

Statement Of

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Inspector General
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To The

MFP and Education Council Committees
March 2, 2006

Introduction

I appreciate the opportunity to discuss our audit of the Seven Locks Elementary School (SLES) Projects with you. With me today is Jon Easley, Deputy Inspector General, and manager of this audit. Jon is a Certified Public Accountant with more than 20 years of audit experience in the inspector general community.

A key goal for this audit was to provide a useful product to the leaders responsible for the often difficult decisions that require consideration of cost, budgeting, enrollment projections, safety, timing and scheduling, and other criteria. Other key goals were to evaluate fiscal accountability; transparency in operations; public concerns regarding the expenditure of resources; and compliance with stated requirements.

The primary purpose of my prepared remarks is to give you an assessment of our audit and the responses received to date from the Superintendent, Board, and County taxpayers. I believe it is important to share with you some key points that may need to be clarified at today's session.

Although we have received many positive comments from residents across the County regarding the audit report's value, I regrettably cannot make the same statement for all who oversee or manage the complex financial and construction phases of the County's school facility projects. In this regard, I have not yet accomplished one of my key goals.

As stated in the audit report, we believe action needs to be taken to ensure County taxpayers that adequate accountability is in place over the capital funds approved each year for school projects. The OIG is committed to working with all County leaders to demonstrate that the four findings are valid and implementation of the related recommendations is worthwhile. In my review of more than 60 pages of audit response material, there appears to be some common ground in Findings 2 and 4 on which MCPS leaders and auditors agree. However, we do not have agreement on the conditions overall. In addition, little information has been provided in the responses concerning our recommendations to increase accountability at the MCPS, Board, and Council levels.

Ensuring the quality and availability of information needed for effective Council decision-making is a management responsibility. The SLES audit can be used by the Board and Council as part of a case study to examine whether adequate management

controls are in place to ensure that detailed cost data compiled by MCPS for capital projects is presented to the Council for staff analyses and consideration.

SLES is clearly an emotionally charged project – the Office of Inspector General recognized this more than a year ago, prior to my appointment – when the office began to receive complaints alleging a lack of transparency and openness in school construction projects generally. The office did not hastily decide to conduct this audit – we listened carefully to County residents, reviewed school construction portions of the CIP, and examined on a preliminary basis cost data and related information provided by MCPS to Council staff for analysis. Once we decided the complaints warranted examination, we determined that a formal audit process was the appropriate tool to use. By applying generally accepted government auditing standards, we ensured our approach was objective, fact-based, nonpartisan, and non-ideological in our relationships with those audited and users of the audit report. We believe the selective use of independent audits as part of the County’s governance system for school construction projects included in the CIP should be considered.

Planning for this audit included a formal entrance conference with MCPS officials on November 15, 2005 as well as formal notification to the Council and Board of Education prior to the start of our field work.

Audit Scope

Our scope covered the period May 2001 to May 2004 in order to examine whether cost data and other information presented to the Board and Council prior to the May 2004 CIP decision was presented fairly in all material respects. This included determining whether a reported \$2.97 million difference in cost between options involving the existing SLES site and the Kendale Road site was accurate and reliable, and whether MCPS’ statements that a replacement school was proposed or supported by the community were appropriate.

A question has been raised as to why the scope did not extend beyond May 2004 to ensure that additional documents and information, such as the 35-year life cycle cost analysis, were examined. The answer is straightforward – because the Council made its decision on May 27, 2004 using the cost data and other information available to Council members as of that date. While we agree additional information about the Kendale Road replacement school project was developed after May 2004, it was not relevant to the Council’s adoption of Resolution Number 15-622 on May 27, 2004 that amended the CIP by reversing a decision to fund the addition and modernization for SLES on the existing site and approving \$14 million in funding for a new facility on a different property.

Audit Findings

Having read the formal response included in the audit report and the additional MCPS response received after issuance of the report, I want to comment briefly about each finding – comments that we believe should be the focus of discussion about the report’s findings:

Finding #1 – This finding concerns the number and details of options that were presented to the Council. It is important to discuss specific MCPS documents analyzed during the

audit to help explain why we believe at least one other option presented by the architect in 2002 as a preferred option for the existing site and updated by MCPS in February 2004 should have been presented to the Board and Council for consideration. These documents are:

- A January 2002 feasibility study by the architect hired by MCPS to make recommendations which shows that of all the options developed, the preferred option was to tear down the existing building and replace it with a compact 2-story building. The architect identified 11 advantages and 5 disadvantages for the preferred option. Advantages listed by the architect included addressing traffic safety and safe access concerns raised by MCPS and community members.
- A cost study updated by MCPS on February 27, 2004 for construction options at the existing SLES site. Option 1 of the cost study is an update to the architect's preferred option described above. As stated in the audit report, although MCPS updated the cost estimate for this option on February 27, 2004 at the same time it was studying a new replacement school option on Kendale Road, it was not included in the MCPS package provided to the Board and later to the Council staff. As a result, Option 1 was not included in Council staff reports for further analysis and consideration.
- A cost study updated by MCPS on February 27, 2004 for the new replacement school option on Kendale Road. Although this study was updated at the same time as the options for the existing site, we found no evidence that the updated Kendale Road and existing site options were compared.
- A March 2004 draft feasibility study that addresses three Kendale Road options. This study does not compare the Kendale Road options to any updated existing site options.

