

STATE OF FLORIDA AUDITOR GENERAL

Operational Audit

Report No. 2019-026
September 2018

**LEE COUNTY
DISTRICT SCHOOL BOARD**



Sherrill F. Norman, CPA
Auditor General

Board Members and Superintendent

During the 2016-17 fiscal year, Dr. Gregory Adkins served as Superintendent of the Lee County Schools and the following individuals served as School Board Members:

	<u>District No.</u>
Mary Fischer, Chair from 11-22-16, Vice Chair through 11-21-16,	1
Melisa W. Giovannelli from 11-22-16	2
Jeanne S. Dozier through 11-21-16	2
Chris N. Patricca	3
Steven K. Teuber, Chair through 11-21-16	4
Pamela H. LaRiviere	5
Dr. Jane E. Kuckel, Vice Chair from 11-22-16	6
Cathleen O'Daniel Morgan	7

The team leader was Cesar A. Mayorga and the audit was supervised by Deirdre F. Waigand, CPA.

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LEE COUNTY DISTRICT SCHOOL BOARD

SUMMARY

This operational audit of the Lee County School District (District) focused on selected District processes and administrative activities and included a follow-up on findings noted in our report No. 2015-069. Our operational audit disclosed the following:

Finding 1: District records did not always evidence that impact fee proceeds were used only for authorized purposes, resulting in questioned costs of \$13.6 million.

Finding 2: Contrary to State law, the District expended ad valorem tax levy proceeds for cleaning and groundskeeping services that did not appear to be allowable uses for the proceeds, resulting in questioned costs totaling \$3.9 million.

Finding 3: District controls over indoor air quality (IAQ) services and related payments did not ensure that District records documented:

- Evaluations of the need for the various IAQ services before the District contacted service providers and contracted for the services with related payments totaling \$5.9 million.
- Cost-benefit considerations to demonstrate the cost-effectiveness of contracting with an IAQ provider for both emergency services and services that did not require immediate attention.
- Verifications that the personnel who performed the services possessed the contract-required license and certificate qualifications or that the services were performed by the most qualified service provider.
- The reasonableness and propriety of negotiated contract rates.
- Prior to payment for the contracted services, the satisfactory receipt of the services performed consistent with the Board-approved contracts.

Additionally, District IAQ contracts did not contain maximum contract amounts to help the District monitor and limit the services provided and related costs. Also, the District made payments for cleaning services that appeared to be charged at rates for mold remediation rather than room cleaning services, resulting in questioned costs of \$291,126.

Finding 4: District procedures did not provide, before payments for construction management entity (CME) services, for comparisons of CME pay requests to the subcontractor bids and contracts for the Dunbar High School Remodel (DHSR) and the Bonita Springs High School (BSHS) Projects totaling \$64.4 million.

Finding 5: District construction administration procedures for the DHSR and BSHS Projects did not include comparisons of subcontractor bid awards to the CME subcontractor contracts to verify that the CME used a competitive selection process to select subcontractors and that the bid award and contract amounts agreed.

Finding 6: The District did not verify subcontractor licenses before the subcontractors commenced work on the DHSR and BSHS Projects.

Finding 7: The District needs to enhance controls over negotiating, monitoring, and documenting the reasonableness of CME general conditions costs.

Finding 8: District records did not always demonstrate that the District performed searches of prospective school volunteer names and information against the applicable registration information regarding sexual predators and sexual offenders.

Finding 9: The District needs to establish a mechanism for noninstructional employees to report time worked and procedures requiring supervisors to document the review and approval of such time.

Finding 10: The District did not always base the eligibility of teachers for Florida Best and Brightest Teacher Scholarship awards on reliable and authentic records.

Finding 11: The District controls for monitoring school resource officer service contracts and related payments could be enhanced.

Finding 12: District controls over the purchasing card program continue to need improvement.

Finding 13: The District had not developed a comprehensive, written information technology (IT) risk assessment.

Finding 14: The existence of some unnecessary IT user access privileges and the lack of documented periodic reviews of access privileges increased the risk that unauthorized disclosure of student social security numbers may occur.

Finding 15: Certain District IT security controls related to user authentication, data loss prevention, and logging and monitoring of system activity need improvement.

BACKGROUND

The Lee County School District (District) is part of the State system of public education under the general direction of the Florida Department of Education, and is governed by State law and State Board of Education rules. Geographic boundaries of the District correspond with those of Lee County. The governing body of the District is the Lee County District School Board (Board), which is composed of seven elected members. The appointed Superintendent of Schools is the Executive Officer of the Board. During the 2016-17 fiscal year, the District operated 95 elementary, middle, high, and specialized schools; sponsored 21 charter schools; and reported 91,152 unweighted full-time equivalent students.

This operational audit of the District focused on selected processes and administrative activities and included a follow-up on findings noted in our report No. 2015-069. The results of our audit of the District's financial statements and Federal awards for the fiscal year ended June 30, 2017, were presented in a separate report.

FINDINGS AND RECOMMENDATIONS

Finding 1: Impact Fees

Pursuant to a Lee County (County) ordinance,¹ in November 2001 the District and the County entered into an interlocal agreement to establish certain procedures for the transfer and expenditure of impact fee proceeds. The County ordinance and the interlocal agreement provide that proceeds from the impact fees are for the purpose of capital improvements for new or expanded educational facilities and for debt service for bonds or similar debt instruments issued for capital uses authorized by the agreement. The funds cannot be used for operations and maintenance and must be spent in a manner that benefits the feepayer.

In addition, the County ordinance requires that each fiscal year the School Board present to the County for approval a capital improvements program for educational facilities, which assigns and restricts the expenditure of impact fee funds collected to specific educational facility projects. Further, the County ordinance requires the School Board to submit a report to the County at least every 3 years summarizing all expenditures of funds and demonstrating that all expenditures comply with requirements of the rational nexus test as defined in Florida case law. Specifically, the Florida Supreme Court opined that the “local government must demonstrate a reasonable connection, or rational nexus, between the expenditures of the funds collected and the benefits accruing to the subdivision. In order to satisfy this requirement, the ordinance must specifically earmark the funds collected for use in acquiring capital facilities to benefit the new residents.”²

The District accounts for impact fee activities in the Capital Projects – Impact Fees Fund. For the 2016-17 fiscal year, District impact fee proceeds totaled \$6.7 million and impact fee transfers to other funds and expenditures totaled \$13.6 million and \$41,784, respectively. To determine the propriety of the impact fee uses, we examined District records supporting the impact fee transfers of \$13.6 million to other funds. Our examination disclosed that the transfers did not appear to be for authorized purposes as the \$13.6 million was used to service debt that predated approval of the 2016-17 fiscal year impact fees. Specifically, the impact fee transfers were to District debt service funds for payment of debt service requirements of the Certificate of Participation Series (COPS) 2010A, 2012B, and 2012C, the proceeds of which were used to refund COPS 2002A and 2004A.

In response to our inquiries, District personnel indicated that they believed the impact fee use was allowable under the interlocal agreement using a calculation based on the zone where the impact fee was collected. However, District records did not evidence that use of impact fee proceeds to service debt incurred in previous fiscal years met the rational nexus test by addressing the capital educational needs of future residents of the new residential developments for whom the impact fee proceeds were collected. Consequently, the impact fee transfers totaling \$13.6 million represent questioned costs.

Recommendation: The District should ensure that impact fee proceeds are expended only for authorized purposes. Additionally, the District should either document to the Florida Department

¹ Lee County Ordinance No. 01-21.

² St. Johns County v. Northeast Florida Builders Association, Inc., 583 So. 2d 635 (Fla. 1991).

of Education the allowability of the impact fee transfers totaling \$13.6 million to the debt service funds or restore those funds to the 2016-17 fiscal year Capital Projects - Impact Fees Fund.

Follow-Up to Management’s Response

Management indicated in the written response that COPS “may have a term as long as 30 years, so theoretically the School Board could finance the construction of an impact fee eligible growth school over 30 years.” Notwithstanding this response, the point of our finding is that the transfers from the 2016-17 fiscal year impact fees do not directly relate to the educational infrastructure needs of the residents of the new residential developments that paid the impact fees and, therefore, the fees collected were not used to acquire capital facilities to benefit those residents. Accordingly, we continue to question the allowability of the transfers.

Finding 2: Ad Valorem Taxation

State law³ allows the District to levy ad valorem taxes for capital outlay purposes with specified millage rates subject to certain precedent conditions. In addition, State law⁴ requires the District to advertise, in advance of adoption of a budget authorizing the expenditure of such tax levy proceeds, the purposes for which the Board intends to spend the proceeds of each such tax levy and to specify in the required notice of tax levy the projects to be funded by the assessment of such taxes. Pursuant to State law,⁵ allowable uses of ad valorem tax levy proceeds include, among other things, funding new construction and remodeling projects and maintenance, renovation, and repair of existing schools to correct deficiencies. The definition of maintenance and repair in State law⁶ specifically excludes custodial (e.g., cleaning services) and groundskeeping functions.

The District accounts for ad valorem tax levy proceeds in the Capital Projects – Local Capital Improvement Fund (LCI Fund). For the 2016-17 fiscal year, District LCI Fund expenditures totaled \$56.5 million and transfers to other funds totaled \$36.5 million. According to District personnel, the Budget Department prepares budgets and monitors budget amendments for each LCI Fund. To help ensure compliance with the restrictions imposed by State law, Operations and Information Systems Department accountants review purchase orders, invoices, and other documented support before LCI Fund disbursements are made.

As part of our audit, we examined District records supporting selected LCI Fund expenditures totaling \$4.8 million and the transfers totaling \$36.5 million to determine their propriety. We found expenditures totaling \$2.7 million to two companies for various cleaning and groundskeeping services that did not appear consistent with allowable uses of ad valorem tax levy proceeds. For example, the cleaning and groundskeeping services performed by the companies included:

- Deep cleaning gymnasiums.
- Room cleaning.

³ Section 1011.71, Florida Statutes.

⁴ Section 200.065(10)(a), Florida Statutes.

⁵ Section 1011.71(2), Florida Statutes.

⁶ Section 1013.01(12), Florida Statutes.

- Wiping down surfaces.
- Maintaining football and physical education fields.
- Laying sod and other grounds improvements.

We extended our procedures to examine available support for the remaining LCI Fund expenditures totaling \$1.6 million to the two companies during the period July 2017 through April 2018 and identified an additional \$1.5 million for similar cleaning and groundskeeping services that did not appear to be authorized by State law. As a result, the District incurred total ad valorem tax levy questioned costs of \$4.2 million.

In response to our inquiry, District personnel indicated that the District notice of tax levy advertisement specifically identified indoor air quality (IAQ) corrections and believed that the use of ad valorem tax levy proceeds for these services were allowable because they were safety to life system corrective measures. Notwithstanding, although we requested, District records, such as air quality test results before and after remediation efforts were performed, were not provided to identify the specific safety risks requiring correction or to demonstrate that the measures taken minimized those risks. The District procurement and payment processes related to the two companies (Company 1 and Company 2) are further discussed in Finding 3.

Absent District records identifying safety risks and the related deficiencies at existing schools requiring correction and evidencing that use of ad valorem tax proceeds minimized such risks and corrected such deficiencies, the District cannot demonstrate that the proceeds were expended only for uses allowed by State law.

Recommendation: The District should enhance procedures to ensure and demonstrate that ad valorem tax levy proceeds are used only for authorized purposes. Such enhancements should include the maintenance of District records to identify applicable safety risks and demonstrate that use of the proceeds minimized such risks. In addition, the District should either document to the Florida Department of Education the allowability of the LCI Fund expenditures totaling \$4.2 million or restore that amount to the LCI Fund.

Follow-Up to Management's Response

Management indicated in the written response that “work was performed to ensure the safety of students and to prevent injuries” and that the District provided evidence that the funds expended for items considered as “cleaning and maintaining grounds met the Safety to Life criteria and are therefore allowable expenses.” Notwithstanding this response, the District records provided did not always tangibly and conclusively demonstrate the existence of State or Federal environmental violations or other safety to life infractions requiring remediation or that any such infractions were successfully remedied by the services. Subsequent to the issuance of our preliminary and tentative findings, the District provided documentation to substantiate the use of ad valorem tax levy proceeds totaling approximately \$300,000. Consequently, expenditures totaling \$3.9 million continue to represent questioned costs of ad valorem tax levy proceeds.

Finding 3: Indoor Air Quality Services

The Legislature has recognized in State law⁷ that fair and open competition is a basic tenet of public procurement and that such competition reduces the appearance and opportunity for favoritism and inspires public confidence that contracts are awarded equitably and economically. In addition, State Board of Education (SBE) rules⁸ require the District to request bids or proposals through the competitive solicitations process from three or more sources for any authorized purchase or contract for services exceeding \$50,000. Effective accountability of the procurement process for contractual services also requires documented:

- Evaluations by qualified personnel to assess why the services are necessary and to demonstrate the public purpose that will be accomplished by such services.
- Consideration of the qualifications of the service providers that respond to the requests.
- Consideration of the anticipated benefits and related costs of the services.
- Selection of the most qualified service provider.
- Assessments to demonstrate the reasonableness and propriety of the negotiated contract rates.

Only after the details of the anticipated benefits and related costs are considered and documented should the District decide which service provider to choose for the services. Such documented considerations help demonstrate the reasonableness of the costs associated with the procured services and promote government transparency. In addition, effective procurement procedures ensure an established maximum contract cost and satisfactory receipt of contracted services prior to payment for the services.

On June 18, 2013, the Board contracted with two companies for certain IAQ services based on per-unit and per-hour measurements⁹ and related rates for the period July 20, 2013, through July 19, 2016, and the contract provided renewal options for two additional 1-year periods. On June 14, 2016, the Board renewed these contracts for the period July 20, 2016, through July 19, 2017, and on June 6, 2017, the contracts were renewed for the period July 20, 2017, through July 19, 2018. Table 1 summarizes the District payments to these two companies for the period July 2016 through April 2018 totaling \$5.9 million.

⁷ Section 287.001, Florida Statutes.

⁸ SBE Rule 6A-1.012(7), Florida Administrative Code.

⁹ A per-unit measurement related to a consultation, sample, analysis, or air handler system and a per-hour measurement related to services such as cleaning and mold remediation.

Table 1
Payments to IAQ Service Providers
July 2016 Through April 2018

Service Category	Payments		
	Company 1	Company 2	Total
A – Consulting/Lab Fees for Samples ^a	\$ -	\$ 126,236	\$ 126,236
B – Corrective/Cleaning Actions ^b	4,427,306	1,338,946	5,766,252
Total	<u>\$4,427,306</u>	<u>\$1,465,182</u>	<u>\$5,892,488</u>

^a Contract services included IAQ-related investigations and corrective action recommendations to resolve IAQ problems; testifying at legal proceedings; and environmental test samples by a licensed general contractor and other individuals licensed and certified in asbestos, lead, and mold assessment and remediation.

