

Audit Report

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**Office of Inspector General**

Seven Locks Elementary School Projects

February 2006

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Office of Inspector General  
Montgomery County, Maryland

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February 15, 2006

Hon. George Leventhal, President, County Council  
Hon. Douglas M. Duncan, County Executive  
Hon. Charles Haughey, President, Board of Education

Gentlemen:

We conducted an audit of cost data and other relevant information provided by Montgomery County Public Schools (MCPS) to the Board and Council beginning May 2001 to May 2004 when the Council approved a revised Seven Locks Elementary School (SLES) Capital Improvements Program (CIP) project. An objective of this audit was to evaluate whether certain SLES costs and other financial-related data were presented fairly in all material respects in accordance with generally accepted accounting principles. In addition, we evaluated related management information presented to the Council and others regarding original construction plans and revisions. We also examined compliance with State and County laws and regulations related to the expenditure of County funds.

Our report contains four recommendations that we believe can be used by the Superintendent of Schools, the Board, and Council to enhance fiscal accountability for school construction projects in the County. Our findings and recommendations are intended to ensure: complete and reliable cost analyses are performed for all school construction options studied by MCPS and recommendations presented to the Board and Council; the position of community leaders affected by proposed amendments to facility master plans or the CIP is fairly presented; and, compliance with Board requirements and adherence to sound business practices regarding the procurement of architectural services. We believe action needs to be taken by the Board and Council to ensure that oversight of financial and other information used to present CIP facility projects is more effective.

We wish to acknowledge the cooperation extended to us by MCPS officials.

Respectfully submitted,

Thomas J. Dagley  
Inspector General

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## Background Information

### Oversight

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The Board of Education (BOE or Board) is the elected body established under Maryland law to provide public education in kindergarten through twelfth grade to children residing within the borders of Montgomery County. The BOE is responsible for the direction and operation of the public school system. The BOE's stated Mission is "to provide leadership and oversight for a high quality educational system with community-supported goals, policies, and resources committed to benefit our growing and diverse student population."

The powers and mandatory duties of the BOE are defined in the Education Article of the Annotated Code of Maryland and Title 13A of the Code of Maryland Regulations. The BOE's primary duties include: selecting and appointing the Superintendent of Schools; formulating and interpreting policies; adopting operating and capital budgets; and making decisions on educational, budgetary, financial, and facility matters.

The Superintendent of Schools is the educational and administrative leader of the school system and oversees the functions of all schools and offices. The Superintendent works closely with the members of the BOE, both as Superintendent and as Secretary-Treasurer of the BOE.

Although Montgomery County Public Schools (MCPS) is governed by the Board, the Maryland State Department of Education (MSDE) and the Montgomery County Council exercise considerable oversight. While MSDE oversight includes establishing and monitoring various financial policies and regulations in accordance with the Annotated Code of Maryland and the federal No Child Left Behind Act of 2001, the Council is the final authority for operational and capital spending of County funds by County Government and the independent County-funded agencies, including MCPS. The Council's Education Committee, one of six standing committees, has responsibilities that include MCPS budget review and program oversight.

### Capital Improvements Program

A two-year capital programming cycle was approved by Montgomery County in 1996. The biennial process for the six-year Capital Improvements Program (CIP) mandates that for even-numbered fiscal years, the County Executive and Council consider only amendments to the approved six-year CIP. In odd-numbered fiscal years, such as fiscal year 2005, the process mandates that the entire program be reviewed and approved. Accordingly, the CIP was comprehensively reviewed and approved in May 2004, and published in June 2004 in the *FY 2005 Educational Facilities Master Plan and the FY 2005-2010 Capital Improvements Program* by the Department of Planning and Capital Programming. This publication includes the status of all capital projects for MCPS facilities.

## **Winston Churchill Cluster - SLES Appropriations and CIP Amendments**

The following table summarizes County Council appropriation and Capital Improvements Program (CIP) decisions between May 2001 and May 2005 for the Seven Locks Elementary School (SLES) projects.