We understand and respect the Council's prior decisions to defer modernization projects due to fiscal constraints, and MCPS' statement that it terminated plans in July 2002 to complete the SLES addition/modernization as a single project based on the Council's direction. We believe that when, in 2004, it became clear to MCPS that the opportunity existed to address the SLES issues in a one-step process, that alternative options to accomplish this should have been considered and presented to the Council.

We feel our position is supported by the fact that MCPS revised cost estimates for single-phase solutions at the existing SLES in February 2004, and was or should have been aware that the architect's preferred option was less expensive than either of the two options presented. Further, MCPS acknowledges in their response that they possessed cost estimates for a replacement school at the existing SLES site. Presenting all options that would address the SLES issues in a single phase, particularly those updated by MCPS in early 2004, and documenting those options in material presented to the Board and Council would ensure that all Council members and residents interested in the project's progress have access to key financial and other information used by MCPS to identify and present its recommendations.

Finding #2 – Our second finding concerns the use of complete and reliable cost data to analyze options and present recommendations to the Board and Council. MCPS has not

disputed the primary element of the finding – that three factors caused the cost difference favoring the Kendale Road replacement school and that this detail was not provided to the Council.

However, we disagree with MCPS’ statement that this finding was changed because MCPS informed us it was incorrect. We decided to state the finding differently to emphasize systemic concerns regarding MCPS’ method of conducting cost studies (rather than focusing on an individual project as we did in the preliminary audit finding presented in writing to MCPS on January 6 and discussed at a formal exit conference on January 19, 2006.) In addition, modifications to data tables in this finding are attributable to our willingness to consider, at MCPS’ request, different school construction projects as “comparables” to the SLES project. Our preliminary audit findings used Rosemont Elementary School as an addition project comparison and Somerset Elementary School as a modernization project comparison – these projects were provided to us by MCPS during the audit field work in response to our request for comparable projects. After reading the draft audit finding, MCPS stated during the exit conference that other projects were more similar to SLES and therefore more comparable. They suggested we use the Gaithersburg and South Lakes Elementary School projects as addition project comparables and the Connecticut Park Elementary School for the modernization project comparable. Our analysis of these projects resulted in similar findings to the first set of comparables. We concluded that for each of the five comparable project analyses conducted and reported to MCPS during the audit, concerns exist regarding the completeness and reliability of the SLES cost data used by MCPS.

Finding #3 – This finding addresses MCPS’ statements to the Board that the SLES community proposed or supported a Kendale Road replacement school option. During our audit field work, we asked MCPS to support the statement which was included in formal correspondence forwarded to the Board and Council. They provided three documents, which we analyzed, as detailed in the report. On February 22, 2006 (after the audit report was issued), MCPS provided additional support for their position in the form of a quote from testimony given at the February 12, 2004 Council hearing, even though such information was requested in support of the statements during the audit. We determined that this testimony is from the same individual described in the third paragraph of Finding 3 in the audit report, in which we state the individual clearly opposed the replacement school.

We reaffirm the statement in our report that we could not corroborate MCPS’ statement regarding PTA and Churchill Cluster leaders proposing a plan to build a Kendale Road replacement school.

Finding #4 – This finding focused on procedures used to award an \$817,500 architect contract. In our original request to MCPS for information needed to conduct the audit, we asked for all State, County, and Board procurement laws and regulations MCPS was required to follow for the architectural services contract awarded on July 6, 2004. MCPS’ response stated they were required to follow Section 4-117 of the Annotated Code of Maryland and the Board of Education Architect/Engineer Selection Procedures, as revised on July 14, 1998. We found that the Annotated Code authorizes county boards

to employ architects but does not contain requirements regarding the process to be used. We found the Board’s procedures require, for all projects expected to exceed \$25,000 in architect/engineer fees, a five-step process for contract award.

We believe it is clear MCPS did not comply with Board requirements and did not identify any State statutes it was required to follow governing the award of architectural contracts.

Summary

As an independent inspector general, a primary responsibility of the office is to investigate credible complaints regarding the accuracy and reliability of key data and information presented to the Council and staff as part of the Council’s financial decision-making process.

We believe the SLES audit focused on the right objectives, enabling us to evaluate: fiscal accountability; transparency in operations; public concerns regarding the expenditure of resources; and compliance with stated requirements. In addition, we believe the SLES audit report accurately and fairly presents the conditions identified.

Summary of Conditions Reported and Recommendations

Condition	Recommendation
Cost data for the SLES 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	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.
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.	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.
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.	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 in capital budget deliberations.
Procedures used to award an \$817,500 architect contract for a Kendale Road replacement school were inadequate and may have violated Board requirements.	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.

Thank you again for the opportunity to present the work of the OIG.