dated December 12, 2017, the GOB construction program has successfully completed 385 projects, 163 of which are major projects and 222 are limited scope (accelerated) projects.² The document further indicates that 197 additional projects at different stages of completion from planning to being in construction are in progress. The following table reflects the number of projects reported, categorized by stages of completion:

STATUS OF PROJECTS AS REPORTED BY THE OSF TO THE 21ST CENTURY SCHOOLS BOND ADVISORY COMMITTEE IN A REPORT DATED DECEMBER 12, 2017				
Project Year	Total No. of Projects	Projects Completed	Projects in Construction	Projects in Bidding, Design, or Planning
1	68	68	-	-
2	79	71	8	-
3	54	24	18	12
4	50	-	-	50
5	50	-	-	50
1-5*	281	222	20	39
Total	582	385	46	151
* Projects in this category are accelerated projects that comprise scopes of work removed from several Year 1 through Year 5 projects.				

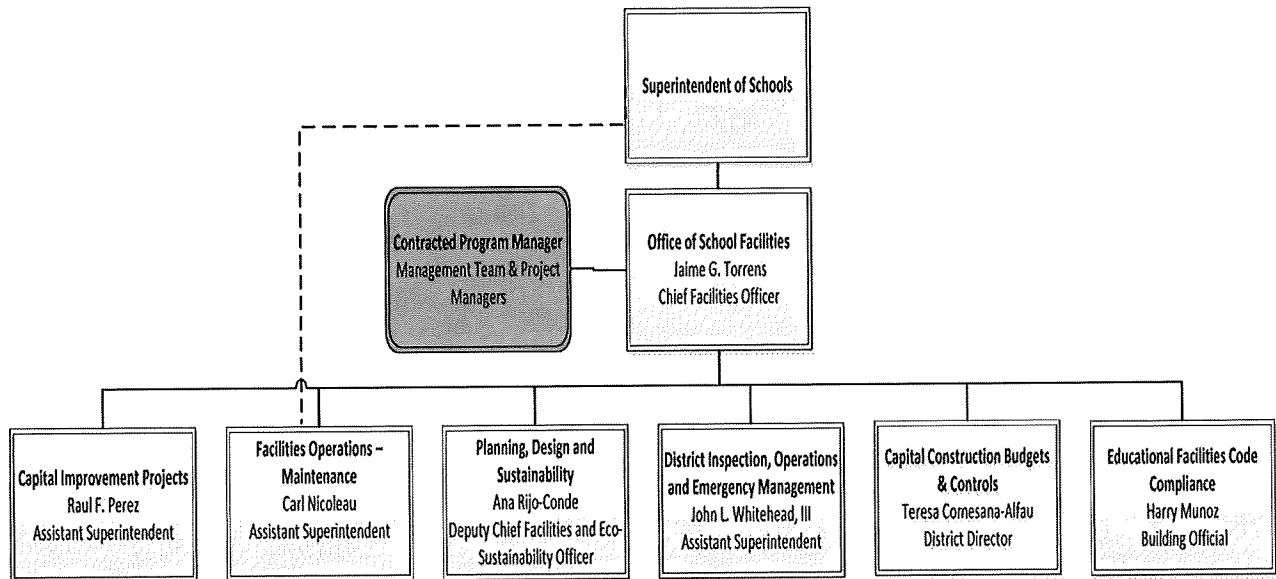
¹ Source: M-DCPS webpage <http://bondsforschools.dadeschools.net>. Also, *The Economic Development Impacts of the Proposed General Obligation Bond (GOB) to Miami-Dade County*, August 15, 2012, page 10-11, published by The Washington Economics Group, Inc., retained by M-DCPS, indicated that the GOB expenditures will sustain an estimated 18,436 jobs during the course of construction.

² The scopes of work were removed to accelerate that portion of the work and included work such as playground installation, portable removal, roofing, and air conditioning. The value of these types of projects were typically in the range of approximately \$1,800 to \$2.6 million, with most being less than \$100,000 and fewer than nine being greater than \$500,000, based on the subset of 182 project reviewed.

In addition, the same document reported total GOB project expenditures of \$533.3 million incurred and an additional \$94 million under contract as of November 30, 2017³. We have not audited this report or its content and do not offer any conclusions thereon. However, we have identified selected categories of expenditures from this report to be the subject of a series of planned future audits.

³ The GOB Capital Project Dashboard on the M-DCPS website indicated that as of February 13, 2018, there were 907 total GOB projects existing in different stages of development with total expenditures of \$472.2 million. The dashboard listed a total of 324 more projects and \$61 million less than the respective totals indicated in the December 12, 2017, document.

PARTIAL ORGANIZATIONAL CHART



OBJECTIVES, SCOPE AND METHODOLOGY

The objective of this audit was to determine whether an adequate system of internal control was in place for the GOB construction projects by verifying the following:

- The OSF policies, procedures, and guidelines are current, clearly delineated, and effective.
- Processes are in place for awarding construction projects and in compliance with established Board Policies.
- Projects are completed in a timely manner.
- Contingencies, allowances, and change orders are justified, supported, properly approved, and executed prior to contractor payments.
- Warranty process after the construction close-out is functioning effectively.

The scope of our audit covered construction projects that were either completed or substantially completed by the OSF during FY's 2013 through 2016. We judgmentally selected 10 projects covering all nine School Board member districts. The sample included projects with the more significant dollar value as well as a project of lesser value. Our sample was designed to cover work that was completed in all areas of the county. This report presents our audit findings, conclusions, and recommendations for the 10 selected projects.

We performed the following procedures to satisfy our objective:

- Reviewed the Architect/Engineer (A/E), CM at-Risk, subcontractor, and Building Code Compliance (BCC) contracts.
- Obtained and reviewed work order authorization forms, purchase orders, and change orders.
- Reviewed bidding documentation consisting of bid proposals, bid tabulation summary, and guaranteed maximum price summary.
- Confirmed payments made to construction managers and subcontractors.
- Reviewed contractor requisitions, A/E, Direct Purchase Order (DPO) materials, and BCC invoices for accuracy, proper support, and appropriate approval.
- Interviewed staff from the OSF and the contracted program manager.
- Visited project sites and verified the work performed.
- Reviewed policies and procedures and compared them to the actual practices for compliance with the policies and procedures.
- Performed various other audit procedures deemed necessary.

We conducted this performance audit in accordance with generally accepted *Government Auditing Standards* issued by the Comptroller General of the United States of America. Those standards require that we plan and perform the audit to obtain sufficient, appropriate evidence to provide a reasonable basis for our conclusions based on our audit objectives. We believe that the evidence obtained provides a reasonable basis for our conclusions based on our audit objective.

FINDINGS AND CONCLUSIONS

SUMMARY OF OBSERVATIONS

1. The OSF has a comprehensive, well designed, and functioning process for selecting and awarding primary contracts for construction. The process involves a two-phase competitive evaluative exercise, which includes a well-defined point system. The point system, forms, committee structure, and scoring methodology used are sound and effective.
2. We reviewed the contractor requisition payment process and found it to be operating effectively. During our review, we examined 374 contractor, A/E, and BCC pay requisitions totaling \$28.2 million for accuracy, proper approvals, support (invoice), and propriety. In general, we found the payments to be accurate, properly approved, supported by the proper invoices, and having the required propriety.
3. Our examination of the payments related to 1,551 supplier invoices totaling \$7.3 million concluded that adequate internal controls over Direct Purchase Order (DPO) materials and equipment purchases were in place as evidenced by the payments being accurate, properly approved and supported, and having the required propriety. In addition, we found no instances of sales tax being paid on the invoices tested.
4. We conducted site visits at all ten projects and observed the work in place in comparison to the projects' scopes of work. Our observation was limited to selected scopes of work. Based on our observations, we found the work in place agreed with the scopes of work examined.

MANAGEMENT'S RESPONSE (*The Office of Schools Facilities*):

Management fully concurs with these observations. Please refer to page 71 for details.

SUMMARY OF FINDINGS AND RECOMMENDATIONS

1. POLICIES AND PROCEDURES USED FOR MANAGING THE EXECUTION OF THE GOB PROGRAM NEED TO BE UPDATED AND ENHANCED

As indicated on page 9 of this report, OSF has a set of comprehensive, well-designed procedures for selecting and awarding primary contracts for construction-related services. Our review of other policies and procedures OSF uses to manage the District's Capital Program, disclosed that policies and procedures and routine practices performed by OSF and the contracted program manager personnel were not documented and not fully aligned. For instance, the following documents were routinely generated and/or used during a construction project's life cycle but were not included in their *Miscellaneous/CM@Risk Contracts Procedures*, the principal manual used for construction projects initiated by M-DCPS:

- CM-at-Risk Statement of Commitment to Fulfill the Established M/WBE Assistance Levels (Form 6024);
- M/WBE Sub-Contractor Breakdown;
- Matrix Meeting Minutes;
- CM, A/E, and PM Bi-weekly Meeting Minutes; and
- Recommendation GOB Advisory Committee approval of transfers to central reserve or to another project.

We also noted that the following situations were routinely encountered; however, there is no guidance in the *Miscellaneous/CM@Risk Contracts Procedures* about how to handle them:

- Receiving only one or no subcontractor bid for identified project scope of work;
- Receiving subcontractor bids of identical amount (i.e., tie bids);
- CM self-performing identified project scope of work for which other bids were not received; and
- CM handling of sealed bids from subcontractors prior and subsequent to the bid opening deadline.

Our audit found inconsistency in the manner these situations were handled. Moreover, routinely omitting required steps and/or documentation from the process and including obsolete documentation, suggests that all persons involved in the process are not thoroughly familiar with or trained in the established policies and procedures.

Written policies and procedures are necessary in an organization's day-to-day operation as they provide a clear understanding of how to handle activities that are important to the organization achieving its mission, goals, and objectives. Written policies and procedures have also been identified as fundamental to an effective system of internal controls. Since an organization's policies and procedures manual is a principal tool

typically used in training staff and providing guidance to them, procedures that have been implemented as standard practice, should be incorporated in the policy document. Conversely, obsolete and abandoned practices should be removed from the organization's policy document. Inaccurate documentation of policy and procedures, or the lack thereof, may negatively impact the effectiveness and efficiency of executing the GOB program.

RECOMMENDATIONS:

- 1.1 We recommend OSF review its policies and procedures and update them to incorporate acceptable routine practices and documents it deems necessary.
- 1.2 We recommend OSF develop and implement written procedures to address those routine situations mentioned herein that are not covered in the policies and procedures manual. Given the district's purchasing Board Policy 6320 already contains guidance for handling some of the issues noted, the OSF should consult the said policy for guidance on how to proceed.
- 1.3 We recommend that the OSF, Program Manager, CM, and A/E's staffs assigned to district projects receive additional training in the requirements contained in the *Miscellaneous/CM@Risk Contracts Procedures*.

MANAGEMENT'S RESPONSE (The Office of Schools Facilities):

We believe that there is always room for enhancing internal procedures and appreciate the opportunity to do so, in light of the observations in the Report. We have already started the updating process which will include desktop procedures that better reflect current practices.

2. THE GMP DEVELOPMENT PROCESS HAS SEVERAL INTERNAL CONTROL WEAKNESSES

Our review of the Guaranteed Maximum Price (GMP) development process disclosed several internal control weaknesses, inconsistencies, and opportunity for improvement as follows:

- Of the 10 Bid Tabulation Forms, consisting of a total of 103 disciplines/divisions, and 354 bid proposals, five bid tabulation forms were not signed by all of the appropriate parties, (i.e., the CM, A/E, and PM).
- Forty-two bid proposals did not agree with the bid tabulation form.
- Three amounts reported on the Final GMP Summary did not agree with the bid proposals and the bid tabulation form.
- The Bid Tabulation Form omitted amounts reflected in the bid proposals received from two bidders.
- Eleven bid proposals were not provided, of which four were winning bids.
- Thirty-six sections of project scope were performed by the CM (self-performed) without competitively bid pricing. There were no documented explanation or approval noted on file for this action.
- Seventeen instances where only one bid was received for the scope of work and was awarded without documented explanation of the measures taken to ensure competition for some projects.
- Seven cases were noted where the apparent low bidders were not selected and the reason(s) for the selection were not documented, in writing, as required.
- Two instances were noted where matching bids by different subcontractors were received and a selection made; however, there was no documented explanation of basis for selecting one over the other.
- Two instances where an apparent non-responsive bid was selected without the required documentation explaining the reason(s) for waiving the bid requirements and the selection.
- There were six instances where the winning bidder identified on the Bid Tabulation Form were different from the winning bidder listed on the GMP.

A more detailed description of these condition and the specific circumstances involved is presented later in this report detailing the observations noted for each project reported herein.

M-DCPS *Miscellaneous/CM@Risk Contract Procedures* outlines the responsibilities of the various participants in the GMP development process, including the need for the M-DCPS Project Manager⁴ to ensure the CM, A/E, and himself/herself sign the Bid Tabulation Form. The Bid Tabulation Form is typically provided by the CM. The form

⁴ The procedures refer to the Project Manager as an M-DCPS employee because the procedures are a carryover from the period when M-DCPS employed a full staff to manage its facilities program. Starting with the GOB program, the District hired a professional program manager to execute the program. The Project Managers are employees of the program manager company.

should list all bids submitted for each discipline/section of the project scope for the purpose of analyzing and evaluating the bids. The information to be entered on the form includes each bidder's name, amounts bid for each identified line item, including deductive/additive alternates, and any special condition or stipulation. The form should be tabulated for comparison of bids received and signed by the CM, A/E, and PM, indicating their recommendation of the apparent low bidder for each discipline/section of the project. The completed form is to be used in the preparation of the GMP summary. Pursuant to the requirements outlined in the OSF procedures document and GMP Agreement, if the lowest bidder is not recommended, the CM must prepare a documented explanation stating the reason(s) for not selecting the apparent low bidder.

The conditions noted during or review of the bid tabulation and GMP development process appear to suggest that the performance of the staff provided by the PM and the Project A/E's is falling short of expectations to ensure good internal and management controls over the process. The conditions noted could adversely impact transparency as it relates to the program's activity.

RECOMMENDATIONS:

We recommend management take the following actions:

- 2.1 Complete a thorough review of the existing policies and procedures governing the GMP development process and update them to incorporate controls and best practices to address the conditions noted. This should include, but not be limited to, formal procedures to provide guidance for when:
 - only one or no bid is received by the CM for a division/discipline to ensure the best value obtained;
 - matching bids by different subcontractors were received for the same division/discipline;
 - the apparent low bidder is non-responsive due to not complying with the bid specifications and requirements;
 - a documented explanation or special report is required and the description of documentation that is expected.
- 2.2 Develop a system of quality control for the GMP development process. The system developed should include steps to ensure the PM and/or A/E verifies that all required documents used during the bidding process are complete, accurate, signed, and maintained. A checklist could be developed and used to facilitate the efficient and effective implementation of this process.
- 2.3 Document the rationale when the lowest bid is not selected.
- 2.4 Document the GMP negotiating sessions. The documentation should include the description of the meeting, pertinent information discussed, decisions

reached, offers proffered and accepted, refusals of scopes of work and packaging, substitutions, and other relevant matters. The documentation may also include recording of the session.

- 2.5 Evaluate the performance of the Program Manager's and A/E's staff involved in the GMP development process and link the performance to future contracting decisions.

MANAGEMENT'S RESPONSE – REVISED (The Office of Schools Facilities):

We appreciate OMCA's observations. The GMP bidding process is conducted by the CMR entities, in accordance with their own set of procedures, which do not necessarily align with the bidding process initiated by a public agency. The role of OSF is to ensure that the CMR's bidding process protects the Board's best interests, is conducted in a transparent way and achieves best cost outcomes for the District. While OSF believes these goals are consistently achieved, OSF also recognizes the value of better documentation and will be implementing a series of procedural steps and staff training starting this month to address gaps, including checklists and samples of expected documentation. OSF will also disseminate this information to CMR, as part of its quarterly chat forums.

3. SOME SMALL AND MICRO BUSINESS ENTERPRISE GOALS AND MINORITY/ WOMEN-OWNED BUSINESS ENTERPRISE ASSISTANCE LEVELS COMMITTED TO FOR SUBCONTRACTING WERE NOT ACHIEVED

Four of the 10 projects⁵ reviewed had mandatory Small Business Enterprise (SBE) and/or Micro-Business Enterprise (MBE) subcontractor participation goal established by the District's Goal Setting Committee (GSC).