### **Appropriations and CIP Amendments for SLES Projects**

FY	Date of Council Resolution	Appropriation (\$000)	CIP Expenditure Schedule (\$000)							
			Total	FY02	FY03	FY04	FY05	FY06	FY07	FY08
2002	5/24/01	\$250	\$250	\$250						
2003	5/23/02	None	None							
2004	5/22/03	None	None							
2005	5/27/04	\$818	\$14,024	\$250	None	None	\$496	\$1,747	\$7,381	\$4,150
2006	5/26/05	\$12,256	\$14,024	\$250	None	None	\$496	\$1,747	\$7,381	\$4,150
Total approp. through 6/30/05		\$13,324 <sup>1</sup>								

### **Other Key Facilities Management Activities**

Additional information regarding key SLES activities by MCPS, the Board, and the Council between May 2001 and May 2004 is provided in the following paragraphs.

The May 24, 2001 Council resolution amended the approved FY 2001-2006 CIP by appropriating \$250,000 in planning funds. The Board approved a portion of these funds for a feasibility study to evaluate alternatives and provide recommendations to MCPS for an addition to SLES. To ensure that the addition would be compatible with the future school, the study included master planning a SLES modernization. MCPS documents reflect that in order to address enrollment concerns at Potomac Elementary School (PES), the Council directed the Board to consider a SLES addition and then conduct a boundary study between SLES and PES to shift students to SLES. The addition was planned to be completed by September 2006.

Beginning in November 2003 and continuing through March 2004, the SLES addition project was impacted by deliberations regarding an October 2003 request by the County Executive to MCPS to surplus three BOE properties – Brickyard Road, Kendale Road, and Edson Lane. The Executive asked that BOE properties be transferred to the County for the purpose of providing sites for the development of affordable housing. The Superintendent reported in November 2003 that the issue of surplus properties would be discussed with the BOE as part of the fiscal year 2005-2010 CIP review.

In January and February, 2004, the Superintendent, the Board, the Council's Planning, Housing, and Economic Development (PHED) Committee, and others held a series of meetings and hearings. In a February 23, 2004 memorandum to the Board, the Superintendent recommended evaluating the feasibility of building a new replacement

<sup>1</sup> On 1/10/06, the Board approved a construction contract for the Kendale Road site contingent upon Council approval of a special appropriation.

school on the Kendale Road site to address the needs of the current SLES and PES before a decision was made on the disposition of the Kendale Road property. The Superintendent indicated that if the Kendale Road site proved more cost effective, MCPS would be inclined to recommend that the existing SLES site be transferred to the County, contingent on funding for the completion of the replacement school by September 2007.

A draft feasibility study for the Kendale Road site was issued in March 2004. The study identified three options for the site with advantages and disadvantages including cost estimates for each option. This study, performed by the same architectural firm that issued an initial SLES feasibility study in January 2002, did not compare Kendale Road options to existing SLES site options.

On March 22, 2004, the Board adopted a resolution to amend its requested fiscal year 2005 capital budget and fiscal year 2005-2010 CIP. Included in the resolution was a request to remove funding for the planned SLES addition and funding for a planned SLES modernization to be completed by September 2010. Instead, the Board requested funding for a SLES replacement facility on Kendale Road.

The Kendale Road replacement school request by the Board included a completion date of September 2007, twelve months later than the planned SLES addition. MCPS documents stated that advantages of the Kendale Road site when compared to the existing SLES site included: alleviation of traffic problems; less disruption to students and staff during construction; and avoiding a temporary relocation to a holding school during the modernization phase of construction. From a fiscal perspective, documents prepared by MCPS and provided to the Board (and later to the Council) stated the replacement facility would cost approximately \$3 million less than the addition, gymnasium, and modernization option at the existing SLES site.

