

DISTRICT FACILITY LEASING PRACTICES



THE DISTRICT'S NEED FOR LEASED SPACE
IS BEING ADEQUATELY MET. HOWEVER,
OPPORTUNITIES TO STRENGTHEN
CONTROLS EXIST.

JUNE 2007



Miami-Dade County Public Schools

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June 19, 2007

Members of The School Board of Miami-Dade County, Florida
Members of The School Board Audit Committee
Dr. Rudolph F. Crew, Superintendent of Schools

Ladies and Gentlemen:

In accordance with the approved Audit Plan for the 2006-07 Fiscal Year, we have performed an audit of the District's Facility Leasing Practices for the period of July 1, 2005 through December 31, 2006. The objectives of the audit were to determine whether the District has adequate controls over the leasing function to assure that the facilities and related rental revenues and expenditures are reasonable, properly administered, contracted, and accounted for. The report will be presented to the Audit Committee at its June 26, 2007 meeting. Based on their comments, suggestions and recommendations, the School Board should receive the final report at its July 11, 2007 meeting.

The leasing process adequately provides for the District's supplemental space needs and except as noted below at a reasonable cost. Opportunities to improve the process can be attained by formalizing procedures and improving documentation. The collection of rental revenues is not centralized or logged. Doing so would provide greater assurance that funds are timely turned over for deposit and properly accounted for.

As a separate matter, outside the scope of this audit, non-standard design features resulted in approximately \$6.5 million in retrofit cost overruns to a facility that is under lease for a five-year period, with options for three additional five-year periods. District plans indicate that the facility is only needed for the initial five-year period. This work was not performed as landlord improvements and, consequently, was not managed by Facilities Planning.

Our findings and recommendations were discussed with management. We have received a response from management and have included it in our report. As always, we would like to thank the management for their cooperation and courtesies extended to our staff during the audit.

Sincerely,


Allen Vann, CPA
Chief Auditor

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EXECUTIVE SUMMARY

Based on our audit we concluded that the leasing function, administered by Facilities Planning appears to be adequately meeting the District's space needs at reasonable rates. It is evident that when entering and renewing a lease, Facilities Planning performs necessary tasks such as conducting a search of available properties and in the case of renewing a lease, determines from the user whether there is a continued need and desire for the particular leased space.

A more formal procedures manual than currently exists would be beneficial for staff training, succession, and general consistency. While documents in the lease files are organized chronologically, data retrieval and overall efficiency might be enhanced by a more categorical filing approach. The adoption of checklists would ensure their completeness and facilitate better documentation of supervisory review. For example, the site selection process for executing multi-year leases is not always adequately documented in all lease files.

Lease agreements where the District receives income from the property it leases do not always contain collection provisions indicating where rental payments are to be remitted, or a provision for the collection of late fees and/or interest in the event that the rental payments are not received on a timely basis. Rental receipts from tenants were neither received at a single-source central location, nor logged in a receipt log to monitor and establish accountability over the collection of tenant payments received. (See management's response at page 24.)

Although not specifically a leasing function, we found significant cost overruns to the original estimate to retrofit a leased facility were incurred due to non-standard design features. Approximately \$6.5 million in cost overruns have been incurred to date to retrofit a facility that district plans indicate will only need to be leased for five years.

Based on our observations, we made 10 recommendations. We have received a response from management and have included it in our report. Our detailed findings and recommendations start on page 7. We would like to thank the administration for their cooperation extended to our staff during the audit.

INTERNAL CONTROLS

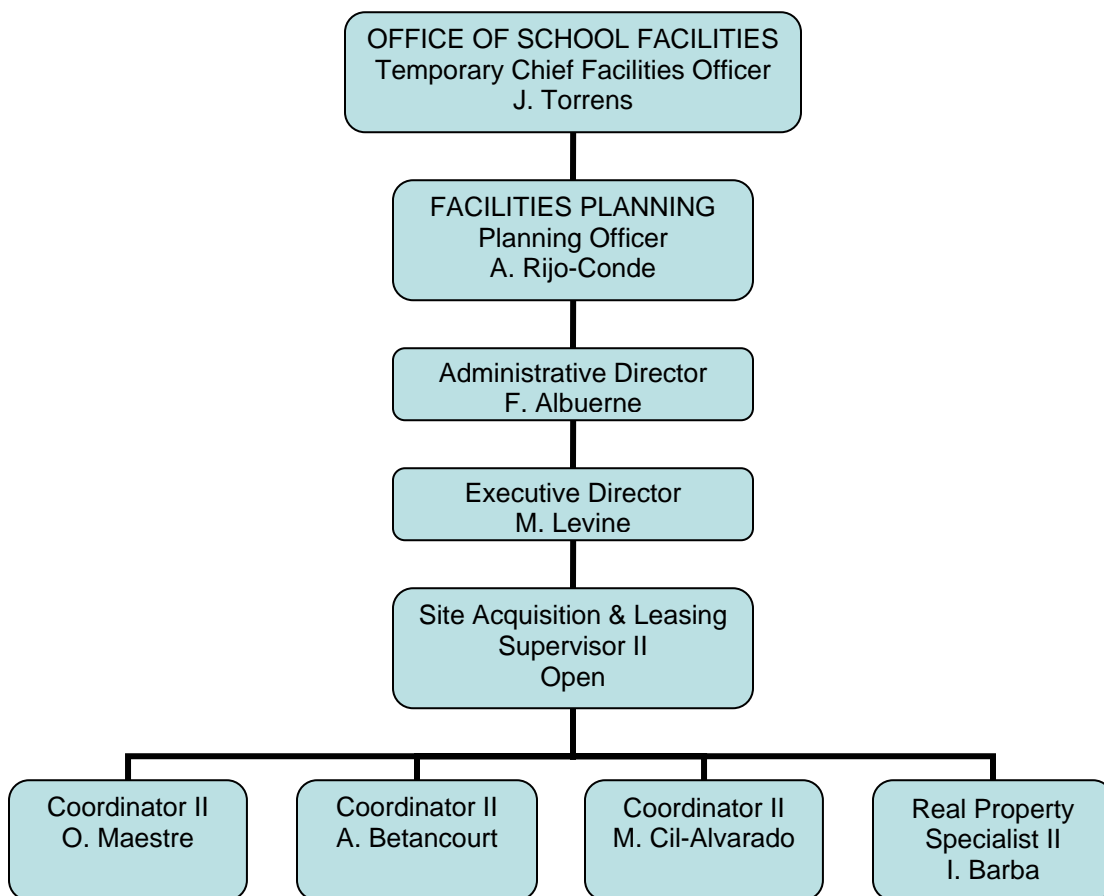
Our overall evaluation of internal controls for the District's facility leasing function audited is summarized in the table below.

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

INTERNAL CONTROLS LEGEND			
CRITERIA	SATISFACTORY	NEEDS IMPROVEMENT	INADEQUATE
Process Controls	Effective	Opportunities exist to improve effectiveness.	Do not exist or are not reliable.
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 accurate but can be improved.	Systems produce incomplete or inaccurate data which may cause inappropriate financial and operational decisions.
External Risk (Image)	None or low	Potential for damage	Severe risk of damage

BACKGROUND

The Facilities Planning division within the Office of School Facilities is responsible for managing the District's centralized facilities leasing function and ensuring that the District's space needs are met. This unit is also responsible for leasing District-owned property to other agencies and entities under certain conditions as allowed by State law and School Board rule. These duties are only part of the unit's responsibilities, which principally include advance planning, site selection and acquisition, and developmental impact fee monitoring. Facilities Planning currently has eight (8) administrative positions (seven filled) involved in the District's leasing activities. The partial organizational chart below shows the lines of reporting during the audit period, with the exception of the Temporary Chief Facilities Officer, who was appointed to the position subsequent to the end of our fieldwork.



Currently, M-DCPS leases 35 properties through operating leases and joint use agreements with other agencies. The composition of these leases is summarized in the following table.

SUMMARY OF FACILITIES LEASED BY M-DCPS AS LESSEE				
Category	Number of Contracts	Annual Contracted Lease Expense	Gross Square Feet or Space ¹	Cost per Square Feet or Space ²
Schools	4	\$1,935,926	123,104	\$15.73
Administrative Offices	3	536,368	30,721	\$17.46
Parking Lots	12	323,592	882	\$366.88
Joint Use - Parks	7	474,265	-	-
Joint Use - Other Agencies	8	229,135	25,723	\$8.90
Telecommunications Tower	1	3,154	-	-
Totals	35	\$3,502,440		

The District also leases, as lessor, 31 of its properties to other agencies and entities. These rented properties include office and classroom spaces that are temporarily not needed for educational programs, parking lots, and antenna space at some locations. Except for rented antenna space, rented use of these properties is normally during hours when educational instruction is not in progress at the facilities. The composition of these leases is summarized in the following table.

SUMMARY OF FACILITIES LEASED BY M-DCPS AS LESSOR				
Category	Number of Contracts	Annual Contracted Lease Revenues	Gross Square Feet or Space	Revenue per Square Feet or Space
Parking Lots ³	5	\$202,281	503	\$402
Telecommunication Towers	6	77,811	-	-
Office or Classrooms	4	4	-	-
Joint Use with Other Agencies	16	14	-	-
Totals	31	\$280,110		

Source: Approved School Board agenda item.

Note: Information on the amount of square feet or space leased is not presented for all categories above because the information was not included in the School Board agenda item or lease file.

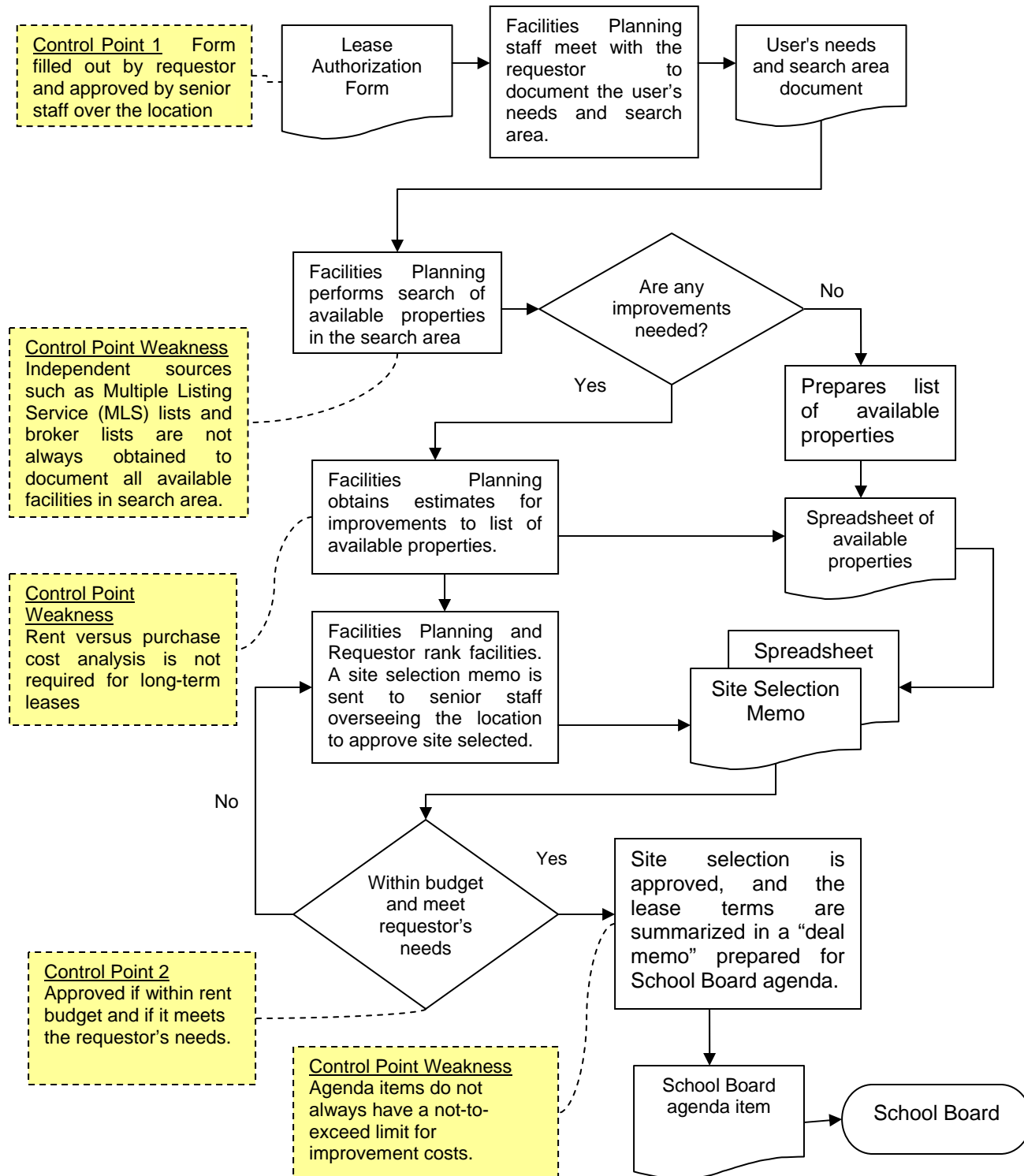
¹ The unit of measure used for parking lots is the total number of spaces provided. All other units shown are in gross square foot.