In addition to the mandatory goals established by the GSC, the CMs for seven of the 10 projects agreed to make a "best effort" to achieve the assistance levels (aka "Aspirational Goals") they identified for "African American" and "Women" Minority/Women-Owned Business Enterprise (M/WBE) subcontractors. Although not mandatory, the commitment was made by the CMs through a signed and notarized "*CM-at-Risk Statement of Commitment to Fulfill the Established M/WBE Assistance Levels* (Form 6024)." When taken separately, the number of individual assistance levels included on the Form 6024 reviewed equaled to the sum of 13. (Please see the table on the following page.)

Specific to MAST Academy, the stated M/WBE assistance levels committed to were codified in agenda item F-23 of the May 7, 2014, School Board meeting. The commitment was discussed at the August 26, 2013, GSC meeting.

Our analysis disclosed that three of the four mandatory goals (75 percent) established by the GSC were achieved and four of the 13 "Assistance Levels or Aspirational Goals" (30.8 percent) committed to by the CMs for African American and Women M/WBE categories were met.

It should be noted that the four projects that did not have GSC established participation goals did achieve SBE and/or MBE subcontractor participation ranging between 2.3 percent and 46 percent depicted in table on page 16. The percentages noted in the table were calculated based on the payments the CMs confirmed to us, in writing, as having paid the subcontractor who worked on the respective project. The value of the materials purchased (DPOs) for the related work assigned to each subcontractor was also added to the confirmed payment amount, as appropriate, to arrive at the total value of the work designated to each subcontractor.

⁵ The MAST Academy project comprises two separately identified projects, one involving new construction (Sector 1) and one involving renovations (Sector 2). However, the projects were bid and managed together.

The following details were noted for the 10 projects reviewed:

PROJECT GOALS AND ASSISTANCE DETAILS (Based on Confirmed Payments and DPOs)					
Project Name	GSC Goals (Mandatory)	CM-Declared M/WBE Assist. Levels (FM- 6024)	Participation Achieved		
			SBE/MBE	AA	W
Biscayne ES	None	None	SBE=44.1% MBE=3.9%	3.9%	3.9%
Frank C. Martin K-8	None	AA=7.8%; W=15.5%	SBE=16.4% MBE=0%	13.0%	13.9%
Gloria Floyd ES	SBE=20%	AA=18%; W=6%	SBE=13.9%	0%	11.9%
Hialeah ES	None	AA=18%; W=6%	SBE=46.0% MBE=4.1%	6.0%	0%
MAST Academy ⁶	SBE/MBE=15%	AA=18%; W=6%	SBE/MBE= 18.3%	8.1%	11.6%
Miami Coral Park SHS	None	AA=11%; W=0%	SBE=2.3% MBE=12.3%	13.1%	0%
Miami Lakes K-8	MBE=5%	None	SBE=48.0% MBE=21.1%	8.0%	0%
Myrtle Grove K-8	SBE=20%	AA=8%; W=15.28%	SBE=32.4% MBE=13.7%	7.5%	0%
Van E. Blanton ES	None	AA=18%; W=6%	SBE=3% MBE=0%	0%	3.0%
Note: "AA" refers to an African American-owned company. "W" refers to an American born or naturalized Woman-owned company of any ethnicity. Participation achieved is based on payments confirmed by the CM as being made to subcontractors.					

School Board Policy 6320.02, *Small/Micro and Minority/Women-Owned Business Enterprise Programs*, established race and gender-neutral and race and gender-conscious assistance programs. Pursuant to the Policy, the School Board authorized the GSC to develop SBE, MBE, and/or M/WBE subcontracting goals on a project-by-project or contract-by-contract basis, as deemed appropriate.

The Form 6024 submitted by the CM's was accompanied by a separate document showing M/WBE and/or SBE breakdown (subcontractor, contract amount, and percent) or a list of M/WBE subcontractors invited to bid. The form was last revised December 2000 and references the Office of Economic Opportunity's (OEO) predecessor, the Division of Business Development and Assistance, and details the periodic monitoring of a project to determine the extent to which the CM is successful in achieving the

⁶ *Supra* page 15.

M/WBE assistance level, as delineated in Board Policy 6320.02. Although staff from OEO has stated that the form is obsolete and not an official required form for the GOB program, its use on GOB projects was routine as demonstrated in the preceding details. OEO staff indicated that M/WBE participation is not required because there is no active M/WBE program. They have also indicated that a form—S/MBE Participation Goals and Summary—which identifies the SBE/MBE participation for all projects going forward has been developed. Our review of this form disclosed that it contains fields for project goals and participation, in terms of dollars and percentage, for the following categories: SBE/MBE Construction, African American, Hispanic, Women, Service Disabled Veteran.

The foregoing details, including the existence of Board Policy 6320.02, the established practice of the submission and acceptance of Form 6024 on GOB projects, the OEO's assertion pertaining to M/WBE participation and program, and the elements contained in the OEO's S/MBE Participation Goals and Summary form, create a prevailing air of confusion and ambiguity with respect to the race and gender-neutral and race and gender-conscious affirmative procurement programs established through Policy 6320.02. This confusion could result in the Board's intended mission with respect to Policy 6320.02 not being attained.

RECOMMENDATION:

- 3.1 We recommend management collaborate with the School Board Attorney's Office and the Office of Economic Opportunity to clarify the intent of Board Policy 6320.02. Thereafter, the understanding should be clearly communicated to GOB program stakeholders using the most appropriate and effective means available.

MANAGEMENT'S RESPONSE – REVISED (The Office of Schools Facilities):

As discussed during OSF's interactions with OMCA during the audit, the Goal Setting Committee (the "GSC") establishes goals exclusively for S/MBE participation. There was not at the time and there is still currently no process in place for establishing mandatory M/WBE goals or levels of participation.

Out of the ten projects audited, four projects had minimum S/MBE participation goals established by the GSC. Of those, three far exceeded the participation goal with only one falling short on its SBE goal.

In the absence of a race and gender conscious program, it is well documented that the District always makes an effort in every project to incentivize both architects and contractors to engage diverse sub-consulting and sub-contracting teams. OSF fully agrees with OMCA's statement that additional clarification, as it relates to implementation of Board Policy 6320.02, is warranted, and to that end, OSF intends to

collaborate with the Office of Economic Opportunity and the School Board Attorney's Office to clearly define an action plan going forward, that will lead to consistent M/WBE program implementation guidelines, including mandatory participation goals.

4. THE RECORDKEEPING AND DOCUMENTATION PERTAINING TO THE PROJECT WARRANTY PHASE NEEDS IMPROVEMENT

Our review of the project warranty phase disclosed the following conditions:

- For eight of the 10 projects audited, there was no documentation provided to verify the "Final Walk-Through/End-of-Warranty" meeting had occurred. The District administrator in charge of the warranty process indicated that the production of these documents is the responsibility of the project A/E.
- In some instances, we could not determine whether: 1) reported warranty-related claims have been resolved, or 2) proper communication with school Principals on warranty procedures and coverage has been established, due to lack of supporting documentation.
- While the Warranty Unit has written procedures to guide school Principals on their responsibilities during a project's warranty phase, it has few written procedures pertaining to the administration of its department's operations.

The warranty process begins 30 to 60 days before the substantial completion of a project. A "kick-off warranty" meeting is held and includes the school Principal, CM's representative, and the warranty administrator from Capital Construction. At the meeting, the warranty procedures are made available to the school Principal for them to have a clear understanding of the warranty process. These warranty procedures include the following sections:

- Warranty Process Stages – instructs that any warranty issues be communicated via email to the warranty administrator, who then issues an "open warranty ticket" and notifies the CM and/or A/E
- Timeline Correction – stipulates that the responsible vendors resolve the warranty issue at the school site and that a warranty issue may be categorized as "emergency," "speedy," or "normal"
- Warranty Durations – identifies specialized items and their extended coverage periods

A "Final Walk-Through/End-of-Warranty" meeting with the CM, A/E, and school Principal is performed approximately 60 days prior to the expiration of a project's general warranty period. Through this activity, the District has the opportunity to identify any warranty-related claims that are open and to document defects in construction and failures of equipment and systems not yet reported by the Principal prior to the expiration of the one-year general warranty period. Generally, defects and failures occurring or identified after the warranty expiration date become the responsibility of Maintenance Operations to repair. Supporting documentation such as the meeting sign-in sheet and minutes and the list of conditions noted would give evidence of the occurrence of the activity and should be maintained.

Maintaining the proper documentation establishes accountability and lessens the potential for the District to incur unnecessary costs for resolving defects and failures that are the CM's responsibility to remedy.

RECOMMENDATIONS:

- 4.1 We recommend the OSF impresses upon and ensures that project A/E generate and submit appropriate documentation of the "Final Walk-Through/End-of-Warranty" activities for each project. At a minimum, required documentation should include "Final Walk-Through/End of Warranty" meetings minutes and sign-in sheet and a report on issues identified. Further, the Warranty Unit should ensure it receives a copy of required documents from the A/E. We recommend that this be added as one of the procedures in the administrative policies and procedures manual.
- 4.2 We also recommend the Warranty Unit maintains adequate records to document whether specific warranty-related claims have been resolved and the actions taken to resolve them. Also, record of important communications related to the warranty process should be maintained.

MANAGEMENT'S RESPONSE (*The Office of Schools Facilities*):

We fully concur with your recommendations in this area and have already taken steps to adequately staff this unit to ensure final walk through and end of warranty meetings are documented at every step of the way. We are in the process of reconciling procedures to best practices for immediate implementation.

5. ONE PROJECT WENT BEYOND ITS CONTRACTUAL SUBSTANTIAL COMPLETION DATE AND IT IS UNCLEAR WHETHER ANOTHER PROJECT DID

Our analysis of the sampled GOB school projects discovered the MAST Sector 2 project exceeded its contracted substantial completion dates by more than 30 days, based on a comparison of the number of days stipulated in the GMP Agreement (the contract) and the substantial completion date reflected on the Certificate of Occupancy (CO) for the projects. The delays were 32 days, as shown in the table on page 22. The comparison performed on the Biscayne Elementary project revealed similar results, as shown in the table. However, there is some uncertainty surrounding this project due to inconsistencies in the expected substantial completion date, as discussed below.

Our review of the MAST projects revealed that although Sector 1 exceeded its contracted 420 days for substantial completion by 28 days, a request for an extension of time of 28 days was approved by the Agenda Review Group (ARG) and Technical Review Committee (TRC), and documentation was provided evidencing the proper approval. Therefore, we take no exception with this delay. However, Sector 2 exceeded its contracted 420 days to substantial completion by 32 days, and an approved extension of time was not on file. We requested documentation to determine whether any time extensions had been granted for the MAST Sector 2 projects, but none was provided. However, subsequent to receiving a preliminary draft of this report, OSF stated that the time extension approved for Sector 1 should have covered Sector 1 and Sector 2. Documents provided specifically indicate Sector 1. Moreover, we examined additional evidence provided, but were unable to corroborate OSF statement whether the time extension was intended to include Sector 2.

Regarding Biscayne Elementary, the expected date for substantial completion varies depending on which document one looks at. Based on the construction contract, that date is June 16, 2015. However, based on the CM@Risk GMP Negotiation Meeting form FM-6998 and the GMP Notice to Proceed, that date is July 23, 2015. The OSF stated that the information contained in the contract is an error and the form FM-6998 governs in this case.

During the period under review, the GMP Agreement showed substantial completion in terms of number of days. However, according to OSF, they have improved their process and currently use a contract that states substantial completion in terms of a date certain on the GMP Agreement.

DETAILS OF PROJECT COMMENCEMENT AND SUBSTANTIAL COMPLETION						
Project Name	Commencement Date (per NTP)	Initial Contracted Substantial Completion Date	Actual Substantial Completion Date (per CO)	Actual Duration (Number of Days)	Number of Days Allowed for Substantial Completion (per Contract)	Number of Days Delay
MAST–Sector 2	5/16/14	7/10/15	8/11/15	452	420	32
Biscayne ES	9/18/14	6/16/15	7/23/15	308	271	37
CO = Certificate of Occupancy NTP = Notice to Proceed						

“Exhibit I - GMP Amendment Contract” (the GMP Contract) states that the “CM shall achieve substantial completion of the entire work for the project no later than a specified amount of days from the date of commencement (the “Contract Time”).” It further states that “failure to meet either substantial completion or final completion dates shall be a material breach of the agreement.”

In addition, the OSF indicated that whenever additional time is required to complete a project, a request for an extension of time may be submitted to the ARG and TRC for approval via change orders. Also, the “*Miscellaneous Construction Manager-at-Risk Agreement*” indicates that “the CM’s sole remedy for delays which impact the time or performance of this agreement shall be a time extension.”

The completion of a project can be delayed due to several factors, including unforeseen circumstances. However, the construction contract and established procedures provide a mechanism for the CM to obtain approval of a time extension. The lack of documented approval for time extensions suggests that these procedures were not followed in the case of these two projects. Untimely close-outs may be due to unforeseen circumstances, however, not being able to complete a project by the agreed upon date may not only result in a breach of contract by the CM, but it may affect schools and their ongoing operations.

RECOMMENDATION:

- 5.1 We recommend that OSF maintain documentation to show that appropriate approvals by the ARG and TRC Committees are obtained when additional time is required for the completion of projects.

MANAGEMENT'S RESPONSE (The Office of Schools Facilities):

The project which is noted in the Report as having gone beyond its substantial completion date is the MAST Academy project, which consisted of two Sectors. Sector 1 consisted of the classroom addition and Sector 2 consisted of the renovations to the existing facility. A change order was in fact processed and approved by the School Board for a time extension on Sector 1 of the MAST project, which change should have included Sector 2 as well, since both Sectors were built concurrently. The absence of Sector 2 in the time extension was an inadvertent omission. There was no impact to the delivery of the improvements, and there was no additional cost incurred by the Board as a result of that inadvertent omission.

DETAILS OF CONDITIONS NOTED FOR EACH CONSTRUCTION PROJECT AUDITED

BISCAYNE ELEMENTARY SCHOOL (Project No. 1301400)

Project Profile:	
General Scope:	Millwork, windows, drywall, stucco, acoustical ceilings, painting, window shades, plumbing, HVAC, and electrical
Negotiated GMP: \$1,790,151	

	Construction [®]	Total	
Initial Project Budget:	\$1,790,151*	\$2,472,795	
Final Project Budget:	\$1,707,944	\$2,308,761	
Changes in Budget:	\$82,207 ⁺	\$164,034	{ To fund pull-out or advance projects: 01301401, 01301402, 01312000, 01615400 and 01543400 }
Project Expenditures:	\$1,707,944	\$1,887,895 [#]	

Project's Start Date:	September 18, 2014	
Contracted Substantial Completion Date:	June 16, 2015	
Actual Substantial Completion Date:	July 23, 2015	
Date of Final Project Activity:	August 30, 2016	{ Last day CM/Sub visited project site }
Extension/Reduction of Time Granted:	None	

® The amounts in this column represent the cost associated with the CM's GMP contract only.

* Amount includes owner's contingency of \$85,245.

+Amount includes unused owner's contingency of \$65,544 and \$16,663 of credit to M-DCPS for GMP and unreleased retainage.

This amount includes payments to: (1) the CM for construction and pre-construction services, (2) the Architect/Engineer (A/E) for design services, and (3) the Building Code Compliance (BCC) firm for inspection services. These amounts do not represent the total project expenditures and exclude costs such as abatement, builders risk insurance, geotechnical services, custodial reimbursement, and furniture, fixtures and equipment.

Details of the conditions noted:

- The Bid Tabulation Form was not signed by all the required parties (CM, A/E, and PM).
- For two of the 32 bids, representing 10 bid packages or disciplines, the amount on the Bid Tabulation Form did not agree with the bid submitted by the subcontractor. The two bid amounts as shown on the bid proposals submitted were less than the amounts on the bids selected.
- The winning bid was not provided for the three bids reported on the Bid Tabulation Form for the Millwork Package. A note on the form refers to the winning bid being submitted late. Also, of the five bids reported on the Bid Tabulation Form for Painting, one non-winning bid was not provided.
- Of the two bidders on the Bid Tabulation Form for the Fence Package, an addendum price is shown for only the winning bid. No evidence was provided that the other bidder was contacted by the CM to bid on the addendum.
- The actual number of days to achieve substantial completion exceeded the number of days allowed in the GMP contract.