In May 2004, the Council approved a revision to the fiscal year 2005-2010 CIP for the "Seven Locks Elementary School Revised Proposal" project on Kendale Road. CIP expenditures totaling \$14.024 million were approved, with \$818,000 appropriated for fiscal year 2005.

## Findings and Recommendations

### Finding 1

Cost data for the Seven Locks Elementary School project presented by MCPS to the Board and Council was limited to two construction options, even though at least two other apparently less costly options existed, including one studied by MCPS for the existing site.

### Analysis

The cost data presented to the Board and Council was limited to two options, even though at least two other apparently less costly options existed, including one that had been studied by MCPS for the existing site. The first option presented to the Council in May 2004 was the original plan to construct an addition to the existing Seven Locks Elementary School (SLES) facility, followed by the construction of a gymnasium and approximately 18 months later by a modernization.

The second option presented to the Council in May 2004 was to replace the existing school with a new facility on Kendale Road, approximately 1.5 miles away. Cost data presented to the Council, after an adjustment by Council staff that eliminated some duplication, reported a cost difference of \$2.97 million in favor of building a replacement school on Kendale Road.

The two options not presented to the Council were:

- An option reported by the architect to MCPS in January 2002 to demolish the SLES and rebuild on the existing site, eliminating the need for a separate addition project. Our review of a cost analysis completed by MCPS revealed the demolition and rebuild option to be less costly than building on the Kendale Road site. In this option, the new building would be in excess of 63,600 square feet, larger than the building proposed for Kendale Road (59,000 square feet), and comparable to the combined addition and modernization SLES option, (which was planned to be 65,190 square feet). In the original feasibility study, this was the option preferred by the architect hired to evaluate alternatives and provide recommendations for a SLES addition. To ensure that the addition would be compatible with the future school, this study also included master planning the school modernization.
- The second option not presented to the Council involved constructing the addition and modernization at the same time. In this option, costs to construct the addition and modernization simultaneously would have reduced or eliminated certain costs that would be incurred twice under a phased option (this issue is addressed in more detail in finding 2). We were not provided any cost data (that existed at the time of the Council's action in May 2004) that would enable us to quantify and compare costs for this alternative. Although we were advised by MCPS that a



one-phase option was not studied for the existing SLES site because the modernization schedule could not be changed, another method of analyzing advantages and disadvantages for a one-phase approach would be to defer the addition project and complete it simultaneously with the scheduled modernization phase.

Costs (excluding the gymnasium<sup>2</sup>) for the three options we were able to compare are presented in the following table.

**Three Options Evaluated During Audit**

Option	Square Footage	Date of Cost Estimate	Cost Estimate	Presented to Council
Addition to and modernization of existing SLES facility	65,190	8/21/03 for addition; 2/27/04 for modernization	\$16,745,000	Yes
Construct new replacement school on Kendale Road	59,000	2/27/04	\$14,024,000	Yes
Demolition and rebuild school on existing site	63,600	2/27/04 <sup>3</sup>	\$13,866,993	No

At the conclusion of our field work, we were advised by MCPS that based on guidance from the Board and/or Council, the only two options possible were those presented to the Council. At the request of MCPS, we reviewed additional material provided by MCPS in an effort to more fully evaluate the statement that MCPS officials were limited to only the two options presented to the Board or Council. Our review of the additional material did not identify a basis for MCPS to limit the SLES options presented.

**Recommendation**

We recommend MCPS ensure that cost data for all school construction projects studied by MCPS be documented in material presented to the Board and Council. For example, cost data for at least the three options discussed in this finding that MCPS studied should be presented for Board and Council consideration.

<sup>2</sup> Because costs of a gymnasium were estimated by MCPS at the time to be the same regardless of option, gymnasium costs were not considered in this analysis.

<sup>3</sup> Although MCPS updated the cost estimate for this option on 2/27/04, it was not presented to the Board or Council for their consideration.