² The unit cost shown for parking lots is the cost per parking space provided. All other unit costs shown are in cost per square foot.

³ Includes one lot of 66 spaces that is rented at \$1 per annum.

The District's facilities leasing function is centralized. The following diagram charts the facilities leasing process as it occurs in Facilities Planning. (See management's response at page 25.)

Facilities Leasing Function Flow Diagram



OBJECTIVES, SCOPE, AND METHODOLOGY

In accordance with the approved audit plan for FY2006-07, we performed an audit of the District's facilities leasing function. The objectives of the audit were to determine whether the process of site selection, negotiation and award of leases is adequate and performed with propriety. Additional audit objectives were to determine whether lease payments and revenues complied with the lease agreements and are comparable to market rates.

The scope of our audit covered operations during the period of July 1, 2005 to December 31, 2006. However, certain tests were performed on information for periods beginning earlier. Procedures performed to satisfy the audit objectives were as follow:

- Interviewed District staff.
- Reviewed operating policies, procedures, Florida Statutes, and School Board rules.
- Analyzed and observed the composition of the leased facilities.
- Verified completeness of the leased facilities records against School Board agendas from January 2004 to December 2006.
- Examined, on a sample basis, lease documentation and payment records.
- Benchmarked operations to other school districts and municipalities.
- Performed various other audit procedures as deemed necessary.

Our audit was conducted in accordance with generally accepted governmental auditing standards applicable to performance audits contained in Governmental Auditing Standards issued by the Comptroller General of the United States of America. This audit included an assessment of applicable internal controls.

FINDINGS AND RECOMMENDATIONS

1. GENERAL OBSERVATIONS

Facilities Planning appears to be adequately meeting the District's space needs at reasonable rental rates. Additionally, when entering and renewing a lease, Facilities Planning performs necessary tasks, such as conducting searches for available properties and when renewing leases, determines from the user whether there is a continued need for the leased space and whether they are satisfied with the space and wish to renew the lease.

Facilities Planning works with other departments, such as Capital Construction, Capital Budgets, Maintenance Operations, and School Operations during the leasing process. Information is passed between Facilities Planning and these departments.

While Facilities planning does an overall good job in executing leases, certain aspect of its operations could be enhanced, which would strengthen the effectiveness of internal controls over its leasing activities and provide better evidence that the leasing function is operating as intended. The following are areas of concern:

- 1.1 We observed that the department follows fairly consistent practices in executing facilities leases. However, those practices need to be documented in a formal procedures manual. The documentation of procedures presented for audit was in a four-page document entitled 'draft procedures' and dated June 15, 1998. The procedures in the document were not fully aligned with the practices in effect. Staff indicated that the 'draft procedures', which delineate the steps to be followed in the leasing activities, are included in a larger procedures manual of Facilities Planning that was not presented for our review. (See management's response at page 25.)

It is important to note, that at the end of our fieldwork staff provided us with a newly revised list of procedures that address many of the practices we observed. These revised procedures, should be formalized and disseminated to staff, as it will strengthen internal controls by providing consistent guidance on selecting, negotiating, executing and administering facilities leases.

- 1.2 While the content of each lease file is organized in chronological order and staff indicated that this methodology works well for them, it was often difficult to locate information and multiple copies of the same documents were found in various places in the files. A categorical filing of documents within each file (e.g., correspondence, contracts, etc.) would make location and retrieval of documents more efficient. The adoption of checklists would ensure the completeness of the files and would better facilitate and document supervisory review. (See management's response at page 26.)

The site selection process for executing multi-year leases was not sufficiently documented in two of the 13 lease files examined. Our analysis of the files to satisfy our audit objective in this area included determining that:

- 1) School Board-owned spaces were considered in the search and selection process, and
- 2) Independent lists (e.g., MLS list, broker lists, Blacks Guide, etc.) of available properties were considered.

Of the 13 lease files sampled, five (5) contained documented evidence of the performance of items 1 and 2 above. The criteria were not applicable for six (6) for various reasons. And two (2) did not contain documented evidence of the performance of items 1 and 2 above. While staff stated that School Board-owned spaces were typically considered and that they typically made a search of available property, the consideration of School Board-owned spaces was not documented in the two (2) files cited above. Maintaining sufficient and adequate documentation of the process followed and the results serves to corroborate and validate the results of the selection process. Good business practices necessitate that pertinent information underlying transactions and decisions be maintained in an easily retrievable fashion. (See management's response at pages 26 and 27.)

- 1.3 A formal written evaluation of the landlord's performance is not done when renewing a lease. Instead, some effort is made to obtain feedback from the users of leased facilities. Staff stated that the users are surveyed regarding their satisfaction with the landlord. However, the process could be further strengthened through the use of a formal written performance evaluation of the landlord as a basis for lease renewal. A formal evaluation should include whether the landlord provided the facilities deliverables, such as providing working elevator, functional utilities, timely repairs and maintenance, clean and secured parking, insurance coverage, and other applicable lease terms. (See management's response at page 27.)

RECOMMENDATIONS

- 1.1 **Finalize and implement newly revised leasing procedures and include them in a policy and procedures manual to ensure consistency and uniformity of leasing practices.**

Responsible Department: Office of Facilities Planning

Management Response: *The current lease procedures will be incorporated into a procedures manual.*

Auditors' Comment: As it relates to management's response on page 26 concerning our finding of the absence of written documentation that Board-owned space was considered prior to executing two (2) leases, and their reference to the attached Exhibit 2 at pages 34-39, we provide the following clarification. The Exhibit is a risk assessment worksheet prepared in part by us (columns 1-3) and submitted to Facilities Planning for them to indicate the procedures (column 4) in place to address each area of risks. After receiving input from Facilities Planning staff, we subsequently adjusted the worksheet to include an assessment of the risk (column 5) and our planned audit tests (column 6; not shown). Moreover, our audit tests disclosed that while the department's procedures may require that Board-owned sites be considered, the documentation of this procedure being followed was not found for two leases. The issue at hand deals with documentation of the procedures being followed, not that the procedures exist.

- 1.2 **Reevaluate the current filing system and consider using checklists to ensure completeness and to document supervisory review.**

Responsible Department: Office of Facilities Planning

Management Response: *The current method of chronologically organizing lease files has been satisfactory and workable for Facilities Planning. The proposal by the Audit Department that a different method of filing be considered, will be reviewed and implemented where practical.*

- 1.3 **Implement a formal performance evaluation process to support the lease renewal process.**

Responsible Department: Office of Facilities Planning

Management Response: *The current practice of having the User coordinate daily interaction with the building manager for routine issues, with Facilities Planning to act in the capacity of District leasing liaison for more problematic issues, has worked well. However, as a further process enhancement, a formal yearly written evaluation of the landlord's performance will be implemented.*

Auditors' Comment: We agree that daily interaction with the building manager by the user and Facility Planning, when required, will contribute to routine and problematic issues being resolved. We consider such interactions necessary to staff performing its contract management duties adequately. Periodically assessing and documenting landlords' performance is, however, a separate and necessary management function.

2. ESTABLISH COLLECTION CONTROLS OVER RENTAL INCOME RECEIVED

Florida Statute 1013.15(1) allows the school district to rent land or facilities when it is in its best interest. Currently, the District has 31 lease agreements to rent out school facilities to other governmental agencies, non-profit community organizations and private entities resulting in \$280,110 income. These agreements allow others to use parking lots and school fields during non-school hours, and allow several companies to build and operate telecommunication towers on school facilities. As seen in Appendix B, almost 100% of the revenues are generated from just nine (9) or 29% of the agreements. Contained in these agreements are the rights and obligations of both parties to the agreement. However, the agreements examined do not adequately detail the payment provisions. A properly constructed agreement would include specific payment provisions, including due date, acceptable form and place of delivery, and prescribed penalties where terms are not complied with. Not having such requirements elucidated in the agreement could result in confusion and lack of accountability.

Our review of the five (5) most significant leases (where M-DCPS is the lessor) representing 85% of the rental income received by M-DCPS disclosed certain conditions that could have a negative effect on the administration of those leases. For example:

- 2.1 The lease agreements do not contain collection provisions indicating where rental payments are to be remitted. Consequently, rental receipts are not remitted to a central location. Some rental payments were received by Facilities Planning while other payments were received by the schools. Further inquiry of staff disclosed that of the nine (9) leases, which account for almost 100% of the rental revenues, Facilities Planning bears responsibility for the receipt of revenue from five (5) of those leases. Receipt of revenue from the remaining four (4) leases is done at the respective schools. Moreover, the agreements do not include a provision for the collection of late fees and/or interest in the event that the rental payments are not remitted on a timely basis.
- 2.2 Facilities Planning does not use a receipt log or other tool to monitor and establish accountability over the collection of tenant payments received. Proper internal accounting controls would necessitate the use of a receipt log to document and monitor receipts.

RECOMMENDATIONS

- 2.1 **Revise lease agreements to delineate rentals collection provisions.**

Responsible Department: Office of Facilities Planning

Management Response: *Although the District always has the option of placing its tenant in default and/or canceling the lease agreement in the event of failure to pay rent on time, this provision will be included in all future lease negotiations, where the Board is the Lessor.*

- 2.2 Establish collection controls that include identifying a single central point for receiving rental revenues, and using a receipt log to document collections.**

Responsible Department: Office of Facilities Planning

Management Response: *While current administration of the rental payments has functioned well over the years, as a process enhancement, Facilities Planning will in the future become the central location for receipt of rental payments.*

3. DEVELOP PROCEDURES TO ENSURE PROPER AND TIMELY REPORTING OF CAPITAL LEASES

Financial Accounting Standards Board (FASB) Statement No. 13 – Accounting for Leases (SFAS 13) requires that lease agreements meeting certain criteria be reported as capital assets for financial statement reporting purposes, and that the net present value of the minimum lease obligation be reported as a long-term liability. These criteria are as follow:

1. The lease passes title to the lessee by the end of the lease term.
2. The lease contains a bargain purchase option.
3. The lease term is at least 75% of the property's estimated remaining economic life.
4. The present value of the minimum lease payments is at least 90% of the property's fair value.