- No evidence was provided to document the occurrence of the Final Walk-through/End of Warranty meeting.

CONDITION – BID TABULATION SHEET NOT SIGNED

A review of the Bid Tabulation Form dated August 15, 2014, disclosed that the form was not signed by the CM, PM, or A/E, as required. M-DCPS *Miscellaneous/CM@Risk Contract Procedures* states, “the M-DCPS Project Manager⁷ is responsible to ensure that the A/E, CMR and M-DCPS Project Manager sign the Bid Tabulation Form.” These individuals are responsible for opening, reviewing, and tabulating the bids and proposals received for compliance with the contract document. The signatures on the Bid Tabulation Form affirms that all responsive bids are included and accurately reported on the form. Lack of signatures by the required parties fails to provide such assurances.

CONDITION – AMOUNTS ON THE BID TABULATION FORM AND BID PROPOSALS DO NOT AGREE AND LOWEST BIDDER WAS NOT SELECTED

The amounts of the winning bids listed on the Bid Tabulation Form, dated August 15, 2014, for two bid packages did not agree with the amounts contained on the subcontractors’ bids. In addition, the amounts on the bid proposals from the non-winning bids were less than the winning subcontractor bids selected and listed on the GMP Summary dated August 28, 2014. The following table displays the packages and amounts:

COMPARISON OF THE AMOUNT LISTED ON THE BID TABULATION FORM AND THE BID PROPOSAL			
Bid Package	Bidder	Bid Proposal	Bid Tabulation Form
Concrete	Sub A	\$134,597	\$176,777
	Sub B*	\$147,075	\$147,075
Windows	Sub C	\$269,797	\$585,659
	Sub D*	\$385,658	\$385,659

* Winning bid

Pertaining to the Concrete Bid Package, Sub A submitted two separate bids in the amounts of \$124,400 and \$134,597, dated August 11, 2014, and August 18, 2014, respectively. Sub B submitted three separate bids in the amounts of \$167,075,

⁷ *Supra* page 12.

\$147,075, and \$126,685, dated August 14, 2014, August 23, 2014, and September 10, 2014,⁸ respectively.

Pertaining to the Windows Bid Package, Sub C submitted one bid of \$269,797 dated July 28, 2014. Sub D also submitted one bid of \$385,658 dated August 11, 2014. However, on August 25, 2014, an email was received from Sub D that listed amounts of \$28,232 and \$150,658 as the cost of work related to Building #3 and #4, respectively. The \$150,658 was subsequently deducted from Sub D's initial bid, thereby reducing it to \$235,000. The bid document was subsequently initialed and dated September 10, 2014, and September 12, 2014. The timeline of events and the date of the documents surrounding this bid lend themselves to confusion with respect to this bid.

In response to our inquiry to clarify the matter, OSF indicated that Sub D was selected "due to addendum 2 rebid" and that Sub C's bid was incomplete "due to addendum 2." Based on the email communication referred above, we understand this explanation to mean that Sub D was asked to resubmit a bid (i.e., price) that takes Addendum 2 into consideration. However, we saw no evidence that Sub C was contacted to be included in the "rebidding" of this Package and the original bid submitted by Sub C included the cost related to Addendum 2. Moreover, there were no changes to Sub C's original bid of \$269,797 reflected in the documents we reviewed.

As noted, the inconsistent sequencing of the dates of the related documents, specifically the fact that the date of the GMP Summary (August 28, 2014) precedes the date of bids listed therein (September 10 and 12, 2014), raises concerns about the bidding process. Further, there were no documentation provided to explain the inconsistencies.

CONDITION – NO BID PROPOSAL OR OTHER DOCUMENTATION WAS PROVIDED FOR SEVERAL BID PACKAGES

The Bid Tabulation Form dated August 15, 2014, contained the following bid packages that were not supported by subcontractor bids or other documentation:

- The Millwork Package listed three bids in the amounts of \$161,920, \$186,670, and \$77,279, with the GMP Summary reporting \$77,279. No bid proposal was provided for the lowest bid of \$77,279 and the Bid Tabulation Form contained a note indicating a late bid was received from the "apparent low bidder." We requested a copy of the \$77,279 bid; however, according to OSF, the bid proposal is not available.

⁸ The last of the three bids listed did not contain a date that is similar in format to the date contained on the other two bids. Rather, it contained two handwritten dates at the upper right corner of the document accompanied by two different initials. The handwritten and initialed dates were September 10, 2014, and September 12, 2014. We have listed the earlier of the two dates for the purpose of clarity.

- The Fence Package comprised two lines on the Bid Tabulation Form—one for the base bid and another for a bid which includes “revised pricing for Addendum #2.” The Bid Tabulation Form listed bids in the amounts of \$2,990 and \$3,835 for Bidder A, accordingly, and listed only a single amount of \$3,600 for the base bid for Bidder B (a “revised pricing for Addendum #2 was not listed). According to OSF, a revised priced for Addendum #2 was sought from Bidder B, however, they “did not acknowledge the Addendum and their bid was considered nonresponsive.” We asked for, but did not receive documentation supporting this statement.
- The Painting Package listed five bids ranging between \$38,585 and \$72,500. No bid proposal was provided for the bid of \$72,500.

Without full documentation it is impossible to determine whether the bid amounts reported on the Bid Tabulation Form are accurate and the integrity of the selection process remains intact. In addition, without full documentation, the School Board’s ability to effectively exercise the privileges permitted by Article 6.9 – Board’s Right to Require Documentation and Audit, of the *Miscellaneous Construction Manager At-Risk Agreement*, may be hindered.

CONDITION – THE PROJECT DID NOT MEET ITS CONTRACTUAL SUBSTANTIAL COMPLETION DATE

Our analysis disclosed that the duration of construction for this project had been exceeded by 37 days. Pursuant to the construction contract executed for this project, the CM agreed to substantially complete the project within 271 days. The project achieved substantial completion in 308 days. There was no documentation provided to us evidencing that an approved extension of time had been granted by the ARG and TRC committees.

Time delays are not uncommon to the construction industry, and the untimely completion of a construction project may be due to various reasons, including unforeseen circumstances. Although not an excessively lengthy delay in this case, the construction contract stipulates a due date that was agreed to and a provision for assessing penalties against the CM for not meeting that due date. Moreover, since there is a process in place for the ARG and TRC committees to approve time extensions whenever additional time is required to complete a project, proper documentation must be kept and readily available evidencing that such approvals are being obtained by the department. This will assist OSF in fulfilling its contractual responsibilities pertaining to holding the CM accountable for the timely completion of the construction project.

CONDITION – LACK OF DOCUMENTATION FOR FINAL WALK-THROUGH/END OF WARRANTY MEETING

We reviewed meeting notifications scheduling the “Warranty Kick-off Meeting” for October 15, 2015, and the “End of Warranty Meeting” for July 11, 2016. We were provided with the sign-in sheet, warranty procedures, and scope of work discussed during the Kick-off Meeting, evidencing the occurrence of this meeting. However, documentation evidencing the occurrence of the “Final Walk-through/End of Warranty Meeting” was not provided. The only other documentation that was provided to us was an e-mail sent by the Warranty Administrator on July 11, 2016, to the PM, CM, Zone Mechanic, and school Principal notifying them of the end of the warranty period.

The Warranty Coordinator did provide us with a letter stating that, “no warranty claims were submitted by the school administration to report any deficiencies in the workmanship, and/or equipment installed during the one-year warranty period on this project. This required no creation and/or submission of an electronic warranty tickets on the part of the MDCPS warranty department to be sent to the contractors and/or installers for corrective action.”

The end of warranty final walk-through is an important event in the project’s post-occupancy phase. Through it, defects in construction and systems can be identified prior to the expiration of the applicable warranties. Of similar importance is the need for maintaining accurate and complete documentation of conditions and incidents related to potential warranty claims. These actions ensure that warranty claims are properly identified and corrected in a timely manner to prevent unnecessary cost to the District.

FRANK C. MARTIN K-8 (Project No. 01303300)

Project Profile:	
General Scope:	HVAC improvements, doors and frames, acoustical ceiling, electrical, tile, plumbing, painting, and new classroom technology
Negotiated GMP:	\$1,845,755

	Construction [⊗]	Total	
Initial Project Budget:	\$1,845,755*	\$2,469,872	
Final Project Budget:	\$1,778,688	\$2,360,135	
Changes in Budget:	\$67,067 ⁺	\$109,737	{ To fund pull-out or advance project #01310800 }
Project Expenditures:	\$1,778,688	\$1,953,134 [#]	

Project's Start Date:	September 4, 2014	
Contracted Substantial Completion Date:	August 19, 2015	
Actual Substantial Completion Date:	August 14, 2015	
Date of Final Project Activity:	March 2, 2016	{ Last day CM/Sub visited project site }
Extension/Reduction of Time Granted:	None	

⊗ The amounts in this column represent the cost associated with the CM's GMP contract only.

* Amount includes owner's contingency of \$87,893.

+ Amount represents unused owner's contingency.

This amount includes payments to: (1) the CM for construction and pre-construction services, (2) the Architect/Engineer (A/E) for design services, and (3) the Building Code Compliance (BCC) firm for inspection services. These amounts do not represent the total project expenditures and exclude costs such as abatement, builders risk insurance, geotechnical services, custodial reimbursement, and furniture, fixtures and equipment.

Details of the conditions noted:

- The Bid Tabulation Form was not signed by all required parties (CM, A/E, and PM).
- The amounts on the Bid Tabulation Form for five of the 31 bids did not agree with the bid submitted by the subcontractor
- The Selective Demolition work was self-performed by the CM; however, no bid proposal was submitted by CM or other bidders for this bid package.
- For three of the 13 bid packages or disciplines, we were only provided with the winning bids. The non-winning bids reported on the Bid Tabulation Form were not provided.
- We found two instances where matching bids were received from different subcontractors and no documented explanation was provided for the selections made, as is contractually and procedurally required.

CONDITION – BID TABULATION SHEET NOT SIGNED

The CM is responsible for completing the Bid Tabulation Form. The form should list all bids submitted for each discipline/section of the project scope for the purpose of analyzing and evaluating the bids to develop the GMP.

A review of the Bid Tabulation Form dated August 6, 2014, disclosed that the form was not signed by the CM, PM, and A/E, as required. M-DCPS *Miscellaneous/CM@Risk Contract Procedures* states, “the M-DCPS Project Manager⁹ is responsible to ensure that the A/E, CMR and M-DCPS Project Manager sign the Bid Tabulation Form.” The same document identifies these individuals as being responsible for opening, reviewing, and tabulating the bids and proposals received for compliance with the contract document. The signatures on the Bid Tabulation Form affirms that all responsive bids are included and accurately reported on the form. Lack of signatures by the required parties fails to provide such assurances.

CONDITION – AMOUNTS ON THE BID TABULATION FORM AND BID PROPOSALS DO NOT AGREE

The winning bids listed on the Bid Tabulation Form for two bid packages did not agree with the amounts contained on the subcontractor bids. The following table displays the packages and amounts reflected:

COMPARISON OF THE AMOUNT LISTED ON THE BID TABULATION FORM AND THE BID PROPOSAL FOR THE WINNING BIDDER			
Bid Package	Bidder	Bid	Bid Tabulation Form
Hollow Metal Doors and Frames	Sub A	\$19,088	\$21,405
Paint	Sub A*	\$43,585	\$20,650
	Sub A*	\$29,040	\$20,650
*Two separate bids were received from the same winning subcontractor for this package; one dated June 30, 2014, for \$29,040, and one dated July 2, 2014, for \$43,585. The losing bids received from two separate subcontractors were \$56,520 and \$342,456, respectively.			

The reasons for the differences in the amounts were not documented. According to OSF, the paint proposal was negotiated down, but no documentary evidence was provided of the negotiations or the basis for the decisions made. In response to our

⁹ *Supra* page 12.

follow-up inquiries, OSF stated that the vetting of the June 30, 2014, bid revealed that the price did not include Building 11 as part of the scope for paint. Therefore, after the bid opening on July 1, 2014, a revised bid proposal was submitted and accepted on July 2, 2014. Notwithstanding the explanations provided by OSF, it is still unclear why the amounts shown on the Bid Tabulation Form and the June 30, 2014, bid proposal are different.

The amounts listed on the Bid Tabulation Form for four non-winning bidders on three bid packages did not agree with the amounts contained on the subcontractor bids. The following table displays the packages and amounts reflected:

COMPARISON OF THE AMOUNT LISTED ON THE BID TABULATION FORM AND THE BID PROPOSAL FOR THE NON-WINNING BIDDER			
Bid Package	Bidder	Bid	Bid Tabulation Form
Plastic Toilet Partitions	Sub A	\$20,148	\$32,853
	Sub B*	\$5,868	\$23,864
Plumbing	Sub A**	\$163,000	\$183,000
	Sub C***	\$163,000	\$163,000
Drywall and Stucco	Sub A	\$58,400	\$86,000
<p>* The subcontractor bid proposal reviewed contained the notation "incorrect. scope not equal plans mostly by piece."</p> <p>** The only bid provided to us by the OSF for this subcontractor was a bid dated June 27, 2014, for \$163,000. A bid for \$183,000 was not provided.</p> <p>*** This subcontractor was determined to be the winning bidder. Also, the documents reviewed showed that this subcontractor submitted two separate bids for this package; one dated June 27, 2014, for \$128,000 and one dated July 2, 2014, for \$163,000.</p>			

The reasons for the differences in these amounts were not documented in writing, except as indicated above pertaining to Sub B for the "Plastic Toilet Partitions" package.

Regarding the Plumbing Package, when asked for an explanation and documentation to support the selection of Sub C, the OSF indicated to us that after the bids were opened on July 1, 2014, and vetted, it was determined that the price proposed on the June 27, 2014, bid received from Sub C (i.e., \$128,000) did not include drywalls as part of the scope. Therefore, a revised bid proposal was requested from Sub C and was received and accepted on July 2, 2014. As noted in the table above, the revised bid from Sub C increased by \$35,000 to \$163,000, which exactly matched the price proffered by Sub A, \$163,000. We were not provided with a copy of a bid from Sub A in the amount of

\$183,000 listed on the Bid Tabulation Form. There was no documentation or explanation to support awarding one subcontractor over the other having the same price.

Responding to our inquiry regarding the difference noted for the “Drywall and Stucco” package, OSF stated that the bid amount was incorrectly recorded on the Bid Tabulation Form.

M-DCPS *Miscellaneous/CM@Risk Contract Procedures* states, “The M-DCPS Project Manager¹⁰ is responsible to ensure that the “CM@Risk Bid Sign-in Sheet” ...is completely filled out and that each subcontractor bid is identified and tabulated on the Bid Tabulation Form.” Based on these procedures, the expectation is that the Bid Tabulation Form accurately reflects each subcontractor’s bid. When needed, as circumstances dictate, the procedures require written documentation and/or approval be provided by the CM.

CONDITION – NO BID PROPOSAL WAS PROVIDED FOR SEVERAL BID PACKAGES

The Bid Tabulation Form contained amounts for several bid packages that were not supported by subcontractor bids. For instance, the Selective Demolition Package listed two bids, side-by-side, from the CM in the amounts of \$102,444 and \$123,000, with the GMP Summary reporting \$102,444. There were no other bids noted for this package. No bid proposal was provided for either amount. OSF stated that the \$123,000 was included on the Bid Tabulation Form in error. According to OSF, no bids were received from the CM for this division/discipline, which “was performed by the CM for the negotiated amount.”

The Bid Tabulation Form also listed the CM as proffering a bid in the amount of \$108,687 for the Structural Shell Package. However, no bid proposal was provided for this amount. There were three additional subcontractor bids provided, one with no amount, and the other two ranging from a high of \$119,820 and a low of \$58,000 (the winning bid).

Pursuant to the standard terms of the *GMP Amendment (Exhibit “I” to the Construction Management At-Risk Agreement)*, the CM may perform a portion of the work for the project, if written authorization is granted by the Board. Article 6.5.4 – Subcontractor Bidding, of the said agreement¹¹ obligates the CM to “maximize market participation to obtain desirable competition related to Subcontractor Bidding.” Therefore, all work, including those “self-performed” by the CM should be competitively bid.

¹⁰ *Supra* page 12.