## **Finding 2**

A quality control process that ensures the use of complete and reliable cost data to analyze facility construction options and present recommendations to the Board and Council is needed to improve fiscal accountability.

### **Analysis**

Oversight of cost data used to analyze school construction options and present recommendations to the Board and Council needs to be improved to enhance fiscal accountability. Specifically, we found MCPS did not ensure that cost data and related analyses used to recommend a replacement school option on Kendale Road were fully documented and reliable. Although certain summary documentation was provided to the Board and Council when MCPS reported that the Kendale Road option was approximately \$2.97 million less expensive than an addition to and modernization of the existing Seven Locks Elementary School (SLES) facility, we found concerns regarding certain data used to compare the two options.

We found that detailed cost data to support MCPS' recommendation to build a Kendale Road replacement school was not provided to the Board or Council. In addition, we learned that requests by County residents to examine detailed cost data compiled by MCPS were not approved.

In our analysis of cost data provided by MCPS for this audit, we found that the \$2.97 million difference was attributable to three factors not apparent in material provided to the Board and Council. The factors are:

- The replacement school is planned to be smaller than the combined addition to and modernization of the existing SLES
- Certain higher costs for the existing SLES option presented are caused by a multi-phased approach
- Estimates for certain addition and modernization project costs are higher than for comparable projects

### **Analysis of School Size Differences**

The Kendale Road replacement school option is planned to be smaller (59,000 square feet) than the combined addition and modernization at the existing SLES site (65,190 square feet). This resulted in reduced construction cost estimates for the replacement school. Our analysis revealed that the square footage difference accounts for more than \$800,000 of the \$2.97 million difference (see first line item in table below).

In addition, because certain project costs are estimated as a percentage of construction costs, the difference in square footage appears to directly account for other cost differences such as architect fees and contingency reserve costs used in MCPS' calculation (see table below).

**Line Item Differences Attributable to Facility Size**

Line Item	Total for Phased Projects	Total for Kendale Road	Difference
Construction Costs (\$130.00 per Sq Ft)	\$8,474,700 (65,190 Sq Ft)	\$7,670,000 (59,000 Sq Ft)	\$804,700
Architect Fee	1,161,821	869,000	292,821
Contingency Reserve	904,000	536,000	368,000
Total of these items			\$1,465,521
Total cost difference reported by MCPS			\$2,971,000
Percentage of difference attributed to building size			49.3%

It is important to note that according to MCPS, a newly constructed building would more efficiently utilize space than the existing SLES without adversely affecting school functions. MCPS officials stated their cost comparison was based on plans that have similar functional capacities.

**Analysis of Phased Construction Approach**

With regard to the cost of completing the addition and modernization in separate phases at the existing school, our analysis confirmed that the phased construction option significantly impacted the reported benefit of building a replacement school. Our analysis indicates that several line item costs are higher if performed as part of the phased approach and would be reduced or eliminated if the phased approach was consolidated into a single project (twelve such costs are included in the table below). We were not provided a cost estimate for a single phase approach for the existing SLES site; therefore, we were unable to complete any comparative analysis on these two options.

Of particular note related to the phased construction approach are the lump sum site costs<sup>4</sup> for each option. Lump sum site costs of \$2.7 million were included in the estimate for the phased option at the existing SLES site (approximately \$1.35 million for the addition phase and \$1.35 million for the modernization phase), while lump sum site costs for the Kendale Road replacement option were estimated at \$1.8 million. We noted that this possible duplication of some site costs for the existing school location accounts for more than \$900,000 of the total cost difference that favored the replacement school (see table below).

**Selected Line Item Differences Attributable to Phased Construction**

Line Item	Total for Phased Projects	Total for Kendale Road	Difference
Lump Sum Site Costs	\$2,707,745	\$1,800,000	\$907,745
Testing and monitoring air quality	125,000	50,000	75,000
LAN/DATA/CATV wiring	325,000	225,000	100,000
Playground equipment	150,000	75,000	75,000
Topographic survey	45,000	25,000	20,000

<sup>4</sup> MCPS officials described lump sum site costs as being those costs particular to a site, specifically including storm water management, traffic flow and control, removing existing parking, landscaping, site grading, reforestation, site utility lines, curbs and gutters, sediment erosion control, ball field modifications, playground equipment, and paving.