If the lease meets at least one of these criteria, it should be reported as a capital lease.

- 3.1 Facilities Planning does not have procedures to identify and report capital leases to the Office of the Controller. For example, in May 2001, on behalf of the District, Facilities Planning negotiated a lease purchase agreement with the Village of Pine Crest (Village) to acquire additional parking spaces for Palmetto Senior High School. Under the agreement, the Village purchased residential property and converted it into a parking lot, then subsequently leased the parking lot to the School Board for 10 years at a total cost not-to-exceed \$970,000 over the life of the lease. The School Board has the option to purchase the property prior to the end of the 10 year period for the unamortized balance of the lease payments, which is less than the fair market value of property. The appropriate staff stated that it is fairly certain that the School Board will exercise the purchase option.

Because of the lack of a procedure requiring Facilities Planning to contact the Controller, the Office of the Controller was not aware of the details of the agreement in order to determine whether it was required to be accounted for as a capital lease. As a result, the District's capital assets and long-term obligations under capital lease were understated. Upon discovery of this agreement, we immediately brought it to the attention of the Controller in time so that the asset and corresponding liability could be properly included in the June 30, 2006 financial statements. We did not review the terms of all leases to which the School District is a party. Therefore, we are unable to conclude on the extent of the condition, as noted.

RECOMMENDATIONS

- 3.1 **Develop procedures to review all long-term lease transactions in collaboration with the Office of the Controller to determine whether they meet the criteria of a capital lease.**

Responsible Department: Office of Facilities Planning

Management Response: *As a part of the Facilities Planning procedures, a copy of all new lease agreements that may qualify as a capital lease are sent to the Office of the Controller for a determination of whether or not they meet capitalization criteria. Terms of all existing lease agreements have been reviewed with the Office of the Controller to determine whether they meet capitalization criteria and to date, one met the criteria.*

FACILITIES DESIGN AND CONSTRUCTION (CAPITAL)

4. NON-STANDARD DESIGN FEATURES TO RETROFIT A LEASED FACILITY RESULT IN BUDGET COST OVERRUNS

Decisions made by School Facilities staff relative to one leased facility appeared to have resulted in excessive costs. At the March 16, 2005 School Board meeting staff presented School Board agenda item F-11 for School Board approval. The item asked the Board for approval to enter a five-year lease for classroom space. The space was said to be needed to provide immediate relief to the overcrowded Highland Oaks Middle School and future relief to the overcrowded Dr. Michael M. Krop Senior High School. In both cases, the need was described as only temporary, as a new relief middle school was included in the FY2005-06 Five-Year Work Program and an addition to Krop Senior was included in the FY2006-07 Five-Year Work Program. Based on existing plans, anticipated completion of the new Highland Oaks relief school and the addition to Krop Senior was the opening of school in 2008 and 2010, respectively. Therefore, the then anticipated need for the leased facility would be about five years.

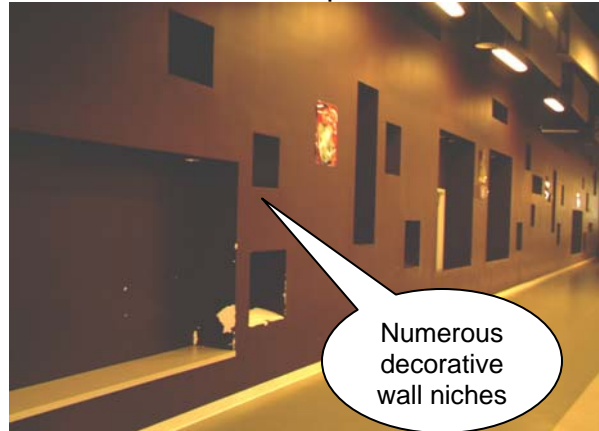
A summary of the terms and conditions of the lease was presented to the School Board. The Board was informed that the lease, for 60,000 net square feet was a five-year lease, beginning on November 1, 2005 or upon receipt of the Certificate of Occupancy. The rental rate was staggered from \$10 to \$20 per square foot through the five-year term. The rental rates also included an additional amount for common area maintenance (CAM) at \$2.50 per square foot in the first year and adjusted by 5% annually thereafter. At the end of the five-year lease term, the expected base rent was \$5,027,400. The School Board has the sole option of renewing the lease, under the same terms and conditions, for three successive five-year periods. Also included in the summary to the Board was the disclosure regarding the additional \$5 to \$5.5 million that the District would need to incur to retrofit the property. The estimated retrofit costs were developed by a contracted third party architectural and engineering firm on the basis of the leased facility first being retrofit as a middle school and later as a high school; with the exclusion of scope that are typically NIC (Not-In-Contract), no inflation factor (i.e., 2005 prices), and assuming the traditional low-bid contracting method.

The build-out or retrofit project was budgeted in the 2005-2009 Five-Year Capital Plan presented to the School Board for approval at \$6.9 million. However, actual retrofit construction cost as of February 2007 is approximately \$11.1 million⁴ or \$182 per square foot; almost two times the estimate presented to the School Board. When this cost is amortized over the initial five-year lease term, the average annual cost to lease this facility is over \$36 per square foot per year. For comparison purposes, we reviewed expenditure data for five recently completed schools and found that the average nominal construction cost per square foot at project completion was \$130.⁵

⁴ Amount does not include an additional \$2.5 of FF&E, design, professional, and other costs.

⁵ Amount does not include cost of land and FF&E.

Regarding the above leased facility, we were informed that the original estimate of \$5 to \$5.5 million was based on the typical or conventional classroom space. However, the excessive costs were caused by non-standard and complex design features and project delivery methods that made the work much more elaborate and costly, such as angled and curved walls, wall niches, and angled suspended ceilings as depicted. In addition, management stated that inflationary pressures on the construction industry, in general, added to the cost of the project.



Other features added to the building that contributed to the increased cost include free-formed (most with curved shapes) artistic soffits in the hallways and a new roof. Additionally, all of the teachers interviewed stated that the open ceilings and walls allow for too much noise from surrounding classrooms and may need to be corrected. In fact, one teacher stated that her classroom is so



noisy due to the open ceilings and walls that the school is “not an environment for teaching”. Also contributing to the cost of this project was \$235,000 for roof replacement made to the facility. Although the executed lease agreement states that the landlord is responsible for the maintenance, repair, and upkeep of the roof, a separate agreement was signed by Facility Planning staff to obligate the School District to pay for \$235,000 of the \$385,000 total quoted cost to replacement the existing roof. Facility Planning staff indicated that this was a negotiated amount agreed to by the former Chief Facilities Officer. Neither this subsequent agreement nor the associated payments were individually submitted to the School Board for approval.



Although School Facilities disclosed the more than \$6 million increase to the School Board and obtained the Board's approval over a series of meetings, these increases were folded into agenda items containing many other capital projects as budget transfers, and may have obscured the fact that these funds were being spent on a five-year leased facility. The Board was presented these increases in four different items (F-20 on April 6, 2006 for \$1,890,359; F-20 on June 14, 2006 for \$1,731,000; F-20 on September 13, 2006 for \$2,700,000; and F-20 on January 17, 2007 for \$133,830) to amend capital construction budgets for a number of projects, including the one in question. (See the figure below.) We believe that the nature of the facility and the amount of the increases involved warranted that the increases be explicitly disclosed. Furthermore, the nature of the project funding appears to have been somewhat unconventional, in that it was funded through a series of individual Job Order Contracting (JOC)⁶ and Construction Manager at-Risk (CM) work orders ranging from approximately \$571,000 to \$4.7 million with two different contractors. The following figure presents an example of the format in which information regarding the increases to the project budget was presented to the Board. The excerpt is from School Board agenda item F-20, which adjusted 17 different project budgets and was presented to the Board on September 13, 2006.

Program Description	Project No.	Amount	Fund	Object	Location	Program	Function	Description
Authorize staff to transfer project budgets as follows:								
FROM:								
Undistributed Contingency	0001	\$ 5,084,203	0370	5969	9128	0001	9700	Contingencies, central reserves, other DIC projects and other accounts necessary to balance these transfers
	0001	\$ 16,850	0397	5969	9128	0001	9700	
East Impact Fee Reserve	2801							
		\$ 900,000	0301	5630	9217	2801	7400	
SW Impact Fee Reserve	2801	\$ 8,755,834	0303	5630	9217	2801	7400	
Total		\$14,756,887						
TO:								

Palmetto MS	A0100802	\$ 4,060	0370	5680	6701	2514	7400	Preconstruction for restroom facility at park
Highland Oaks Middle Interim Relief/K-Mart Conversion	00170300	\$ 2,700,000	0370	5630	7023	1567	7400	On-site and Off-site improvements traffic signalization & drop-off
Miami Norland SH	A0816	\$ 16,850	0397	5630	7381	2663	7400	Network Wiring
Total		\$14,756,887						

⁶ JOC work orders that are less than \$5 million do not have to be presented to the School Board for approval.

On December 14, 2005, the School Board approved another lease for a facility that was said to require estimated retrofit cost of \$5 million. The actual construction cost to retrofit the facility was approximately \$6.2 million, including \$1.2 million of built-in FF&E (furniture, fixtures, and equipment). The additional actual construction cost listed does not include an additional \$1.1 million in professional services and movable FF&E.

Florida Statute 1013.15(4)(b) authorizes school districts to occupy leased buildings and convert the space to classroom use. However, the school board shall, in a public meeting, adopt a resolution certifying that the following circumstances apply to the building proposed for occupancy:

1. Growth among the school-age population in the school district has created a need for new educational facilities in a neighborhood where there is little or no vacant land.
2. There exists a supply of vacant space in existing buildings that meet state minimum building and life safety codes.
3. Acquisition and conversion to use as educational facilities of an existing building or buildings is a cost-saving means of providing the needed classroom space as determined by the difference between the cost of new construction, including land acquisition and preparation and, if applicable, demolition of existing structures, and the cost of acquisition through rental or lease and conversion of an existing building or buildings.

RECOMMENDATIONS

- 4.1 Exercise better judgment and implement cost containment strategies to avoid incurring excessive cost on temporary lease facilities.**

Responsible Department: Office of School Facilities

Management Response:

Facilities Design and Construction (Capital) - *It is very apparent when analyzing the causes for increases in actual versus estimated construction costs for the Highland Oaks Middle Annex facility that there are four primary reasons which converged in this very unique circumstance:*

- 1) *The initial cost estimate used to establish the \$5.0 to \$5.5 million budget was seriously underestimated and accounted for only 55,000 square feet (SF). That estimate represented an unrealistic cost of less than \$92 per SF for a school that was actually 60,000 SF. The original estimate was formulated by an outside consultant in January 2005 and was based on a very basic design approach, prior to detailed design development. It also failed to consider the additional expenses associated with the unusually high vertical interior dimensions (25 foot ceilings) which greatly increased the total labor and*

material costs of metal framing and drywall as well as all mechanical, electrical and plumbing systems.