^b Contract services included asbestos and lead abatement; heating, ventilating, and air conditioning services; water damage repair; mold remediation; drywall, floor, and ceiling repairs; painting, and cleaning by a licensed general contractor and other individuals licensed and certified in asbestos, lead, and mold assessment and remediation.

Source: District Records.

Our discussions with District personnel disclosed the following sequence of events associated with the District IAQ service procurement and payment processes:

- For several years prior to 2010, the Board contracted with both Company 1 and Company 2 for microbial remediation, asbestos abatement, and lead abatement services and, in 2010, the District solicited a request for qualifications (RFQ) for these services. Company 1 and Company 2 and 8 other companies responded to the RFQ and the District RFQ Evaluation Committee selected and the Board approved contracts with the 3 highest-ranked companies, including Company 1 and Company 2 and another company for a 3-year period that ended July 19, 2013.
- Given the impending culmination of the services and related contracts on July 19, 2013, District personnel documented e-mail and telephone call attempts to 24 companies in December 2012 to evaluate the availability of service providers to continue these services.
- On May 9, 2013, the District posted a public notice on its Procurement Services Web site for an Invitation to Negotiate (ITN) for IAQ services related to environmental consulting, asbestos/lead abatement, microbial remediation, and remodeling and painting at 96 schools and various administrative sites. The ITN requested proposals be submitted by May 24, 2013, for consulting/lab fees for samples (Category A) and for corrective/cleaning actions (Category B).
- To further solicit feedback for the IAQ services, on May 10, 2013, the District e-mailed the ITN Notice to Bidders to 23 of the 24 companies previously contacted in December 2012.
- For emergency service requests, the ITN required the IAQ provider to respond, mobilize personnel and equipment, and be on-site for any location in Lee County within 1 hour from the time of the initial request from the Maintenance's Department designee. On May 21, 2013, the Board added an addendum to the ITN to specify that "due to the 1-hour response time for emergencies, the service location must be in Lee County."
- According to the ITN, responders could provide proposals for either Category A or Category B services or both Category A and Category B services. The ITN also authorized the District to use any combination of the selected service providers and assign all projects in the best interest of the District in relation to cost and schedule.
- According to an ITN addendum, District Maintenance Department personnel would manage selection and use of the service providers on a per-task basis and formulate a work plan that considered service provider expertise and resource availability for each task. Also, District

personnel indicated that, to avoid a conflict of interest, one service provider would typically prepare the work plan and another service provider would do the work.

- The ITN for Category A services required proposals to document that responder personnel possessed a general contractor license; asbestos consultant and contractor licenses; a mold assessor license; a professional engineer certificate; and various certifications related to lead abatement, classification and labeling of chemicals, and remediation, remodeling, painting (RRP).
- The ITN for Category B services required proposals to document that responder personnel possessed a general contractor license; asbestos and lead abatement supervisor certifications; a mold assessor license; a mold remediator license; an RRP certification; and a globally harmonized system of classification and labeling of chemicals certification.
- By the May 24, 2013, proposal deadline, only 2 (Company 1 and Company 2) of the 24 companies had submitted proposals and District personnel indicated another company had submitted a nonresponse. Company 1 submitted a proposal for Category B services only; whereas, Company 2 submitted a proposal for both Category A and B services. The District IAQ ITN Evaluation Committee members ranked the Company 1 proposal an average score of 74.4; whereas, the Committee ranked the Company 2 proposal an average score of 99.4. In addition, the District-negotiated Category B service rates were the same for both companies.

As part of our audit, we requested for examination District records supporting the IAQ service provider selection process and related payments totaling \$5.9 million for the period July 2016 through April 2018 to these two companies. Our procedures disclosed that:

- As noted in Table 1, the Board contracted and paid \$126,236 from July 2016 through April 2018 to Company 2 for Category A services (i.e., IAQ-related lab samples, investigations, corrective action recommendations, and related services). However, according to District personnel, the District had not established procedures that required qualified personnel to timely evaluate and assess why continuance of the services was necessary and to demonstrate the public purpose that would be accomplished by such services. Additionally, in response to our inquiries, District personnel initially indicated that the District maintained the results of the lab samples. However, although we requested, District records were not provided that identified and evaluated IAQ deficiencies to demonstrate the basis for contacting the IAQ service providers in December 2012 or soliciting the ITN in May 2013 and subsequently contracting for the services on June 18, 2013. Absent such records, the District did not document timely and appropriate assessments to demonstrate the necessity and public purpose for continuing these services.
- During the period April 2016 through May 2018, the District had one request that was classified as an emergency. This request was to remediate a high school portable classroom with two leaking windows that had resulted in major rot in the wall paneling. Payments to repair the damage totaled \$25,850. In addition, the District incurred costs totaling over \$1.9 million for IAQ-related repairs associated with damage caused by Hurricane Irma in September 2017. Although we requested, District records were not provided to demonstrate that a cost-benefit analysis had been prepared to consider whether it would have been more cost-effective to separately contract for emergency services with a company within Lee County and contract with a company outside Lee County for other IAQ services that did not require immediate attention. Given the \$5.9 million paid for IAQ services, such an analysis may have provided useful information to the Board in approving the procurement of IAQ services.
- The negotiated rates contained in the Board-approved June 18, 2013, contract and subsequent contract renewals through July 19, 2018, were based on various per-unit and per-hour measurements. While the number of measurements such as air handler systems could be quantified based on the systems installed in District facilities, other measurements, such as the number of consultations, samples, analyses, and cleaning and mold remediation hours, were not fixed to establish a maximum contract amount that could be charged for these services. Without

such records, the ability of the District to monitor and control the IAQ services and related costs was limited.

- Company 2 submitted evidence to the District that company personnel possessed all required licenses and certifications for Category A services and most of the licenses and certifications for Category B services. However, District records did not evidence that the District had established procedures to verify, of record, that the IAQ company personnel possessed the required licenses and certifications. In addition, although we requested, District records did not evidence that Company 2 personnel possessed the required mold remediator license for Category B services or that any Company 1 personnel possessed a general contractor license, mold assessor license, lead abatement supervisor certification, or RRP certification. Without documented verifications of the required licenses and certifications, company personnel may not possess the necessary skills to perform the contracted services, including the remediation of mold-contaminated areas.
- District personnel indicated that, for Category B services, the two companies were used on a per-task basis considering provider expertise and resource availability, which resulted in payments totaling \$4.4 million to Company 1 and \$1.3 million to Company 2. However, although we requested, District records were not provided to demonstrate why Company 1, which the District IAQ ITN Evaluation Committee ranked lower than Company 2, provided more IAQ services and was paid significantly more than Company 2.

In response to our inquiries, District personnel referenced the State law¹⁰ that prohibits a company from performing mold remediation (Category B services) to a structure on which the mold assessor's company provided the mold assessment (Category A services). To comply with that law, Company 2 was awarded Category B services unrelated to mold remediation and Company 1 was awarded work based on mold remediation assessments performed by Company 2. In addition, District personnel indicated that requests to provide services on projects were often made by the District IAQ Supervisor while visually inspecting the area of concern and the IAQ Supervisor telephoned the companies to discuss and plan the project scope, company resource availability, and company conflicts limited by State law. Notwithstanding, although we requested, District records were not provided to evidence that Company 2 only performed nonmold remediation services or to correlate the Company 2 mold remediation assessments to the mold remediation services performed by Company 1.

As such, District records did not evidence consideration and selection of the most qualified service provider to perform the services.

- The Board-approved IAQ contracts and subsequent renewals effective July 20, 2013, through July 19, 2018, provided rates for Category A and Category B services. As shown in Table 2, many of the negotiated contract service rates in effect during the 5-year period that ended July 19, 2018, were significantly more than the previously negotiated contract service rates in effect for the 3-year period that ended July 19, 2013.

¹⁰ Section 468.8419, Florida Statutes, prohibits a company from performing mold remediation to a structure on which the mold assessor's company provided a mold assessment within the last 12 months.

Table 2
Examples of Category B Contract Service Rate Increases

Contracted Service	Contract Service Rate in Effect for the		Rate Increase Amount	Rate Increase Percentage
	3-Year period ended July 19, 2013	5-Year Period ended July 19, 2018		
Mold Remediation	\$40 per hour	\$50 per hour	\$10 per hour	25%
Air Handler Systems Cleaning Greater than 10 Tons	\$300 per unit	\$400 per unit	\$100 per unit	33%
Air Handler Systems Cleaning Less than 10 Tons	\$150 per unit	\$275 per unit	\$125 per unit	83%

Source: District Records.

In response to our request, District personnel provided copies of letters, dated in May 2013, to Company 1 and Company 2 that invited the companies to meet separately with the District to enter into price negotiations and requested each company to bring a unit pricing list for each service category. In addition, District personnel provided the negotiation worksheets used to negotiate Category A and Category B service rates with Company 1 and Company 2, which showed contract prices as the base price for negotiation. District personnel also provided the negotiated contract price list for the rates charged for Category A and Category B services.

In response to our inquiries, District personnel indicated that the District believed the Board-approved negotiated contract rates were fair and reasonable because the contract service rate negotiations and related increases covered a 5-year period that ended July 19, 2018. Therefore, the District accommodated the rate increases to ensure the companies would perform the required services. Notwithstanding, although we requested, District personnel could not provide documentation to demonstrate the reasonableness and propriety of the negotiated contract rates. Such documentation could include, for example:

- Comparisons of proposed contract rates to those of similar projects, including similar projects at other school districts.
- Comparisons of proposed contract rates to the service provider personnel compensation rates based on required personnel qualifications.
- Details of the negotiation process with the service provider to ensure the provider limited service costs to the amount established in the District's budget for these services.
- The contract terms provided that certain Category B services would be based on an hourly rate; however, payments to Company 1 totaling \$1,022,050 (23 percent) and payments to Company 2 totaling \$958,280 (72 percent) were supported by individual invoices that showed lump-sum amounts charged for services and did not list the actual number of service hours and rates for the respective service dates. In response to our inquiries, District personnel indicated that the District had notified the companies that all future invoices must include service hours worked and a payment amount based on contract labor categories and hourly rates charged. Without detailed invoices evidencing the number of service hours worked and related hourly rates charged, the District's ability to ensure services and related costs are consistent with the Board-approved contract terms is limited.

- For Category B services, the District paid a total of \$3,405,256 to Company 1 and \$368,106 to Company 2 based on individual invoices that specified the number of service hours worked and related hourly rates charged and the number of air handler units cleaned. Examples of information contained in Company 1 and Company 2 invoices and related District payments are summarized in Tables 3, 4, and 5 for gym, room, and air handler system coil cleanings, respectively.

Table 3
Examples of Gym Cleaning Services and Related Payments
July 2016 Through April 2018

Services at: ^a	Company 1		
	Number of Locations	Number of Hours	Total Payments ^b
Specialized Schools	3	2,540	\$127,000
Elementary School	1	450	22,500
Middle Schools	3	2,820	141,000
High Schools	8	7,366	368,300
Totals	<u>15</u>	<u>13,176</u>	<u>\$658,800</u>

^a Company 2 did not provide gym cleaning services.

^b Payments based on the \$50 per-hour billed rate.

Source: District Records.

Table 4
Examples of Room Cleaning Services and Related Payments
July 2016 Through April 2018

Services at:	Company 1			Company 2		
	Number of Locations	Number of Hours	Total Payments ^a	Number of Locations	Number of Hours	Total Payments ^b
Administrative Sites	2	47	\$ 2,350	-	-	-
Specialized Schools	6	1,214	60,700	1	67	3,015
Elementary Schools	28	6,909	345,450	7	304	13,680
Middle Schools	11	1,683	84,150	1	45	2,025
High Schools	9	3,884	194,200	4	156	7,020
Totals	<u>56</u>	<u>13,737</u>	<u>\$686,850</u>	<u>13</u>	<u>572</u>	<u>\$25,740</u>

^a Payments to Company 1 based on the \$50 per-hour billed rate.

^b Payments to Company 2 based on the \$45 per-hour billed rate.

Source: District Records.

Table 5
Examples of Air Handler System Coil Cleaning Services and Related Payments
July 2016 Through April 2018

Services at:	Company 1				Company 2			
	Number of Locations	Number of Units		Total Payments ^a	Number of Locations	Number of Units		Total Payments ^a
		> 10 Tons	< 10 Tons			> 10 Tons	< 10 Tons	
Administrative Site	1	-	16	\$ 4,400	-	-	-	\$ -
Specialized Schools	8	187	88	99,000	5	53	25	28,075
Elementary Schools	43	777	1,387	692,225	11	123	302	132,250
Middle Schools	8	343	427	254,625	4	55	81	44,275
High Schools	14	880	408	464,200	1	14	-	5,600
Totals	<u>74</u>	<u>2,187</u>	<u>2,326</u>	<u>\$1,514,450</u>	<u>21</u>	<u>245</u>	<u>408</u>	<u>\$210,200</u>

^a Payments to both Company 1 and Company 2 based on the \$400 per-unit billed rate for units greater than 10 tons and the \$275 per-unit billed rate for units less than 10 tons.

Source: District Records.

According to District personnel, District supervisors and assistant supervisors monitor company staff work hours and work completed. However, although we requested, attendance sheets or other time records, such as sign-in and sign-out sheets, maintained or approved by District personnel were not provided to evidence satisfactory receipt of the services invoiced, as well as documented verification of the number of applicable air handler units serviced at each school and administrative site before payments totaling \$3,773,362 were made. Absent District-maintained time records to verify IAQ services rendered and documented verification of air handler units serviced, the District has little assurance that IAQ services were performed as required.

- For Category B general cleaning services (e.g., wiping down surfaces, applying mold and mildew remover and odor neutralizer, and janitorial services), the District was billed by and paid a total of \$2,911,256 to Company 1 based on a negotiated rate of \$50 per hour for mold remediation, instead of the negotiated rate of \$45 per hour for room cleaning all surfaces. In response to our inquiries, District personnel indicated that they matched the services listed on each invoice to the appropriate negotiated contract rates for Company 1. However, although we requested, District records were not provided to evidence the matching process performed by District personnel or the existence of mold and the subsequent mold remediation results to justify paying the \$50 per-hour rate for mold remediation rather than the \$45 per-hour rate for room cleaning services. As such, District records did not evidence the basis for questioned costs totaling \$291,126 that were paid to Company 1.
- For Category A professional consulting fees and various lab samples and analyses, the District paid a total of \$126,236 to Company 2 based on invoiced per-unit amounts. In response to our inquiry, the District IAQ Supervisor indicated that he reviewed the lab sample test results and analyses provided by Company 2, maintained copies of the lab results on his work computer, and that Company 2 also maintained copies of the lab results. District management also indicated that District supervisors and assistant supervisors check projects daily to monitor company staff work hours and related work completed at the project sites. However, although we requested, documentation, such as lab test results to support the per-unit rates invoiced and records identifying the specific project staff who provided the services and their professional qualifications, was not provided to support the Category A amounts invoiced by Company 2.