Line Item	Total for Phased Projects	Total for Kendale Road	Difference
Geotech Study	22,500	12,500	10,000
Fire alarm system upgrade	175,000	0	175,000
Sprinkler system	132,000	0	132,000
Relocate Portables	180,000	0	180,000
Water service upgrade	100,000	0	100,000
Electrical service upgrade	100,000	0	100,000
Phasing costs	200,000	0	200,000
Total of items listed			\$2,074,745
Total cost difference reported by MCPS			\$2,971,000
Percentage of difference attributed to phased construction approach			69.8%

### Analysis of Comparable Facility Projects

In addition to our analysis of school size and multi-phase costs related to the \$2.97 million difference between the two options presented to the Board and Council, we found concerns regarding the magnitude of certain costs used for the phased option. To evaluate whether certain costs used were similar in amount to those for other similar school construction projects, we requested detailed cost data for projects estimated by MCPS during the same time frame. MCPS officials provided two projects they deemed reasonable comparables for the SLES addition phase - Gaithersburg Elementary and South Lakes Elementary. While both are titled addition projects, each has a modernization or renovation included in the project.

We compared cost estimates for SLES to each comparable project. It is important to note that construction-only costs for the addition at SLES (18,000 square feet) were estimated to be \$3.78 million versus \$5.85 million for Gaithersburg (with a 29,845 square foot addition and 5,935 square feet for modernization) and \$5.04 million for South Lakes (with a 20,489 square foot addition and 51,399 square feet for renovation). Because each comparable project was significantly larger in construction-only costs, we expected other costs to be higher for the comparable projects. However, we found that for certain SLES line items, the cost estimates presented to the Board and Council for the SLES addition were higher than the comparables.

### Analysis of Selected Addition SLES Costs to Comparable Projects

Line Item for Addition Only	Costs for SLES	Costs for Gaithersburg	Costs for South Lakes
Site Costs <sup>5</sup> (see footnote at end of page 9)	\$1,354,745 (35.8%)	\$1,290,250 (22%)	\$1,341,202 (26.6%)
Fire alarm system upgrade	175,000	75,000	0
Sprinkler system	132,000	0	0
Water service upgrade	100,000	45,000	0
Electrical service upgrade	100,000	75,000	0

We also studied a comparable project provided to us by MCPS for the modernization phase of the existing SLES site. The project was the Connecticut Park Elementary

School. SLES and the comparable project each had a partial new construction and modernization of the existing building. The SLES modernization was to total 65,190 square feet, while the Connecticut Park modernization was 75,961 square feet. Although construction-only costs were higher as expected for Connecticut Park (\$10.7 million for Connecticut Park versus \$7.02 million for SLES), the site costs, architect fee, and contingency reserve were significantly lower for Connecticut Park as a percentage of construction-only costs. In addition, we found certain line item estimates were higher for SLES than the comparable.

**Analysis of Selected Modernization SLES Costs to Comparable Project**

Line Item for Modernization Only	Costs for SLES	Costs for Connecticut Park
Site Costs <sup>5</sup>	\$1,353,000 (19.3%)	\$1,300,000 (12.1%)
Architect fee <sup>5</sup>	775,783 (11.1%)	886,032 (8.3%)
Contingency Reserve <sup>5</sup>	685,000 (9.8%)	559,020 (5.2%)
Utility Relocation	216,000	95,000
Core adjustment	246,000	0
Relocate Portables	180,000	0
Phasing Costs	200,000	0

We were not provided comparable project data for the construction of the replacement school, so an analysis of this option was not performed.