The aforementioned physical considerations were further aggravated by extremely active local and global construction market conditions. From January 2005 until the work was awarded to contractors (April 2006 to January 2007) an unprecedented 40% to 50% increase was experienced in overall construction material, labor and fuel costs (see Exhibit 4). Based on these factors, the initial cost estimate should have been approximately \$140 per SF, resulting in an initial budget of about \$8.4 million.

- 2) The initial scope of work changed significantly. As the design of this project evolved and the existing conditions became more apparent, the specific requirements for the project also increased as follows: site work was expanded to include two separate and more extensive student drop-off areas, the warming kitchen was replaced with a full cooking kitchen, a 100-foot concrete tower was included for instructional television service, traffic flasher systems were required by Miami-Dade County Public Works, a full lighting/dimming system for the stage area was added, and the roof which was initially thought to be in acceptable condition was later determined to require a full replacement due to extensive leakage.*
- 3) The architectural design concept was intentionally upgraded. The non-standard design features which are enumerated and clearly depicted in the report were deliberately modified and became a critical aspect of the design developed by the project team.*
- 4) The Job Order Contracting (JOC) delivery method resulted in higher costs. This contracting approach is usually used for smaller projects (typically under \$500,000) with easily identified component or unit costs. This delivery method was utilized because of the urgency to commence the construction of the project in September 2005 after having committed to occupancy by January 2006. The conventional process which was then available for selecting a general contractor would have taken three to four months for advertisement, selection, negotiation, and School Board award of the construction contract.*

It is important to acknowledge the circumstances at the time when management decisions were made to expedite the project. The critical need to relieve a severely overcrowded school under an extremely aggressive schedule, an underestimated budget, and a genuine desire to meet community expectations resulted in a "perfect storm" of higher-than-estimated costs.

As a result of "lessons learned" from this project and the anticipated need to commission and award construction projects more expeditiously, the Office of School Facilities instituted a Board-approved pre-selection process for the

assignment of architects and construction managers. A three-tiered method, based on construction value, has been utilized since early 2006. Had the new process been in place prior to September 2005, the JOC delivery method would not have been utilized and a more cost-effective approach would have been applied to this project.

Further, the Office of School Facilities recently implemented a standard practice of developing full 100% design documents (with limited exceptions) prior to awarding construction contracts. Past practice had been to award contracts when design documents were 50% completed, or earlier if necessary, in an effort to deliver projects as quickly as possible. It is expected that by implementing these cost containment strategies, excessive costs will be avoided in the future.

Lastly, it should be noted that when comparing the actual costs of \$182 per SF for the Highland Oaks Annex facility to five recently completed facilities averaging a comparatively low \$130 per SF, those five projects were awarded as early as 2003 during more favorable market conditions with substantially lower construction costs. Had those same projects been awarded in 2006, they would have resulted in significantly higher actual costs.

Facilities Planning (Leasing) - *This lease (1150 Associates) is mentioned as a project where the total cost exceeded the estimated construction retrofit amount included in the respective Board item by \$1,200,000; while this was an additional cost incurred by the District, the amount covered fixed Furniture, Fixtures and Equipment (FF&E), which was not part of the estimated retrofit cost. In the future, Board items will include a specific statement to clarify that building retrofit costs do not include FF&E, fixed or movable.*

- 4.2 Provide the School Board more descriptive and informative information on project budgets, particularly when the increases to the existing budgets are significant.**

Responsible Department: Office of School Facilities

Management Response:

Facilities Design and Construction (Capital) - *The apparent lack of descriptive information at the time the project costs were increased were solely a result of the JOC delivery method which requires the issuance of a work order rather than an individual Board item to adjust the construction time or costs. The delivery methods currently in use by the Office of School Facilities would transparently adjust the construction contract in the manner recommended.*

Since early 2006, the implementation of the pre-qualified/pre-selected consultants and construction managers has been in place thus, the JOC contracting method will no longer be utilized for major capital projects.

- 4.3 Require coordination and review of retrofit and remodeling costs by Facilities Planning to ensure that lease terms relative to which party bears costs associated with the lease are adhered to.**

Responsible Department: Office of School Facilities

Management Response:

Facilities Planning (Leasing) - *Facilities Planning concurs with this recommendation as it will ensure that costs are monitored and controlled in a central location thus establishing a single source of responsibility. Appropriate provisions will be incorporated into the lease procedures.*

Appendix A – Detailed Schedule of Leases (M-DCPS As Lessee)			
LANDLORD	DESCRIPTION	LEASE TERMS	2006-07 BUDGET
4141 Design Corporation	DASH School – Physical Education & Gallery Space	5/1/96-4/30/11	\$ 258,192
A.A. Holdings, LLC	School for Applied Technology	9/23/06-9/22/07	259,538
Biscayne Management	School Board Administration Building – Parking	11/20/06-11/19/07	50,400
Chamber Center, Inc.	Region VI – Office Space	6/28/05-6/27/10	254,011
City of Miami	Six City Parks	10/1/05-9/30/10	392,416
City of Miami Beach	Flamingo Park for Miami Beach Senior High School	7/18/05-7/17/10	15,600
City of Miami Beach	North Beach Elementary – Parking	7/23/06-7/22/11	4,320
City of North Miami	North Miami Middle School – Parking	7/1/97-8/25/07	3,260
City of North Miami	North Miami Middle School – Use of Cagni Park	4/1/94-3/31/09	41,516
City of North Miami	City of North Miami (Elementary Middle School Ground Lease)	1/25/99-1/24/2039	1
City of North Miami	J.W. Bryan Elementary PLC – Land Lease	8/29/96-8/28/2036	3
City of North Miami	North Miami Middle School – Land	11/22/60-unlimited	1
City of South Miami	South Miami Middle School – Park Use	10/1/55-9/30/2009	17,733
Community Partnership for Homeless	Homeless Assistance Center 1 - Downtown Miami (Joint Use Cost Sharing Agreement)	11/29/95-11/28/2035	71,479
Community Partnership for Homeless	Homeless Assistance Center 2 - Homestead (Joint Use Cost Sharing Agreement)	7/15/99-7/14/2039	97,606
Catholic Charities of the Archdiocese of Miami, Dove Real Estate	Dorsey Adult Educational Center - 130 NE 62 St., Miami	10/1/06-9/30/11	42,336
Dolphins Gate, LLC	Temporary parking for Central West Transportation	5/01/06 – 4/30/07	25,680
Everglades Community Associations, Inc.	Migrant Education Program	2/6/06-2/5/09	15,308
FEC Railway Company	DASH - Parking	12/18/90-12/17/06	7,175
First Baptist Church of Hialeah	South Hialeah Elementary – Parking	1/19/06-1/18/08	9,000
Golden Glades Office Park	Region II – Office Space	8/20/05-4/30/11	185,232
Hialeah Church of Nazarene	South Hialeah Elementary – Parking	6/11/94-5/31/08	3,600
Jack Thomas Inc., Realtors as agent for Omni Partnership	School Board Administration Building - Parking	4/26/04-4/25/07	36,000
McCrary Design Associates, Ltd.	DASH School – Parking	5/10/96-5/9/2007	7,500
Miami Baptist Association	Morningside Elementary - Parking	10/1/93-9/30/08	5,304
Miami-Dade Board of County Commissioners	Rooftop Space for Telecommunication Equipment	4/1/06-3/31/08	3,154
Miami-Dade Board of County Commissioners	Miami-Dade Special Park Assessments	10/1/91-9/30/21	2,000
Miami-Dade Board of County Commissioners	Land-lease agreement for the Homeless Assistance Center in Homestead	7/1/99-6/30/2039	1
Miami-Dade/City of Miami Gardens	Miami-Dade/City of Miami Gardens (Norland)	4/1/98-3/31/2008	5,000
Picasso Tower, Inc.	School Choice & Parental Options Office	1/12/07-1/11/08	97,125
R.K. Associates	Highland Oaks Middle Interim School at California Club Mall	11/1/05-10/31/10	704,196
State of Florida	Land Administration Fee – 8 Locations	Various	2,400
1150 Associates, LTD	Young Woman's Preparatory Academy	8/14/06 - 8/31/56	714,000
U.S. Parking & Associates	School Board Administration Building – Parking	10/1/06-9/30/07	79,695
Village of Pine Crest	Palmetto Senior High School – Parking	1/7/06-1/6/11	91,658
		Total:	\$3,502,440

Source: Facilities Planning

Appendix B – Detailed Schedule of Leases (M-DCPS As Lessor)

LESSEE (Tenant)	Description	Lease Terms	Total Revenues
Cingular Wireless (Formally AT&T Wireless)	Telecommunication satellite space at Bent Tree Elementary	12/11/98-12/10/08	\$17,280
Cingular Wireless (Formally AT&T Wireless)	Telecommunication satellite space at Christina M. Elementary	7/1/98-6/30/08	17,280
Cingular Wireless	Telecommunication satellite space at Miami Killian Sr. High School	5/15/01-5/14/11	15,625
City of Hialeah	Joint use of Cotson Park	12/9/75-12/8/22	1
City of Miami Springs	Joint use of East Drive park Lease	10/13/81-10/12/16	1
Community Partnership for the Homeless	Land-lease agreement for the Homeless Assistance Center in Downtown Miami	5/5/94-5/4/34	1
Department of Juvenile Justice	Youth Residential Treatment Facility	3/6/93-3/5/33	1
Florida Memorial College, Inc.	Ball field	8/1/97-7/31/07	0
Glades Baseball and Softball League, Inc.	Ball field	7/1/06-6/30/11	1
Hosanna Community Baptist Church	use of parking lot at Olinda Elementary by Hosanna Community Baptist Church	2/13/02-2/12/07	1
Ives Estates Optimist Club	Use of vacant Board-owned land for youth sports programs	12/19/95-5/31/07	1
Jewish Community Services of South Florida	Fienberg-Fisher Educational Center	3/25/01-3/24/11	1
Key Parking Services	Lease of parking lot at Fienberg-Fisher Elementary By Key Parking Services	1/13/06-1/12/08	107,100
Miami-Dade County	Headstart – Bethune	7/23/79-7/22/07	1
Miami-Dade County	Headstart – Goulds	8/1/83-7/31/13	1
Miami-Dade County	Headstart – Leisure City K-8 Center	6/24/05-6/23/07	1
Miami-Dade County	Headstart – Various School Sites	6/6/85-6/30/07	1
Miami-Dade County	Park/School-Arcola Lake Elementary School	1/1/06-12/31/36	1
Miami-Dade County	Telecommunications Tower	7/1/84-6/30/14	1
Miami-Dade County	Whispering Pines Elementary - Ned Glenn Preserve	2/6/96-2/5/36	1
Miami-Dade County Aircraft Noise Monitor	John I. Smith Elementary	10/13/81-7/16/10	1
Miami-Dade County Aircraft Noise Monitor	Melrose Elementary	7/17/00-7/16/10	1
Miami-Dade County Aircraft Noise Monitor	Treasure Island Elementary	7/17/00-7/16/10	1
Northside Optimist Club	West Little River Elementary	11/14/00-11/13/40	1
Optimist Club of W. Kendall	McMillan Middle/County Joint-Use of field	7/1/87-6/30/07	1
Ross Parking Systems, Inc.	Rental of parking lot at South Pointe Elementary	8/29/06-8/28/07	31,709
Selig Parking, Inc., - DBA, Triple A Parking	Rental of parking space at Coconut Grove Elementary	7/01/06-6/30/07	20,160
Sprint PCS	Lease of Telecommunication satellite space to Sprint PCS	5/31/06-5/30/11	15,625
Telemundo Network, Inc.	Joint use of Parking lot at J.W. Johnson Elementary with Telemundo Network, Inc.	10/14/94-4/9/07	43,311
The Black Archives, History & Research Foundation	Learning and Exhibition Center at Dr. W. Chapman House	9/1/92 - Until Cancelled	0
Verizon Wireless	Lease of Telecommunication satellite space to Verizon Wireless at Southwest Sr. High	9/11/96-9/10/11	12,000
Total:			\$280,110

Source: Facilities Planning

APPENDIX C – Management's Responses

MEMORANDUM

2007 JUN 19 AM 9:00

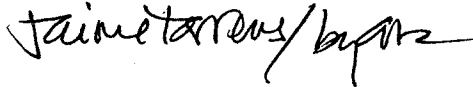
JGT/2006-07/#205

June 19, 2007

(305) 995-1401

TO: Mr. Allen Vann, Chief Auditor
Office of Management and Compliance Audits

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



SUBJECT: ADMINISTRATIVE RESPONSE TO JUNE 2007 INTERNAL
AUDIT REPORT OF DISTRICT FACILITY LEASING PRACTICES

The following comments are offered in response to the June 2007 Internal Audit Report of District Facility Leasing Practices (Audit Report). The Office of School Facilities appreciates the effort made by the Office of Management and Compliance Audits (Audit Department) to address most of our points of concern during the formulation of the Audit Report. For ease of reference, please note that only those portions of the Audit Report which we feel would still benefit from some clarification or which require a response are reproduced below.