¹¹ The document referenced here is actually titled *Miscellaneous Construction Manager At-Risk Agreement*.

We requested copies of all subcontractor bids received for each bid package. However, we were only provided with the winning bids for the following packages: (1) "Chain Link Fence and Gates" and (2) "Hollow Metal Doors and Frames." Based on the Bid Tabulation Form, two bidders were noted for each of these disciplines.

Without full documentation, it is not possible to determine whether the bid amounts reported on the Bid Tabulation Form are accurate and the selection process was followed according to the District's procedures. In addition, without full documentation, the School Board's ability to effectively exercise the privileges permitted by Article 6.9 – Board's Right to Require Documentation and Audit, of the *Miscellaneous Construction Manager At-Risk Agreement*, may be hindered.

CONDITION – BASIS FOR SELECTING ONE MATCHING BID OVER THE OTHER WAS NOT DOCUMENTED

Our review and analysis of the subcontractor bids received indicated that for the following bid packages, bids of identical amount were received and the basis for selecting one bid over the other was not explained or documented in writing. The following table presents the bid tabulation results:

DETAILS OF BIDS RECEIVED AND TABULATED FOR THE NOTED PACKAGES			
Bid Packages	Bidder A (Winner)	Bidder B	Bidder C
Plastic Toilet Partitions	\$21,323	\$21,323*	\$5,868**
Plumbing	\$163,000	\$163,000***	
<p>* The bid proposal indicates \$21,322.91, including taxes amounting to \$1,174.49, but the Bid Tabulation Form lists the amount as \$32,853. Also, the winning bid includes taxes amounting to \$1,174.</p> <p>** The bidder's proposal contains a notation indicating "incorrect scope does not agree with plans."</p> <p>*** The Bid Tabulation Form indicates \$183,000.</p>			

OSF did not provide any explanation for the above selections.

Although the District has tie-breaking procedures in place for its general procurement activities, it is apparent from our review that the two guiding procedural documents—the M-DCPS *Miscellaneous/CM@Risk Contract Procedures* and the *Miscellaneous Construction Manager At-Risk Agreement*—do not contain written standard procedures detailing with how to proceed when matching subcontractor bids are received for a single discipline. A documented established tie-breaking procedure will remove potential bias and doubt over the bid selection process, when followed.

GLORIA FLOYD ELEMENTARY SCHOOL (Project No. 01331500)

Project Profile:	
General Scope:	HVAC improvements, acoustical ceilings, electrical, roofing, plumbing, and new classroom technology
Negotiated GMP:	\$1,999,456

	Construction [Ⓢ]	Total	
Initial Project Budget:	\$1,999,456*	\$2,825,595	
Final Project Budget:	\$1,906,049	\$2,643,130	
Changes in Budget:	\$93,407 ⁺	\$182,465	
Project Expenditures:	\$1,906,049	\$2,089,144 [#]	{ To fund pull-out, advance, or secondary projects: #01331501, #01331503, and #01331504 }

Project's Start Date:	April 16, 2015	
Contracted Substantial Completion Date:	January 18, 2016	
Actual Substantial Completion Date:	December 17, 2015	
Date of Final Project Activity:	August 30, 2016	{ Last day CM/Sub visited project site }
Extension/Reduction of Time Granted:	None	

Ⓢ The amounts in this column represent the cost associated with the CM's GMP contract only.

* Amount includes owner's contingency of \$92,862

+ Amount represents \$92,862 unused owner's contingency and \$545 of credit memo related to DPO materials.

This amount includes payments to: (1) the CM for construction and pre-construction services, (2) the Architect/Engineer (A/E) for design services, and (3) the Building Code Compliance (BCC) firm for inspection services. These amounts do not represent the total project expenditures and exclude costs such as abatement, builders risk insurance, geotechnical services, custodial reimbursement, and furniture, fixtures and equipment.

Details of the conditions noted:

- Of the two bidders for Bid Package B, one subcontractor bid was not listed correctly on the Bid Tabulation Form.
- The winning bid for Bid Package B – Building listed on the Final GMP Summary was none of the two bidders listed on the Bid Tabulation Form; instead it was the CM.
- The work comprising Bid Package B – Building, was self-performed by the CM; however, no bid proposal was submitted by the CM. Instead we were provided a “cost/work breakdown.”
- In one instance, the lowest bidder was not selected out of the eight bid packages or disciplines.
- Documentation to verify the occurrence of important events during the project warranty phase, such as, final Walk-through/End of Warranty Meeting and the resolution of warranty claims, were not provided for audit.

CONDITION – DIFFERENCES EXIST AMONG THE BID PROPOSAL, BID TABULATION FORM, AND GMP SUMMARY

The bid proposal amount for one of the two bidders for Bid Package B – Building, was not correctly reported on the Bid Tabulation Form dated February 10, 2015, (bid opening date).¹² The subcontractor base bids received by the CM were in the amounts of \$235,039 and \$331,650. However, the latter bid was listed incorrectly on the Bid Tabulation Form as \$309,750. The error is due to the subcontractor omitting the \$22,000 for “Temporary Protection and Miscellaneous Cost” shown on its bid proposal. The error was not discovered when the bids were opened, analyzed, and tabulated, as the subcontractor bid was not recalculated to verify its accuracy. We requested an explanation from OSF concerning the error. OSF responded by confirming that “only \$309,750 is listed on the Bid Tabulation Form.”

The winning bid as listed on the Final GMP Summary dated April 8, 2015, for Package B – Building, was the CM for \$218,000, and not any of the two bids listed on the Bid Tabulation Form. The GMP Summary also listed “Deductive Alternate 5 – Delete Epoxy Flooring Building,” (\$24,045) and “Additional Value Engineering Allowance – Add Back Epoxy at Kitchen Area Only,” \$15,308 to the CM’s self-performed GMP value. According to OSF, the subcontractor who submitted the bid of \$235,039 withdrew the bid.¹³ We requested, but did not receive documentation to verify this statement pertaining to the subcontractor’s withdrawal. We requested a copy of the CM’s bid proposal for this bid package; however, none was provided. Instead, a breakdown of the work description for the \$218,000 was provided. According to OSF, during the GMP negotiations, the CM proffered to self-perform this division of work for a reduced cost of \$218,000 to bring the project within budget. We found no such evidence of the negotiating process supporting the selection of the CM.

Pursuant to the standard terms of the *GMP Amendment (Exhibit “I” to the Construction Management At-Risk Agreement)*, the CM may perform a portion of the work for the project, if written authorization is granted by the Board. Article 6.5.4 – Subcontractor Bidding, of the said agreement¹⁴ obligates the CM to “maximize market participation to obtain desirable competition related to Subcontractor Bidding.” Therefore, all work, including those “self-performed” by the CM should be competitively bid.

¹² The Bid Tabulation Form listed the due date and time for bids as February 9, 2015, at 3:00 p.m.

¹³ This subcontractor bid, dated February 10, 2015, included (\$24,045) for Deductive Alternate 5 – Delete Epoxy Flooring Building. When netted against its base bid of \$235,039, the subcontractor’s net bid for Package B was \$210,994. The Bid Tabulation Form listed the correct amounts for the base bid and deductive alternate.

¹⁴ *Supra* page 33.

**CONDITION – LOWEST BIDDER WAS NOT SELECTED AND DOCUMENTED
REASON FOR THE SELECTION WAS NOT PROVIDED**

Our review and analysis of the subcontractor bids received indicated that the apparent lowest responsive and responsible bidder was not selected for Bid Package H - Electrical, and a written explanation and appropriate backup documentation were not provided to justify not selecting the apparent lowest bidder, pursuant to procedural and contractual requirements. The following table presents the bid tabulation results:

BID PACKAGE H – ELECTRICAL, BID TABULATION RESULTS				
	Bidder A	Bidder B	Bidder C	Bidder D
Base Bid	\$344,140	\$267,700	\$244,412	\$207,818
Deductive Alternate 2	(\$5,900)		(\$2,500)	(\$900)
Deductive Alternate 3	(\$1,100)		(\$2,800)	(\$450)
Net Bid	\$337,140	\$267,700	\$239,112	\$206,468

The Final GMP Summary, dated April 8, 2015, listed "Bidder D" the winning bidder with a bid of \$205,818 as oppose to \$206,468. According to the OSF, the amount was negotiated and reduced from the initial price of \$207,818. No evidence was provided to document the additional negotiations.

As indicated above, the Bid Tabulation Form, dated February 10, 2015, listed Bidder C's base bid of \$244,412. However, two bids with different dates were submitted by Bidder C; the first dated February 10, 2015, for \$244,412 and the second dated March 4, 2015, for \$204,000. OSF indicated that during the negotiations, Bidder C was asked to reduce his price, and he submitted a final price of \$204,000. The subsequent proposal does not indicate whether the \$204,000 offered includes the Deductive Alternates 2 and 3. However, both two-page documents were identical apart from the amount indicated. Based on the second proposal received from Bidder C, whether inclusive of the deductive alternates, it was lower than the \$205,818 negotiated with Bidder D, the apparent low bid. We asked for clarification from the OSF why Bidder C was not selected. OSF stated that Bidder D, with a final price of \$205,818, was selected by the CM to meet the MBE goal for the project.¹⁵ The files and documents reviewed did not contain an explanation for the deviation from the selection process, as is required.

The M-DCPS *Miscellaneous/CM@Risk Contract Procedures* states, "The CMR must use the lowest responsive and responsible bidder unless he/she can demonstrate justifiable

¹⁵ This project had a 20 percent SBE subcontractor participation goal established by the GSC. Based on the District's diversity compliance computer application, Bidder D was certified an MBE and M/WBE during the period May 29, 2014, through May 29, 2017, and is currently recertified with the same designations through May 29, 2020.

reasons for any disqualification.” In addition, Article 6.5.4 – Subcontractor Bidding, of the *Miscellaneous Construction Manager At-Risk Agreement* states, “The CM shall request in writing to the Board the use of any prequalified Subcontractors other than the low bidder for any particular element of the work. A written explanation and appropriate backup documentation must be included for any recommended subcontractor other than the apparent lowest subcontractor. The CM shall include a full explanation of the reason for such request.” The absence of the required full explanation makes the subcontractor bidding non-compliant with district procedures and contract terms.

CONDITION – LACK OF DOCUMENTATION FOR FINAL WALK-THROUGH/END OF WARRANTY MEETING AND WARRANTY CLAIM RESOLUTION.

We reviewed meeting notifications scheduling the “Warranty Kick-off Meeting” for March 18, 2016, and the “End of Warranty Meeting” for November 7, 2016. We were provided with the sign-in sheet, warranty procedures, and scope of work discussed during the Kick-off Meeting, evidencing the occurrence of this meeting. However, documentation evidencing the occurrence of the “Final Walk-through/End of Warranty Meeting” was not provided.

In addition, we identified five warranty claims for Gloria Floyd Elementary as reported on a memorandum sent from the Warranty Administrator to the project’s A/E, CM, and PM. The memorandum referred to open warranty deficiencies for the school received by the warranty administrator and attached a list of the deficiencies. Responding to our inquiry regarding the status of the noted deficiencies, the Warranty Administrator stated they had been resolved; however, no documentation was provided to verify the claims had been resolved.

The end of warranty final walk-through is an important event in the project’s post-occupancy phase. Through it, defects in construction and systems can be identified prior to the expiration of the applicable warranties. Of similar importance is the need for maintaining accurate and complete documentation of conditions and incidents related to potential warranty claims. These actions ensure that warranty claims are properly identified and corrected in a timely manner to prevent unnecessary cost to the District.

HIALEAH ELEMENTARY SCHOOL (Project No. 01303900)

Project Profile:	
General Scope:	HVAC improvements, acoustical ceiling, electrical, roofing, doors, windows, plumbing, painting, and new classroom technology
Negotiated GMP:	\$1,844,528

	Construction [Ⓢ]	Total	
Initial Project Budget:	\$1,844,528*	\$2,420,346	
Final Project Budget:	\$1,820,790	\$2,376,805	
Changes in Budget:	\$23,738 ⁺	\$43,541	{ To fund pull-out, advance, or secondary projects: #01312900 and #01312901 }
Project Expenditures:	\$1,820,790	\$1,971,743 [#]	

Project's Start Date:	August 27, 2014	
Contracted Substantial Completion Date:	July 23, 2015	
Actual Substantial Completion Date:	July 26, 2015	
Date of Final Project Activity:	November 6, 2015	{ Last day CM/Sub visited project site }
Extension/Reduction of Time Granted:	None	

Ⓢ The amounts in this column represent the cost associated with the CM's GMP contract only.

* Amount includes owner's contingency of \$89,642.

+ Amount represents unused owner's contingency.

This amount includes payments to: (1) the CM for construction and pre-construction services, (2) the Architect/Engineer (A/E) for design services, and (3) the Building Code Compliance (BCC) firm for inspection services. These amounts do not represent the total project expenditures and exclude costs such as abatement, builders risk insurance, geotechnical services, custodial reimbursement, and furniture, fixtures and equipment.

Details of the conditions noted:

- Information contained in two of the three painting subcontractors' bid proposals submitted was omitted on the Bid Tabulation Form.
- The treatment and determination of bids that omitted some information was inconsistent in two of the seven bid packages/or disciplines.
- Documentation to verify the occurrence of important events during the project warranty phase, such as, Final Walk-through/End of Warranty Meeting, was not provided for audit.

CONDITION – DIFFERENCES EXIST BETWEEN THE BID PROPOSAL AND BID TABULATION FORM

Our review and analysis of the Bid Tabulation Form with a bid opening date of August 1, 2014, and the accompanying subcontractor bids received for Bid Package E – Painting, disclosed that the form omitted the deductive alternate amounts (\$1,888 and \$3,290) found on two of the three bids submitted. The following tables show the bid tabulation results, first, as officially presented and second, as should have been presented:

BID PACKAGE E – PAINTING, BID TABULATION RESULTS AS OFFICIALLY SHOWN ON THE BID TABULATION FORM			
	Bidder A	Bidder B	Bidder C
Base Bid	\$82,585	\$117,510	\$203,200
Deductive Alternate 5	-	-	-
Net Bid	\$82,585	\$117,510	\$203,200

BID PACKAGE E – PAINTING, BID TABULATION RESULTS AS SHOULD HAVE BEEN SHOWN ON THE BID TABULATION FORM			
	Bidder A	Bidder B	Bidder C
Base Bid	\$82,585	\$117,510	\$203,200
Deductive Alternate 5	-	(\$1,888)	(\$3,290)
Net Bid	\$82,585	\$115,622	\$199,910

According to the OSF, the CM inadvertently missed identifying the deductive amounts submitted by Bidder B and Bidder C on the bid tabulation form.

The first and winning bidder—Bidder A—did not include an amount for the applicable deductive alternate in his bid proposal, which was selected and included on the GMP Summary. Although having the lowest bid, the bidder should have been deemed non-responsive, based on School Board Policy 6320 – Purchasing and criteria for bidding as communicated to us by the OSF. Although the written procedures established for the CM At-Risk subcontractor bidding process reviewed do not provide a definition or examples of a non-responsive bid, School Board Policy 6320 states:

“The right to reject any and all bids is reserved by the Board and such reservation shall be indicated in all advertising and invitations. When bids are rejected and the project or requirement is not abandoned, new bids may be issued. Bids which contain any alterations or erasures may be

rejected. Bids will be rejected for good and sufficient cause, such as faulty specifications, excessive cost, and abandonment of the requirements, insufficient funds, or other irregularities. Bids may be rejected for failure by the bidder to comply with any requirement stated in the bid document, the bid proposal form, or any attachments which become part of the bid. [Emphasis added]

OSF indicated to us that bids that do not include all required “breakdown,” including amounts for accepted alternates are deemed non-responsive. Based on the M-DCPS *Miscellaneous CM@RISK Contract Procedures*, the CM must use the lowest responsive and responsible bidder unless he/she can demonstrate justifiable reason for any disqualifications. Additional, Policy 6320 allows for bids containing deviations to be recommended for selection. However, a detailed report must be submitted, as delineated below:

“In the event that Procurement Management Services wishes to make a recommendation of an award of a bid to a bidder who has deviated from specifications, or in which there is any irregularity, the report recommending such an award should contain in detail: the manner in which the bid deviates from the specifications or is irregular, the reasons for the recommendation of the award, and approval by the Board Attorney.”