As a result of our analysis and discussions with MCPS officials directly involved with these school construction projects, we identified concerns regarding the completeness and reliability of cost data used by MCPS to compare estimated costs for the SLES options presented to the Board and Council. We believe the submission of more complete and reliable cost analyses is needed to ensure decision makers are adequately informed and an effective system of checks and balances is in place for the County’s Capital Improvements Program.

**Recommendation**

We recommend MCPS, in consultation with the Board and Council, develop and implement a quality control process that enhances fiscal accountability for all school construction projects by ensuring complete and reliable cost data and analyses are provided when a project is submitted for approval.

<sup>5</sup> As a dollar amount and percent of construction-only costs adjusted for duplication

### **Finding 3**

Evidence does not support MCPS statements to the Board that the Seven Locks Elementary School community proposed or supported a Kendale Road replacement school option.

#### **Analysis**

Evidence does not support statements by MCPS that the Seven Locks Elementary School community proposed or supported the replacement school option. Specifically, although a memorandum dated February 23, 2004 from the Superintendent to the Board (titled “Recommendation for Brickyard Road, Kendale Road, and Edson Lane School Sites”) states “Winston Churchill Cluster leadership and the Seven Locks Elementary School (SLES) Parent-Teacher Association (PTA) have proposed a plan to build a replacement Seven Locks Elementary School on the Kendale Road site,” we found no independent supporting documentation for the statement.

We asked MCPS to provide documentation to support its statement that cluster and PTA leadership proposed a plan to build a Kendale Road replacement SLES facility. We evaluated this statement because it was referenced in the material submitted to the Council requesting a change to the fiscal year 2005-2010 Capital Improvements Program (CIP). In response to our request, MCPS provided three documents, one of which relates to the PTA and two that relate to cluster leadership. We evaluated these documents as well as all information made available by community residents.

The PTA-related document is a copy of written testimony given on March 3, 2004 by the SLES PTA President to the Board. In addition to this testimony not occurring until after the date of the Superintendent’s memorandum, our review disclosed the content does not support the statement. Rather, it states the PTA “did help identify the Kendale parcel as a potential new elementary school site, but we did not propose it to replace Seven Locks E.S. We stated that the existence of 19 portables among our 5 elementary schools justifies constructing a new school.” In addition, the testimony stated “we strongly believe the modernization and addition should be done together.”

One of the cluster documents is testimony of the MCCPTA Area Vice President given to the Board on March 3, 2004. We noted that this testimony also did not occur until after the date of the Superintendent’s memorandum and that it does not address a proposal to build a replacement school on Kendale Road. The primary purpose of this testimony is to oppose declaring as surplus any school property and to request new additional schools in the Churchill Cluster.

The other cluster-related document is a MCPS memorandum from the Superintendent addressed to Board. In this memo, which summarizes a meeting held on January 20, 2004, the MCCPTA Area Vice President is quoted as follows: “a better solution to the space problem at Potomac Elementary School, and the need for a larger, modernized Seven Locks Elementary School, would be to construct a new replacement school for Seven Locks on the Kendale Road site.” We interviewed this individual, who described the attributed quote as “factually incorrect.” This individual stated other documented

testimony by her demonstrates an opposition to a replacement school and that her primary goal was to achieve new additional schools to relieve overcrowding and extensive use of portable classrooms.

We interviewed the other community member who was present at the January 20, 2004 meeting. Although this individual recalled SLES being discussed, the individual stated the MCCPTA Area Vice President did not propose the idea of a replacement school.

Our evaluation of the written material provided to us by MCPS and our review of additional documents and statements by community representatives indicated that the Seven Locks community generally, and the PTA and Churchill Cluster leaders specifically, are on record as opposing construction of a replacement school. In this regard, we could not corroborate MCPS' statement regarding PTA and Churchill Cluster leaders proposing a plan to build a Kendale Road replacement school.