Absent documentation to evidence effective IAQ service contracting and payment monitoring procedures, there is an increased risk that the services may not serve a public purpose, the services may not be

received consistent with the Board's expectations, the occurrence of any fraud or errors may not be timely detected and resolved, and any related overpayments may not be timely recovered.

Recommendation: The District should document the public purpose served for the IAQ services and related payments. Such documentation should include evaluations of the necessity for the services by qualified personnel unaffiliated with the IAQ service provider procurement and payment processes. The District should also enhance service contracting and payment monitoring procedures to require and ensure that District records be maintained to demonstrate that:

- The District evaluates why services are necessary before contacting service providers and contracting for the services.
- The District considered, through preparation of a cost-benefit analysis, whether it would be more cost-effective to separately contract for emergency services instead of contracting with one service provider for both emergency services and services that do not require immediate attention.
- Personnel who perform the services possess the contract-required license and certificate qualifications.
- The services are performed by the most qualified service provider.
- Negotiated contract rates were reasonable and appropriate for the services and that, prior to payment for the services, District personnel verified that the services were satisfactorily received and performed consistent with the Board-approved contracts.

In addition, the District should require and ensure future contracts contain maximum contract amounts for services. Furthermore, the District should either document to the Florida Department of Education the allowability of the questioned costs totaling \$291,126 for general cleaning services or seek reimbursement from Company 1 for these costs.

Follow-Up to Management's Response

Management indicated in the written response that the demand for IAQ services has existed continuously for years and that the District created documentation that evidenced the need for the services. Management also indicated that the contractors who performed the services possessed the certifications to perform the services and that it was unnecessary for contractors to submit time sheets to justify the work performed. Management further stated that it would have been an ineffective use of taxpayer dollars to publish, negotiate, award and administer separate contracts for emergency and non-emergency services, due to response time requirements that varied minimally.

Notwithstanding this response, although we requested, District records were not provided to demonstrate the continuous need for IAQ services, that the services were always performed by personnel who possessed the required qualifications, or the satisfactory receipt of the services invoiced. Our finding does not suggest that contractors submit time sheets to justify the work performed, rather, the finding indicates that District-maintained time records could provide a means to verify the veracity of the IAQ service hours billed. District records also did not demonstrate that it would be more cost-effective to separately contract with a company within Lee County for emergency IAQ services and contract with a company outside Lee County for other IAQ services. Given the \$5.9 million paid by the District for IAQ services, we continue to believe that a cost-benefit analysis would have provided useful information to the Board in approving the procurement of IAQ services. Consequently, our recommendation stands as presented.

Finding 4: Monitoring of Construction Management Entity Pay Requests

Under the construction management entity (CME) process, contractor profit and overhead are contractually agreed upon, and the CME is responsible for all scheduling and coordination in both the design and construction phases and is generally responsible for the successful, timely, and economical completion of the construction project. The CME may be required to offer a guaranteed maximum price (GMP), which allows for the difference between the actual cost of the project and the GMP amount, or the net cost savings, to be returned to the District. To ensure potential savings in material and labor costs and prevent cost overruns or other impediments to successful completion of GMP contracts, it is important that District personnel verify and ensure that CME pay requests agree with supporting documentation such as subcontractor bids, contracts, and invoices.

During the period July 2014 through June 2017, the District had two major construction projects, the Dunbar High School Remodel (DHSR) and the Bonita Springs High School (BSHS) Projects. The DHSR Project had a total GMP contract price of \$23.7 million and the CME completed the project during that period and the BSHS Project had a total GMP contract price of \$40.7 million and was in progress at June 30, 2017. To evaluate District monitoring controls over CME pay requests, we inquired of District personnel and requested for examination District records supporting selected expenditures totaling \$2.7 million for the DHSR Project, including \$1.4 million paid to the CME for subcontractor services, and selected expenditures totaling \$9.2 million for the BSHS Project, including \$8.2 million paid to the CME for subcontractor services.

In response to our inquiries, District personnel indicated that, upon receipt of a CME pay request, District personnel compared cost lines on the CME pay request schedule of values to subcontractor invoices, verified the mathematical accuracy of the request, and also verified that prior payments were properly accumulated. In addition, the Board contracted with a certified public accounting (CPA) firm to audit the propriety of payments to the CMEs by comparing the CME pay requests to subcontractor contracts after the projects are completed. However, neither District personnel nor the CPA firm compared, before the projects were completed, applicable amounts billed in the CME pay requests to the subcontractor bids and contracts. Also, since the CPA firm services were to be provided after the projects were completed and payments made to the CMEs, the District's ability to recover any overpayment amounts may be limited. Additionally, as further discussed in Finding 7, District records did not evidence comparisons of general conditions costs billed in the CME pay requests to appropriate supporting documentation.

As part of our procedures, we compared the CME services portion of the CME pay requests totaling \$1.3 million for the DHSR Project and \$1 million for the BSHS Project to the respective GMP contract amount. In addition, as noted in Finding 5, the District requested and obtained from the CME certain subcontractor bids and contracts supporting subcontractor services. Our review disclosed that the selected CME pay requests were consistent with available subcontractor bids and contracts; however, our procedures cannot substitute for the District's responsibility to properly monitor CME pay requests.

Absent a documented comparison of each line in the schedule of values for each CME pay request to supporting documentation, there is an increased risk that the District may overpay for services and may not realize maximum cost savings under GMP contracts.

Recommendation: The District should enhance procedures for monitoring CME pay requests to include a documented comparison of the cost items in the CME pay requests to supporting documentation, including, as applicable, subcontractor bids and contracts, before payment is made to the CME.

Follow-Up to Management’s Response

Management indicated in the written response that “pursuant to Section 255.078, Florida Statutes, the District retains a minimum of 5% of the construction contract amount until after the project is completed and audited by an external CPA firm and Board approval for the final retainage to be paid to the construction manager.” Notwithstanding the assurances provided by the CPA firm audit and retainage withheld, the point of our finding is that, prior to payment, CME pay requests were not compared to the subcontractor bids and contracts, increasing the risk for overpayments and that maximum cost savings may not be realized.

Finding 5: Subcontractor Selection

The GMP construction contract for the DHSR and BSHS Projects required the CME to solicit bids and award subcontracts, as necessary. In addition, good business practices dictate that District personnel monitor the subcontractor selection process to ensure services are obtained at the lowest cost consistent with acceptable quality and to realize maximum cost savings under the GMP contract.

According to District personnel, District procedures included attendance at the subcontractor bid openings for these two projects; however, although we requested, District records, such as copies of the bid tabulation sheets or other records, were not provided to demonstrate District personnel attendance at the bid openings. In addition, the District did not maintain copies of the subcontractor bids to verify that the bid award and contract amounts agreed.

From the population of 51 subcontractors who provided services totaling \$7.9 million for the DHSR Project and 5 subcontractors who provided services totaling \$8.2 million for the BSHS Project, we requested for examination subcontractor contracts for 19 selected DHSR Project subcontractors totaling \$1.4 million and the 5 BSHS Project subcontractors. District personnel obtained the contracts for 9 subcontractors from the CME and we compared the bid awards listed on the bid tabulation sheets to those contracts and confirmed that the subcontractors were competitively selected and that the bid award and contract amounts agreed. However, the District did not obtain the other 15 subcontractor contracts totaling \$1.2 million and no other records were provided to evidence that the contracts agreed with the bid awards listed on the bid tabulation sheets.

District personnel’s documented attendance at subcontractor bid openings demonstrates District efforts to ensure bids are properly solicited and awarded and that the subcontractors selected by the CME are the best choice and value for the District project. Without documented comparisons of bid awards to subcontractor contracts, the risk increases that subcontractor services may not be obtained at the lowest cost consistent with acceptable quality and the District may not realize maximum cost savings under a GMP contract.

Recommendation: The District should require that District personnel maintain documentation to demonstrate their attendance at all subcontractor bid openings. Additionally, the District should enhance procedures to include a documented comparison of subcontractor bid awards

to subcontractor contracts to verify that the CMEs used a competitive selection process to select subcontractors and that the bid award and contract amounts agree.

Finding 6: Subcontractor Licenses

State law¹¹ provides that a CME must consist of, or contract with, licensed or registered professionals for the specific fields or areas of construction to be performed. State law¹² also establishes certain certification requirements for persons engaged in construction contracting, including licensing requirements for specialty contractors such as electrical, air conditioning, plumbing, and roofing contractors.

District personnel indicated that they did not verify that the subcontractors for the DHSR and BSHS Projects were licensed but, instead, relied on the respective CMEs to verify the subcontractors' licenses. As part of our procedures to determine whether the subcontractors were appropriately licensed for these two projects, we selected 24 subcontractors required to be licensed from the 56 subcontractors engaged by the CMEs and verified through online licensing searches that the subcontractors were properly licensed. However, our procedures do not substitute for the District's responsibility to implement adequate internal controls over subcontractor services.

Timely documented verification that subcontractors are appropriately licensed provides the District additional assurance that the subcontractors who will be working on District facilities meet the qualifications necessary to perform the work for which they are engaged.

Recommendation: The District should maintain documentation to demonstrate the verification of subcontractor licenses before the subcontractors commence work on District facilities.

Finding 7: General Conditions Costs

GMP contracts typically include provisions for general conditions costs that are not directly associated with a particular activity and may include costs relating to labor supervision, temporary offices and utilities, travel expenses, clean-up, permits, and testing. Established policies and procedures that provide appropriate guidance for effectively negotiating, monitoring, and documenting the reasonableness of general conditions costs are essential to ensure that potential cost savings are realized under GMP contracts. For contracts that include general conditions costs, appropriate policies and procedures include, for example:

- Comparing proposed general conditions costs to those of similar projects, including similar projects at other school districts.
- Negotiating with the CME to determine a reasonable amount for total budgeted general conditions costs.
- Verifying that the general conditions costs are supported by detailed documentation, such as CME payroll records and CME-paid invoices, and confirming that the costs comply with the CME GMP contract.

¹¹ Section 1013.45(1)(c), Florida Statutes.

¹² Chapter 489, Florida Statutes.

While the BSHS Project contract did not contain any general conditions cost provisions, the DHSR Project contract amendments included provisions for general conditions costs totaling \$1.4 million and CME pay requests referenced these costs as they were incurred. However, the District had not established policies or procedures for effectively negotiating, monitoring, and documenting the reasonableness of the general conditions costs. Additionally, District records did not document the methodology used and factors considered during the negotiation process to establish the reasonableness of the DHSR Project's general conditions costs and detailed documentation, such as CME payroll records or copies of CME-paid invoices, was not obtained by the District to support the propriety of the general conditions costs billed and paid.

As part of our audit, we requested for examination District records supporting 4 payments to the DHSR Project CME for the general conditions costs. In response to our request, District personnel stated that the CME is paid a flat percentage, or all-inclusive fee based on the GMP, which allows the CME to allocate the composition of the fee as a percentage of square footage. However, neither CME personnel time sheets, CME invoices, or other records were provided to support these costs and District personnel could not explain how the general conditions cost amounts were calculated.

Absent appropriate policies and procedures, the District may be limited in its ability to monitor the reasonableness of general conditions costs and to determine the propriety of pay requests for general conditions costs or to realize cost savings associated with general conditions costs in GMP contracts.

Recommendation: The District should establish policies and procedures for negotiating, monitoring, and documenting the reasonableness of CME general conditions costs. Such policies and procedures should require documentation of the methodology used and factors considered in negotiating general conditions costs, and the receipt and review of sufficiently detailed documentation supporting the general conditions costs included in CME pay requests.

Finding 8: School Volunteers

State law¹³ requires the District, before making any decision to appoint a person to work as a volunteer where children regularly congregate, to conduct a search of that person's name or other identifying information against the registration information regarding sexual predators and sexual offenders through the Dru Sjodin National Sexual Offender Public Website (NSOPW) maintained by the United States Department of Justice. If that site is not available, a search of the registration information regarding sexual predators and sexual offenders (i.e., Florida Sexual Offenders and Predators Database) maintained by the Florida Department of Law Enforcement (FDLE) is required.

Board policies¹⁴ require each prospective volunteer to complete a school volunteer application form and the form is to be filed at the respective school. According to District personnel, a designated employee at each school conducts a search of the applicant's name against the registration information through the NSOPW or the FDLE Florida Sexual Offenders and Predators Database and indicates completion of the search on the form. However, District procedures did not require supervisory review and approval of the forms or independent verification of the school volunteer approval process at the District level to ensure

¹³ Section 943.04351, Florida Statutes.

¹⁴ Board Policy 5.04, *Fingerprinting and Background Screening*.

that the forms were properly completed, verified to the applicable registration information, and retained at the schools.

To determine whether District schools documented appropriate background searches for volunteers, we inquired of District personnel and requested for examination District records supporting 30 selected volunteers from the population of 5,546 school volunteers during the 2016-17 fiscal year. School volunteer application forms were provided for 21 volunteers; however, the forms, or other records to evidence the performance of appropriate searches of volunteer names and information, were not provided for 9 volunteers at the Tice Elementary School. In response to our inquiries regarding records of background searches for these 9 volunteers, District personnel indicated that the school volunteer application forms should have been completed but that the forms could not be located.

As part of our audit, we extended our procedures and determined that none of the 9 selected volunteers were listed as a sexual predator or sexual offender in the NSOPW. However, our procedures cannot substitute for management's responsibility to ensure, and document, that District schools perform the appropriate searches of volunteer names and information in accordance with State law. Absent effective controls to evidence that searches of volunteer names and information are timely and appropriately performed by District school personnel, the District has limited assurance that only volunteers with suitable backgrounds have direct contact with students and the District cannot demonstrate compliance with State law.

Recommendation: The District should ensure that searches of prospective school volunteer names and information are performed against the applicable registration information regarding sexual predators and sexual offenders and that records of such searches are retained. Such efforts should include supervisory review and approval of the forms or independent verification of the school volunteer approval process at the District level.