(EXECUTIVE SUMMARY)

Audit Department finding:

Lease agreements where the District receives income from the property it leases do not always contain collection provisions indicating where rental payments are to be remitted, or a provision for the collection of late fees and/or interest in the event that the rental payments are not received on a timely basis. Rental receipts from tenants were neither received at a single-source central location, nor logged in a receipt log to monitor and establish accountability over the collection of tenant payments received.

Response:

Following execution of a lease agreement, there is communication between Lessor and Lessee that establishes or confirms location for receipt of rental payments. As a process enhancement, future rental payments will be made to Facilities Planning and the lease documents will reflect such. Additionally, while late payments by Lessees have not been problematic in the past, and the District has the option to place the Lessee in default, as a process enhancement, in the future, lease agreements will include a provision to impose late fees and collect interest.

(FACILITIES LEASING FUNCTION FLOW DIAGRAM)

Response:

The attached Exhibit 1 more clearly depicts the function flow for the leasing of facilities. Issues noted in the Audit Report version dealing with possible Control Point Weaknesses, are addressed elsewhere in this Response document.

(GENERAL OBSERVATIONS)

Audit Department finding:

1.1 "We observed that the department follows fairly consistent practices in executing facilities leases. However, those practices need to be documented in a formal procedures manual. The documentation of procedures presented for audit were in a four-page document entitled 'draft procedures' and dated June 15, 1998. The procedures in the document were not fully aligned with the practices in effect. Staff indicated that the 'draft procedures', which delineate the steps to be followed in the leasing activities, are included in a larger procedures manual of Facilities Planning that was not presented for our review."

Response:

The finding that Facilities Planning "follows fairly consistent practices" in complying with the 1998 draft procedures, is accurate since the procedures established in 1998 are in fact followed, except where specific functions or personnel have been superseded or eliminated by restructuring. The 1998 lease procedures were part of a larger manual which included procedures for site acquisition, negotiations for contributions over and above impact fees and appraisals. Other than the lease procedures, all such processes contained in the 1998 manual are no longer applicable, as they have been superseded by Board rule, Board policy and/or other binding governing documents. Facilities Planning advised the Audit Department of such and copies of the current governing documents were provided.

Audit Department finding:

1.2 "While the content of each lease file is organized in chronological order and staff indicated that this methodology works well for them, it was often difficult to locate information and multiple copies of the same documents were found in various places in the files. A categorical filing of documents within each file (correspondence, contracts, etc.) would make location and retrieval of documents more efficient. The adoption of checklists would ensure the completeness of the files and would better facilitate and document supervisory review."

Response:

The current method of chronologically organizing lease files has been satisfactory and workable for Facilities Planning. The proposal by the Audit Department that a different method of filing be considered, will be reviewed and implemented where practical.

Audit Department finding:

"The site selection process for executing multi-year leases was not sufficiently documented in two of the thirteen lease files examined. Our analysis of the files to satisfy our audit objective in this area included determining that:

- 1) School Board-owned spaces were considered in the search and selection process, and
- 2) Independent lists (e.g., MLS list, broker lists, Blacks Guide, etc.) of available properties were considered."

Response:

At the request of the Audit Department, staff provided a Risk Analysis Worksheet on November 3, 2006 (Exhibit 2), which articulated that, when considering a new lease, Board-owned facilities are considered where applicable, and space is generally only leased where capital funds are not available and/or a specific site must be used due to its location, there is a need for immediate occupancy, and/or, in more limited instances, facilities must be leased for classroom space where costs per student station could not be met due to the small enrollment. Where funding is available and the User's needs can be best achieved through acquisition rather than leasing, this option is pursued.

Audit Department finding:

"Of the 13 lease files sampled, five (5) contained documented evidence of the performance of items 1 and 2 above; the criteria were not applicable for six (6), for various reasons; and two (2) did not contain documented evidence of the performance of items 1 and 2 above. While staff stated that School Board-owned spaces were typically considered and that they typically made a search of available property, the consideration of School Board-owned spaces was not documented in the two files cited above. Maintaining sufficient and adequate documentation of the process followed and the results serves to corroborate and validate the results of the selection process. Good business practices necessitate that pertinent information underlying transactions and decisions be maintained in an easily retrievable fashion."

Response:

Specifically as it relates to the two files in question, consideration of potential Board-owned properties was not applicable. While for each of the two cited instances, Facilities Planning provided an explanation as to why a determination was made that a lease was the most appropriate mechanism for acquiring the necessary facility, sufficient documentation was not available. As such, and as a process improvement, Facilities Planning will in the future ensure that all such research is clearly articulated in the file.

Audit Department finding:

1.3 "A formal written evaluation of the landlord's performance is not done when renewing a lease. Instead, some effort is made to obtain feedback from the users of leased facilities. Staff stated that the users are surveyed regarding their satisfaction with the landlord. However, the process could be further strengthened through the use of a formal written performance evaluation of the landlord as a basis for lease renewal. A formal evaluation may include whether the landlord provided the facilities deliverables, such as providing working elevator, functional utilities, timely repairs and maintenance, clean and secured parking, insurance coverage, and other applicable lease terms."

Response:

Prior to the renewal of any lease, Facilities Planning confers with the User and receives written confirmation from the User of a desire to continue or not to continue the lease for the next renewal option period, and that the lease space will continue to be used for its original purpose. Typically, the User and the on-site building manager handle routine matters on an as-needed basis, and where necessary throughout the year, Facilities Planning staff will facilitate a resolution of any non-routine issues, as needed. As noted below, as a process enhancement, Facilities Planning will implement a formal yearly assessment of the landlord.

AUDIT DEPARTMENT RECOMMENDATIONS:

"1. 1 Finalize and implement newly revised leasing procedures and include them in a policy and procedures manual to ensure consistency and uniformity of leasing practices."

Response:

The current lease procedures will be incorporated into a procedures manual.

"1. 2 Reevaluate the current filing system and consider using checklists to ensure completeness and to document supervisory review."

Response:

The current method of chronologically organizing lease files has been satisfactory and workable for Facilities Planning. The proposal by the Audit Department that a different method of filing be considered, will be reviewed and implemented where practical.

"1. 3 Implement a formal performance evaluation process (of the landlord) to support the lease renewal process."

Response:

The current practice of having the User coordinate daily interaction with the building manager for routine issues, with Facilities Planning to act in the capacity of District leasing liaison for more problematic issues, has worked well. However, as a further process enhancement, a formal yearly written evaluation of the landlord's performance will be implemented.

"2.1 Revise lease agreements to delineate rentals collection provisions."

Response:

Although the District always has the option of placing its tenant in default and/or canceling the lease agreement in the event of failure to pay rent on time, this provision will be included in all future lease negotiations, where the Board is the Lessor.

"2.2 Establish collection controls that include identifying a single central point for receiving rental revenues, and using a receipt log to document collections."

Response:

While current administration of the rental payments has functioned well over the years, as a process enhancement, Facilities Planning will in the future become the central location for receipt of rental payments.

"3.1 Develop procedures to review all long-term lease transactions in collaboration with the Office of the Controller to determine whether they meet the criteria of a capital lease."

Response:

As a part of the Facilities Planning procedures, a copy of all new lease agreements that may qualify as a capital lease are sent to the Office of the Controller for a determination of whether or not they meet capitalization criteria. Terms of all existing lease agreements have been reviewed with

the Office of the Controller to determine whether they meet capitalization criteria and to date, one met the criteria.

- “4.1 Exercise better judgment and implement cost containment strategies to avoid incurring excessive cost on temporary lease facilities.”*

Facilities Construction Response to Recommendation 4.1 (for Highland Oaks Middle Annex):

It is very apparent when analyzing the causes for increases in actual versus estimated construction costs for the Highland Oaks Middle Annex facility that there are four primary reasons which converged in this very unique circumstance:

- 1) The initial cost estimate used to establish the \$5.0 to \$5.5 million budget was seriously underestimated and accounted for only 55,000 square feet (SF). That estimate represented an unrealistic cost of less than \$92 per SF for a school that was actually 60,000 SF. The original estimate was formulated by an outside consultant in January 2005 and was based on a very basic design approach, prior to detailed design development. It also failed to consider the additional expenses associated with the unusually high vertical interior dimensions (25 foot ceilings) which greatly increased the total labor and material costs of metal framing and drywall as well as all mechanical, electrical and plumbing systems.*

The aforementioned physical considerations were further aggravated by extremely active local and global construction market conditions. From January 2005 until the work was awarded to contractors (April 2006 to January 2007) an unprecedented 40% to 50% increase was experienced in overall construction material, labor and fuel costs (see Exhibit 4). Based on these factors, the initial cost estimate should have been approximately \$140 per SF, resulting in an initial budget of about \$8.4 million.

- 2) The initial scope of work changed significantly. As the design of this project evolved and the existing conditions became more apparent, the specific requirements for the project also increased as follows: site work was expanded to include two separate and more extensive student drop-off areas, the warming kitchen was replaced with a full cooking kitchen, a 100-foot concrete tower was included for instructional television service, traffic flasher systems were required by Miami-Dade County Public Works, a full lighting/dimming system for the*

stage area was added, and the roof which was initially thought to be in acceptable condition was later determined to require a full replacement due to extensive leakage.

- 3) The architectural design concept was intentionally upgraded. The non-standard design features which are enumerated and clearly depicted in the report were deliberately modified and became a critical aspect of the design developed by the project team.*
- 4) The Job Order Contracting (JOC) delivery method resulted in higher costs. This contracting approach is usually used for smaller projects (typically under \$500,000) with easily identified component or unit costs. This delivery method was utilized because of the urgency to commence the construction of the project in September 2005 after having committed to occupancy by January 2006. The conventional process which was then available for selecting a general contractor would have taken three to four months for advertisement, selection, negotiation, and School Board award of the construction contract.*

It is important to acknowledge the circumstances at the time when management decisions were made to expedite the project. The critical need to relieve a severely overcrowded school under an extremely aggressive schedule, an underestimated budget, and a genuine desire to meet community expectations resulted in a "perfect storm" of higher-than-estimated costs.

