



OFFICE OF THE INSPECTOR GENERAL

Montgomery County, Maryland



MEMORANDUM OF INVESTIGATION

TO: Dr. Monique T. Felder
Interim Superintendent of Schools

FROM: Megan Davey Limarzi, Esq.
Inspector General *ML*

DATE: June 24, 2024

SUBJECT: MCPS' Procurement of Crisis Management Services

The Office of the Inspector General (OIG) recently concluded an investigation of Montgomery County Public Schools' (MCPS) use of an emergency procurement to acquire crisis management and communication support services (crisis management). The investigation was predicated on a complaint received through the OIG's hotline alleging that MCPS engaged in "sloppy" procurement practices. We substantiated that MCPS did not adhere to its own policy when awarding contracts valued at \$210,000 under emergency contracting provisions.

Background

On April 4, 2024, the OIG received a hotline complaint stating that MCPS failed to produce complete records regarding the procurement of crisis management services in response to a Maryland Public Information Act (MPIA) request.¹ The complainant opined that based on the records they received, MCPS' procurement practices appeared "sloppy"

The OIG subsequently obtained documentation showing that on October 12, 2023, the Montgomery County Board of Education (BOE) approved a contract for \$105,000 under MCPS' emergency procurement provisions to acquire crisis management consulting services. The contract sought to procure crisis management and communications services to assist in managing inquiries about MCPS' handling of misconduct allegations against former MCPS Principal Joel Beidleman. (See related OIG report at <https://www.montgomerycountymd.gov/OIG/igproduct.html>)

The OIG found that in total MCPS spent \$210,000 through emergency procurements to acquire related crisis management support. The following pertinent activities are associated with the procurements:

- August 14, 2023: Beginning of performance period with selected vendor.
- August 30, 2023: Justification for the emergency purchase was submitted to MCPS' Division of Procurement.
- September 11, 2023: Contract Review Form first signed by the director of MCPS' Office of Communications approving the acquisition of crisis management and communications support in the amount of \$105,000 for the term of August 15, 2023, to November 15, 2023.

¹ The OIG provided the complainant with contact information for the Maryland Public Access Ombudsman to pursue the allegations related to noncompliance with MPIA.

- September 27, 2023: Contract Review Form signed by MCPS chief of staff indicating approval.
- October 2, 2023: Contract Review Form Signed by MCPS chief operating officer indicating approval.
- October 12, 2023: BOE approved the procurement.
- October 23 & November 20, 2023: MCPS and selected vendor signed the related contract.
- November 6, 2023: A second Justification for emergency purchase was submitted to the Division of Procurement to extend the emergency procurement of crisis management and communications support.
- November 7, 2023: Contract Review Form for the extension signed by the director of the Office of Communications approving the \$105,000 extension of the original contract from November 16, 2023, to February 16, 2024.
- November 10, 2023: Contract Review Form for the extension signed by MCPS chief of staff indicating approval of the extension.
- November 30, 2023: Contract Review Form for the extension signed by MCPS chief operating officer indicating approval of the extension.
- February 6, 2024: The contract extension was approved by the BOE.
- February 7, 2024: MCPS and selected vendor sign a contract amendment to add \$105,000 to the original contract price and extend the period of performance through February 16, 2024.
- February 8, 2024: MCPS paid the selected vendor \$105,000 for work performed on the original contract.
- April 10, 2024: MCPS paid the selected vendor \$105,000 for work performed on the contract extension.

Emergency procurements carry an elevated risk of fraud, waste, or abuse due to less stringent review and approval requirements. Many of the controls and safeguards governing traditional procurements do not apply to emergency procurements, thereby allowing for less competition, scrutiny, and documentation.

Applicable Law, Regulation, and Policy

MCPS Procurement Manual, Section 7: Procurement Methods – Emergency Request

Inquiry and Findings

Use of Emergency Procurement Procedures

MCPS' Procurement Manual allows for the use of emergency procurements when “[a]n emergency may arise in order to protect personal safety, life or property (i.e., an occurrence of a serious, urgent, and threatening nature that demands immediate action to avoid termination of essential services or a dangerous condition).” The use of this procurement method to acquire crisis management and communications services to primarily manage the negative publicity

generated by media interest in the Beidleman investigation does not meet the criteria detailed in the Procurement Manual.

A senior MCPS official involved in the approval process told the OIG that the procurement “felt like it was rushed” and described being directed to “figure out a way to make this work.” MCPS’ director of procurement told the OIG that they believed the use of an emergency procurement in this case was justified because immediate action was necessary, “critical situations were happening,” and communications services were needed to manage the volume of public and media inquiries regarding the misconduct allegations against Principal Beidleman.