Finding 9: Payroll Processing – Time Records

Effective internal controls require supervisory review of time worked and leave used by employees to ensure that compensation payments are appropriate and leave balances are accurate. The District pays noninstructional employees (e.g., educational support personnel, administrative and professional employees)¹⁵ on a payroll-by-exception basis whereby the employees are paid on a fixed authorized gross amount for each payroll cycle unless the amount is altered. A payroll-by-exception methodology assumes, absent any payroll action to the contrary, that an employee worked or used available accumulated leave for the required number of hours in the pay period.

During the 2016-17 fiscal year, the District reported salary costs totaling \$178.8 million for 5,443 noninstructional employees. According to District personnel, noninstructional employees are required to record leave used in the leave management system for supervisory approval; however, these employees do not report time worked and neither District electronic nor hard copy records evidenced supervisory review and approval of time worked by these employees.

¹⁵ Administrative personnel include, for example, principals, assistant principals, executive directors, and directors and professional employees include, for example, coordinators, managers, specialists, and supervisors.

In response to our inquiry, District personnel indicated that the Fair Labor Standards Act did not require noninstructional employees to complete a time sheet. Notwithstanding the lack of a Federal requirement, without evidence of documented supervisory review and approval of noninstructional employee time worked, there is limited assurance that the employee services were provided consistent with Board expectations. In addition, without accurate records of supervisory review, there is an increased risk that employees may be incorrectly compensated, employee leave balances may not be accurate, and District records may not be sufficiently detailed in the event of a salary or leave dispute.

Recommendation: The District should establish a mechanism for noninstructional employees to report time worked and also implement procedures requiring supervisors to document the review and approval of such time.

Follow-Up to Management's Response

Management indicated in the written response that noninstructional personnel are required to use the LeeClock electronic sign in/out application. Management also indicated that employee performance is measured by supervisor review of performance and employee output, on a regular basis. Notwithstanding this response, given the District's responsibility to monitor noninstructional employee services and the significant costs totaling \$178.8 million associated with these services for the 2016-17 fiscal year, records of attendance and time worked by these employees, reviewed and approved by applicable supervisors, provide additional assurances that the services provided by the employees and compensated by the District were consistent with Board expectations.

Finding 10: Florida Best and Brightest Teacher Scholarship Program

The Florida Legislature established the Florida Best and Brightest Teacher Scholarship Program (Program)¹⁶ to reward teachers who achieved high academic standards during their own education. Pursuant to State law, to be eligible for a scholarship, a teacher must have scored at or above the 80th percentile on a college entrance examination based on the national percentile ranks in effect when the teacher took the assessment and have been evaluated as highly effective pursuant to State law¹⁷ in the school year immediately preceding the year in which the scholarship will be awarded, or if the teacher is a first-year teacher who has not been evaluated pursuant to State law, must have scored at or above the 80th percentile on a college entrance examination based on the national percentile ranks in effect when the teacher took the assessment.

To demonstrate eligibility for a scholarship award for District school teachers, District procedures required teachers to submit to the District an official record of his or her college entrance examination score demonstrating that the teacher scored at or above the 80th percentile based on the national percentile ranks in effect when the teacher took the assessment. Pursuant to State law,¹⁸ once a classroom teacher is deemed eligible by the District, the teacher shall remain eligible as long as he or she remains employed by the District as a classroom teacher at the time of the award and receives an annual performance evaluation rating of highly effective. In addition, according to District personnel, charter schools were

¹⁶ Section 1012.731, Florida Statutes.

¹⁷ Section 1012.34, Florida Statutes.

¹⁸ Section 1012.731(3)(b), Florida Statutes.

required to submit to the District a list of teacher names who were determined to be eligible for the scholarship. However, the District had not established procedures to verify that scholarships were only awarded to charter school classroom teachers who provided official documentation of college entrance examination scores at or above the 80th percentile and were evaluated as highly effective based, in part, on student performance.

District personnel are responsible for determining teacher eligibility for scholarship awards and annually submitting the number of eligible teachers to the Florida Department of Education (FDOE). The FDOE disburses scholarship funds to the District for each eligible classroom teacher to receive a scholarship as provided in the applicable General Appropriations Act.

During the 2016-17 fiscal year, the District awarded Program scholarships totaling \$1.1 million for 163 recipients including 147 recipients employed by the District and 16 recipients employed by charter schools. To determine whether the recipients met the eligibility requirements for the scholarships, we requested for examination District records supporting 30 scholarship awards (28 awards to recipients employed by the District and 2 awards to recipients employed by charter schools) totaling \$204,507. We found that:

- 3 District school scholarship recipients received awards totaling \$20,451 based on a temporary examination report from the examination provider, an unofficial score report from the examination provider's Web site, and an unofficial score obtained from a computer screen printout of test scores from the teacher's college, respectively. In response to our inquiry, District personnel indicated that no official examination score reports were on file for the 3 scholarship recipients and 1 of the recipients had also received the scholarship in the prior year. As of January 2018, District personnel had only independently corroborated 1 of the 3 recipients' examination scores with an official score report.
- 2 charter school scholarship recipients received awards totaling \$13,634. Since the District had not established procedures for verifying the eligibility of charter school scholarship recipients, we requested for examination, and the District obtained from the charter schools, documentation that confirmed the 2 charter school classroom teachers scored at or above the 80th percentile on college entrance examinations and were evaluated as highly effective based, in part, on student performance for the 2015-16 fiscal year. However, our procedures do not substitute for the District's responsibility to establish adequate monitoring controls over scholarship recipient eligibility.

Absent effective procedures to limit Program scholarships to District and charter school classroom teachers, as defined in State law, with qualifying college entrance examination scores and highly effective evaluations based, in part, on student performance, there is an increased risk that scholarships will be awarded to ineligible recipients.

Recommendation: The District should enhance procedures to ensure that Program scholarships are awarded to eligible recipients based on qualifying college entrance examination scores reported on reliable and authentic records and highly effective evaluations based, in part, on student performance. Such procedures should include documented verifications of the eligibility of charter school scholarship recipients.

Follow-Up to Management's Response

Management indicated in the written response that "with respect to charter schools, the District does not have access to charter school employee records." However, as the sponsor of the District charter

schools, the District is responsible for monitoring the schools and is not prohibited from requesting and obtaining records to substantiate the eligibility of charter school scholarship recipients. Accordingly, we continue to recommend that the District enhance procedures to ensure that Program scholarships are awarded to eligible recipients.

Finding 11: School Resource Officer Services

Effective contract management ensures that contract provisions establish required services and related service times and compensation for contractual services and that services are satisfactorily received before payment. The Board routinely enters into contracts for services, and internal controls have been designed and implemented that generally ensure payments are consistent with contract terms and conditions.

The District paid \$14 million for contractual services for the period July 1, 2016, through March 22, 2017, and, to determine the propriety of these payments, we examined District records supporting 30 selected payments totaling \$1.2 million related to 30 contracts. One of the selected payments was a \$207,454 payment to the Lee County Sheriff's Office (LCSO) for school resource officer (SRO) services and we expanded our procedures to evaluate District controls for monitoring these services and the related payments.

Pursuant to State law,¹⁹ the Board entered into a \$2.2 million fixed-price contract with the LCSO for SRO services at 46 District schools for the period August 3, 2016, through August 2, 2017. The contract identified the SROs' daily work locations, the hours that the schools are in regular session, and that SRO workdays would correspond with teacher regular workdays. The District paid the contract amount to the LCSO for the contract period based on LCSO invoices. However, District procedures had not been established to require and ensure that school personnel with direct knowledge of the SRO services confirmed receipt of the services set forth in the contract. In response to our inquiries, District personnel indicated that they relied on the LCSO to maintain time records to demonstrate the work efforts of these individuals.

Absent effective procedures requiring, prior to payment, documented confirmation that SRO services were satisfactorily received and complied with the contract provisions, there is an increased risk that overpayments may occur or that the services provided may not be consistent with Board expectations.

Recommendation: The District should establish procedures requiring, prior to payment for services, documented confirmation that SRO services were satisfactorily received and complied with the contract provisions.

Follow-Up to Management's Response

Management stated in the written response that "if there is a responsibility for validating number of hours worked by individual Sheriff staff members, the responsibility would be incumbent on the Lee County Sheriff's Office, not the District." However, the point of our finding is that, since the District paid for the SRO services, it is incumbent on District personnel to document confirmation that the services were

¹⁹ Section 1006.12, Florida Statutes.

received. Without documented confirmation, there is an increased risk that overpayments may occur or that the SRO services may not be satisfactorily received.

Finding 12: Purchasing Cards

The District administers a purchasing card (P-card) program which gives employees the convenience of purchasing items without using the standard purchase order process and expedites low dollar purchases of goods and services. P-card purchases are subject to Board policies and District procedures including the *Lee County Public Schools Purchasing Card Program Policy and Procedure Guide (P-Card Manual)*. According to the *P-Card Manual*, the Finance Department is responsible for administration of the P-card program.

The District *P-Card Manual* requires an employee authorization statement to be signed by the individual cardholder and the principal or department head, establishes requirements for handling the cards of individuals who separate from District employment, limits transactions without approval to \$999.99, and prohibits split transactions to circumvent the P-card single transaction limits. District procedures also require the principal or department head to assign an employee to review and approve P-card purchases.

During the 2016-17 fiscal year, P-card expenditures totaled \$2.7 million and, at June 30, 2017, 531 P-cards were in use. To determine the propriety of P-card expenditures, we examined District records supporting 30 selected P-card expenditures totaling \$87,175. We found that 4 purchases totaling \$10,369 were split into separate transactions to apparently circumvent the single transaction limit. Specifically, we found that District personnel split a:

- \$6,880 transaction into a P-card expenditure of \$886 and 6 P-card expenditures of \$999 each for hotel lodging in October 2016 for several teachers to attend the 2016 Florida Association of Christian Colleges and Schools Conference.
- \$1,290 transaction into two P-card expenditures of \$645 each in January 2017 for science fair lapel pin awards to participating students.
- \$1,150 transaction into P-card expenditures of \$950 and \$200 to pay for office supplies in August 2016.
- \$1,049 transaction into P-card expenditures of \$999 and \$50 for conference fees for a teacher to attend the 2017 Future of Education Technology Conference in January 2017.

In response to our inquiries, District personnel agreed that the office supplies, conference fees, and awards transactions were split transactions that violated District P-card policies and should not have been approved. However, District personnel disagreed that the hotel lodging was a split transaction and stated that the \$999.99 transaction limit was primarily intended to prevent capital assets from being purchased. Notwithstanding this response, the *P-Card Manual* did not provide exemptions from the single transaction limits.

P-card purchases to the same vendor within a short time period that collectively exceed the single transaction limit are indicative of split transactions to circumvent the intent for establishing the transaction limits. Without the effective review of P-card purchases prior to approval, there is an increased risk that unauthorized P-card use or purchases in excess of authorized amounts will occur. A similar finding was noted in our report No. 2015-069.

Recommendation: The District should enhance procedures for the supervisory review and approval of P-card purchases to ensure that P-card program policies and procedures, including those prohibiting split transactions, are adhered to by cardholders.

Finding 13: Information Technology – Risk Assessment

Management of information technology (IT) related risks is a key part of enterprise IT governance. Incorporating an enterprise perspective into day-to-day governance actions helps an entity understand its greatest security risk exposures and determine whether planned controls are appropriate and adequate to secure IT resources from unauthorized disclosure, modification, or destruction. IT risk assessment, including the identification of risks, the evaluation of the likelihood of threats, and the severity of threat impact, helps support management’s decisions in establishing cost-effective measures to mitigate risk and, where appropriate, formally accept residual risk.

According to District personnel, although the District informally considered external and internal risks based on various tests and reviews conducted within selected departments and identified security controls such as selected configuration settings to mitigate these risks, the District had not developed a comprehensive, written IT risk assessment due to lack of time and resources. A comprehensive, written IT risk assessment would consider, in addition to the informal risk assessments, threats and vulnerabilities at the Districtwide, system, and application levels and document the range of risks that the District systems and data may be subject to, including those posed by internal and external users. The District’s Information Systems Department formed an Information Security and Assurance team under the direction of a new Chief Information Officer to address IT-related risks.

The absence of a comprehensive, written IT risk assessment may lessen the District’s assurance that all likely threats and vulnerabilities have been identified, the most significant risks have been addressed, and appropriate decisions have been made regarding which risks to accept and which risks to mitigate through security controls. Similar findings were noted in our report Nos. 2015-069 and 2012-063.

Recommendation: The District should develop a comprehensive, written IT risk assessment to provide a documented basis for managing IT-related risks.

Finding 14: Information Technology – User Access Privileges

The Legislature has recognized in State law²⁰ that social security numbers (SSNs) can be used to acquire sensitive personal information, the release of which could result in fraud against individuals or cause other financial or personal harm. Therefore, public entities are required to provide extra care in maintaining such information to ensure its confidential status. Effective controls restrict employees from accessing information unnecessary for their assigned job responsibilities and provide for periodic reviews of IT access privileges to help prevent personnel from accessing sensitive personal information inconsistent with their responsibilities.

²⁰ Section 119.071(5)(a), Florida Statutes.

Pursuant to State law,²¹ the District identified each student using a Florida education identification number assigned by the FDOE. However, student SSNs are included in the student records maintained within the District management information system (MIS). Student SSNs are maintained in the District MIS to, for example, register newly enrolled students and transmit that information to the FDOE through a secure-file procedure and provide student transcripts to colleges, universities, and potential employers based on student-authorized requests. Board policies²² allow designated District school personnel access to student records to perform administrative, supervisory, or instructional responsibilities that serve a legitimate educational purpose in accordance with applicable State law, State Board of Education rules, and Federal laws and District employees are required to certify that they will comply with these requirements. However, as of October 2017, District personnel indicated that periodic reviews of IT user access privileges to student information had not been performed to help monitor these privileges.

As of October 2017, the District MIS contained SSNs for 221,095 former and 54,979 current District students and 1,100 District employees had access to the student SSNs. As part of our audit, we examined District records supporting 30 selected employees' IT user access privileges to former and current student SSNs. We found that 24 employees, including teachers, support staff, and administrators, did not have a demonstrated need for such access. In addition, according to District personnel, the MIS did not have a mechanism to differentiate access privileges to current student information from access privileges to former student information and the employees who had access to both current and former student information did not always have a demonstrated need for such access.

Subsequent to our inquiry, in December 2017 the District performed and documented a review of IT user access privileges and removed the 24 employees' access privileges to student SSNs. The existence of unnecessary access privileges and the lack of documented, periodic reviews of IT user access privileges increase the risk of unauthorized disclosure of student SSNs and the possibility that sensitive personal information may be used to commit a fraud against District students or others.

