

STATE OF LOUISIANA LEGISLATIVE AUDITOR

Orleans Parish School Board
New Orleans, Louisiana

September 25, 2012



Investigative Audit

Daniel G. Kyle, Ph.D., CPA, CFE
Legislative Auditor

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Orleans Parish School Board

September 25, 2002



Investigative Audit
Office of the Legislative Auditor
State of Louisiana

Daniel G. Kyle, Ph.D., CPA, CFE
Legislative Auditor



DANIEL G. KYLE, FIDELITY, CPA, CFE
LEGISLATIVE AUDITOR

OFFICE OF
LEGISLATIVE AUDITOR
STATE OF LOUISIANA
BAYOU BOULE, LOUISIANA 70804-5307

100 NORTH THIRD STREET
FIRST OFFICE BLDG 5007
TELEPHONE: 504-224-8800
FACSIMILE: 504-224-8870

September 15, 2002

MS. ELLENISE BROOKS-SIMMS
BOARD PRESIDENT
ORLEANS PARISH SCHOOL BOARD
New Orleans, Louisiana

Transmitted herewith is our investigative report of the Orleans Parish School Board. Our examination was conducted in accordance with Title 24 of the Louisiana Revised Statutes and was performed to determine the propriety of certain allegations received by this office.

This report presents our finding and recommendations as well as your response. Copies of this report have been delivered to the Orleans Parish School Board, the Honorable Harry Comstock, Sr., District Attorney for the Orleans Parish Judicial District of Louisiana, Mr. James Letten, United States Attorney for the Eastern District of Louisiana, and others as required by state law.

Respectfully submitted,

Daniel G. Kyle, CPA, CFE
Legislative Auditor

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Executive Summary

Investigative Audit Report Orleans Parish School Board

The following summarizes the findings and recommendations as well as management's response that resulted from this investigation. Detailed information relating to the findings and recommendations may be found at the page number indicated. Management's response may be found at Attachment I.

Background (See page 5.)

The Orleans Parish School Board (school board) is a political subdivision created for providing public education to the residents of Orleans Parish under Louisiana Revised Statutes 17:51 and 17:121, as amended. The school board is presently composed of seven members elected by districts serving concurrent four-year terms; these terms began January 2001.

The school board is composed of a central office, 134 schools, and educational support facilities. Student enrollment for the 2001-2002 year was 35,229 regular and special education students. The school board employs approximately 13,885 persons.

The legislative auditor received information of possible impropriety involving the emergency repair work following catastrophic events, such as fires and floods. Early in 2002 this office began an investigation of the allegation, reviewing school board records and interviewing certain school board employees and others as deemed appropriate.

Finding (See page 7.)

Mr. Carl Coleman, former Director of Risk Management for the Orleans Parish School Board (OPSB), received at least \$11,212 in gratuitous services from an OPSB contractor, Mr. Jeffrey Pollin, owner of Horizon Group of L.A., Inc., while contracting work and approving payments of \$3,913,825 to Mr. Pollin for emergency repair work in what appears to be a violation of OPSB policy and state law. Mr. Coleman:

- (1) *did not consult the OPSB or its legal counsel in negotiating contracts for repair work;*
- (2) *did not require the contractor to be licensed, insured, or bonded;*
- (3) *did not require detailed invoices for work completed;*
- (4) *did not determine that work was completed before payments were tendered;*
- (5) *did not obtain approval from his supervisor before paying invoices;*
- (6) *continued to pay the contractor after being instructed by his supervisor to send all payments to the contractor; and*
- (7) *mailed the final payment to the contractor through another OPSB vendor in a manner that made the payment more difficult to detect.*

It appears there were no properly executed contracts. Without properly executed contracts, Mr. Coleman had no authority to spend public funds.

The gratuitous services received by Mr. Coleman included roofing repairs, sheet rock finishing, and painting to his personal residence. As of this time, we have not determined the extent additional work might have been performed on Mr. Coleman's home and paid for by Mr. Politt or other contractors. To make this determination, the legislative auditor needs to examine certain records belonging to Mr. Coleman, Mr. Politt, and Horizon. We have subpoenaed those records; however, both Mr. Coleman and Mr. Politt are contesting the subpoena in court.

In addition, the legislative auditor provided Mr. Coleman and Mr. Politt copies of the report and requested their responses to the report. Mr. Coleman and Mr. Politt did not respond. We are continuing our investigative work regarding this matter.

Recommendations (See page 23.)

We recommend that the OPSB:

1. Prevent the Risk Management Department from engaging in capital improvement projects
2. Limit the involvement of the Risk Management Department in managing emergency repair projects
3. Implement policies and procedures to ensure that internal policies and state laws are adhered to in dealing with emergency repair work and capital improvements

We also recommend that the District Attorney of Orleans Parish and the United States Attorney for the Eastern District take appropriate legal action, to include seeking restitution.

Management's Response (See Attachment L.)

We have reviewed the Legislative Auditor's report on unauthorized activities of the New Orleans Public School's Risk Management Department. The report's findings are well documented and its conclusions, well reasoned.