We found no evidence supporting the selection of the winning bid.

A review of the Bid Tabulation Form for Bid Package G – HVAC disclosed multiple incomplete bids being considered as shown below:

BID PACKAGE G – HVAC				
BID TABULATION RESULTS AS OFFICIALLY SHOWN ON THE BID TABULATION FORM				
	Bidder A	Bidder B	Bidder C	Bidder D
Base Bid	\$790,000	\$1,100,000	\$648,100	\$699,900
Deductive Alternate 3	(\$35,000)	-	-	-
Deductive Alternate 4	(\$95,000)	-	-	-
Additive Alternate 1*	-	-	-	\$195,000
Net Bid	\$660,000	\$1,100,000	\$648,100	\$894,900
* This alternate to provide new interior Bard units in lieu of exterior Bard units was not implemented. The project experienced budgeting constraint, which necessitated several budget adjustments.				

After tabulating the bids, Bidder C was deemed the winning bidder, the bid of \$648,100 was listed on the GMP Summary dated August 12, 2014. Subsequently, in a memorandum dated August 15, 2014, the CM indicated that “the apparent low bidder, (Bidder C), has been non-responsive in providing the required breakdown to date... and was replaced with the 2nd low bidder, (Bidder A), which has submitted the required breakdown.” The memorandum indicated that the change would be reflected in the GMP Summary.

A document showing “budget adjustments” to the GMP listed the following entries relative to the HVAC discipline:

- Replace one Bard unit in front (Bidder A) – (\$18,500)
- Price difference between Bidder C and Bidder A – \$106,900¹⁶
- Delete corridor HVAC – (\$100,000)
- Delete RTU 3-4 and 4-5 (Deductive Alternate 3) – (\$35,000)
- Delete RTU 3-1, 3-2, 3-3, 3-4 and 3-5 (Deductive Alternate 4) – (\$95,000)¹⁷

According to OSF, the “required breakdown” mentioned in the memorandum pertains to the bid amount for the deductive alternates. Although the lowest responsive bidder was ultimately selected, the process in arriving at that selection demonstrates inconsistent treatment of incomplete bids. As seen above, although the bid of the apparent low bidder of the Painting Package did not include the “required breakdown,” Deductive Alternate 5, the bidder was not deemed non-responsive, whereas, the incomplete bid received from the apparent low bidder of the HVAC Package was ultimately deemed non-responsive.

CONDITION – LACK OF DOCUMENTATION FOR FINAL WALK-THROUGH/END OF WARRANTY MEETING

We reviewed meeting notifications scheduling the “Warranty Kick-off Meeting” for August 24, 2015, and the “End of Warranty Meeting” for August 4, 2016. We were provided with the meeting minutes and warranty procedures for the Kick-off Meeting, evidencing the occurrence of this meeting. However, documentation evidencing the occurrence of the “Final Walk-through/End of Warranty Meeting” was not provided. The only other documentation that was provided to us was an email sent by the Warranty Administrator on August 4, 2016, to the PM, CM, and A/E notifying them of the end of warranty period.

¹⁶ This amount does not equal the difference in the base bids of Bidder A and Bidder C. The correct amount of the difference is \$141,900 (\$790,000 - \$648,100), which reflects a variance of \$35,000.

¹⁷ The last two elements of this alternate were erroneously recorded as RTU 3-4 and RTU 3-5. Rather, the correct listing is RTU 4 and RTU 5.

The end of warranty final walk-through is an important event in the project's post-occupancy phase. Through it, defects in construction and systems can be identified prior to the expiration of the applicable warranties. Of similar importance is the need for maintaining accurate and complete documentation of conditions and incidents related to potential warranty claims. These actions ensure that warranty claims are properly identified and corrected in a timely manner to prevent unnecessary cost to the District.

MAST Academy - New Addition (Sector 1 – Project #1216100)
MAST Academy - Renovations (Sector 2 – Project #1292500)

Project Profile:	
General Scope:	Demolition, concrete, masonry, metal doors, aluminum windows, stucco, acoustical ceilings, painting, plumbing, HVAC, electrical, asphalt paving, brick pavers
Negotiated GMP: \$19,458,761	

	Construction [ⓐ]	Total	
Initial Project Budget:	\$19,458,761*	\$28,998,102 [Ⓢ]	{ To fund pull-out, advance, or secondary projects: 01214001, 01214100, 01214101, 01214200, 01214202, 01292000, 01645600, and 01220200 }
Final Project Budget:	\$19,442,536	\$24,350,428	
Changes in Budget:	\$16,225 ⁺	\$4,647,674	
Project Expenditures:	\$19,437,710	\$19,827,742 [#]	

Project's Start Date:	May 16, 2014 (both)	
Contracted Substantial Completion Date:	July 10, 2015 (both)	
Actual Substantial Completion Date:	Sector-1: August 7, 2015 Sector-2: August 11, 2015	
Date of Final Project Activity:	Sector-1: May 26, 2016 Sector-2: August 21, 2015	{ Last day CM/Sub visited project site }
Extension/Reduction of Time Granted:	Sector-1: 28-day extension Sector-2: None	

ⓐ The amounts in this column represent the cost associated with the CM's GMP contract only.

* This amount includes owner's contingency of \$750,458.

Ⓢ The project was funded from three different sources, as follows: \$17,144,879 from GOB and \$11,853,223 from other non-GOB sources, including "Other Categorical Capital Outlay" and "Facilities Impact Fees."

+ This amount includes the net of: (\$181,279) total change orders, \$202,330 unused owner's contingency, and (\$4,826) DPO charges.

This amount includes payments to: (1) the CM for construction and pre-construction services, (2) the Architect/Engineer (A/E) for design services, and (3) the Building Code Compliance (BCC) firm for inspection services. These amounts do not represent the total project expenditures and exclude costs such as abatement, builders risk insurance, geotechnical services, custodial reimbursement, and furniture, fixtures and equipment.

Details of the conditions noted:

- There were 34 instances where the amounts on the bid proposal, Bid Tabulation Form, and/or GMP Summary did not agree.
- Five instances where the name of the winning bidder as reported on the Bid Tabulation Form was different than the bidder on the GMP.

- We found four instances where the lowest bid was not selected and no documented explanation for the selections made was maintained.
- Five bids listed on the Bid Tabulation Form were not supported by bid proposals.
- Seven instances where only one bid was listed on the Bid Tabulation Form and selected as the winning bid without a documented explanation.
- The duration of construction exceeded the number of days allowed in the construction contract for MAST – Sector 2. No approved extension was noted.
- Documentation to verify the occurrence of important events during the project warranty phase, such as, the Final Walk-through/End of Warranty Meeting and the resolution of warranty claims, was not provided for audit.

**CONDITION – AMOUNTS ON THE BID TABULATION FORM, BID PROPOSAL
AND/OR GMP SUMMARY DID NOT AGREE**

We compared the Bid Tabulation Form to the bid proposals received and noted several instances where the amounts did not agree. We observed 28 instances where the amounts listed on the Bid Tabulation Form adjusting the bid amount were not found on the bid proposal or in other documents. In some instances, differences also existed with the GMP Summary. The following table displays these differences, including the instances where the amount on the GMP Summary differed from the other amounts:

COMPARISON OF BIDDING RESULTS FOR SELECTED PACKAGES			
Bid Package	Bid Proposal	Bid Tabulation Form	GMP Summary (Amounts for Winning Bids Only)
SECTOR 1			
Finish – Stucco	\$1,247,000	\$1,234,500	
Thermal & Moisture Protection – Bituminous Roofing	\$486,500	\$411,500	
Exterior Improvements – Chain Link Fence	\$131,193	\$133,093	\$110,272
Signage	\$48,338	\$56,778	
Metals - Structural Steel	\$622,612	\$650,112	
Conveying Equipment – Hydraulic Passenger Elevator	\$96,900	\$99,780	
HVAC (Bidder 1)	\$1,908,900	\$1,213,900	\$1,208,900
HVAC (Bidder 2)	\$1,939,584	\$1,244,584	
Electrical (Bidder 1)	\$1,720,663	\$1,700,832	\$1,635,965
Electrical (Bidder 2)	\$1,727,500	\$1,724,850	
Earthwork (Bidder 1)	\$1,249,251	\$1,259,251	\$1,259,251
Earthwork (Bidder 2)	\$1,879,656	\$1,889,656	
Concrete – Concrete Shell (Bidder 1)	\$3,908,798	\$3,957,698	\$3,916,346
Concrete – Concrete Shell (Bidder 2)	\$4,118,650	\$4,124,050	
SECTOR 2			
Concrete Shell	\$26,200	\$39,200	\$0
Thermal & Moisture Protection – Joint Sealants	\$29,750	\$29,750	\$29,510
Openings – Hollow Metal Doors & Frames (Bidder 1)	\$34,479	\$21,452	
Openings – Hollow Metal Doors & Frames (Bidder 2)	\$24,348 [®]	\$17,535	\$17,535
Openings – Aluminum Entrances & Storefronts (Bidder 1)	\$20,250	\$19,550	\$19,550
Openings – Aluminum Entrances & Storefronts (Bidder 2)	\$114,678	\$34,502	
Finishes - Stucco	\$5,600	\$4,500	\$4,500
Finishes – Metal Framing and Gypsum Board (Bidder 1)	\$48,800	\$67,800	
Finishes – Metal Framing and Gypsum Board (Bidder 2)	\$122,500	\$109,500	\$109,500
Finishes – Resinous Epoxy Flooring	\$12,660	\$4,520	\$4,520
Signage	\$2,325	\$2,200	
HVAC (Bidder 1)	\$158,000	\$799,860	\$799,860
HVAC (Bidder 2)	\$75,441	\$775,441	
Electrical (Bidder 1)	\$361,359	\$446,057	\$442,402
Electrical (Bidder 2)	\$326,000	\$408,650	
[®] Incomplete bid proposal provided, only one page.			

The following commentary along with responses from the OSF to our inquiries, where applicable, is provided for the noted differences:

SECTOR 1

Finish – Stucco: The Bid Tabulation Form amount of “\$1,234,500 was a 1% discount applied to RMC’s original proposal of \$1,247,000.”

Exterior Improvements – Chain Link Fence: The Bid proposal provided lists a base bid of \$131,193, the Bid Tabulation Form also lists the base bid of \$131,193 plus \$1,900 applied to all bidders for additional fencing for a total of \$133,093. According to OSF, “after tabulations, the bidder, an MWBE, reduced their price to \$115,903.” However, despite the explanation provided, this reduced amount does not agree with the amount, \$110,272, reported on the GMP.

Metals - Structural Steel: The bidder’s proposal lists exclusions for several required line items. A Bid Tabulation Form, which is different from the form we initially reviewed, provided by the OSF in response to our inquiry, includes amounts totaling \$27,500 for some of the exclusions. The amounts are listed on the Bid Tabulation Form with a notation stating the items were “excluded per the bidders bid proposal; back up cannot be located at this time.”

Conveying Equipment – Hydraulic Passenger Elevator: OSF provided an additional document that contains a hand-written notation in the bid specification instructions that refers to “[\$]120 per hour,” which if applied for 24 hours, would account for the \$2,880 difference. We could not trace this hourly rate or the total hours to the bidder’s proposal.

HVAC: According to OSF \$5,000 was added to all bids for “ceiling repairs and replacement” and \$700,000 was “reallocated from Sector 1 to Sector 2 on both bids,” as reported on the Bid Tabulation Form. While the explanation provided clarifies the differences related to Bidder 2, it does not clarify the remaining difference of \$48,140 related to Bidder 1. Moreover, there was no documentation of the actions taken in the bid documents.

Electrical (Bidder 1): According to OSF \$(84,698) was reallocated from Sector 1 to Sector 2 on the Bid Tabulation Form as requested by M-DCPS and there was an amount of \$64,867 that when in and out with no impact on the overall costs. The explanation given did not eliminate the differences as demonstrated in the following diagram. For example, listing \$1,700,832 on the Bid Tabulation for Sector 1 and \$442,402 on the GMP even after the said reallocation was made remains unexplained.

	Bid Proposal		Reallocation Amount	=	Reallocated Amount		GMP Summary	Unexplained Difference
Sector 1	\$1,720,663	-	\$84,698	=	\$1,635,965		\$1,635,965	\$ -
Sector 2	361,359	+	84,698	=	446,057		442,402	3,655
Total	<u>\$2,082,022</u>		<u>\$ -</u>		<u>\$2,082,022</u>		<u>\$2,078,367</u>	<u>\$3,655</u>

In addition, a Bid Tabulation Form subsequently provided by OSF to our office differed slightly from the Bid Tabulation Form previously provided to us and did not include the \$64,867 mentioned previously.

Electrical (Bidder 2): According to OSF, \$(82,650) was reallocated from Sector 1 to Sector 2 for the amounts on the Bid Tabulation Form, as requested by M-DCPS. While this amount represents the difference between the amounts on the bid proposal and Bid Tabulation Form for Sector 2, it does not explain the \$2,650 difference for Sector 1.

Earthwork: Providing an explanation for the differences noted, OSF stated that \$10,000 was allocated for asphalt and concrete repairs of which the exact extent could not be determined at the time of the bid and therefore, an agreed upon amount was incorporated into the GMP. There was no documentation of the actions taken in the bid documents.

Concrete – Concrete Shell (Bidder 1): According to OSF, \$43,500 and \$5,400 was scope provided by the CM. Also, we noted that the Bid Tabulation Form subsequently provided to us by the OSF includes an amount of \$(41,352) for Alternate No.12. This amount is not listed on the Bid Tabulation Form previously provided to us. When the \$(41,352) credit is applied to the amount listed on the Bid Tabulation Form, the resulting amount agrees with the \$3,916,346 reported on the GMP.

Concrete – Concrete Shell (Bidder 2): According to OSF, the \$5,400 was scope provided by the CM.

SECTOR 2

Thermal & Moisture Protection – Joint Sealants: After our inquiry, OSF provided a bid tabulation form that includes Alternate #16 in the amount of \$(240). This amount is not listed on the initial bid tabulation form provided to us or the bid proposal.

Openings – Hollow Metal Doors & Frames (Bidder 1) – According to OSF, during the vetting process it was determined that Alternate #16 in the amount of

\$(13,027) was not submitted by the vendor and subsequently provided. There was no documentation of the actions taken in the vetting process.

Openings – Hollow Metal Doors & Frames (Bidder 2) - According to OSF, during the vetting process \$525 was added for sanitary cut off stops that were not included in the vendors bid and \$(7,338) was for alternate 16. There was no documentation of the action taken in the vetting process.

Openings – Aluminum Entrances & Storefronts (Bidder 1) – According to OSF, the bidder did not initially provide the Alternate 16 in the amount of \$(700) and was provided with a follow-up call. The bid was later adjusted during the vetting process. There was no documentation of the action taken in the vetting process.

Openings – Aluminum Entrances & Storefronts (Bidder 2) – According to OSF, the bidder did not include a price for repair and repaint of the storefront in the amount of \$18,000 and did not include a deduct alternate number 14 amounting to \$(97,476) for removing work at the cafeteria. The bid was later adjusted during the vetting process. There was no documentation of the action taken in the vetting process.

Finishes – Stucco - According to OSF, during the vetting process, the value of the deductive alternate assigned to each bidder was increased once the scope of the alternate was clarified. Based on the bid proposals and amounts on the Bid Tabulation Form the deduct value was increased only on one vendor.

Finishes - Metal Framing and Gypsum Board (Bidder 1 & 2) – According to OSF, during the vetting process, the value of the deductive alternate assigned to each bidder was increased once the scope of the alternate was clarified. However, we found that for bidder 1, the deductive amount decreased from \$(45,000) as reported on the bid proposal to \$(26,000) on the Bid Tabulation Form. Bidder 2 deductive amount increased from the bid proposal amount of \$1,000 to \$(14,000) on the Bid Tabulation Form.

Finishes – Resinous Epoxy Flooring – According to OSF, the bidder did not include a value for an alternate with the original bid and during the vetting process, a number was solicited from the bidder for the alternate. There was no documentation of the actions taken in the process.