Recommendation: The District should ensure that only those employees who have a demonstrated need to access student SSNs have such access. Such efforts should include documented, periodic reviews of IT user access privileges to determine whether such privileges are necessary and ensure the timely removal of any inappropriate or unnecessary access privileges detected.

Finding 15: Information Technology – Security Controls – User Authentication, Data Loss Prevention, and Logging and Monitoring of System Activity

Security controls are intended to protect the confidentiality, integrity, and availability of data and IT resources. Our audit disclosed that certain District security controls related to user authentication, data loss prevention, and logging and monitoring of system activity need improvement. We are not disclosing specific details of the issues in this report to avoid the possibility of compromising District data and IT resources. However, we have notified appropriate District management of the specific issues.

²¹ Section 1008.386, Florida Statutes.

²² Board Policy 4.19, *Student Records*.

Without adequate security controls related to user authentication, data loss prevention, and logging and monitoring of system activity, the risk is increased that the confidentiality, integrity, and availability of District data and IT resources may be compromised. Similar findings related to user authentication and data loss prevention were communicated to District management in connection with our report Nos. 2015-069 and 2012-063.

Recommendation: The District should improve IT security controls related to user authentication, data loss prevention, and logging and monitoring of system activity to ensure the continued confidentiality, integrity, and availability of District data and IT resources.

PRIOR AUDIT FOLLOW-UP

Except as noted in Findings 2, 12, 13, and 15 and shown in Table 1, the District had taken corrective actions for findings included in our report No. 2015-069.

**Table 1
Findings Also Noted in Previous Audit Reports**

Finding	2013-14 Fiscal Year	2010-11 Fiscal Year
	Operational Audit Report No. 2015-069, Finding	Operational Audit Report No. 2012-063, Finding
2	4	1
12	2	Not Applicable
13	10	12
15	13	11

OBJECTIVES, SCOPE, AND METHODOLOGY

The Auditor General conducts operational audits of governmental entities to provide the Legislature, Florida’s citizens, public entity management, and other stakeholders unbiased, timely, and relevant information for use in promoting government accountability and stewardship and improving government operations.

We conducted this operational audit from February 2017 to December 2017 in accordance with generally accepted government auditing standards. Those standards require that we plan and perform the audit to obtain sufficient, appropriate evidence to provide a reasonable basis for our findings and conclusions based on our audit objectives. We believe that the evidence obtained provides a reasonable basis for our findings and conclusions based on our audit objectives.

The objectives of this operational audit were to:

- Evaluate management’s performance in establishing and maintaining internal controls, including controls designed to prevent and detect fraud, waste, and abuse, and in administering assigned responsibilities in accordance with applicable laws, rules, regulations, contracts, grant agreements, and other guidelines.
- Examine internal controls designed and placed in operation to promote and encourage the achievement of management’s control objectives in the categories of compliance, economic and efficient operations, reliability of records and reports, and safeguarding of assets, and identify weaknesses in those controls.

- Determine whether management had taken corrective actions for findings included in our report No. 2015-069.
- Identify statutory and fiscal changes that may be recommended to the Legislature pursuant to Section 11.45(7)(h), Florida Statutes.

This audit was designed to identify, for those programs, activities, or functions included within the scope of the audit, weaknesses in management's internal controls, instances of noncompliance with applicable laws, rules, regulations, contracts, grant agreements, and other guidelines; and instances of inefficient or ineffective operational policies, procedures, or practices. The focus of this audit was to identify problems so that they may be corrected in such a way as to improve government accountability and efficiency and the stewardship of management. Professional judgment has been used in determining significance and audit risk and in selecting the particular transactions, legal compliance matters, records, and controls considered.

As described in more detail below, for those programs, activities, and functions included within the scope of our audit, our audit work included, but was not limited to, communicating to management and those charged with governance the scope, objectives, timing, overall methodology, and reporting of our audit; obtaining an understanding of the program, activity, or function; exercising professional judgment in considering significance and audit risk in the design and execution of the research, interviews, tests, analyses, and other procedures included in the audit methodology; obtaining reasonable assurance of the overall sufficiency and appropriateness of the evidence gathered in support of our audit findings and conclusions; and reporting on the results of the audit as required by governing laws and auditing standards.

Our audit included transactions, as well as events and conditions, occurring during the 2016-17 fiscal year audit period, and selected District actions taken prior and subsequent thereto. Unless otherwise indicated in this report, these records and transactions were not selected with the intent of statistically projecting the results, although we have presented for perspective, where practicable, information concerning relevant population value or size and quantifications relative to the items selected for examination.

An audit by its nature does not include a review of all records and actions of management, staff, and vendors, and as a consequence, cannot be relied upon to identify all instances of noncompliance, fraud, waste, abuse, or inefficiency.

In conducting our audit, we:

- Evaluated District procedures for maintaining and reviewing employee access to IT resources. We examined selected user access privileges to the District enterprise resource planning (ERP) system finance and human resources (HR) applications to determine the appropriateness and necessity of the access based on employee job duties and user account functions and whether the access prevented the performance of incompatible duties. We also examined the administrator account access privileges granted and procedures for oversight of administrative accounts for the network and applications to determine whether these accounts had been appropriately assigned and managed. Specifically, we:
 - Tested the 5 roles that allowed update access privileges to selected critical ERP system finance application functions resulting in the review of the appropriateness of access privileges granted for 20 accounts.

- Tested the 8 roles that allowed update access privileges to selected critical ERP system HR application functions resulting in the review of the appropriateness of access privileges granted for 87 accounts.
- Reviewed District procedures to prohibit former employee access to electronic data files. We also reviewed selected user access privileges for 30 of the 768 employees who separated from District employment during the audit period to determine whether the access privileges had been timely deactivated.
- Evaluated District security policies and procedures governing the classification, management, and protection of sensitive and confidential information.
- Determined whether a comprehensive IT disaster recovery plan was in place, designed properly, operating effectively, and had been recently tested.
- Examined selected operating system, database, network, and application security settings to determine whether authentication controls were configured and enforced in accordance with IT best practices.
- Determined whether a comprehensive, written IT risk assessment had been developed to document the District's risk management and assessment processes and security controls intended to protect the confidentiality, integrity, and availability of data and IT resources.
- Evaluated District procedures and examined supporting documentation to determine whether audit logging and monitoring controls were configured in accordance with IT best practices.
- Evaluated the adequacy of District procedures related to security incident response and reporting.
- Examined Board, committee, and advisory board meeting minutes to determine whether Board approval was obtained for policies and procedures in effect during the audit period and for evidence of compliance with Sunshine Law requirements (i.e., proper notice of meetings, meetings readily accessible to the public, and properly maintained meeting minutes).
- Analyzed the District's General Fund total unassigned and assigned fund balances at June 30, 2017, to determine whether the total was less than 3 percent of the fund's projected revenues, as specified in Section 1011.051, Florida Statutes. We also performed analytical procedures to determine the ability of the District to make future debt service payments.
- From the population of expenditures totaling \$99.2 million and transfers totaling \$56 million during the audit period from nonvoted capital outlay tax levy proceeds, Public Education Capital Outlay funds, and other restricted capital project funds, examined documentation supporting selected expenditures totaling \$14.8 million and all transfers to determine compliance with the restrictions imposed on the use of these resources.
- Selected three expenditures totaling \$10,500 from the population of \$11 million total workforce education program funds expenditures for the audit period and examined supporting documentation to determine whether the District used the funds for authorized purposes (i.e., not used to support K-12 programs or District K-12 administrative costs).
- From the population of 511 industry certifications eligible for performance funding that were attained by students during the 2015-16 and 2016-17 fiscal years, examined 30 selected certifications to determine whether the District maintained documentation for student attainment of the industry certifications.
- From the population of 227,213 contact hours reported for 2,031 adult general education instructional students during the Fall 2016 Semester, examined District records supporting 3,246 reported contact hours for 30 selected students to determine whether the District reported the instructional contact hours in accordance with Florida Department of Education (FDOE) requirements.

- Evaluated District controls based on review of selected records to determine whether the District provided individuals with a written statement as to the purpose for collecting their social security numbers (SSNs). We also evaluated whether District controls appropriately secured and protected the confidentiality of the SSNs collected.
- Examined the District Web site to determine whether the 2016-17 fiscal year proposed, tentative, and official budgets were prominently posted pursuant to Section 1011.035(2), Florida Statutes.
- Examined District records to determine whether the District established an audit committee and followed prescribed procedures to contract for audit services pursuant to Section 218.391, Florida Statutes, for the 2014-15 and 2015-16 fiscal years.
- Examined supporting documentation to determine whether required internal funds audits for the 2016-17, 2015-16, and 2014-15 fiscal years were timely performed pursuant to SBE Rule 6A-1.087, Florida Administrative Code, and Chapter 8 – School Internal Funds, *Financial and Program Cost Accounting and Reporting for Florida Schools (Red Book)*, and whether the audit reports were presented to the Board.
- Examined District records supporting the payments totaling \$44,544 made during the audit period by the District to its direct-support organization to determine the legal authority of such transactions.
- Determined whether the Board established investment policies and procedures as required by Section 218.415, Florida Statutes, and whether District investments during the audit period complied with those policies and procedures.
- Evaluated severance pay provisions for the two employee contracts to determine whether the severance pay provisions complied with Section 215.425(4), Florida Statutes.
- From the population of compensation payments totaling \$469 million to 11,300 full-time employees during the audit period, examined District records supporting compensation payments totaling \$48,131 to 32 selected employees to determine the accuracy of the rate of pay and whether supervisory personnel reviewed and approved employee reports of time worked.
- From the population of 5,082 instructional personnel and 361 school administrators compensated a total of \$322 million during the audit period, examined supporting documentation for 11 selected employees who were paid a total of \$655,040 to determine whether the District had developed adequate performance assessment procedures for instructional personnel and school administrators based on student performance and other criteria in accordance with Section 1012.34(3), Florida Statutes, and determined whether a portion of each selected instructional employee's compensation was based on performance in accordance with Section 1012.22(1)(c)4., Florida Statutes.
- Examined District records related to 20 District employees and 10 contractor workers selected from the population of 13,736 full-time employees and 1,113 contractor workers during the audit period to assess whether District employees and contractor workers who had direct contact with students were subjected to the required fingerprinting and background screenings.
- Examined Board policies, District procedures, and related records for the audit period for school volunteers to determine whether the District searched prospective volunteers' names against the Dru Sjodin National Sexual Offender Public Web site maintained by the United States Department of Justice, as required by Section 943.04351, Florida Statutes.
- Examined District records supporting the eligibility of:
 - 28 selected District recipients of Florida Best and Brightest Teacher Scholarship Program awards from the population of 147 District teachers who received scholarship awards totaling \$1 million during the audit period.

- 2 selected charter school recipients of Florida Best and Brightest Teacher Scholarship Program awards from the population of 16 charter school teachers who received scholarship awards totaling \$109,071 during the audit period.
- Evaluated Board policies and District procedures to ensure health insurance was provided only to eligible employees, retirees, and dependents and that upon an employee's separation from District employment, insurance benefits were timely canceled as appropriate based on the District's policies. We also determined whether the District had procedures for reconciling health insurance costs to employee, retiree, and Board-approved contributions.
- From the population of 619 payments totaling \$72,730 paid to employees for other than travel and payroll payments from July 1, 2016, to April 6, 2017, examined documentation for 30 selected payments totaling \$16,728 to determine whether such payments were reasonable, adequately supported, for valid District purposes, and were not contrary to Section 112.313, Florida Statutes.
- Reviewed District procedures for bidding and purchasing health insurance to determine compliance with Section 112.08, Florida Statutes. We also reviewed procedures for the reasonableness of procedures for acquiring other types of commercial insurance to determine whether the basis for selecting insurance carriers was documented in District records and conformed to good business practices.
- Examined documentation for the two significant construction projects contracts (guaranteed maximum prices totaling \$64.4 million) with construction management entities (CMEs) to determine compliance with District policies and procedures and provisions of State laws and rules. Also, for these projects, we:
 - Examined District records to determine whether the CME was properly selected and the contracts contained the required provisions.
 - Reviewed District procedures for monitoring subcontractor selection and licensure, and examined records to determine whether subcontractors were properly selected and licensed.
 - Examined District records to determine whether the architects were properly selected and adequately insured.
 - Determined whether the District established policies and procedures addressing negotiation and monitoring of general conditions costs.
 - Requested for examination District records supporting two payments to CMEs totaling \$11.9 million to determine whether District procedures for monitoring payments were adequate and payments were sufficiently supported.
 - Examined District records to determine whether projects progressed as planned and were cost effective and consistent with established benchmarks, and whether District records supported that the contractors performed as expected.
- Examined District records to determine the number of issued take-home electronic devices that have the ability to access the Internet and reviewed District policies and procedures to limit students' access to inappropriate Web sites.
- From the population of purchasing card (P-card) transactions totaling \$2.7 million during the audit period, examined documentation supporting 30 selected transactions totaling \$87,175 to determine whether P-cards were administered in accordance with Board policies and District procedures. We also determined whether the District timely canceled the P-cards for the 15 cardholders who separated from District employment during the audit period.
- Evaluated the sufficiency of District procedures to determine whether District charter schools and charter technical career centers were required to be subjected to an expedited review pursuant to Section 1002.345, Florida Statutes.

- Examined District records and evaluated construction planning processes for the audit period to determine whether processes were comprehensive, included consideration of restricted resources and other alternatives to ensure the most economical and effective approach, and met District short-term and long-term needs.
- Determined whether expenditures were reasonable, correctly recorded, adequately documented, for a valid District purpose, properly authorized and approved, and in compliance with applicable State laws, rules, contract terms and Board policies; and applicable vendors were properly selected. From the population of expenditures totaling \$90.8 million from July 2016 through December 2016, we examined documentation relating to 30 selected payments for general expenditures totaling \$342,391.
- From the population of 417 consultant contracts totaling \$14 million during the audit period, examined supporting documentation, including the contract documents, for 30 selected payments totaling \$1.2 million related to 30 contracts to determine whether:
 - The District selected applicable consultants pursuant to competitive selection requirements.
 - The contracts clearly specified deliverables, time frames, documentation requirements, and compensation.
 - District records documented satisfactory receipt of deliverables before payments were made.
 - The payments complied with contract provisions.
- Determined whether the District used supplemental academic instruction and research-based reading instruction allocations to provide, to the applicable schools, pursuant to Section 1011.62(9), Florida Statutes, an additional hour of intensive reading instruction to students every day, schoolwide during the audit period. Also, we reviewed the District records to determine whether the District appropriately reported to the FDOE, pursuant to the 2016 General Appropriations Act (Chapter 2016-066, Laws of Florida), the funding sources, expenditures, and student outcomes for each participating school.
- Determined whether the District had adequate Virtual Instruction Program (VIP) policies and procedures.
- Examined student records and evaluated District procedures for the audit period to determine whether the District ensured that VIP students were provided with all necessary instructional materials and, for those eligible students who did not already have such resources in their home, computing resources necessary for program participation as required by Section 1002.45(3)(c) and (d), Florida Statutes.
- Communicated on an interim basis with applicable officials to ensure the timely resolution of issues involving controls and noncompliance.
- Performed various other auditing procedures, including analytical procedures, as necessary, to accomplish the objectives of the audit.
- Prepared and submitted for management response the findings and recommendations that are included in this report and which describe the matters requiring corrective actions. Management's response is included in this report under the heading **MANAGEMENT'S RESPONSE**.