As a result of "lessons learned" from this project and the anticipated need to commission and award construction projects more expeditiously, the Office of School Facilities instituted a Board-approved pre-selection process for the assignment of architects and construction managers. A three-tiered method, based on construction value, has been utilized since early 2006. Had the new process been in place prior to September 2005, the JOC delivery method would not have been utilized and a more cost-effective approach would have been applied to this project.

Further, the Office of School Facilities recently implemented a standard practice of developing full 100% design documents (with limited exceptions) prior to awarding construction contracts. Past practice had been to award contracts when design documents were 50% completed, or earlier if necessary, in an effort to deliver projects as quickly as possible. It is expected that by implementing these cost containment strategies, excessive costs will be avoided in the future.

Lastly, it should be noted that when comparing the actual costs of \$182

per SF for the Highland Oaks Annex facility to five recently completed facilities averaging a comparatively low \$130 per SF, those five projects were awarded as early as 2003 during more favorable market conditions with substantially lower construction costs. Had those same projects been awarded in 2006, they would have resulted in significantly higher actual costs.

Facilities Planning Response to Audit Department finding that “On December 14, 2005, the School Board approved another lease for a facility that was said to require estimated retrofit cost of \$5 million. The actual cost to retrofit the facility was approximately \$6.2 million”:

This lease (1150 Associates) is mentioned as a project where the total cost exceeded the estimated construction retrofit amount included in the respective Board item by \$1,200,000; while this was an additional cost incurred by the District, the amount covered fixed Furniture, Fixtures and Equipment (FF&E), which was not part of the estimated retrofit cost. In the future, Board items will include a specific statement to clarify that building retrofit costs do not include FF&E, fixed or movable.

- “4.2 Provide the School Board more descriptive and informative information on project budgets, particularly when the increases to the existing budgets are significant.”

Facilities Construction Response to Recommendation 4.2:

The apparent lack of descriptive information at the time the project costs were increased were solely a result of the JOC delivery method which requires the issuance of a work order rather than an individual Board item to adjust the construction time or costs. The delivery methods currently in use by the Office of School Facilities would transparently adjust the construction contract in the manner recommended.

Since early 2006, the implementation of the pre-qualified/pre-selected consultants and construction managers has been in place thus, the JOC contracting method will no longer be utilized for major capital projects.

- “4.3 Require coordination and review of retrofit and remodeling costs by Facilities Planning to ensure that lease terms relative to which party bears costs associated with the lease are adhered to.”

Facilities Planning Response to Recommendation 4.3:

Facilities Planning concurs with this recommendation as it will ensure that costs are monitored and controlled in a central location thus establishing a single source of responsibility. Appropriate provisions will be incorporated into the lease procedures.

Thank you for the opportunity to respond to the Audit Report and please advise if you have questions or need additional information.

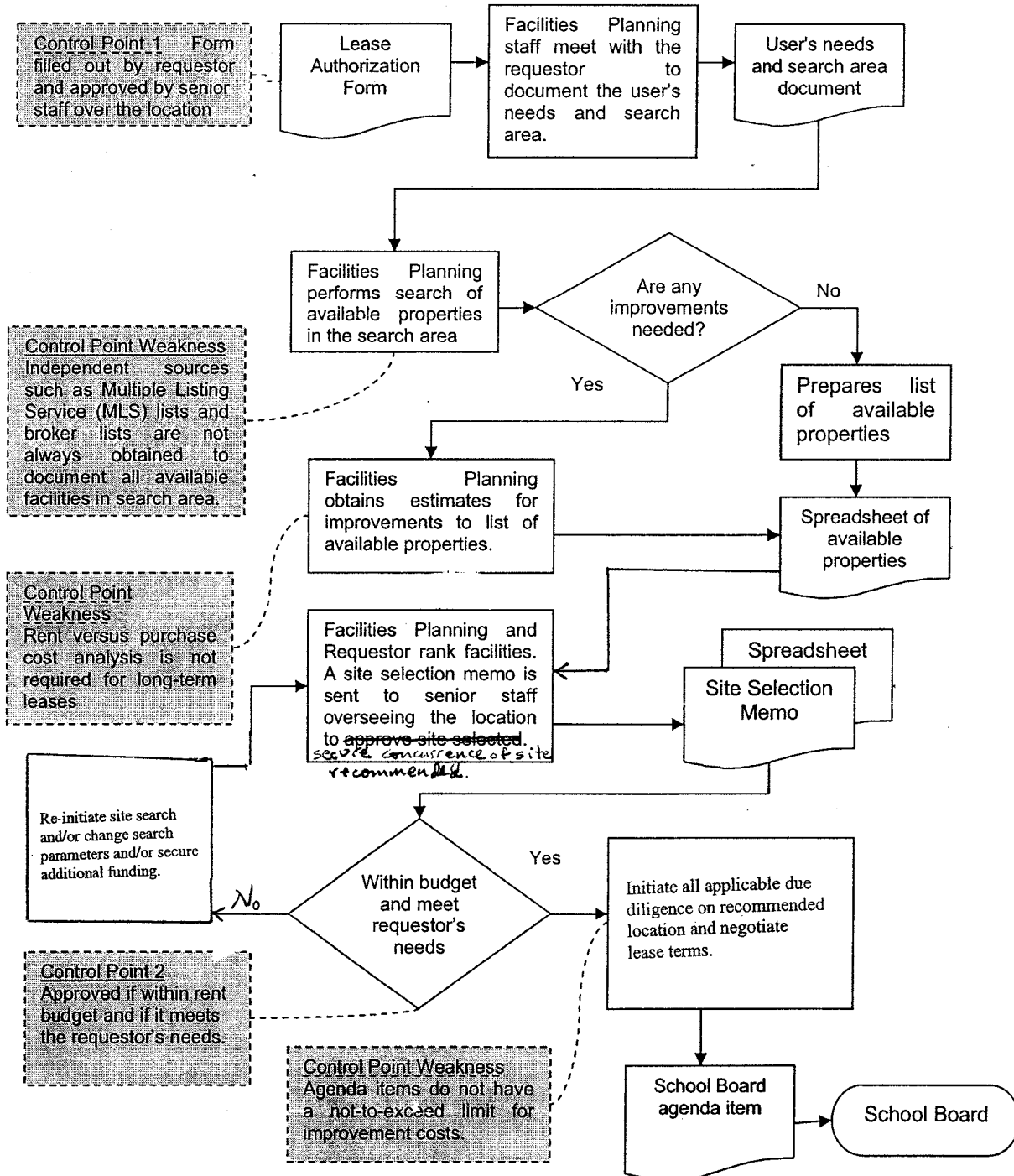
JGT:ARC:aj

Exhibits

cc: Dr. Rudolph F. Crew, Superintendent of Schools
Ms. JulieAnn Rico, School Board Attorney
Ms. Ana Rijo-Conde, AICP
Mr. Fernando Albuerne
Mr. Michael A. Levine

The District's facilities leasing function is centralized. The following diagram charts the facilities leasing process as it occurs in Facilities Planning.

Facilities Leasing Function Flow Diagram



Levine, Michael

EXHIBIT 2

From: Levine, Michael
Sent: Friday, November 03, 2006 11:29 AM
To: Gomez, Ivo
Cc: Rijo-conde, Ana F.
Subject: risk analysis worksheet.pdf

Ivo - As requested, I am attaching the recently completed Risk Analysis Work Sheet.

Miami-Dade County Public Schools
Office of Management & Compliance Audits
District Lease Contracts
Risk Analysis Work Sheet

Contract in effect during July 1, 2005 to June 30, 2006

<u>NO</u>	<u>RISK</u>	<u>CONTROL</u>	<u>PROCEDURE IN PLACE</u>	<u>RISK ASSESSMENT</u>
1	District may enter into rental contract for space that was available elsewhere in other Board owned facilities.	Inventory or list of available space should be first compared to user's request for rental facility space.	As part of the departmental due diligence process, potentially usable Board-owned facilities within the user established geographic search parameters are contacted to ascertain their possible use.	No risk, since potentially usable Board-owned facilities within geographic search parameters are canvassed for possible use.
2	Originator requested facility features and services that were not needed.	Administrator over the originating department or unit should be required to first approve the request.	As a part of departmental standard procedure, requests for new lease space originate with a completed "Description of Facility Needed - Lease Space" form (including type of facility, geographic constraints, parking needs, the amount of square footage, and other significant issues). This form must be signed by the requestor and a senior staff member over the originating department.	Minimal risk, due to need for the administrator in charge of user department to substantiate extraordinary features/services, prior to searching for and/or negotiating leases.

Miami-Dade County Public Schools
Office of Management & Compliance Audits
District Lease Contracts
Risk Analysis Work Sheet

Contract in effect during July 1, 2005 to June 30, 2006

<u>NO</u>	<u>RISK</u>	<u>CONTROL</u>	<u>PROCEDURE IN PLACE</u>	<u>RISK ASSESSMENT</u>
3	Rental obligations may be approved without appropriate budget authorization.	Final approval of rental request should include budget authorization by administration or Board.	As a matter of District policy, no rental obligations can be entered into without Board authorization. Lease funds are either budgeted as part of the annual budget cycle, or provided by the user when a need arises that is not otherwise budgeted.	No risk, as no rental obligations can be entered into without Board authorization.
4	Rental selection process did not meet originator's facility needs.	For contracts over a certain threshold, a selection committee with originator should control the selection process.	As a part of departmental standard procedure, the user is involved with the actual selection of the facility to be recommended for Board authorization. Facilities Planning staff will search and locate potential sites to meet the user's needs, at which time the user will typically visit all and, in consultation with Facilities Planning staff, rank the potential sites in order of preference. An agenda item for a potential lease will not be initiated without the written recommendation of the user to proceed.	No risk, as originator's approval must be secured prior to initiating agenda item.

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**Miami-Dade County Public Schools
Office of Management & Compliance Audits
District Lease Contracts
Risk Analysis Work Sheet**

Contract in effect during July 1, 2005 to June 30, 2006

<u>NO</u>	<u>RISK</u>	<u>CONTROL</u>	<u>PROCEDURE IN PLACE</u>	<u>RISK ASSESSMENT</u>
5	Rental selection process did not meet originator's location needs.	Originator should participate in identification of search area and explanation for search boundaries.	As indicated above, the user establishes the geographic search parameters for new lease space. Any deviation from this search area will be done in consultation with the user.	No risk, as originator's approval must be secured prior to initiating agenda item.
6	Rental selection process failed to identify and consider more cost effective facilities with similar location, size and features.	Selection process should require solicitations sent to building owners and real estate brokers in the search area.	As indicated above, as part of departmental standard procedure, Facilities Planning staff will use all readily available means to search for available lease space, such as following leads supplied by the user, driving the area and reviewing the Multiple Listing Service.	Minimal risk, as the commonly used means of locating possible facilities is comprehensive, other than instances where the needed facilities must be located in a specific area, (e.g. parking lots to serve schools).
7	Rental contract includes unnecessary or excess space or services.	Selection process should require matching needs with available features.	As indicated above, as part of departmental standard procedure, Facilities Planning staff will attempt to locate available space that conforms as close as possible to the user's stated needs.	Minimal risk, as lease space that includes unnecessary or excess space will typically be eliminated from further consideration.