In addition to the differences in amounts already mentioned, we also found seven instances where the name of the winning bidder as reported on the Bid Tabulation Form was different than the bidder on the GMP Summary. The bid packages are as followings:

SECTOR 1

- **Finish – Stucco:** The winning bidder reported on the GMP does not agree with the Bid Tabulation Form. According to OSF, “two bidders teamed up on the project, because the winning bidder did not meet [the] bonding requirement.”
- **Metals - Structural Steel:** The GMP reports the bidder as “TBD” (To Be Determined), instead of the bidder selected on the Bid Tabulation Form. In subsequent discussion with OSF, they provided the name of the subcontractor eventually selected as the winning bidder. The bid proposal was later provided and agreed with the bid tabulation sheet, however, did not agree with the GMP amount.

SECTOR 2

- **Opening – Metals Doors & Frames:** The winning bidder reported on the GMP is noted on the Bid Tabulation Form as not complying with “Level A criteria,” even though the lowest bid was not selected according to the Bid Tabulation Form. According to the OSF, MDCPS confirmed that the vendor met their requirements and was accepted as a vendor at GMP negotiations.
- **Specialties – Signage:** The winning bidder reported on the GMP does not agree with the Bid Tabulation Form. According to the OSF, the vendor on the bid tabulation form is the same as the GMP. Based on the BTF provided to us and the GMP, the vendors are not the same.
- **Specialties – Toilet Compartment & Accessories:** The winning bidder reported on the GMP does not agree with the Bid Tabulation Form. According to the OSF the winning bidder did not bid Sector 2 but was the low bidder for Sector 1 and during the vetting process Sector 1 was combined with the Sector 2 price to keep all scope to one contractor.

CONDITION – LOWEST BIDDER WAS NOT SELECTED

Our review of the bid proposals submitted indicate that in some instances the apparent lowest bidder was not selected. The following table presents the bid tabulation results:

SECTOR 1 – BID PACKAGE – FIRE SUPPRESSION SPRINKLER SYSTEM	
Bidder A	\$293,900
Bidder B	\$239,500

The GMP Summary lists the winning bid as Bidder A in the amount of \$293,900. The records presented for audit did not contain the required explanation for not selecting the apparent low bid (Bidder B). We inquired of OSF of the reason for the selection. They stated that Bidder B had retracted his/her bid. We followed up with OSF requesting documentation, such as a written statement or email exchange between the CM and subcontractor, to support the statement provided. However, no such documentation was provided to support the claim of Bidder B's retraction.

SECTOR 2 – BID PACKAGE – WOOD, PLASTICS & COMPOSITES – MISCELLANEOUS ROUGH CARPENTRY	
Bidder A	\$18,650
Bidder B – estimate	\$23,650

Based on the information above, the low bid for the Sector 2 – Wood, Plastics & Composites – Miscellaneous Rough Carpentry is Bidder A for \$18,650. However, the GMP Summary lists the work at the amount of \$23,650 and referred to the amount as an estimate. According to the OSF, Bidder A was the only bid received and did not include the cost of increased footers.

SECTOR 2 – BID PACKAGE – ACOUSTICAL TILE CEILING	
Bidder A	\$14,450
Bidder B	\$8,715
Bidder C	\$3,320

Based on the information above, the low bid is Bidder C, however, the Bid Tabulation Form notes the Bidder C bid did not have the right scope and the GMP reports Bidder B as selected. Review of the Bid Tabulation Form indicates that the scope was complete. According to OSF, Bidder's C scope was included correctly, however, the deduct amount was inaccurate. No deduct amount was provided by OSF.

SECTOR 2 – BID PACKAGE – FINISHES – RESILIENT TILE FLOORING & CARPET	
Bidder A	\$22,335
Bidder B	\$25,930
Bidder C	\$14,000
Bidder D	\$13,796
Bidder E	\$27,237
Bidder F	\$18,165

Based on the information above, the lowest bid is bidder D. A note on the Bid Tabulation Form states that bidder D "would not break out sector" and OSF stated that bidder D was not willing to do Sector 2 only and the final bid selection was made on the best combined price (Sector 1 & 2) selecting Bidder F. However, we noted that Sectors 1 and 2 had different vendors and not combined. OSF later stated that Bidder F as selected as a SBE firm. No documentation was provided to support the selection of Bidder F. We did verify that Bidder F was registered as a MBE & MWBE during the selection period.

The M-DCPS *Miscellaneous/CM@Risk Contract Procedures* states, "The CMR must use the lowest responsive and responsible bidder unless he/she can demonstrate justifiable reasons for any disqualification." In addition, Article 6.5.4 – Subcontractor Bidding, of the *Miscellaneous Construction Manager At-Risk Agreement* states, "The CM shall request in writing to the Board the use of any prequalified Subcontractors other than the low bidder for any particular element of the work. A written explanation and appropriate backup documentation must be included for any recommended subcontractor other than the apparent lowest subcontractor. The CM shall include a full explanation of the reason for such request." The absence of the required full explanation makes the subcontractor bidding non-compliant with district procedures and contract terms.

CONDITION – NO BID PROPOSALS WAS PROVIDED FOR SOME BID PACKAGES

During our audit, we requested bid proposals for all the bidders listed on the Bid Tabulation Form; however, several bids were not provided. The following table identifies those bids:

SCOPE OF WORK FOR WHICH NO BID PROPOSALS WERE PROVIDED	
Bid Package	Bid Tabulation Form
SECTOR 1	
Furnishing – Precast Benches*	\$21,417
General Requirements – QA/QC & Closeout Services**	\$63,120
SECTOR 2	
Openings – Hollow Metal Doors & Frames	\$37,963
Openings – Aluminum Entrances & Storefronts	\$19,100
Finishes – Stucco	\$12,470
<p>* An email with a breakdown of \$21,417 (material, equipment, and labor) was provided. According to the OSF, "pricing was not available at the time of GMP. GMP was based on unit price that included the actual bench cost, equipment, and labor to install."</p> <p>** At our request for the bid proposal, OSF responded that the bidder was not accepted and the work was included in the CM's general conditions.</p>	

Without full documentation it is not possible to determine whether the bid amounts reported on the Bid Tabulation Form are accurate and the integrity of the selection process remains intact. In addition, without full documentation, the School Board's ability to effectively exercise the privileges permitted by Article 6.9 – Board's Right to Require Documentation and Audit, of the *Miscellaneous Construction Manager At-Risk Agreement*, may be hindered.

CONDITION – ONLY ONE BID WAS RECEIVED

The Bid Tabulation Form contained seven bid packages for which only one bid was received and selected as the winning bid. An explanation for the selection of single bids was not contained in the documents presented for audit. According to OSF, when only one bid is received for a specific division or scope of work, in some instances additional bids are solicited while at other times, the bid sum provided is reviewed by the project team and if found reasonable, is included in the GMP. The following table includes the bid packages with only one bidder:

WINNING BID WAS THE ONLY BID RECEIVED	
Bid Package	GMP Amount
SECTOR 1	
Thermal & Moisture Protection – Joint Sealants	\$79,710
Finishes – Resinous Epoxy Flooring	\$20,165
Finishes – Painting	\$205,523
Exterior Improvements – Brick Unit Pavers	\$14,677
SECTOR 2	
Thermal & Moisture Protection – Joint Sealants	\$29,510
Finishes – Resinous Epoxy Flooring	\$4,520
Fire Suppression – Sprinkler System	\$14,400

Pursuant to the standard terms of the *GMP Amendment (Exhibit "I" to the Construction Management At-Risk Agreement)*, the CM may perform a portion of the work for the project, if written authorization is granted by the Board. Article 6.5.4 – Subcontractor Bidding, of the said agreement¹⁸ obligates the CM to "maximize market participation to obtain desirable competition related to Subcontractor Bidding." Therefore, all work, including those "self-performed" by the CM should be competitively bid.

¹⁸ *Supra* page 33.

CONDITION – SOME PROJECTS WERE NOT COMPLETED TIMELY

Our analysis of the construction timeline for the MAST Academy project disclosed that for Sector 1, a request for an extension of time was approved by the ARG and TRC committees the 28 days the project was delayed in meeting its contracted substantial completion date. Given the approved extension, we take no exception to the delay. However, for Sector 2, we noted that the duration of the project had been exceeded the contracted due date for its substantial completion by 32 days, and there was no documentation evidencing that an approved extension had been granted by the ARG and TRC committees.

Time delays are not uncommon to the construction industry, and the untimely completion of a construction project may be due to various reasons, including unforeseen circumstances. Although not being an excessively lengthy delay in this case, the construction contract stipulates a due date that was agreed to and a provision for assessing penalties against the CM for not meeting that due date. Moreover, since there is a process in place for the ARG and TRC committees to approve time extensions whenever additional time is required to complete a project, proper documentation must be kept and readily available evidencing that such approvals are being obtained by the department. This will assist OSF in fulfilling its contractual responsibilities pertaining to holding the CM accountable for the timely completion of the construction project.

CONDITION – LACK OF DOCUMENTATION FOR FINAL WALK-THROUGH/END OF WARRANTY MEETING AND WARRANTY CLAIM RESOLUTION

We reviewed meeting notifications scheduling the “Warranty Kick-off Meetings” for Sectors 1 and 2 for October 7, 2015, and October 12, 2015, respectively, and the “End of Warranty Meetings” for August 5, 2016, and August 12, 2016, respectively. We were provided with the sign-in sheets, warranty procedures, and scope of work discussed during the kick-off meeting, evidencing the occurrence of the meeting for both Sectors. However, documentation evidencing the occurrence of the “Final Walk-through/End of Warranty Meeting(s)” was not provided.

In addition, we identified 13 warranty claims for Sectors 1 and 2 (five and eight, respectively) as reported on memorandums sent from the Warranty Administrator to the A/E, CM, and PM, and some “warranty trouble notifications” sent from the Warranty Administrator to the CM. The memorandums referred to “open warranty deficiencies” received by the Warranty Administrator and attached a list of the deficiencies. Responding to our inquiry regarding the status of the noted deficiencies, the Warranty Administrator stated that they had been resolved. However, no documentation was provided to verify the claims had been resolved.

The end of warranty final walk-through is an important event in the project's post-occupancy phase. Through it, defects in construction and systems can be identified prior to the expiration of the applicable warranties. Of similar importance is the need for maintaining accurate and complete documentation of conditions and incidents related to potential warranty claims. These actions ensure that warranty claims are properly identified and corrected in a timely manner to prevent unnecessary cost to the District.

MIAMI CORAL PARK SENIOR HIGH SCHOOL (Project No. 01305000)

Project Profile:	
General Scope:	HVAC improvements, plumbing, electrical, and new classroom technology
Negotiated GMP:	\$1,877,350

	Construction [Ⓢ]	Total	
Initial Project Budget:	\$1,877,350*	\$2,523,674	
Final Project Budget:	\$1,849,405	\$2,461,425	
Changes in Budget:	\$27,945 ⁺	\$62,249	{ To fund pull-out, advance, or secondary project: #01313300 }
Project Expenditures:	\$1,849,405	\$2,059,117 [#]	

Project's Start Date:	March 31, 2015	
Contracted Substantial Completion Date:	January 8, 2016	
Actual Substantial Completion Date:	October 29, 2015	{ Last day CM/Sub visited project site }
Date of Final Project Activity:	November 23, 2015	
Extension/Reduction of Time Granted:	None	

Ⓢ The amounts in this column represent the cost associated with the CM's GMP contract only.

* Amount includes owner's contingency of \$89,398.

+ Amount represents unused owner's contingency.

This amount includes payments to: (1) the CM for construction and pre-construction services, (2) the Architect/Engineer (A/E) for design services, and (3) the Building Code Compliance (BCC) firm for inspection services. These amounts do not represent the total project expenditures and exclude costs such as abatement, builders risk insurance, geotechnical services, custodial reimbursement, and furniture, fixtures and equipment.

Details of the conditions noted:

- The Bid Tabulation Form was not signed by all required parties (CM, A/E, and PM).
- Documentation to verify the occurrence of the Final Walk-through/End of Warranty Meeting was not provided for audit.

CONDITION – BID TABULATION SHEET WAS NOT SIGNED

A review of Bid Tabulation Form with a bid opening date of February 27, 2015, disclosed that the form was only signed by the CM and not by the project manager or architect/engineer, as required. Although OSF contends there is no policy or requirement to sign the actual Bid Tabulation Form, the M-DCPS *Miscellaneous/CM@RISK Contract Procedures* states, "the M-DCPS Project Manager¹⁹ is responsible to ensure that the A/E, CMR, and M-DCPS Project manager sign the Bid Tabulation Form." The same document identifies these individuals as being responsible for opening, reviewing, and tabulating the bids and proposals received for compliance with the contract document. The signatures on the Bid Tabulation Form affirms that all responsive bids are included and accurately reported on the form.

¹⁹ *Supra* page 12.

CONDITION – LACK OF DOCUMENTATION FOR FINAL WALK-THROUGH/END OF WARRANTY MEETING

We reviewed meeting notifications scheduling the “Warranty Kick-off Meeting” for January 19, 2016, and the “End of Warranty Meeting” for August 19, 2016. We were provided with the sign-in sheet, meeting minutes, and warranty procedures for the Kick-off Meeting, evidencing its occurrence. However, documentation evidencing the occurrence of the “Final Walk-through/End of Warranty Meeting,” was not provided. The Warranty Administrator did provide us with a letter stating that “no warranties claim was submitted by the school administration to report any deficiencies in the workmanship, and/or equipment installed during the one-year warranty period on this project. This required no creation and/or submission of an electronic warranty tickets on the part of the MDCPS warranty department to be sent to the contractors and/or installers for corrective action.”

The information in the letter provided to us does not provide documentation to verify whether the required procedures were followed. Moreover, although no warranty claim might have been reported during the first nine to eleven months of the one-year general warranty period, it does not guarantee that defects previously went unnoticed will not be noticed during the procedurally and contractually required “Final Walk-through/End of Warranty Meeting.”

The end of warranty final walk-through is an important event in the project’s post-occupancy phase. Through it, defects in construction and systems can be identified prior to the expiration of the applicable warranties. Of similar importance is the need for maintaining accurate and complete documentation of conditions and incidents related to potential warranty claims. These actions ensure that warranty claims are properly identified and corrected in a timely manner to prevent unnecessary cost to the District.

MIAMI LAKES K-8 CENTER (Project No. 1333700)

Project Profile:	
General Scope:	Playground repair, demolition, asbestos and humidity testing, window installation, acoustical ceilings, roofing, and plumbing
Negotiated GMP:	\$500,506

	Construction [⊖]	Total	
Initial Project Budget:	\$500,506*	\$773,741	
Final Project Budget:	\$491,701	\$680,014	
Changes in Budget:	\$8,805 ⁺	\$93,727	{ To fund pull-out, advance, or secondary project: 01333701 and 01333702 }
Project Expenditures:	\$491,701	\$562,115 [#]	

Project's Start Date:	July 28, 2015	{ The BCC has withheld issuing a certificate of occupancy, pending resolution of certain issues in the mechanical room. (Not closed as of April 17, 2018.) }
Contracted Substantial Completion Date:	Undetermined	
Actual Substantial Completion Date:	Undetermined	
Date of Final Project Activity:	Undetermined	
Extension/Reduction of Time Granted:	Undetermined	

⊖ The amounts in this column represent the cost associated with the CM's GMP contract only.

* Amount includes owner's contingency of \$21,445.

+Amount represents unused owner's contingency.

This amount includes payments to: (1) the CM for construction and pre-construction services, (2) the Architect/Engineer (A/E) for design services, and (3) the Building Code Compliance (BCC) firm for inspection services. These amounts do not represent the total project expenditures and exclude costs such as abatement, builders risk insurance, geotechnical services, custodial reimbursement, and furniture, fixtures and equipment.

Details of the conditions noted:

- The Bid Tabulation Form was not signed by the required parties (CM, A/E, and PM).
- For three of the eight bid packages, the amounts on the bid proposal and Bid Tabulation Form did not agree with the amounts on the GMP Summary.
- For three of the eight bid packages, only one bid was listed on the Bid Tabulation Form for the bid package and was selected as the winning bid.
- Several bid packages were self-performed by the CM; however, no bid proposal was submitted by the CM or other bidders for these bid packages.
- Documentation to verify the occurrence of important events during the project warranty phase, such as, the Final Walk-through/End of Warranty Meeting, was not provided for audit.