AUTHORITY

Pursuant to the provisions of Section 11.45, Florida Statutes, I have directed that this report be prepared to present the results of our operational audit.



Sherrill F. Norman, CPA
Auditor General

MANAGEMENT'S RESPONSE



THE SCHOOL DISTRICT OF LEE COUNTY

2855 COLONIAL BLVD. ♦ FORT MYERS, FLORIDA 33966 ♦ WWW.LEESCHOOLS.NET

GREGORY K. ADKINS, ED.D.
SUPERINTENDENT
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CATHLEEN O'DANIEL MORGAN
CHAIRMAN, DISTRICT 7
PAMELA H. LARIVIERE
VICE CHAIRMAN, DISTRICT 5
MARY FISCHER
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MELISA W. GIOVANNELLI
DISTRICT 2
CHRIS N. PATRICCA
DISTRICT 3
STEVEN K. TEUBER
DISTRICT 4
JANE E. KUCKEL, PHD
DISTRICT 6
GREGORY K. ADKINS, ED. D.
SUPERINTENDENT
ROBERT DODIG, ESQ.
BOARD ATTORNEY

September 17, 2018

The Honorable Sherrill F. Norman, CPA
Auditor General, State of Florida
Claude Denson Pepper Building, Suite G74
111 West Madison Street
Tallahassee, FL 32399-1450

Dear Ms. Norman,

Enclosed is the response to the Preliminary and Tentative Audit Findings and Recommendations on the Operational Audit of the Lee County School Board for the fiscal year ended June 30, 2017.

Sincerely,

Gregory K. Adkins, Ed.D.
Superintendent

Enclosures

Cc: Ms. Cathleen O'Daniel Morgan, Board Chair, Lee County
Mr. Gregory J. Blurton, Chief Financial Officer
Ms. Susan Malay, Executive Director of Financial Services
Mr. Mark A. Santiago, Director of Financial Services
Mr. Robert Brown, Director of Internal Audit

VISION: TO BE A WORLD-CLASS SCHOOL SYSTEM

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Finding No. 1: Impact Fees

Recommendation: The District should ensure that impact fee proceeds are expended only for authorized purposes. Additionally, the District should either document to the Florida Department of Education the allowability of the impact fee transfers totaling \$13.6 million to the debt service funds or restore those funds to the 2016-17 fiscal year Capital Projects - Impact Fees Fund.

Response: The District takes exception to this finding. As substantiated below, the District has expended impact fees only for authorized purposes, and as allowed by law. The school impact fees in question were levied pursuant to Lee County Ordinance No. 01-21, as amended by Ordinances Nos. 13-06 and 15-04, and as may be further amended (the "Impact Fee Ordinance"). The Impact Fee Ordinance is now found in Chapter 2, Article II, Division 6, Section 2-409 of the Land Development Code of Lee County, Florida (the "Land Development Code").

Common law on impact fees in Florida was first enunciated by the Florida Supreme Court in the City of Dunedin v. Builders Association of Pinellas County (1976) case, involving imposition of impact fees for extension of water and sewer lines. While approving the ability of the City to collect such fees previously authorized by ordinance in 1972, the Supreme Court invalidated the ordinance because it failed to sufficiently restrict the use of the impact fees to expansion of the system, as opposed to replacement of existing facilities (which should be paid for by all customers in their monthly rates and charges and not just new customers). The City then adopted a new ordinance curing the prior defect, and obtained approval from the Second District Court of Appeal to expend impact fee moneys collected after the date of correction of the ordinance but paid under protest, on expanding the water and sewer system or paying debt service on its bonds issued in 1974 for the expansion of the system. Dunedin is the source of the "dual rational nexus" test, that is, (i) the impact fee must be reasonably connected to, or have a rational nexus with, the expenditure of the funds and the benefits accruing to new residential (in the case of schools) construction, and (ii) the local government must sufficiently earmark the funds for use in constructing facilities to benefit new users. "Rational nexus" means the local government must demonstrate a reasonable connection between the need for facilities and the growth in population, and a reasonable connection between the expenditure of the funds and the benefits accruing to the population paying the fees. In Dunedin the Supreme Court and the Second District Court of Appeal approved the use of impact fees to pay debt service on outstanding bonds previously issued to expand capacity. The School Board has restricted the use of impact fees collected within a particular attendance zone to make lease payments on impact fee eligible schools, or, according to Duncan Associates on a pro-rata portion of the cost of new administrative facilities serving such zone in accordance with the requirements of Section 2-409 of Division 6 of the Land Development Code, and has met both prongs of the Dunedin test.

The Impact Fee Ordinance was initially adopted in November 2001, and is now embodied as Division 6 of the Land Development Code. With certain exceptions, such as "communities for older persons", commercial buildings, mobile home parks, communities providing mitigation of school impacts and other properties described in Section 2-412 of the Land Development Code, Section 2-405 requires payment of fees and Section 2-409 requires segregation of impact fees collected and expenditure only for capital improvements for educational facilities. The District has been divided into three "School Choice Zones" since the 2005-2006 school year, with a trust account for each service area, into which impact fees are deposited. The impact fees are to be used for the acquisition of school sites or the provision of facilities which will substantially benefit the residents of the school choice area, in accordance with a capital improvements program that has been approved by the Board of County Commissioners. So long as the School Board maintains a school choice system where noncharter school students must attend a school within the zone, then all funds must be spent within the zones where they are collected. Fees collected within one zone may

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be expended for capital improvements within another zone only if it can be demonstrated that the improvement will benefit the feepayers in the original school choice zone. Examples include magnet schools and administrative facilities. The current Impact Fee Study was prepared by Duncan Associates in January 2018. The study is updated every three years, to ensure that impact fees do not exceed reasonably anticipated costs associated with needed capital improvements. Duncan has been involved with the County since initiation of the education impact fee in 2001.

Section 2-409 of the Land Development Code specifically addresses bonding (or issuance of COP's), as was involved in Dunedin. It provides: "Funds may be used or pledged in the course of bonding or other lawful financing techniques, so long as the proceeds raised thereby are used for the purpose of capital improvements for educational facilities. If these funds or pledge of funds are combined with other revenue sources in a dual or multipurpose bond issue or other revenue raising device, the proceeds raised thereby must be divided and segregated such that the amount of the proceeds reserved for educational facility purposes bears the same ratio to the total funds collected that the school impact fee funds used or pledged bear to the total funds used or pledged."

Questions have been raised whether the School Board may use educational impact fees in future years to make basic lease payments under its Master Lease Program which are then used to pay principal and interest on Certificates of Participation ("COP's) issued in previous years. By law, COP's may have a term as long as 30 years, so theoretically the School Board could finance the construction of an impact fee eligible growth school over 30 years. Lease payments are appropriated annually by the School Board, so it never obligates itself to make payments for more than a year at a time. The 1991 Master Lease provides that lease payments can be made from "current or other funds authorized by law and appropriated for such purpose by the School Board". Although capital outlay millage is the primary source, any other funds that are legally available may be used. Impact fees are one of those sources. Other projects that are ineligible for impact fees can be and have been included in the same COP financing but have been and will continue to be paid from other legally available sources such as capital outlay millage. Facilities financed from the Series 2002A and 2004A COP's were new elementary, middle, high and K-8 schools providing expanded capacity for future residents and are impact fee eligible. Other facilities in the same COP issues were administrative in nature and must be paid from capital outlay millage.

Finding No. 2: Ad Valorem Taxation

Recommendation: The District should enhance procedures to ensure and demonstrate that advalorem tax levy proceeds are used only for authorized purposes. Such enhancements should include the maintenance of District records to identify applicable safety risks and demonstrate that use of the proceeds minimized such risks. In addition, the District should either document to the Florida Department of Education the allowability of the LCI Fund expenditures totaling \$4.3 million or restore that amount to the LCI Fund.

Response: The District takes exception to this finding. The District has provided evidence that demonstrates funds expended meet requirements of the law and are allowable expenses. The short version of the Audit Finding makes it appear, incorrectly, that the District spent \$4.2 million to clean and maintain grounds. The District has provided documentation that the items considered by the State as cleaning and maintaining grounds met the Safety to Life criteria and are therefore allowable expenses. In addition, the State is questioning services related to mold remediation and indoor air quality as not allowable expenditures. Within Florida Statute 468.84, "Mold-related services licensing program; legislative purpose" we find legislation stating the nature of mold related services are required in the interest of public safety and welfare:

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The Legislature finds it necessary in the interest of the public safety and welfare, to prevent damage to real and personal property, to avert economic injury to the residents of this state, and to regulate persons and companies that hold themselves out to the public as qualified to perform mold-related services.

Florida Statute 1011.71 (2)(g) allows "Payment of costs directly related to complying with state and federal environmental statutes, rules, and regulations governing school facilities". Mold remediation is a service required by statute to be supported to maintain public safety, and therefore is allowable and an authorized purpose.

It should also be noted that during the initial audit and original exit conference on October 2, 2017, this finding was not identified through sampling of expenses.

A standard audit practice is to consider a 10% sampling of data as reasonable. According to the Public Company Accounting Oversight Board Under AS 2315: Audit Sampling number .34 (please see below) for a low level control risk a tolerable rate of 5 percent would be reasonable but if a high risk level is desired then 10 percent would be reasonable.

".34 The auditor should determine the maximum rate of deviations from the prescribed control that he would be willing to accept without altering his planned assessed level of control risk. This is the *tolerable rate*. In determining the tolerable rate, the auditor should consider (a) the planned assessed level of control risk, and (b) the degree of assurance desired by the evidential matter in the sample. For example, if the auditor plans to assess control risk at a low level, and he desires a high degree of assurance from the evidential matter provided by the sample for tests of controls (*i.e.*, not perform other tests of controls for the assertion), he might decide that a tolerable rate of 5 percent or possibly less would be reasonable. If the auditor either plans to assess control risk at a higher level, or he desires assurance from other tests of controls along with that provided by the sample (such as inquiries of appropriate entity personnel or observation of the application of the policy or procedure), the auditor might decide that a tolerable rate of 10 percent or more is reasonable."

District Staff pulled a sampling of over 11% of the items directly related to the items in question from this finding. Our percentage of sampling is even higher than the highest amount recommended by the best practice sampling method. In the District's sampling, we identified one item totaling \$10,956 that could possibly be questionable due to its description: repairing uneven turf on the football field at Fort Myers High School. However the work was performed to ensure the safety of students and to prevent injuries, all within Safety to Life criteria, and thus allowable. All other items clearly fall within Florida Statute 1011.71 (2)(g) "Payment of costs directly related to complying with state and federal environmental statutes, rules, and regulations governing school facilities".

The chart below represents the sampling and the columns are as follows:

- "Purpose" = Information provided by auditors
- "Facility Name" = District Facility where work was completed
- "Supplemental Work Description" = Description of work completed and reason

After the initial and second exit conference on July 23, 2018, this finding has been adjusted again to add additional items regarding previous year's findings in Fiscal Years 2013-14 and 2010-11, implying that these are the same findings as in past years. The only similarity is that it is in regards to Ad Valorem taxes which is approximately 90% of the capital budget and where the majority of the capital expenditures occur. In the previous years the finding was related to transfers to the general fund to cover capital expenses, and in

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2010-11 a portion of the amount identified in the finding was found to be allowable by the State. Then in 2013-14 the State identified the same finding and refused to accept the response that the State had previously accepted.

Company	Invoice #	Purpose	Amount	Facility Name	Supplemental Work Description
American Mgmt Resource Corp	18837	Cleaning Services	\$ 525	Diplomat ES	Per request of school, removal of hazardous materials such as paint from 2008 and fertilizer.
American Mgmt Resource Corp	18838	Elevator Pit	\$ 775	Bayshore ES	Per request of school proper removal of hazardous materials (hydraulic/elevator oil) 2 inches deep at the bottom of the elevator pit.
American Mgmt Resource Corp	18839	Assistant Principal's Office, adjoining office, and auditorium	\$ 4,395	The Alva School	Per request from school, mold smell from AP and adjoining office areas needs to be checked.
American Mgmt Resource Corp	18842	Cleaning of Kitchen freezer and exterior wall area	\$ 1,155	Mariner Middle	Per request from school, check for microbial growth. Teacher has placed complaint.
American Mgmt Resource Corp	18847	Clean Auto Shop Area	\$ 885	South Fort Myers HS	Per request of school, mold/mildew drywall needs to be replaced & repainted due to restroom water leaks.
American Mgmt Resource Corp	18848	Clean exterior Mechanical Area	\$ 1,475	Support Services	Remedial work after drywall demolition work has been completed.
American Mgmt Resource Corp	18849	Janitorial Mitigation and Cleaning	\$ 405	Lee County Public Education Center	Proper wipe down and remediation after fire.
American Mgmt Resource Corp	18851	Janitorial Mitigation and Cleaning	\$ 1,350	Fort Myers HS	Microbial growth wipe down.
American Mgmt Resource Corp	18852	Janitorial Mitigation and Cleaning	\$ 1,305	Skyline ES	Per request of school, removal of indoor air quality dehumidification equipment.
American Mgmt Resource Corp	18853	Janitorial Mitigation and Cleaning	\$ 720	Island Coast HS	Per request of school, remediation of microbial growth along baseboards due to water issues in custodial closet.
American Mgmt Resource Corp	18857	Janitorial Mitigation and Cleaning	\$ 9,675	Allen Park ES	HVAC duct and register cleaning to improve air quality.
American Mgmt Resource Corp	19228	Wipe Down	\$ 315	Three Oaks MS	Per request of school, check for microbial growth in HVAC duct work. Teacher has placed complaint about headaches.
American Mgmt Resource Corp	19229	Wipe Down	\$ 1,440	Patriot ES	Microbial growth wipe down.
American Mgmt Resource Corp	19230	Wipe Down construction debris dust in Auditorium and first floor office	\$ 900	The Alva School	Per request of school, microbial growth wipe down is needed in the teachers office in girls locker room.
American Mgmt Resource Corp	19236	Wipe down Bldg 3, room 23	\$ 1,800	North Fort Myers HS	Per request of school, microbial growth remediation needed in room 116.
American Mgmt Resource Corp	19410	Cleaning and Disposal of Liquid and Sludge Waste	\$ 2,237	Support Services	Oil tank remediation.
American Mgmt Resource Corp	19688	Cleaning Activities	\$ 1,460	Fort Myers HS	Indoor air quality remediation needed in 4 rooms and in HVAC units.