The Board has revised its policies regarding the Compliance Officer and the Internal Auditor, to increase the independence of those officers from the Administration.

On September 3, we visited the United States Attorney for the Eastern District of Louisiana to report the misconduct documented in your report. The Board will consider soon a revision to the current organizational structure. And most importantly, the Board continues to encourage a culture of openness.

Background and Methodology

The Orleans Parish School Board (school board) is a political subdivision created for providing public education to the residents of Orleans Parish under Louisiana Revised Statutes 17:53 and 17:521, as amended. The school board is presently comprised of seven members elected by districts serving concurrent four-year terms; these terms began January 2002.

The school board is comprised of a central office, 134 schools, and educational support facilities. Student enrollment for the 2001-2002 year was 13,223 regular and special education students. The school board employs approximately 13,053 persons.

The legislative auditor received information of possible improprieties involving emergency repair work supervised by the Director of Risk Management, Mr. Carl Coleman.

The procedures performed during this investigation were consisted of (1) interviewing employees and officials of the school board; (2) interviewing other persons as appropriate; (3) examining selected school board records; (4) performing observations and analytical tests; and (5) reviewing applicable state and federal laws and regulations.

The result of our investigation is the finding and recommendations herein.

Finding

DIRECTOR APPROVED \$3.9 MILLION IN PAYMENTS TO A CONTRACTOR WHILE RECEIVING GRATUITOUS SERVICES FROM THE CONTRACTOR

Mr. Carl Coleman, Director of Risk Management for the Orleans Parish School Board (OPSB) received at least \$11,212 in gratuities services from an OPSB contractor while overseeing work and approving payments of \$3,913,825 to the contractor for emergency repair work in what appears to be in violation of OPSB policy and state law.

Mr. Coleman:

- (1) did not consult the OPSB or its legal counsel in negotiating contracts for repair work;
- (2) did not require the contractor to be licensed, insured, or bonded;
- (3) did not require detailed invoices for work completed;
- (4) did not determine that work was completed before payments were tendered;
- (5) did not obtain approval from his supervisor before paying invoices;
- (6) continued to pay the contractor after being instructed by his supervisor to end all payments to the contractor; and
- (7) routed the final payment to the contractor through another OPSB vendor in a manner that made the payment more difficult to detect.

It appears there were no properly executed contracts. Without properly executed contracts, Mr. Coleman had no authority to spend public funds.

From October 17, 2001, to January 18, 2002, three fires and one flood caused damage to four Orleans Parish schools.

- On October 17, 2001, a fire destroyed the Robert Mills Luther Elementary School cafeteria and adjoining classrooms.
- On October 19, 2001, smoke and fire caused damage to a classroom adjoining the Dr. Perry Walker School gymnasium.
- On November 30, 2001, a fire damaged an artist building on the Murray Henderson Elementary School campus.
- On January 18, 2002, a broken water pipe flooded 11 classrooms on the Robert R. Meane Elementary School campus.

The OPSB has procedures in place in the event of emergencies as described previously to mitigate losses and make repairs to damaged properties. These procedures virtually mirror Louisiana's public bid law, Louisiana Revised Statutes (R.S.) Title 38 sections 2212 and 2241, and are designed to expedite the contracting and repair process. According to R.S. 38:2211 (A)(8), an emergency is an unforeseen event resulting in destruction or injury to life or property where the event does not allow for a delay as required by the non-emergency bid procedures. R.S. 38:2212 D provides for alternative procedures in emergency situations. These alternative procedures provide that the school board must declare, in writing, that an emergency exists and allow the school board to enter into a contract without advertising and on the basis of oral offers with written confirmation. R.S. 38:2212 further provides, for non-emergency situations, that the school board must advertise for competitive bids for three different weeks and the first advertisement shall appear at least 25 days prior to opening of bids.

According to OPSB policy, during an emergency, the superintendent/CEO is authorized to seek bids from licensed contractors for repair work. The time allowed to advertise for bids is reduced because of the emergency circumstances. The bids should be obtained as practically as possible by verbal or written quotations or sealed bids. When a bid is accepted, the bid should then be reduced to a written contract and approved by the school board president and vice president. The OPSB then ratifies the contract at its expense in a public meeting no later than 10 days after the contract is approved or expenditures made.

The school board's procedures in emergency and non-emergency contracting begin with acquiring bids from contractors. The low bidder then contracts with a standard agreement originating from the OPSB's Facility Planning Department. A paragraph from that department prepares the contract with the guidance of the school board's attorney. A specifications book, safety manual (from risk management), and plans are agreed to in writing and signed by the contractor and OPSB president and referenced in the contract. The contract is then signed by all relevant parties and distributed to school board departments affected by the contract such as the purchasing, facility planning, and risk management departments.