**Recommendation**

We recommend that MCPS, in consultation with the Board and Council, take the necessary action to ensure the position of leaders of school communities affected by proposed amendments to facility master plans or the Capital Improvements Program is properly documented and presented to those involved in capital budget deliberations.

#### **Finding 4**

Procedures used to award an \$817,500 architect contract for a Kendale Road replacement school were inadequate and may have violated Board requirements.

#### **Analysis**

Procedures used to award an \$817,500 architect contract for a Kendale Road replacement school were inadequate and may have violated Board requirements.

In response to our request regarding applicable procurement laws and regulations, MCPS stated the Board is subject to Education Article §4-117 of the Annotated Code of Maryland and the BOE Selection Criteria for Architectural/Engineer Firms, as amended July 14, 1998. Our review of Education Article §4-117 disclosed that while it authorizes school boards to retain architects for educational facility projects, it does not specify contract award or procurement requirements.

With regard to the BOE Selection Criteria, we noted the following requirement: “When the scope of the project is such that the A/E fee is expected to exceed \$25,000, a five step process is used to select an appropriate firm. The selection criteria include the following steps: Public Notice, Application, Initial Selection, Negotiation, and Appointment.” The Board’s Public Notice, Application, and Initial Selection steps are described as follows:

- Public Notice: “When appropriate, the director of the Department of School Facilities notifies the public of MCPS’ intent to secure architectural/engineering services for a specific project. A notice to this effect, soliciting applications from qualified firms, is placed in a local newspaper for three consecutive days.”
- Application: “During, and only during, the time period defined in the public notice, interested architectural and engineering firms may apply for consideration for a specific project by submitting the following information to the director of the Division of Construction...”
- Initial Selection: “Applications for a specific project are evaluated by a selection committee comprised of staff representatives of the Department of School Facilities, the Department of Educational Facilities Planning and Capital Programming, and representatives of the affected school, PTA, and administrative area.”

In August 2001, the Board awarded the first Seven Locks Elementary School (SLES) contract for architectural services involving the existing site. The contract was for a feasibility study of alternatives and was valued at \$28,000. Additional task orders were generated in August 2003 for a traffic study at the existing site and in February 2004 for a feasibility study to evaluate the possibility of building a replacement school.

MCPS provided us with documentation regarding the process used to award the first contract. In our assessment of this material and in discussions with MCPS officials, we



determined that MCPS did not comply with the Board's Public Notice, Application, or Initial Selection requirements for this contract. Specifically, MCPS does not advertise for specific projects and responses received from architects are not for specific projects, as required by the BOE Selection Criteria. Instead, MCPS advertises annually for firms interested in providing services in up to seven categories. In addition, although a committee was formed to select the architect for the first contract, the committee did not include members from all groups required by the Board.

With regard to the Board's Public Notice and Application requirements, MCPS provided us with the following comments:

*"... we advertise for various categories of architectural services, not specific projects, at the beginning of each fiscal year. This is done because we have numerous projects of a similar nature and it was cumbersome to make architects submit qualification forms and supporting data for each individual project. Architects can apply for specific categories or all categories with one annual submission. All capital projects require a feasibility study before funds are allocated for architectural design and construction. Architects are selected annually for approved feasibility planning projects using the procedures adopted by the BOE . . . for architectural/engineering services."*

On July 6, 2004, following the Council's fiscal year 2005 appropriation of additional funds for SLES, MCPS awarded a contract to the same architectural firm that issued the initial feasibility study in January 2002 in the amount of \$817,500 for the design and construction phases of a replacement school on Kendale Road. Additional task orders have since raised the contract's value to approximately \$890,000. Our review of this contract disclosed MCPS did not comply with the Public Notice, Application, or Initial Selection portions of the BOE Selection Criteria for this contract. We believe compliance with the existing BOE requirements would have resulted in a more competitive procurement.