CONDITION – BID TABULATION SHEET WAS NOT SIGNED

A review of the Bid Tabulation Form dated July 15, 2015, disclosed that the form was not signed by the CM, PM, or A/E, as required. M-DCPS *Miscellaneous/CM@Risk Contract Procedures* states, “the M-DCPS Project Manager²⁰ is responsible to ensure that the A/E, CMR and M-DCPS Project Manager sign the Bid Tabulation Form.” The same document identifies these individuals as being responsible for opening, reviewing, and tabulating the bids and proposals received for compliance with the contract document. The signatures on the Bid Tabulation Form affirms that all responsive bids are included and accurately reported on the form. The lack of signatures by the required parties fails to provide such assurances.

CONDITION – AMOUNTS ON THE BID TABULATION FORM AND BID PROPOSALS DO NOT AGREE WITH THE GMP

The Bid Tabulation Form documents the bid proposals submitted by subcontractors. A comparison of the bid proposals, Bid Tabulation Form, and GMP Summary disclosed several instances where the amounts on the bid proposals and Bid Tabulation Form did not agree with the amounts on the GMP Summary. The following table displays these differences:

COMPARISON OF THE AMOUNT LISTED ON THE BID TABULATION FORM AND BID PROPOSALS WITH THE GMP SUMMARY		
Bid Package	Bid Proposal and Bid Tabulation Form	GMP Summary
Finishes (Acoustics)	\$27,810	\$15,000
Plumbing	\$31,950	\$28,350
Electrical	\$76,191	\$45,593

OSF provided the following reasons for the differences:

- Finishes (Acoustics) – During the GMP negotiations, the scope of work was reduced from providing 48 panels to 24 panels (half), and the amount of \$15,000 was agreed upon by the team. The reduction, \$12,810, was 46 percent of the bid price. While the GMP Summary indicates the reduction in the number of panels

²⁰ *Supra* page 12.

to 24, there is no cost breakdown or other document to support the value of the reduction.

- Plumbing – The scope of work was reduced, and a decision was made to reuse the existing fixtures instead of new ones, resulting in the lower amount. While the GMP Summary indicates the reuse of plumbing fixtures, there is no cost breakdown or other document to delineate and support the differentiated costs between the new and used fixtures.
- Electrical – During the GMP negotiations the amount of \$45,593 was agreed to a reduction of \$30,598 due to a reduction in the scope of work because of the decrease in the project budget. The reduction was 40 percent of the bid price. While the GMP Summary refers to the reduction in the scope, there was no cost breakdown or other document to support the underlying elements of the value of the reduction.

The changes to the bid prices might or might not have aligned with the changes in the project scopes of work originally bid on, but without documentation and an audit trail, it is improbable to ascertain whether such alignment in value existed.

CONDITION – ONLY ONE BID WAS RECEIVED FOR SEVERAL BID PACKAGES AND NO BID PROPOSALS WAS PROVIDED FOR OTHERS

We noted three instances where only one bid was reported on the Bid Tabulation Form for a specific bid package and was selected as the winning bid as reflected in the following table:

WINNING BID WAS THE ONLY BID RECEIVED	
Bid Package	Amount
Job Site – Playground	\$1,700
Windows and Doors	\$4,900
Specialties – Bathroom Items	\$8,026

According to OSF, “if only one bid is received for a specific division or scope of work, in some instances additional bids are solicited or other times the single bid is reviewed by the project team and if found reasonable, is included in the GMP.” We found no evidence that either of these approaches were followed.

A comparison of the Bid Tabulation Form, bid proposals, and GMP Summary disclosed several instances, as shown in the table on page 61, where the amounts listed on the GMP Summary were not listed on the Bid Tabulation Form or supported by bid proposals:

NO BID PROPOSALS PROVIDED FOR BID PACKAGES	
Bid Package	GMP Amount
Job Site – VCT & Installation	\$1,000
Thermal & Moisture Protection – Patch Ceiling	\$2,963
Finishes – Bathroom Demo	\$2,750
Finishes – Bathroom Furnish & Install Tile	\$30,435
Finishes – Bathroom Painting	\$740
Finishes – Bathroom Install Equipment	\$650
Finishes – Bathroom Repairs	\$7,000
Finishes – Miscellaneous	\$500
Plumbing – Repairs	\$1,000

We requested copies of the bids for the bid packages listed, however, none was provided. According to OSF, the “CM did not receive any bids for these disciplines and [the] amounts were recommended by [the] A/E and CM during [the] GMP negotiations and [were] agreed [to] by MDCPS.” The work pertaining to these disciplines was performed by the CM.

CONDITION – LACK OF DOCUMENTATION FOR FINAL WALK-THROUGH/END OF WARRANTY MEETING

We reviewed meeting notifications scheduling the “Warranty Kick-off Meeting” for May 11, 2016, and the “End of Warranty Meeting” for December 12, 2016. We were provided with the sign-in sheet, warranty procedures, and scope of work discussed during the Kick-off Meeting, evidencing the occurrence of this meeting. However, documentation evidencing the occurrence of the “Final Walk-through/End of Warranty Meeting” was not provided.

The end of warranty final walk-through is an important event in the project's post-occupancy phase. Through it, defects in construction and systems can be identified prior to the expiration of the applicable warranties. Of similar importance is the need for maintaining accurate and complete documentation of conditions and incidents related to potential warranty claims. These actions ensure that warranty claims are properly identified and corrected in a timely manner to prevent unnecessary cost to the District.

MYRTLE GROVE K-8 CENTER (Project No. 1333900)

Project Profile:	
General Scope:	Demolition, landscape, concrete, masonry, carpentry and millwork, roofing, doors and frames, painting, flooring, acoustical ceilings, drywall, fire sprinkler system, plumbing, mechanical, and electrical
Negotiated GMP: \$1,999,953	

	Construction [⊖]	Total
Initial Project Budget:	\$1,999,953*	\$2,664,409
Final Project Budget:	\$1,993,796	\$2,664,409
Changes in Budget:	\$6,157 ⁺	\$0
Project Expenditures:	\$1,993,796	\$2,200,172 [#]

Project's Start Date:	June 11, 2015	{ Last day CM/Sub visited project site }
Contracted Substantial Completion Date:	June 15, 2016	
Actual Substantial Completion Date:	February 19, 2016	
Date of Final Project Activity:	January 6, 2017	
Extension/Reduction of Time Granted:	None	

⊖ The amounts in this column represent the cost associated with the CM's GMP contract only.

* Amount includes owner's contingency of \$23,000.

+ Owner's contingency was fully utilized; amount represents credit back to M-DCPS for painting and conduit scope of work.

This amount includes payments to: (1) the CM for construction and pre-construction services, (2) the Architect/Engineer (A/E) for design services, and (3) the Building Code Compliance (BCC) firm for inspection services. These amounts do not represent the total project expenditures and exclude costs such as abatement, builders risk insurance, geotechnical services, custodial reimbursement, and furniture, fixtures and equipment.

Details of the conditions noted:

- For one of the three bid proposals submitted for concrete/masonry, the amount of the Bid Tabulation Form did not agree with the bid submitted.
- Of the 12 bid packages, there was one instance where the lowest bid was not selected.
- Documentation to verify the occurrence of important events during the project warranty phase, such as, the Final Walk-through/End of Warranty Meeting, was not provided for audit.

CONDITION – AMOUNTS ON THE BID TABULATION FORM, BID PROPOSAL, AND GMP SUMMARY DID NOT AGREE

A comparison of the Bid Tabulation Form and bid proposals disclosed a few differences. Explanations were provided by the OSF for all the differences uncovered except for one instance. For the Concrete Bid Package, the bid proposal for one bidder showed the total amount of \$577,500, whereas the Bid Tabulation Form listed the total amount of \$689,500. The records submitted for audit did not contain an explanation for the difference noted. According to OSF the CM contacted the bidder after the bid opening, the amount was agreed upon and added to the bid tabulation form.

M-DCPS *Miscellaneous/CM@Risk Contract Procedures* states, “The M-DCPS Project Manager²¹ is responsible to ensure that the ‘CM@Risk Bid Sign-In Sheet’ is completely filled out and that each subcontractor bid is identified and tabulated on the Bid Tabulation Form.” Based on these procedures, the expectation is that the Bid Tabulation Form accurately reflects each subcontractor’s bid. When needed, as circumstances dictate, the procedures require written documentation and/or approval be provided by the CM. The absence of such written documentation creates a condition of non-compliance with established procedures as well as compromises transparency, accountability, and audit trail. Moreover, these discrepancies may prevent the selection of the best bid value.

CONDITION – LOWEST BID WAS NOT SELECTED

Our review and analysis of the subcontractors’ bids received indicated that the apparent low bid was not selected for the Specialties portion of the project. The following table presents the bid tabulation results followed by a discussion pertaining to the indicated results:

BID TABULATION RESULTS FOR THE NOTED DISCIPLINE				
Disciplines	SUBCONTRACTORS’ BID PROPOSAL AMOUNTS			
	Bidder A	Bidder B	Bidder C	Bidder D
Division 10 - Marker Boards	\$18,900	\$22,006 ^w	\$25,455	N/A
Division 10 - Signs Boards	N/A	\$8,350 ^w	\$4,775 [*]	\$10,013
^w Winning bid listed on the GMP Summary. [*] The Bid Tabulation Form contained the notation, “incorrect count on bid,” which apparently disqualified this bid.				

GMP Summary shows an amount of \$30,356 for Division 10 – Specialties, using Bidder B for both Marker Boards (\$22,006) and Signs Boards (\$8,350). However, a lower bid

²¹ *Supra* page 12.

was received from Bidder A for \$18,900, for \$3,106 less, for Marker Boards. The records submitted for audit did not contain an explanation or justification for not choosing the apparent low bid for Marker Boards, Bidder A. There was also no indication that the packages (Marker Boards and Signs Boards) would be awarded together. We asked for clarification from OSF, who stated that Bidder A was selected, contrary to what is indicated on the GMP Summary. Moreover, as indicated, Bidder A did not submit a bid for the Sign Boards.

The M-DCPS *Miscellaneous/CM@Risk Contract Procedures* states, "The CMR must use the lowest responsive and responsible bidder unless he/she can demonstrate justifiable reasons for any disqualification." In addition, Article 6.5.4 – Subcontractor Bidding, of the *Miscellaneous Construction Manager At-Risk Agreement* states, "The CM shall request in writing to the Board the use of any prequalified Subcontractors other than the low bidder for any particular element of the work. A written explanation and appropriate backup documentation must be included for any recommended subcontractor other than the apparent lowest subcontractor. The CM shall include a full explanation of the reason for such request." The absence of the required full explanation makes the subcontractor bidding non-compliant with district procedures and contract terms.

CONDITION – LACK OF DOCUMENTATION FOR FINAL WALK-THROUGH/END OF WARRANTY MEETING

We reviewed meeting notifications scheduling the "Warranty Kick-off Meeting" for July 20, 2016, and the "End of Warranty Meeting" for January 30, 2017. We were provided with the sign-in sheet, warranty procedures, and scope of work discussed during the Kick-off Meeting, evidencing the occurrence of this meeting. However, documentation evidencing the occurrence of the "Final Walk-through/End of Warranty Meeting" was not provided.

The end of warranty final walk-through is an important event in the project's post-occupancy phase. Through it, defects in construction and systems can be identified prior to the expiration of the applicable warranties. Of similar importance is the need for maintaining accurate and complete documentation of conditions and incidents related to potential warranty claims. These actions ensure that warranty claims are properly identified and corrected in a timely manner to prevent unnecessary cost to the District.

VAN E. BLANTON ELEMENTARY SCHOOL (Project No. 01306800)

Project Profile:	
General Scope:	HVAC improvements, floor covering, acoustical ceilings, electrical, fire alarm, security alarm system, plumbing, painting, and new classroom technology
Negotiated GMP: \$1,820,922	

	Construction [⊗]	Total	
Initial Project Budget:	\$1,820,922*	\$2,615,122	
Final Project Budget:	\$1,779,702	\$2,315,800	
Changes in Budget:	\$41,220 ⁺	\$299,322	
Project Expenditures:	\$1,779,702	\$1,949,719 [#]	{ To fund pull-out, advance, or secondary projects: #01311300, #01518800, and #01313700 and Board Item Reallocation of \$100,926. }

Project's Start Date:	June 19, 2014	
Contracted Substantial Completion Date:	February 26, 2015	
Actual Substantial Completion Date:	February 23, 2015	
Date of Final Project Activity:	March 13, 2015	{ Last day CM/Sub visited project site }
Extension/Reduction of Time Granted:	None	

⊗ The amounts in this column represent the cost associated with the CM's GMP contract only.

* Amount includes owner's contingency of \$86,710.

+ Amount represents unused owner's contingency.

This amount includes payments to: (1) the CM for construction and pre-construction services, (2) the Architect/Engineer (A/E) for design services, and (3) the Building Code Compliance (BCC) firm for inspection services. These amounts do not represent the total project expenditures and exclude costs such as abatement, builders risk insurance, geotechnical services, custodial reimbursement, and furniture, fixtures and equipment.

Details of the conditions noted:

- The project's Bid Tabulation Form was not signed by all the required parties (CM, A/E, and PM).
- Only one bid was listed on the bid tabulation form for four bid packages out of the nine bid packages provided for this project.
- Twenty-seven items listed on the GMP were not reported on the bid tabulation form. Out of the 27 items listed, 25 bid proposals were not provided. They were performed by the CM.
- The amounts shown on the Final GMP Summary, Bid Tabulation Form, and bid proposal of the winning bidder for the plumbing portion of the project did not agree.
- The lowest bid for the Electrical/Fire Alarm/Security System bid package was not selected.

CONDITION – BID TABULATION FORM WAS NOT SIGNED

A review of the Bid Tabulation Form disclosed that the form was neither dated nor signed by the CM, PM, and A/E, as required. Although OSF contends there is no policy or requirement to sign the actual Bid Tabulation Form, the M-DCPS *Miscellaneous/CM@RISK Contract Procedures* states, “the M-DCPS Project Manager²² is responsible to ensure that the A/E, CMR, and M-DCPS Project Manager sign the Bid Tabulation Form.” The same document identifies these individuals as being responsible for opening, reviewing, and tabulating the bids and proposals received for compliance with the contract document. The signatures on the Bid Tabulation Form affirms that all responsive bids are included and accurately reported on the form. Lack of signatures by the required parties fails to provide such assurances.

CONDITION – SOME GMP LINE ITEMS WERE ESTABLISHED WITH ONLY ONE OR NO BID

Our review of the Bid Tabulation Form and bid proposals prepared for this project disclosed that competitive pricing was not achieved for some line items in the Final GMP Summary. For instance, only one bid was received for each of the following amounts listed on the Final GMP Summary: Doors/Frames/Hardware (\$10,920), Glass and Glazing (\$132,172), Suspended Acoustical Ceiling System (\$3,599), and Bathroom Accessories (\$3,900). Although the *Miscellaneous Construction Manager At-Risk Agreement* states that “the CM shall maximize market participation to obtain desirable competition related to Subcontractor Bidding,” neither it nor the M-DCPS *Miscellaneous/CM@RISK Contract Procedures* specifically indicates what should be done when only one bid is received. According to OSF, in such cases, additional bids may be solicited or the bid sum provided is reviewed by the project team and if found reasonable, included in the GMP. In principle, the actions described by OSF comport with the requirements of the School Board purchasing policy—6320. However, no evidence was provided to document that additional solicitation of bids or a review of the bid sum by the project team occurred.

Our review of the Final GMP Summary also found instances where either the amounts reflected for the following divisions/disciplines or the divisions/disciplines themselves were not listed on the Bid Tabulation Form and were not supported by bid proposals.

- **Sitework & Demolition amounting to \$42,120** – The GMP showed a total of \$50,520 for this division/discipline; however, the Bid Tabulation Form showed the demolition low bid of \$8,400. The resulting difference, \$42,120 is self-performed work by the CM, for which no competitive bids were received or even identified on the Bid Tabulation Form.
- **Concrete amounting to \$4,925; Masonry amounting to \$11,700; and Woods & Plastics amounting to \$5,350** – The GMP showed the indicated

²² *Supra* page 12.

totals for each division/discipline, none of which was not even identified on the Bid Tabulation Form. The CM self-performed this work for which no competitive bids were received.