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Company	Invoice #	Purpose	Amount	Facility Name	Supplemental Work Description
American Mgmt Resource Corp	17364	Install culvert & swale	\$ 8,790	Hector A. Cafferata, Jr. ES	Per request of school, installation of drain in ditch culvert is needed between Cape Coral Technical College & Hector A. Cafferata, Jr. ES for storm water management and to reduce flooding between both locations.
American Mgmt Resource Corp	17368	Remove rock & regrade to allow positive flow away from basin; loosen soil for installation of sod & replace w/Bahia	\$ 9,210	Heights ES	Front parts of PE fields need leveling and areas prepped for sodding in order to improve drainage and to permit water to flow correctly to designated areas that will prevent flooding in student occupied areas.
American Mgmt Resource Corp	17369	Remove rock & fill materials from rear activity area-additionally grade outdoor activity area level, loosen soil for installation of sod & replace w/Bahia	\$ 14,220	Heights ES	Rear parts of PE fields need leveling and areas prepped for sodding in order to improve drainage and to permit water to flow correctly to designated areas that will prevent flooding in student occupied areas.
American Mgmt Resource Corp	17304	Bad Odor	\$ 3,225	Villas ES	Per request of school, classroom remediation needed due to strong fowl musty odor in classroom.
American Mgmt Resource Corp	17495	Unidentified Growth	\$ 1,875	Edison Park ES	Deep cleaning for unidentified growth throughout boys and girls restroom.
American Mgmt Resource Corp	17496	Cleaning/wipe down of Gym	\$ 22,500	Estero HS	Full gym remediation.
American Mgmt Resource Corp	17497	Cleaning/wipe down of Gym	\$ 7,560	Estero HS	Full gym remediation.
American Mgmt Resource Corp	17499	Cleaning of Woodshop	\$ 4,500	Estero HS	Remediation of rodent fecal matter.
American Mgmt Resource Corp	17318	Cleaning Services	\$ 6,600	Edison Park ES	Deep cleaning for unidentified growth throughout boys and girls restroom. IAQ Dept Supervisor recommends exhaust fan system to be installed to purge possible gas exposure causing unidentified green growth.
American Mgmt Resource Corp	17319	Cleaning Services	\$ 4,125	Fort Myers Technical College	Full remedial wipe of suspect growth in DF and adjacent rooms.
American Mgmt Resource Corp	17326	Moisture gym/locker room	\$ 300	The Alva School	Microbial growth in girls locker room due to lack of dehumidification. Wipe down necessary.
American Mgmt Resource Corp	18177A	Provide Cleaning Services	\$ 3,173	Cypress Lake HS	Full remediation of suspect growth.
American Mgmt Resource Corp	18177	Cooling Tower - Chemical pick up & Florescent light bulb removal	\$ 525	Three Oaks MS	Hazardous material/chemical pick-up in cooling tower area.
American Mgmt Resource Corp	18327	Janitorial Cleaning of Restrooms	\$ 1,785	Edison Park ES	Deep cleaning for unidentified growth throughout boys and girls restroom. IAQ Dept Supervisor recommends exhaust fan system to be installed to purge possible gas exposure causing unidentified green growth.
American Mgmt Resource Corp	18330	Cleaning Reception Area	\$ 615	Littleton ES	Suspect growth noticed by staff. Full remedial wipe ordered.
American Mgmt Resource Corp	18417	Clean and Wipe Down	\$ 1,470	Lehigh ES	Full remedial wipe down due to leak from HVAC unit.
American Mgmt Resource Corp	18426	Cleaning due to roof leak	\$ 443	Estero HS	Multiple roof leaks. Partial remedial wipe down ordered.

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Company	Invoice #	Purpose	Amount	Facility Name	Supplemental Work Description
American Mgmt Resource Corp	18545	Administrative Office Cleaning	\$ 2,595	Success Academy	Blower wheel was dirty and caused particulate matter to be distributed throughout the classrooms. Recommended blower wheel remediation and partial class wipe down.
American Mgmt Resource Corp	18546	Clean & Empty Storage Container	\$ 2,955	Success Academy	Full remediation of said furniture.
American Mgmt Resource Corp	18646	Work throughout campus exterior	\$ 26,280	Fort Myers Technical College	Asbestos abatement.
American Mgmt Resource Corp	17531	Clean outflows within retention ditch in front of school,	\$ 2,700	The Alva School	Clean-out of all ditches and culverts to prevent future flooding of auditorium.
American Mgmt Resource Corp	17531	Remove unsuitable fill in PE field in several locations & install clean fill, grade, & sod	\$ 7,240	The Alva School	Fill and regrade PE areas to prevent trip hazards.
American Mgmt Resource Corp	17759	Remove existing grass & plants from window covers-install floritam sod, mulch & new planting	\$ 4,360	Success Academy	Removal of grass recommended to prevent water intrusion to interior parts of campus.
American Mgmt Resource Corp	17802	Remove existing planter by office, install sod in the area	\$ 4,175	Skyline ES	Remove planter and install sod to prevent water intrusion to interior parts of campus.
American Mgmt Resource Corp	17685	Remove evasive exotic vegetation, treat affected area 2/herbicides	\$ 4,100	Harns Marsh ES	Removal of all exotic plants, within wetland and adjoining areas, according to SFWMD requirements.
American Mgmt Resource Corp	18127	Labor & sod to repair field damaged from construction truck ruts and potholes	\$ 43,964	Fort Myers HS	Fill and regrade baseball infield areas to prevent trip hazards.
American Mgmt Resource Corp	17791	Clear out & prep grounds for storage area	\$ 3,900	Riverdale HS	Clear out area for grounds storage area.
American Mgmt Resource Corp	17788	Provide maintenance to football field, mow 3 times a week, add 87 lbs. top choice, 3 applications of fertilizer & add needed sod	\$ 10,956	Fort Myers HS	Maintain football field after new turf is installed.
American Mgmt Resource Corp	18121	Remove existing mulch from planter in courtyard & install crushed rock	\$ 2,164	Villas ES	Mulch and planters removed to prevent water intrusion into building interior.
American Mgmt Resource Corp	18102	Remove existing materials from courtyard and grade-install #57 stone in this area	\$ 3,854	The Alva School	Regrade courtyard area to prevent water from flooding adjacent buildings.
American Mgmt Resource Corp	18128	Remove existing mulch & plants from planter, dig out planter to clear drainage and replace with mulch	\$ 8,560	Skyline ES	Mulch and planters removed to prevent water intrusion into building interior.
American Mgmt Resource Corp	18234	Remove exotic vegetation	\$ 14,775	Heights ES	Removal of all exotic plants, within wetland and adjoining areas, according SFWMD requirements.
American Mgmt Resource Corp	18706	Remove exotic vegetation	\$ 7,250	Heights ES	Removal of all exotic plants, within wetland and adjoining areas, according to SFWMD requirements.
American Mgmt Resource Corp	18415	Install rock planters and sod	\$ 3,480	The Sanibel School	Drainage improvements in order to keep water from intruding into building.

Company	Invoice #	Purpose	Amount	Facility Name	Supplemental Work Description
American Mgmt Resource Corp	18570	Remove existing soil & vegetation to allow construction of new access point into school.	\$ 10,593	Treeline ES	Work necessary to improve storm water drainage for new access point.
American Mgmt Resource Corp	18703	Install crushed rock in garden area	\$ 3,036	Villas ES	Drainage improvement to aid and assist water flow.
American Mgmt Resource Corp	18668	Clean out East Retention pond, regrade & lay Bahia mix grass seed	\$ 11,600	Fort Myers HS	Clean-out west retention pond and regrade areas for ample water storage and proper drainage.
American Mgmt Resource Corp	18668	Clean out West Retention pond, regrade & lay Bahia mix grass seed	\$ 8,420	Fort Myers HS	Clean-out east retention pond and regrade areas for ample water storage and proper drainage.
American Mgmt Resource Corp	18702	Clear and Clean Retention Pond, regrade & lay Bahia mix grass seed	\$ 5,985	Ida S. Baker HS	Clean out retention ponds to improve drainage and water flow to designated areas.
American Mgmt Resource Corp	18719	Clear and Clean Retention Pond, regrade & lay Bahia mix grass seed	\$ 6,055	Ida S. Baker HS	Clean out retention ponds to improve drainage and water flow to designated areas.
American Mgmt Resource Corp	18947	New sod on PE Field	\$ 18,640	Diplomat ES	Grade and install new sod to prevent trip hazards.
American Mgmt Resource Corp	18748	Remove 6x6 area around old conduits	\$ 5,630	The Alva School	Removal of floor section to identify water intrusion source underneath gym floor.
American Mgmt Resource Corp	18949	Remove existing dead sod and replace with new Bahia sod-install a mulch border and install plants on ground cover.	\$ 7,320	Dunbar HS	Regrade and re-sod to improve drainage.
American Mgmt Resource Corp	19699	Ground Improvements	\$ 11,630	Orangewood ES	Redirection of stormwater run-off per adjacent property complaints.
American Mgmt Resource Corp	19698	PE Field Improvements	\$ 4,382	Gulf MS	Regrade and install new sod to prevent trip hazards.

Finding No. 3: Indoor Air Quality Services

Recommendation:

The District should document the public purpose served for the IAQ services and related payments. Such documentation should include evaluations of the necessity for the services by qualified personnel unaffiliated with the IAQ service provider procurement and payment processes. The District should also enhance service contracting and payment monitoring procedures to require and ensure that District records be maintained to demonstrate that:

- The District evaluates why services are necessary before contacting service providers and contracting for the services.
- The District considered, through preparation of a cost-benefit analysis, whether it would be more cost-effective to separately contract for emergency services instead of contracting with one service provider for both emergency services and services that do not require immediate attention.
- Personnel who perform the services possess the contract-required license and certificate qualifications.
- The services are performed by the most qualified service provider.

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- Negotiated contract rates were reasonable and appropriate for the services and that, prior to payment for the services, District personnel verified that the services were satisfactorily received and performed consistent with the Board-approved contracts.
- In addition, the District should require and ensure future contracts contain maximum contract amounts for services. Furthermore, the District should either document to the Florida Department of Education the allowability of the questioned costs totaling \$291,126 for general cleaning services or seek reimbursement from Company 1 for these costs.

Response: The District takes exception to this finding. Lee County is located in Southwest Florida where humidity and moisture are at very high levels year round. The District and the public are keenly aware of the District's responsibility to provide students and staff with educational spaces that are safe and healthy, including free of air pollutants and mold. With over 13,200,000 square feet of facilities, and 43 of our campuses with buildings between 42 – 103 years old, the demand for IAQ services has existed continuously for years. In the most recent decade, decreased funding for capital projects including emergency and preventative maintenance for roofs and HVAC systems has been a contributing factor for the ongoing need for IAQ services. In 2013 as the 2010 contract for IAQ services neared expiration, the District was proactive, evaluating the need for continued service, and competitively awarding an on-demand contract with prenegotiated rates in advance of the need for service - a best practice that locked in fixed rates for the 5-year contract duration. The contract scope required contractors to respond to emergencies within one hour; and to respond to non-emergency situations in four hours; reflecting the urgent nature of all IAQ services. The School Board publicly approved the contract and base year expenditure in 2013 and the Board publicly approved each subsequent years' expenditures for IAQ services for each remaining contract period, with a not-to-exceed annual cost each time. This information, coupled with the detailed information regarding the competitive solicitation process described by the State in its' audit, reveal the District's documented need for IAQ services; the proper execution of a public, competitive solicitation process to acquire services; and public approval by the Board of a not to exceed contract amount for each contract year. Additionally, it would have been an ineffective use of taxpayer dollars to publish, negotiate, award and administer separate contracts for emergency and non-emergency services, due to response time requirements that varied minimally.

In addition to the State's summary of the IAQ Services contract, which provides ample evidence of the District's compliance with competitive purchasing rules and regulations, the District provides the following information that further demonstrates the District's execution of best practices in public purchasing and project execution.

The District conducted planning and created documentation that evidenced the need for IAQ Services and a plan to procure the services, in advance of the release of a competitive solicitation for services, which replaced an expiring contract for similar services.

- In February 2013, as a result of discussions between the District IAQ team and Procurement staff regarding the need for continued IAQ services and the most economical method to procure them, it was determined to pursue an Invitation to Negotiate as the preferred solicitation method. This decision was documented in the document titled "7103SM Justification of ITN in lieu of Bid."
- An evaluation committee meeting was held on May 9, 2013, at 9:00 am with the District Indoor Air Quality Supervisor and staff, and Procurement staff. Past services utilized, and the need, type, and quantity of continued services was further discussed and documented, in advance of the solicitation publication. The meeting minutes were previously provided to the State. In the District's opinion, District IAQ subject matter

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experts who oversee IAQ projects are the best resources to determine the need for continued IAQ services in District facilities. They did so, and the analysis was documented.

- A review by the evaluation committee of the historical and continued need for IAQ services revealed future service costs would exceed \$25,000. School Board policy required competitive solicitations for services in excess of \$25,000 annually, so staff proceeded with developing the requirements for IAQ services. The requirements were formally documented in Invitation to Negotiate #137103SM and released to the public. As stated in the ITN:

Some examples of requirements include providing IAQ related investigation, defining work scope, testifying in legal proceedings, environmental test samples, asbestos abatement, lead abatement, HVAC services, water damage repair, mold remediation, drywall repair, floor and ceiling repairs, painting and general cleaning at approximately 106 facilities including schools and administrative sites

As demonstrated with the 18 certifications received from the two contracted firms and their staff, personnel who performed the services possessed the industry standard certifications to perform the services.