We were advised by MCPS staff that once they selected an architect for the initial feasibility study, there was no need for the Board's five step approach to be used for additional phases. MCPS described their position as follows:

*"You also asked for an explanation of our practice to extend architectural feasibility contracts to full service design contracts.*

*Once a feasibility study is finalized the architect's performance is assessed by the staff working on the project. If the architect did a good job and worked well with the principal and community, an assessment is made to determine if we should recommend the continuation of the firm as the architect for the building design phase. If the architect applied for all categories of the services advertised and was deemed qualified to provide full architectural services and the school principal, along with the planning/construction staff working on the project, feels*

*the architect should be retained a recommendation is made to use them for the design and construction phase of the project. We feel this is consistent with our practices and procedures. The feasibility architect for Seven Locks has a proven track record on previous school projects for us and other jurisdictions and did a good job on the feasibility study. The principal and staff were satisfied with their performance and recommended that they be retained for the design services."*

In addition to this procurement approach not complying with the Board's stated requirements, we believe the practice of awarding a contract approaching \$900,000 without the use of competing proposals is not a sound business practice.

**Recommendation**

We recommend that MCPS ensure that procedures used to award future architect contracts exceeding \$25,000 follow the five-step process outlined in the Board's procedures, as amended July 14, 1998. We also recommend that MCPS obtain a formal opinion from the Board's general counsel as to whether MCPS procurement practices to date for SLES projects violate BOE procedures.

## **Audit Scope, Objectives, and Methodology**

We conducted a financial audit to evaluate the Montgomery County Public Schools (MCPS) Seven Locks Elementary School (SLES) projects. The audit was conducted, in part, to resolve credible complaints received by the Office of Inspector General concerning cost and other data related to the SLES projects. The audit period was from May 2001 when the County Council appropriated \$250,000 in planning funds for an addition to the existing SLES site through May 2004 when the Council amended the fiscal year 2005-2010 Capital Improvements Program by approving a SLES replacement school on Kendale Road. We conducted this audit under the authority of Montgomery County Code §2-151 and performed it in accordance with generally accepted government auditing standards.

An objective of this audit was to evaluate whether certain SLES cost and other financial-related data were presented fairly in all material respects in accordance with generally accepted accounting principles. In addition, we evaluated related management information presented to the Council and others regarding original construction plans and revisions. We also examined compliance with requirements of State and County laws and regulations related to the expenditure of County funds.

In planning and conducting the audit, we focused on correspondence and financial data provided by MCPS to the Board of Education and County Council. We also reviewed cost data for SLES and other school facility projects maintained by MCPS. Our audit approach was shared with the Superintendent of Schools and Chief Operating Officer, the Board of Education, and the County Council in November 2005 during the planning phase of the audit.

To accomplish our objectives, we reviewed applicable State and County laws and regulations pertaining to educational facilities, as well as policies and procedures established by MCPS, the Board of Education, and the Council. Our procedures included inspection of documents related to staff analyses and memoranda, facility construction cost studies and options, educational facilities master plans, Board and Council resolutions, and proposed and approved capital budgets and CIPs. Our procedures also included discussions with MCPS leadership, Board members, MCPS and Board staff, Council staff, and County residents.

Data provided in this report for background information or informational purposes were deemed reasonable, but were not independently verified.

### **Field Work and MCPS Response**

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We conducted our fieldwork from November 2005 to January 2006. The response to our audit report is included as an appendix. In reviewing the response, we noted it was issued by the Chair, Audit Committee, Board of Education. The response did not address our findings and recommendations; rather, the response focuses on the Inspector General's

authority to conduct audits of the MCPS or Board of Education and the audit methodology. It is important to note that the legislative authority concern was raised for the first time in the February 7, 2006 response to the draft audit report; therefore, we will advise the Board regarding the results of our review of the response. It is also important to note that two legal opinions referenced in the response have not been included in the Appendix because they were identified as “confidential: subject to attorney-client privilege.”

**Audit Manager**

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