- **Thermal & Moisture Protection amounting to \$17,500** – The GMP showed the indicated total for this division/discipline, which was even identified on the Bid Tabulation Form. A bid from the subcontractor identified was not provided.
- **Finishes amounting to \$93,086** – The GMP showed a total of \$141,560 for this division/discipline; however, the Bid Tabulation Form showed only portions of the work, totaling \$48,474, comprising this division/discipline. The resulting difference, \$93,086, was self-performed work by the CM, for which no competitive bids were received or even identified on the Bid Tabulation Form.
- **Specialties amounting to \$2,250** – The GMP showed a total of \$6,150 for this division/discipline; however, the Bid Tabulation Form showed only portions of the work, totaling \$3,900, comprising this division/discipline. The resulting difference, \$2,250, was self-performed work by the CM, for which no competitive bids were received or even identified on the Bid Tabulation Form.

According to OSF, the CM did not receive bids for the individual scopes of work that were self-performed by the CM. Also, OSF stated that the amounts on the GMP were recommended by the A/E and CM during the GMP negotiation and were agreed to by M-DCPS. We were provided with no documentary evidence to corroborate the OSF's assertions.

Pursuant to the standard terms of the *GMP Amendment (Exhibit "I" to the Construction Management At-Risk Agreement)*, the CM may perform a portion of the work for the project, if written authorization is granted by the Board. Article 6.5.4 – Subcontractor Bidding, of the said agreement²³ obligates the CM to "maximize market participation to obtain desirable competition related to Subcontractor Bidding." Therefore, all work, including those "self-performed" by the CM should be competitively bid.

CONDITION – DIFFERENCES EXIST AMONG THE GMP, BID TABULATION FORM, AND BID PROPOSAL

The amounts shown on the Final GMP Summary, Bid Tabulation Form, and winning bid for the plumbing portion of the project were \$11,500, \$12,500 and \$11,130, respectively.²⁴ The Specification and Estimate section of the winning proposal contains the following entry: "9. All cutting, patching of floors and walls to be done by others." Two handwritten notations were also affixed on the proposal; one stating "Did not

²³ Supra page 33.

²⁴ All three totals are shown for the same bidder.

include patching;" the other being overwritten numbers that could not be deciphered with certainty. None of the notations was initialed to establish the identity of its maker. According to OSF, the CM included a revised cost of \$12,500 at the time of GMP negotiations, and \$11,500 was ultimately agreed to by "both parties," the CM and M-DCPS.

**CONDITON – INCONSISTENCIES WERE NOTED BETWEEN THE BID
TABULATION FORM AND SUBCONTRACTOR BIDS AND THE
APPARENT LOW BIDDER WAS NOT SELECTED**

A review of the Bid Tabulation Form for the Electrical/Fire Alarm/Security System package disclosed the following bid breakdown:

TABULATED RESULTS FOR ELECTRICAL/FIRE ALARM/SECURITY SYSTEM PACKAGE (COMMON ITEMS)				
	Bidder A	Bidder B	Bidder C	Bidder D
Base Electric	\$112,460	\$194,269	\$296,703	NIC
Power Plan	included	*7,500	*7,500	NIC
Core Drilling	included	*7,500	*7,500	NIC
Fire Alarm		\$107,132	included	*\$112,445
Intrusion System		37,098	included	64,200
Fire Alarm Conduit	*27,500		*37,850	NIC
Intrusion Conduit	*27,500		*31,480	NIC
HVAC Controls	4,214		4,000	
TOTAL	\$171,674	\$353,499	\$385,033	\$176,645

NIC = not in contract

* Amounts preceded by an asterisk were not included in the bid proposal submitted by the subcontractor. Handwritten notations indicating the addition of \$55,000 were affixed to a copy of Bidder A's proposal. The notation was not initialed to identify its maker.

The following totals were submitted for Bidders A, B, C, and D, respectively: \$116,674, \$338,500, \$316,588, and \$64,200 plus tax.

Bidders A and D were selected based on bifurcating the scope into electrical (including conduit and HVAC controls) and fire alarm (including security intrusion system). The division of this work was not apparent or documented on the Bid Tabulation Form, suggesting that this may not have been the initial intent when bidding this project. We also found no evidence of this intent being communicated to the bidders at the time of soliciting proposals. In addition, we inquired why Bidder B was not selected for the fire alarm and security intrusion scope of work, given the amount of their bid allocated to this work totaled \$144,230 (\$32,415 less than the amount awarded to Bidder D). The OSF stated that Bidder B would not breakout his bid. No documented evidence was provided by the CM, bidder, or OSF to corroborate this assertion. Given this fact, it is

unclear whether the bifurcated approach used in awarding the subcontracts yielded the lowest bids. And even if it did, the bids submitted by the designated winning bidders were non-responsive, based on OSF established meaning of a complete bid and the principle of the School Board's purchasing policy 6320.

MANAGEMENT’S RESPONSE

Original Response

MEMORANDUM

April 27, 2018

TO: Ms. Iraida Mendez-Cartaya, Chief Auditor
Office of Management and Compliance Audits

FROM: Jaime G. Torrens, Chief Facilities Officer
Office of School Facilities



**SUBJECT: RESPONSE TO AUDIT REPORT – DESIGNATED ELEMENTS OF
SELECTED CONSTRUCTION PROJECTS**

We would like to thank the Office of Management and Compliance Audits (the "OMCA") for providing the Audit of Designated Elements of Selected Construction Projects (the "Report"). Below please find our response.

- We fully concur with the observations listed on page 9 of the Report, which encapsulate the key elements of the GOB program's implementation, and which merit repeating for context:
 - The Office of School Facilities (OSF) has "a comprehensive, well designed, and functioning process for selecting and awarding primary contracts for construction";
 - OSF has an effective contractor requisition payment, as evidenced by the results of OMCA's review of 374 requisitions totaling \$28.2 million, which indicated "payments to be accurate, properly approved, supported by the proper invoices, and having the required propriety";
 - OMCA's review of 1,551 direct purchase of materials' invoices totaling \$7.3 million indicated that "adequate internal controls over Direct Purchase Order (DPO) materials and equipment purchases were in place as evidenced by the payments being accurate, properly approved and supported" and that there were "no instances of sales tax being paid on the invoices tested"; and
 - OMCA's site visits to all ten projects tested indicated that "the work in place agreed with the scopes of work examined".
- As it relates to the five findings and recommendations in the Report, synthesized below for ease of reference, we offer the following comments:
 - Finding 1 – Policies and procedures to manage the execution of the GOB program should be updated and enhanced.

We believe that there is always room for enhancing internal procedures and appreciate the opportunity to do so, in light of the observations in the Report. We have already started the updating process which will include desktop procedures that better reflect current practices.

- o Finding 2 – The GMP process development has several internal control weaknesses.

While we appreciate OMCA's observations, we do not fully concur with this finding. As noted during our initial discussions, the GMP bidding process is one which, by contract, is the responsibility of the Construction Manager (the "CM"), and is also the subject of a review and recommendation by the A/E of Record to the District staff. As you are aware, the CM's processes and procedures, by virtue of its being a private entity, differ from the processes and procedures the District would use to solicit, obtain and process bids. We do recognize, as with finding number 1, that there is always an opportunity to improve upon current procedures, and we have already instructed project management staff to implement process improvements recommended in the Report, such as ensuring that both the attendance sheet and the bid tabulation sheet are signed by all present when subcontractor bids are opened by the CM.

- o Finding 3 – Some S/MBE and M/WBE assistance levels for subcontractors were not achieved.

We believe the structure used in the Report to present data on S/MBE and M/WBE participation in the ten projects is unintentionally misleading. As we noted during our discussions, the Goal Setting Committee (the "GSC") establishes goals only for S/MBE participation. There was not at the time and there is still currently no process in place for establishing M/WBE goals or levels of participation.

Out of the ten early GOB projects audited, four projects had minimum S/MBE participation goals established by the GSC. Of those, three far exceeded the participation goal with only one falling short.

Out of the ten projects, only one had CM-proffered M/WBE participation goals, i.e. the MAST Academy project, even though there was no M/WBE program in place at the time. In that case, of the two CM proffered M/WBE goals, one was exceeded and the other was not met. The remaining nine projects were not subject to M/WBE goals although there was a good faith effort made to be inclusive of M/WBE certified firms. This is not an issue of non-compliance and should not be characterized as such in the Report. Needless to say, that even in the absence of a race and gender conscious program, it is well documented that the District always makes an effort in every project to incentivize or encourage both architects and contractors

to engage diverse sub-consulting and sub-contracting teams. This is well evidenced in the many commissioning items approved by the Board since the inception of the GOB program.

- o Finding 4 – The recordkeeping and documentation pertaining to project warranty phase needs improvement.

We fully concur with your recommendations in this area and have already taken steps to adequately staff this unit to ensure final walk through and end of warranty meetings are documented at every step of the way. We are in the process of reconciling procedures to best practices for immediate implementation.

- o Finding 5 – One project went beyond its contractual substantial completion time and it is unclear whether another project did.

The project which is noted in the Report as having gone beyond its substantial completion date is the MAST Academy project, which consisted of two Sectors. Sector 1 consisted of the classroom addition and Sector 2 consisted of the renovations to the existing facility. A change order was in fact processed and approved by the School Board for a time extension on Sector 1 of the MAST project, which change should have included Sector 2 as well, since both Sectors were built concurrently. The absence of Sector 2 in the time extension was an inadvertent omission. There was no impact to the delivery of the improvements, and there was no additional cost incurred by the Board as a result of that inadvertent omission.

Thank you for your effort and professional courtesies throughout the audit process. Please let us know if you have questions or would like to further discuss our response.

JGT:arc
M289


cc: Mr. Alberto M. Carvalho
Dr. Daniel Tosado
Ms. Ana Rijo-conde
Mr. Raul F. Perez
Ms. Teresa Comesana-Alfau

Revised Response

MEMORANDUM

May 10, 2018

TO: Ms. Iraida Mendez-Cartaya, Interim Chief Auditor
Office of Management and Compliance Audits

FROM: 
Jaime G. Torrens, Chief Facilities Officer
Office of School Facilities

SUBJECT: **ADDITIONAL INFORMATION ADDRESSING FINDINGS #2 AND #3
CONTAINED IN THE MAY 2018 AUDIT OF DESIGNATED ELEMENTS
OF SELECTED CONSTRUCTION PROJECTS**

As a follow-up to the May 8, 2018 Audit and Budget Advisory Committee meeting, the Office of School Facilities (OSF) and the Office of Management and Compliance Audits (OMCA) have met to discuss reconciliation of Management's Response with the Auditor's Comments, specific to the observations contained in the above referenced Findings. Interaction between OSF and OMCA reconfirmed mutual acknowledgment of the need to more meticulously record key steps in the Guaranteed Maximum Price (GMP) development process, be they routine or special circumstances. Where OSF and OMCA differed was the applicability of Board procurement policies to the procedures used by Construction Managers at Risk (CMR) in that process. We believe the differences have been vetted and alignment has been achieved as noted below. Additionally, clarification is also being provided to reconcile Management's Response with the Auditor's Comments pertaining to Finding #3.

MANAGEMENT'S RESPONSE (The Office of School Facilities) - REVISED:

Finding #2:

We appreciate OMCA's observations. The GMP bidding process is conducted by the CMR entities, in accordance with their own set of procedures, which do not necessarily align with the bidding process initiated by a public agency. The role of OSF is to ensure that the CMR's bidding process protects the Board's best interests, is conducted in a transparent way and achieves best cost outcomes for the District. While OSF believes these goals are consistently achieved, OSF also recognizes the value of better documentation and will be implementing a series of procedural steps and staff training starting this month to address gaps, including checklists and samples of expected documentation. OSF will also disseminate this information to CMR, as part of its quarterly chat forums.

Finding #3:

As discussed during OSF's interactions with OMCA during the audit, the Goal Setting Committee (the "GSC") establishes goals exclusively for S/MBE

participation. There was not at the time and there is still currently no process in place for establishing mandatory M/WBE goals or levels of participation.

Out of the ten projects audited, four projects had minimum S/MBE participation goals established by the GSC. Of those, three far exceeded the participation goal with only one falling short on its SBE goal.

In the absence of a race and gender conscious program, it is well documented that the District always makes an effort in every project to incentivize both architects and contractors to engage diverse sub-consulting and sub-contracting teams. OSF fully agrees with OMCA's statement that additional clarification, as it relates to implementation of Board Policy 6320.02, is warranted, and to that end, OSF intends to collaborate with the Office of Economic Opportunity and the School Board Attorney's Office to clearly define an action plan going forward, that will lead to consistent M/WBE program implementation guidelines, including mandatory participation goals.

As always, we appreciate the professional courtesies extended to OSF in these matters and look forward to continued improvement of our practices and procedures. If you have additional questions, please contact me at 305 995-1607.

JGT:cb
M298

cc: Mr. Alberto M. Carvalho
Dr. Daniel Tosado
Ms. Ana Rijo-conde
Mr. Raul F. Perez
Ms. Teresa Comesana-Alfau

Anti-Discrimination Policy

Federal and State Laws

The School Board of Miami-Dade County, Florida adheres to a policy of nondiscrimination in employment and educational programs/activities and strives affirmatively to provide equal opportunity for all as required by:

Title VI of the Civil Rights Act of 1964 - prohibits discrimination on the basis of race, color, religion, or national origin.

Title VII of the Civil Rights Act of 1964 as amended - prohibits discrimination in employment on the basis of race, color, religion, gender, or national origin.

Title IX of the Education Amendments of 1972 - prohibits discrimination on the basis of gender.

Age Discrimination in Employment Act of 1967 (ADEA) as amended - prohibits discrimination on the basis of age with respect to individuals who are at least 40.

The Equal Pay Act of 1963 as amended - prohibits gender discrimination in payment of wages to women and men performing substantially equal work in the same establishment.

Section 504 of the Rehabilitation Act of 1973 - prohibits discrimination against the disabled.

Americans with Disabilities Act of 1990 (ADA) - prohibits discrimination against individuals with disabilities in employment, public service, public accommodations and telecommunications.

The Family and Medical Leave Act of 1993 (FMLA) - requires covered employers to provide up to 12 weeks of unpaid, job-protected leave to "eligible" employees for certain family and medical reasons.

The Pregnancy Discrimination Act of 1978 - prohibits discrimination in employment on the basis of pregnancy, childbirth, or related medical conditions.

Florida Educational Equity Act (FEEA) - prohibits discrimination on the basis of race, gender, national origin, marital status, or handicap against a student or employee.

Florida Civil Rights Act of 1992 - secures for all individuals within the state freedom from discrimination because of race, color, religion, sex, national origin, age, handicap, or marital status.

Title II of the Genetic Information Nondiscrimination Act of 2008 (GINA) - prohibits discrimination against employees or applicants because of genetic information.

Boy Scouts of America Equal Access Act of 2002 – no public school shall deny equal access to, or a fair opportunity for groups to meet on school premises or in school facilities before or after school hours, or discriminate against any group officially affiliated with Boy Scouts of America or any other youth or community group listed in Title 36 (as a patriotic society).

***Veterans** are provided re-employment rights in accordance with P.L. 93-508 (Federal Law) and Section 295.07 (Florida Statutes), which stipulate categorical preferences for employment.*

In Addition:

School Board Policies 1362, 3362, 4362, and 5517 - Prohibit harassment and/or discrimination against students, employees, or applicants on the basis of sex, race, color, ethnic or national origin, religion, marital status, disability, genetic information, age, political beliefs, sexual orientation, gender, gender identification, social and family background, linguistic preference, pregnancy, citizenship status, and any other legally prohibited basis. Retaliation for engaging in a protected activity is also prohibited.

For additional information contact:

Office of Civil Rights Compliance (CRC)
Executive Director/Title IX Coordinator
155 N.E. 15th Street, Suite P104E
Miami, Florida 33132
Phone: (305) 995-1580 TDD: (305) 995-2400
Email: crc@dadeschools.net Website: <http://crc.dadeschools.net>

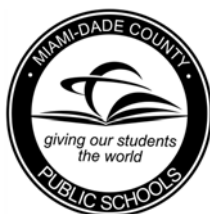
INTERNAL AUDIT REPORT

AUDIT OF

DESIGNATED ELEMENTS OF SELECTED

CONSTRUCTION PROJECTS

(Reissued May 2018)



MIAMI-DADE COUNTY PUBLIC SCHOOLS

Office of Management and Compliance Audits

1450 N.E. 2nd Avenue, Room 415

Miami, Florida 33132

Telephone: (305)995-1318 ♦ Fax: (305)995-1331

<http://mca.dadeschools.net>