While Beidleman’s actions and the subsequent investigation created increased scrutiny and complaints involving MCPS leadership and staff, the situation does not appear to have placed “personal safety, life, or property at risk”. Similarly, dealing with the increased volume of inquiries, although burdensome, was not consistent with the type of “serious, urgent, and threatening nature that demands immediate action” required by the Procurement Manual. Furthermore, even if MCPS could justify using an emergency procurement method to initially acquire these services, it is improbable that the situation was still at the same critical intensity in February 2024, calling into question the necessity of a contract extension using an emergency procurement method.

Finally, the terms in the contract between MCPS and the selected vendor seem more geared towards responding to reputational risk than countering an incident that would lead to the “termination of essential services or a dangerous condition.” Through the contract, MCPS acquired the following services:

- Strategic counsel to help protect the reputations of the MCPS system.
- Draft all collateral, including but not limited to statements, emails, fact sheets, press releases, and Q&As.
- Conduct daily, real-time social media monitoring and rapid response support.
- Help to manage incoming media inquiries.

The use of emergency procurement provisions to acquire crisis management and communications services was inconsistent with MCPS’ policy.

Approval Process

Although emergency procurements have fewer controls than other methods, there are still certain requirements in place to protect public funds from being misused. MCPS’ Procurement Manual requires the following when acquiring services as an emergency procurement:

- A written determination and justification establishing the basis for the emergency and for the selection of the particular vendor must be submitted by the requestor to the Procurement Unit prior to creating an obligation.
- The chief operating officer and the director of materials management will approve or disapprove the purchase as an emergency procurement.
- While competitive bidding and competitive negotiations are not required, procurement should be made with as much competition as is practical under the circumstances.

- If the action is \$25,000 or more, it must be taken to the next available BOE meeting for approval.

On August 30, 2023, a staff member from the MCPS Office of Communications submitted a completed Justification form to MCPS' Division of Procurement stating the following:

“This is an emergency request to bring on a crisis management and strategic communications firm that will provide critical counsel, communications collateral, real-time situation monitoring and response, and management of media inquiries. [Contractor name omitted by the OIG] is best suited to provided [sic] this service at this time.”

This Justification noted that three vendors were contacted and was signed by the then chief of staff, the associate superintendent of finance, and the then chief operating officer. The document did not list an expected contract term, making it unclear if any of the signatories knew when the services would be provided. Our analysis revealed that MCPS entered into an understanding with the vendor, and began using the services of the selected vendor, on August 14, 2023; 16 days before the Justification was submitted to the Procurement Unit.

Then, although the vendor's services had begun nearly two months earlier, it was not until October 12, 2023, that the BOE approved then Superintendent of Schools's request to use emergency procurement methods in the amount of \$105,000 “to provide crisis management and communication support services from a team of experienced crisis communication strategists.” The memorandum in support of the procurement did not specify a period of performance or justify the use of the emergency procurement. Of note, there was no discussion during the corresponding BOE meeting about the contract.

We further noted that on November 6, 2023, another Justification for emergency purchase was submitted to the Division of Procurement to extend the original emergency procurement for crisis management and communications support. The extension, which was ultimately approved by the BOE on February 6, 2023, covered the period of November 16, 2023, to February 16, 2023, at an additional cost of \$105,000. MCPS' Procurement Manual requires that emergency procurements valued at \$25,000 or more “must be taken to the next available BOE meeting for approval.” We observed that the BOE held at least 2 business meetings after the chief operating officer approved the Contract Review Form for the extension and before it was presented to the BOE.

MCPS did not adhere to its policy when processing the original emergency procurement nor the later extension.

Conclusion

Emergency procurements enable administrators to expeditiously procure services to address serious needs that cannot otherwise be met through normal procurement methods. Because they are inherently riskier, result in higher costs, and lack the transparency of other procurement methods, they should only be used when other procurement methods are not possible. For this reason, MCPS places controls on their use and provides specific directions on processing requests.

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The OIG substantiated that MCPS' procurement of crisis management and communication services using emergency procurement provisions violated policy. We further substantiated that while doing so they did not follow established procedures for seeking approval to use emergency procurements.

Please contact me with any questions, or a member of your staff can contact Deputy Frank da Rosa, Francisco.darosa@montgomerycountymd.gov, with any questions.

cc: Dr. Henry Johnson, MCPS Acting Chief of Staff