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Miami-Dade County Public Schools
Office of Management & Compliance Audits
District Lease Contracts
Risk Analysis Work Sheet

Contract in effect during July 1, 2005 to June 30, 2006

<u>NO</u>	<u>RISK</u>	<u>CONTROL</u>	<u>PROCEDURE IN PLACE</u>	<u>RISK ASSESSMENT</u>
8	Long-term rental payments can exceed the opportunity acquisition (purchase & build) cost of the facility	For contracts with long-term potential and over a certain threshold, selection process should require comparison of rental vs acquisition cost to determine break-even point.	Leasing of rental space is typically initiated due to a short-term need, lack of available capital funds for site acquisition/construction, need to utilize a specific facility to meet user requirements and/or immediate need to occupy. Where the user's requirements can best be achieved through acquisition rather than lease, and funding is available, this option is typically pursued.	Minimal risk, as leasing is only pursued due to a short-term need, lack of available capital funds for site acquisition/construction, need to utilize a specific facility to meet user requirements and/or immediate need to occupy.
9	Rental contracts are negotiated at less than prevailing competitive rates.	A negotiating procedure should establish maximum market rental SF costs that can be negotiated without additional administrative approval.	As a part of departmental standard procedure, asking lease rates are determined for all viable locations investigated. Subsequent to the user and Facilities Planning determining the preferred location to be pursued, Facilities Planning staff will negotiate to secure the best available lease rate. Such negotiation will be based on a survey of comparable lease facilities in the vicinity.	No risk, as Facilities Planning staff will undertake a survey of comparable lease rates in the vicinity of the proposed facility.

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Miami-Dade County Public Schools
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District Lease Contracts
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<u>NO</u>	<u>RISK</u>	<u>CONTROL</u>	<u>PROCEDURE IN PLACE</u>	<u>RISK ASSESSMENT</u>
10	Rental contract required District to pay for features or costs normally under landlord's responsibility.	All contracts should be executed using District standardized contracts or otherwise reviewed by School Board Attorney.	As a part of departmental standard procedure, Facilities Planning seeks to generate the lease document. This helps to facilitate conformance with statutory and/or District criteria. Where a landlord is unwilling or unable to allow the District to generate the lease document, Facilities Planning staff work diligently to assure adherence to agreed business terms and incorporate all other necessary protections. All lease agreements must be reviewed and approved for legal sufficiency and adherence to the approved agenda item by the School Board Attorney's Office prior to finalization and execution.	No risk, as all lease agreements must be reviewed and approved for legal sufficiency and adherence to the approved agenda item by the School Board Attorney's Office prior to finalization and execution.

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EXHIBIT 3

Office of Superintendent of Schools
Board Meeting of December 14, 2005

December 9, 2005

Office of School Facilities
Rose Diamond, Chief Facilities Officer

SUBJECT: AUTHORIZATION FOR THE SUPERINTENDENT TO FINALIZE NEGOTIATIONS AND EXECUTE A LEASE AGREEMENT WITH 1150 ASSOCIATES, LTD., FOR CLASSROOM SPACE TO HOUSE STATE SCHOOL "MMM-1", AN ACADEMY FOR YOUNG WOMEN IN GRADES 6-12, AND PROPOSED TO RELIEVE MIAMI SENIOR HIGH SCHOOL, TO BE LOCATED AT 1150 SW 1 STREET, MIAMI

COMMITTEE: FACILITIES AND CONSTRUCTION REFORM

The School Board, at its meeting of October 19, 2005, authorized the Superintendent to establish an academy for young women in grades 6-12, and to open the facility for grades 6-10 for the 2006-07 school year. The proposed school would provide a choice option for approximately 500 girls to attend a single gender school, and provide middle school relief as well as relief for Miami Senior High School. It is anticipated that within this small learning community, students will benefit from a more personalized environment structured to meet their individual needs. Transportation to the facility will be provided by the District, as may be required.

REVISED

REVISED

Staff has identified a proposed location to house the program, located at 1150 SW 1 Street, Miami (see location map). The facility is located just north of Riverside Elementary School and is well suited to serve this program. The building owner, 1150 Associates, LTD. (1150 Associates), has indicated a willingness to lease the entire three-story approximate 36,000 square foot building and 136-space parking lot to the District, under a long-term agreement. The structure was formerly utilized as an office building, and will require building retrofit and improvements for school use, estimated to cost the District approximately \$5,000,000. Funding for the work will be provided by the reallocation of a portion of the site acquisition funding available in the District's approved Five-Year Capital Plan, and no longer required for Miami Senior High School. The method of financing will be through a Certificate of Participation.

In order to make the facility available for the 2006-07 school year, District staff and the building owner have developed an aggressive schedule, addressing critical deadlines dealing with plan development and approval, permitting, construction, installation of FF&E and issuance of the Certificate of Occupancy. The building owner has advised that as long as the District meets its critical path commitments consisting of program development, preliminary building layout and building reviews and inspections, the facility will be available for District use for the 2006-07 school year. In the event 1150 Associates fails to secure a Certificate of Occupancy in sufficient time to allow the school to open for the 2006-2007 school year, it will instead open for the 2007-08 school year, and the District will not be obligated to occupy the space or to pay rent until

July 1, 2007, unless the District has an interim use for the space and chooses to occupy it, in which case the payment of rent would commence upon occupancy.

It is recommended that the Superintendent be authorized to finalize negotiations and execute a lease agreement with 1150 Associates under, substantially, the following terms and conditions:

- an annual rental rate of \$13 per square foot, triple net (i.e. the District shall pay all utilities, building maintenance/repair, custodial, insurance, Real Property taxes and any other ownership/operating expenses on the property). Based on the facility's 36,000 square foot size, the combined annual lease cost to the District is estimated at \$714,000 for the first year of the lease, or \$19.83 per square foot;
- the rental rate for each additional year of the term, shall increase by four percent per year;
- a 50-year base term, with no additional option periods. At the completion of the seventh year of the term, and annually thereafter, the District, at its sole option, may cancel the lease, with one year advance written notice. Other than in the event of default on the part of the District, which default is not cured, 1150 Associates shall not have the right to cancel the lease agreement at any time. Alternatively, at the completion of the seventh year of the term, the District, at its sole option, may purchase the building and grounds from 1150 Associates, at a price of \$15,000,000. The purchase price will remain unchanged for the eighth, ninth and tenth year of occupancy, and beginning with the eleventh year, increase by 10% per year;
- all improvements to the building and parking area shall be completed by 1150 Associates at a mutually agreed not-to-exceed price, and paid for by the District. The construction budget for the work (inclusive of all project hard and soft costs), is estimated at approximately \$5,000,000. All work shall be in compliance with applicable code requirements and District Design criteria, with the final space plan to be mutually approved by both parties. As a condition of the lease, 1150 Associates will secure a Certificate of Occupancy in sufficient time to allow the District to occupy the building prior to the commencement of the 2006-07 school year. The services of all design professionals and construction personnel shall be secured by 1150 Associates, which shall generate all drawings and specifications, secure all necessary permits and inspections, and facilitate all other actions necessary to complete the work. The District will cooperate with 1150 Associates as required to facilitate this process. In addition, the District shall generate its Program requirements, and provide all plan review and approvals, inspection services and other actions normally associated with the operations of a Building Department, in conformance with the agreed-to schedule. In the event 1150 Associates fails to secure a Certificate of Occupancy in sufficient time to allow the school to occupy the building prior to the commencement of the 2006-2007 school year (subject to Force Majeure), the

District shall not occupy the space nor be obligated to pay rent to 1150 Associates until July 1, 2007, unless the District has an interim use for the space and chooses to occupy it, in which case payment of rent shall commence upon occupancy;

- the District will provide property insurance or self-insurance in the event of damage or destruction to the facility or grounds. In the event of an incident, the District will be responsible for full restoration, and there will be no rent abatement;
- 1150 Associates shall indemnify and hold the Board harmless from all liability which may arise as a result of its negligence, actions or failure to act under the terms of the lease agreement;
- the Board shall indemnify and hold 1150 Associates harmless, to the extent of the limitations included within Florida Statutes, from all liability which may arise as a result of the Board's negligence, actions or failure to act under the terms of the lease agreement; and
- for purposes of this lease agreement, the Superintendent of Schools shall be the party designated by the Board to grant or deny all approvals required by this lease agreement, or to cancel this lease agreement.

The Deputy Superintendent for Curriculum, Instruction, and School Improvement recommends entering into the proposed lease agreement. The lease agreement will be reviewed by the School Board Attorney's Office and Office of Risk and Benefits Management prior to execution.

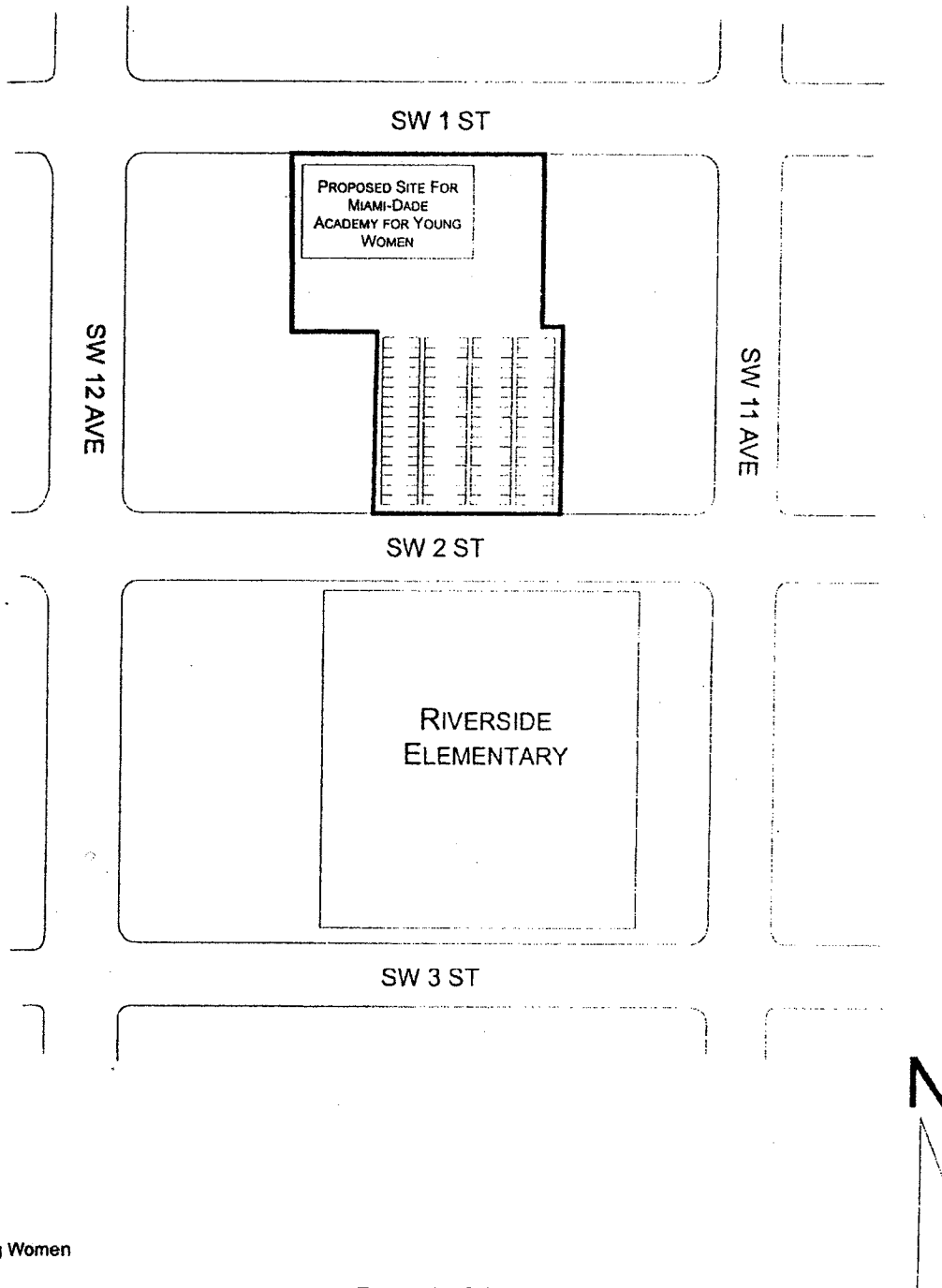
RECOMMENDED:

That The School Board of Miami-Dade County, Florida:

- 1) authorize the Superintendent to finalize negotiations and execute a lease agreement with 1150 Associates, LTD., for classroom space to house State School "MMM-1", an academy for young women in grades 6-12, and proposed to relieve Miami Senior High School, to be located at 1150 SW 1 Street, Miami, at a combined estimated annual lease cost of \$714,000 for the first year of the lease, and substantially in conformance with the other terms and conditions noted above; and
- 2) authorize an amendment to the Five-Year Capital Plan to reallocate \$5,000,000 from site acquisition previously proposed for Miami Senior High School and no longer needed to fund the necessary buildings improvements.