Contract Category A work required 13 total certifications

- One contractor submitted 13 of the 13 requested certifications for Category A
- Another contractor did not submit a proposal to perform work in Category A

Contract Category B required 6 total certifications

- One contractor submitted 6 of 6 certifications for Category B
- One contractor submitted 5 of 6 certifications for Category B and has since submitted to the District the 6th certification

Based on their qualifications, the two awarded contractors were both deemed qualified to perform the services requested. During the contract price negotiation process, the District intentionally negotiated identical rates with both contractors, so that either qualified contractor could perform requested services, based on District demand and contractor resource availability – without having to evaluate cost each time. The awarded contractors had also provided fixed rate services under the prior District contract. The District deemed it fair and reasonable to increase rates one time over an 8 year period, to equate to less than the annual average increase of 4-5% annually used by other government entities. Failure to accommodate rate increases for eight years would result in decreased competition and the possibility that no Contractors would be willing to perform the required services. In addition, during negotiations the District targeted lower rate increases for services used most frequently.

Based on the annual spend from 2010 through 2017, the negotiation strategies to control cost increases were successful. Although the number of district buildings increased with the addition of new schools, and buildings aged and realized increased opportunities to require air quality service, the annual expenditures for the contract in the 8 year period grew only moderately **including** the support of the Hurricane Irma aftermath – which is a 7% increase from the prior contract to the current contract.

In addition, during the new contract planning process, the District made the focused decision to convert the price structure for services from linear foot to labor hours in an attempt to control costs. The spreadsheet previously provided to the State was created by the evaluation team based on estimated labor hours to perform

the linear foot work. Converting from linear foot to hourly labor rates was anticipated to control the overall contract costs.

After the contract was awarded to two businesses, the evaluation for services occurred as each situation presented itself – on a case-by-case basis, and in consideration of the need for services in Category A or B. When a problem or suspected problem was reported by school officials, the District process, as documented in the IAQ Process Document, was executed. District Maintenance Staff contacted contractors for service, and monitored each project as the contractors performed their service.

The District agrees that some invoices for IAQ services were submitted for a total project cost, and did not include a breakdown of the project cost by hourly rate. The District has formally notified both firms, in writing, that all future invoices are required to contain a breakdown of services provided. The District respectfully disagrees that timesheets for contractors are required to be submitted to the District to justify work performed. Projects are supervised by District staff, who also review invoices to validate level of effort. The District requested the State to provide evidence that it is a best practice for contractors to submit their timesheets to the government when providing services, or that any other district follows this practice. We have not received these items.

Finding No. 4: Monitoring of Construction Management Entity Pay Requests

Recommendation: The District should enhance procedures for monitoring CME pay requests to include a documented comparison of the cost items in the CME pay requests to supporting documentation, including, as applicable, GMP contracts and subcontractor bids and contracts, before payment is made to the CME.

Response: The District takes exception to this finding. The District consistently reviews monthly payment applications from CME line item values as stipulated in the GMP, submitted for approval by the District following the competitive bidding process. The GMP line item values are the basis of the monthly payment application submission. The District reviews subcontract competitive bids with the CME prior to GMP creation, and prior to CME contracting with subcontractor entities. District Facility Engineers field verify actual monthly work progress in conjunction with Project Architects and Engineers, to verify accuracy of CME payment applications against the District approved GMP. The District utilized the AIA billing system (Document G702: Application and Certificate for Payment) which requires the construction manager to provide information according to the status of the total dollar amount of work completed during the construction project, the sum of any previous payments, descriptions of any change orders, the amount of any retainage, and the sum of the requested payment. The information contained in the document is certified by the project architect and then reviewed by District Staff using the "Checklist for Payment Application" prior to a multi-signature approval.

The statement that the District's ability to recover overpayment amounts is limited because the CPA firm services are provided after projects are completed and payments are made to the CME's is misleading. Pursuant to Section 255.078, Florida Statutes, the District retains a minimum of 5% of the construction contract amount until after the project is completed and audited by an external CPA firm and Board Approved for the final retainage to be paid to the construction manager. Should the audit find any overpayments, the District reserves the right to recover via the retained funds.

The District has updated the "Checklist for Payment Application" for all construction projects to document a thorough review of CME pay applications to ensure all billing is performed in accordance to the schedule of values in contracts and the contractors/subcontractors are submitting all required paperwork, including bids, prior to making payment. The District has also engaged with an external legal consultant to develop a CME contract template that provides for open and transparent general conditions reporting.

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Additional note: The District previously received communication from the auditor on October 9, 2017, stating this particular finding would be removed as a result of reviewing the project audit reports performed by an external CPA for the projects in question.

Finding No. 5: Subcontractor Selection

Recommendation: The District should require that District personnel maintain documentation to demonstrate their attendance at all subcontractor bid openings. Additionally, the District should enhance procedures to include a documented comparison of subcontractor bid awards to subcontractor contracts to verify that the CMEs used a competitive selection process to select subcontractors and that the bid award and contract amounts agree.

Response: The District agrees in part with the finding. While the District acknowledges copies of CME subcontracts were not maintained in file, it does not negate the fact that the subcontract work scope was in fact publicly advertised and competitively bid. The CME opens all bids with the District staff in presence during the bid openings. The CME compiles and qualifies all bids, and provides a GMP submission to the District for approval (lowest qualified bids are used). The District does not review subcontracts engaged between the CME and Subcontractors, as the only legal binding document is the GMP engaged between the District and CME. Contractual language in the District CME contract stipulates that line items within the GMP are not guaranteed, and allows for CME to adjust GMP lines as needed. However the GMP is fixed and cannot be increased without District approved change order process. Following are documented examples of this requirement, extracted from the Bonita Springs High School and Dunbar contracts:

Bonita Springs High School Contract Section 5.3 – Construction Phase

“For each line item in the GMP Amendment, Construction Manager shall develop and maintain a written report which identifies and explains all variances and deviations from the bid amount originally submitted for that line item, to the final line item price incorporated into the GMP. Notwithstanding the foregoing the Construction Manager and Owner agree that the amounts of any particular line items in the schedule of values is not guaranteed.”

Dunbar High School Contract Section 5.3 – Construction Phase

“Notwithstanding the foregoing the Construction Manager and Owner agree that the amounts of any particular line items in the schedule of values is not guaranteed. The final cost of any particular line item may be more or less than the amount set forth in such line item in the schedule of values. Thus, the amounts set forth for particular line items are not guaranteed, but Construction Manager guarantees that in no event shall the Construction Management Fee and the total Cost of the Work exceed the GMP, as the GMP may be adjusted pursuant to the terms herein for Change Orders and Construction Change Directives.”

The current District practice, adopted in 2018, requires staff to maintain an attendance sheet for all subcontractor bid openings that clearly states the time, date, and location of the opening as well as the printed names, signatures, contact information, and represented entity for all attendees including District staff. District staff will also be required to sign all bid tabulation sheets during subcontractor bid openings on future projects. Current practice also requires staff to obtain and record, after the bid opening, all associated bid documents and subcontractor contracts in order to verify, in the form of a report, that the construction manager used a competitive selection process to select subcontractors and ensure services are obtained at the lowest cost consistent with acceptable quality and that maximum cost savings under the GMP contracts are realized.

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Additional note: The District previously received communication from the auditor on October 9, 2017, stating this particular finding would be removed as a result of reviewing the project audit reports performed by an external CPA for the projects in question.

Finding No. 6: Subcontractor Licenses

Recommendation: The District should maintain documentation to demonstrate the verification of subcontractor licenses before the subcontractors commence work on District facilities.

Response: The District agrees in part with this finding. The District has consistently held the construction manager responsible for maintaining documentation verifying subcontractor licenses before commencing work. To strengthen oversight, the current District practice contractually requires construction managers provide staff with a list of valid and current subcontractor licenses as an attachment to the GMP prior to the execution of the contract.

Finding No. 7: General Conditions Costs

Recommendation: The District should establish policies and procedures for negotiating, monitoring, and documenting the reasonableness of general conditions costs. Such policies and procedures should require documentation of the methodology used and factors considered in negotiating general conditions costs, and the receipt and review of sufficiently detailed documentation supporting the general conditions costs included in CME pay requests.

Response: The District agrees with this finding. Current District CME contracts, developed in consultation with an external legal professional, no longer include general conditions within an all-inclusive construction management fee as negotiated in previous projects. General conditions are now listed as line items within the contract to enable external CPA review for accuracy and costing. Current policy for negotiating contract general conditions is based on best practice and consultation with peer Districts. The District acknowledges that such an action may result in higher projects costs due to the additional auditing services not necessary in the previous practice of construction management fees inclusive of general conditions.

Additional note: The District previously received communication from the auditor on October 9, 2017, stating this particular finding would be removed as a result of reviewing the project audit reports performed by an external CPA for the projects in question.

Finding No. 8: School Volunteers

Recommendation: The District should ensure that searches of prospective school volunteer names and information are performed against the applicable registration information regarding sexual predators and sexual offenders and that records of such searches are retained. Such efforts should include supervisory review and approval of the forms or independent verification of the school volunteer approval process at the District level.

Response: The District agrees with this finding. The District understands the severity and importance of supervising volunteers in our schools. Each school is responsible to submit volunteers for an FDLE Sexual Predator background screening. This background screening is required and must be completed and documented annually for each volunteer (including returning volunteers) and approved by the Principal before volunteers participate on school campuses. The school Principal has the final decision to accept or deny volunteers. Volunteer applications and screenings are kept on file at individual schools. Volunteers are required to login/logout for identification purposes and to wear their volunteer name badge while on campus. The District commits to educating Principals annually, at the start of the school year, of the requirements to be followed

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regarding background checks for all volunteers; and to conduct periodic audits to ensure background checks are conducted as required.

On Monday, August 20, 2018, Principals attended a webinar on this subject, which was recorded to be accessible to Principals and District Staff throughout the year.

Finding No. 9: Payroll Processing – Time Records

Recommendation: The District should establish a mechanism for non-instructional and exempt employees to report time worked and also implement procedures requiring supervisors to document the review and approval of such time.

Response: The District takes exception to this finding. As stated in response to an inquiry during the audit, the District shared that non-instructional personnel are required to use the *LeeClock* electronic sign in/out application. In addition, the prior response stated that many locations also use a paper sign in/out book. The Fair Labor Standards Act does not require exempt employees to report time, as they are paid on a salary basis. The performance of exempt employees is measured by supervisor review of performance and employee output, on a regular basis. Board approved job descriptions are in place for exempt employee positions and define the expectations of the positions. Written evaluations for exempt employees are captured in the performance evaluation.

Finding No. 10: Florida Best and Brightest Teacher Scholarship Program

Recommendation: The District should enhance procedures to ensure that Program scholarships are awarded to eligible recipients based on qualifying college entrance examination scores reported on reliable and authentic records and highly effective evaluations based, in part, on student performance. Such procedures should include documented verifications of the eligibility of charter school scholarship recipients.

Response: The District takes exception to this finding. The State of Florida's Best and Brightest Scholarship Program has been amended by the Legislature each year since its inception. Constant changes have placed a burden on staff responsible for administering the program both at the Florida Department of Education (FLDOE) and at the District. The statutory language is ambiguous and vague. The District has contacted FLDOE on numerous occasions for guidance from FLDOE, since the language is minimal and does not provide the District with clear direction on how to ensure compliance with the statutory language. The District has made a continuous effort to formalize and continuously improve procedures, now that the program has been extended to be a multi-year program. The District has identified steps that need to be taken to ensure the collection of reliable and authentic records. The District has engaged key-stakeholders and is working to address procedural challenges that have come about as the result of the ambiguous statutory language and the delay in feedback from the State. With respect to charter schools, the District does not have access to charter school employee records. Therefore we request the charter schools validate their lists based on their employee performance data in advance of sending the lists to the District (in about December) and before funds are disbursed (approximately in March).

Finding No. 11: School Resource Officer Services

Recommendation: The District should establish procedures requiring, prior to payment for services, documented confirmation that SRO services were satisfactorily received and complied with the contract provisions.

Response: The District takes exception to this finding. The District collaborates with the Lee County Sheriff's Office to include School Resource Officers as part of the District's security program. Interlocal agreements

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capture the contractual requirements for this service. District Administrators at each location review the performance of the assigned Sheriffs on a regular basis. In the event unsatisfactory performance is received, the District would communicate the issue to the Sheriff's Youth Services Supervisors. Performance is not measured by hours on site, rather by fulfillment of contractual obligations. If there is a responsibility for validating number of hours worked by individual Sheriff staff members, the responsibility would be incumbent on the Lee County Sheriff's Office, not the District.

Finding No. 12: Purchasing Cards

Recommendation: The District should enhance procedures for the supervisory review and approval of P-card purchases to ensure that P-card program policies and procedures, including those prohibiting split transactions, are adhered to by cardholders.

Response: The District agrees in part with this finding. The \$999.99 P-Card limit is for one single item. The current P-Card Policy states that charges for purchases shall not be split to stay within the SINGLE ITEM purchase limit. The reason for the P-Card limit is to ensure Capital items valued at \$1000 or more are ordered through the PeopleSoft system to ensure asset tagging. In addition, the current P-Card Policy allows travel related expenses to be purchased via P-Card in amounts not to exceed \$4,999.99. Because travel is often scheduled for multiple staff members to attend a training session, it is more efficient to consolidate purchases for travel expenses into fewer transactions.

Finding No. 13: Information Technology - Risk Assessment

Recommendation: The District should develop a comprehensive, written IT risk assessment to provide a documented basis for managing IT-related risks.

Response: The District agrees with this finding and is already in the process of developing a comprehensive risk assessment and mitigation program to include a combination of binary risk analysis tools and an adaptation of the Factor Analysis of Information Risk (FAIR) model. The District engaged the services of United Data Technologies to perform a comprehensive security and risk assessment. We are in the process of reviewing their findings and recommendations and developing an action plan based upon the report. We engage Microsoft to perform an Active Directory review (ADRAP) biannually to review account security and policy management.

Finding No. 14: Information Technology – User Access Privileges

Recommendation: The District should ensure that only those employees who have a demonstrated need to access student SSNs have such access. Such efforts should include documented, periodic reviews of IT user access privileges to determine whether such privileges are necessary and ensure the timely removal of any inappropriate or unnecessary access privileges detected.

Response: The District agrees with this finding, and is in the process of implementing a periodic review process to ensure that access to SSNs via the student information system (SIS) are reviewed and access no longer needed is terminated in a timely basis.

Finding No. 15: Information Technology – Security Controls – User Authentication, Data Loss Prevention, and Logging and Monitoring of System Activity

Recommendation: The District should improve IT security controls related to user authentication, data loss prevention, and logging and monitoring of system activity to ensure the continued confidentiality, integrity, and availability of District data and IT resources.

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Response: The District agrees with the finding related to log analysis tools and has submitted a FY19 budget request for those solutions.

The District does not agree with the finding related to the number of unsuccessful login attempts, as the policy was designed with specific goals in mind, while allowing for mitigation of the risks for which the finding is targeted.