MAL:srj

LOCATION MAP

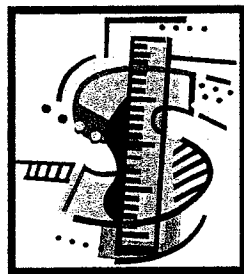




Miami-Dade County Public Schools

SOUTH FLORIDA CONSTRUCTION COSTS ANALYSIS

A study of the trend of construction costs in the South Florida construction industry over the past three years



Prepared by



March 2006

South Florida Construction Costs Analysis

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- B. OBJECTIVE AND METHODOLOGY**
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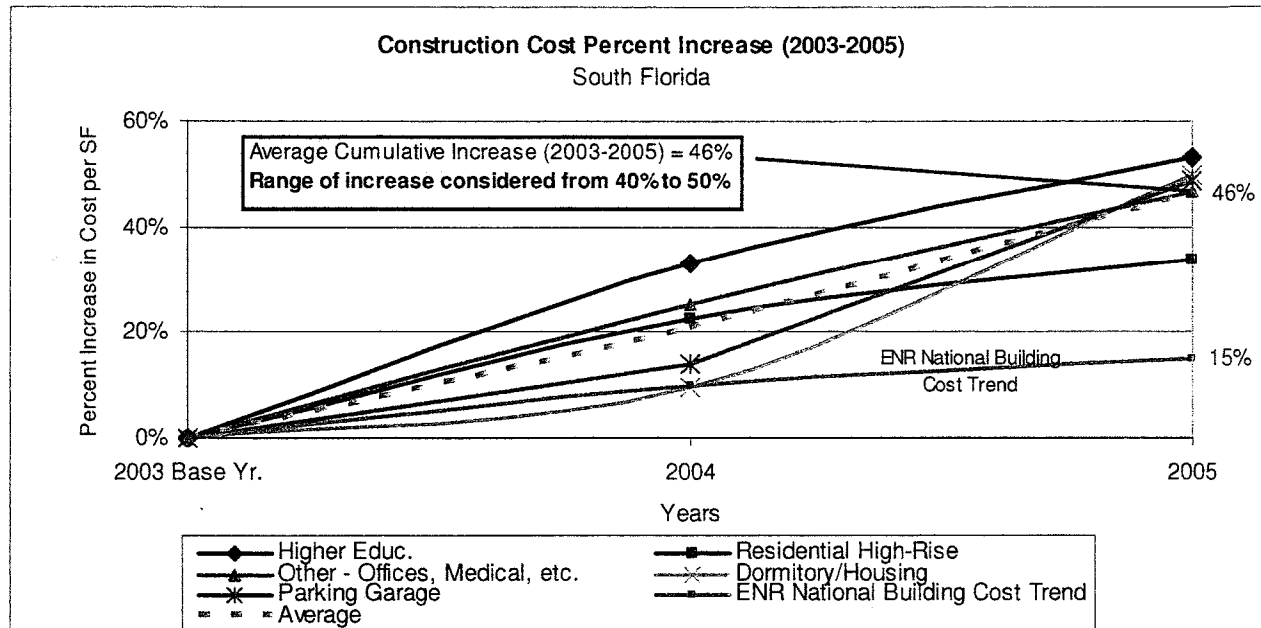
APPENDICES

- A. DATA COLLECTED**
- B. RELATED ANECDOTES FROM VARIOUS PUBLICATIONS**

South Florida Construction Costs Analysis

A. EXECUTIVE SUMMARY

The following graphics depict the results of the study of the change and trends in construction costs based on actual data of various types of buildings in South Florida during the years of 2003 to 2005. Graph No. 1 below demonstrates the cumulative construction cost increases of various types of projects in South Florida as compared with the Engineering News Record (ENR) National Building Cost Trend.



Graph No. 1 – Construction Cost Percent Increase (2003-2005) (based on data collected)

The “dotted” line in Graph No. 1 is an average of the increases in the various types of building categories noted, and results in an average cumulative increase of 46%. Since the above chart was developed with a sample cost data of various types of facilities, it is recommended that the cost increase be represented as range averaging from 40% to 50% from 2003 through 2005. The significance of this increase can be demonstrated by the following:

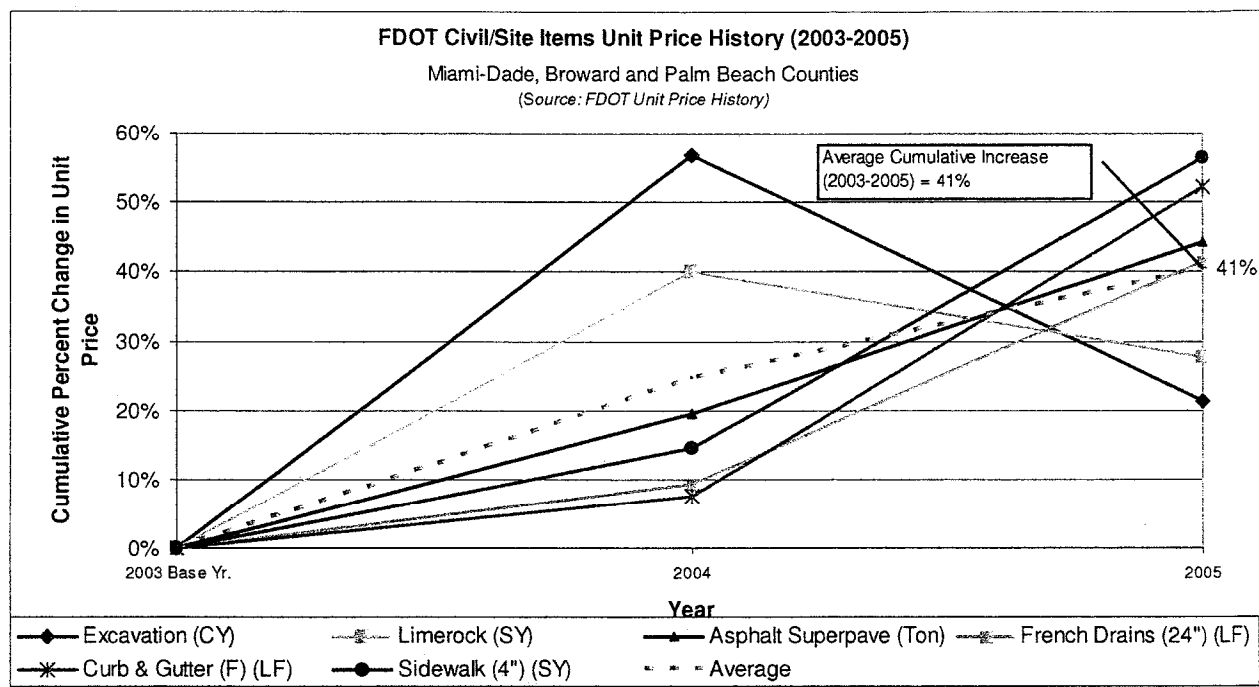
Assume a typical 100,000 SF building awarded for construction in 2003 with a cost of \$100 per SF:

- Cost of building if bid & awarded in 2003: \$10 Million
- Cost of same building if bid & awarded in 2005: \$14 to \$15 Million
- Total cumulative increase from 2003 to 2005: \$4 to \$5 Million (40% to 50%)

The significant increase in construction costs during this period has impacted the entire construction market in South Florida, and has resulted in cost increases both in the public and private sectors.

These increases have not only impacted costs of buildings, but have been felt throughout the entire local construction industry. An evaluation of the average bid costs for Florida Department of Transportation Roadway and Bridge projects for the South Florida region is shown in the following Graph No. 2. This graph demonstrates that the average increase in price for major FDOT construction commodities is approximately 41% from 2003 to 2005 demonstrating that cost increases were prevalent throughout the construction industry.

South Florida Construction Costs Analysis



Graph No. 2 – FDOT Unit Price History for South Florida Region

Specific Factors Impacting South Florida

Multiple factors have influenced this major increase in South Florida construction costs from 2003 through 2005. Some factors have been consistent with what has increased costs nationally at over 15% during this time frame. The specific South Florida factors have included the following:

- Multiple hurricanes in 2004 and 2005 that required many of the same construction resources already being utilized on projects for cleanup and reconstruction. These events also led to a shortages of materials such as roofing, plywood, and transformers resulting in increased costs to Owners
- Strong housing market (single, multi-family and high rise) throughout South Florida (in Miami-Dade county alone it is reported that there are 60,000 condominium units being constructed)
- Large Capital Improvement Programs for Schools (new schools, class size reduction program, etc.), Public Works Infrastructure, Major Improvements at the South Florida Airports, Rail & Transit, Roads & Bridges, Water & Sewer and other County and City improvements, Performance Arts Center in Miami, etc.
- Aging infrastructure resulting in upgrading and replacing with high investments
- Significant material price increases, most notably oil, cement, and steel
- Limited pool of qualified, bondable contractors and subcontractors, which lessens competition and drives up profit margins and overall project costs
- Limited pool of qualified construction trade workers which increases labor costs
- Increased insurance costs, particularly Builder's Risk, which impacted overall project costs.

These factors, combined with multiple other worldwide demands on construction materials and nationwide construction cost trends have come together to result in a significant impact, much greater than the national impact, for construction cost increases in South Florida.

The School Board of Miami-Dade County, Florida, adheres to a policy of nondiscrimination in employment and educational programs/activities and programs/activities receiving Federal financial assistance from the Department of Education, 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 sex 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.

School Board Rules 6Gx13- 4A-1.01, 6Gx13- 4A-1.32, and 6Gx13- 5D-1.10 - prohibit harassment and/or discrimination against a student or employee on the basis of gender, race, color, religion, ethnic or national origin, political beliefs, marital status, age, sexual orientation, social and family background, linguistic preference, pregnancy, or disability.

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.



Miami-Dade County Public Schools
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