Contracts Between OPSB and Horizon

In January 2002, Horizon Group of LA, Inc., (Horizon) and the OPSB entered into two contracts totaling \$4,500,000 for cleanup and construction work resulting from fires at Lusher and Manderson schools. The contracts were executed despite deficiencies such as unmet completion times and penalties, which were detrimental to the OPSB. Mr. Carl Coleman personally handled the contract process between OPSB and Horizon. Mr. Coleman:

- (1) allowed Horizon to draft the contracts;
- (2) ordered payments to Horizon without approval of the OPSB;
- (3) bypassed the OPSB attorney and Facility Planning Department;
- (4) continued to approve payments to Horizon after concerns were raised by the school board's attorney; and
- (5) made oral agreements and paid Horizon \$187,904 for the remaining two schools.

Mr. Coleman personally coordinated the acquisition of emergency bids through Community Insurance Company. Mr. Glenny Morgan, owner of Community Insurance Company, is an insurance agent for OPSB representing property and casualty lines of insurance. Mr. Morgan maintains a list of certified contractors, which he uses for insurance claim repairs. According to his associate, Ms. Debra Speight, Mr. Coleman requested that she add Horizon's name to the certified list. Mr. Morgan stated that Mr. Coleman requested he solicit and collect emergency contractor bids for the Lusher School repairs. Mr. Morgan stated that he only collected and gave the bids to Mr. Coleman and that he did not review them.

Contracts should be entered into in a manner that accomplishes the business of the school board while protecting public funds. However, rather than the school board preparing a mutually acceptable and responsible contract, Mr. Coleman allowed Horizon to draft the contracts in a manner detrimental to the OPSB. In addition, Mr. Coleman treated the entire cleanup and repair work at both schools as an emergency rather than just the initial work of mitigating further damage to the schools. Therefore, it appears Mr. Coleman violated the public bid law by not publicly advertising the non-emergency (and largest) portion of the repairs. According to Mr. Jeffrey Pollitt, owner of Horizon, Mr. Coleman gave him a blank contract, he scanned it into his computer, deleted some sections, printed the contracts, and gave them to Mr. Coleman. Mr. Pollitt stated that the contracts were accepted as is.

Though contracts are to be properly executed by both parties, Mr. Coleman requested that the purchasing department pay Horizon without signed contracts and therefore the approval of the OPSB. The OPSB Purchasing Department maintained copies of the Horizon contracts. According to Ms. Davis Riley, Director of Purchasing, the payment process to Horizon began with Mr. Coleman delivering the contracts with a requisition for payment to her department. The contracts on file in the purchasing department were unsigned by the OPSB and therefore not properly executed. When questioned about the contracts, Ms. Riley stated that she normally checks for such details; however, in this case, she did not. Without properly executed contracts, Mr. Coleman had no authority to spend public funds.

The OPSB's attorney, Mr. Robert Rosenberg, also maintained copies of the Horizon contracts; however, the contracts in Mr. Rosenberg's possession were different in content and format than the contracts maintained in the purchasing department. According to Mr. Rosenberg, he did not prepare or review the Horizon contracts. Mr. Rosenberg stated that he received the contracts from Mr. Coleman on February 25, 2002. When he received the contracts, school board President Elizabeth Brocks-Simms and Mr. Jeffrey Pollitt, owner of Horizon, had already signed the agreements. Mr. Rosenberg explained to Mr. Coleman then, and in writing, that the contracts contained blank spaces that should have contained standard information to protect the school board from personal liability.



When questioned about the contracts, Mr. Coleman stated that Horizon obtained the contracts from Dr. Kenneth Ducote, Director of the Facility Planning Department. However, according to Dr. Ducote, Mr. Pollitt did not receive the two contracts from him. Dr. Ducote stated that Mr. Coleman assumed responsibility for contracting with Mr. Pollitt. In a memorandum from Dr. Ducote to Mr. Coleman dated October 25, 2000, Dr. Ducote acknowledges that Mr. Coleman is managing the project and requested the usual documentation including the Horizon contract. On February 23, 2002, Dr. Ducote again requested by two memorandums that Mr. Coleman provide copies of all usual documentation including the Horizon contracts for Lusher and Henderson School Sites.

Ms. Silvana stated that she followed normal procedures were followed, and the school board's attorney had reviewed the contracts prior to her signing them.

School board records and officials indicate that Mr. Coleman by-passed normal school board procedures in contracting with Horizon and assumed sole responsibility for the contracting process when he:

- (1) approved payments to Horizon totaling \$3,202,188 without a properly executed contract; and
- (2) then obtained the signatures of the school board president and contractor on a second set of contracts before asking advice from the facility planning department and providing the contracts to the school board attorney for review.

It should be noted that although the first school fire was on October 17, 2000, according to the Mr. Rosenberg, the contracts were not discussed with him until February 25, 2002, after Mr. Coleman paid Horizon \$3,202,188.

Mr. Coleman continued to approve payments to Horizon after Mr. Rosenberg raised concerns regarding the two contracts. As stated previously, OPSB procedures require the school board to publicly approve the contracts with Horizon within 10 days after signing. However, according to minutes of the school board meetings, the school board did not approve the Horizon contracts. Despite Mr. Rosenberg's concerns (limited information in the contracts) and in violation of OPSB policy, Mr. Coleman continued to honor the contracts and made an additional \$513,715 in payments to Horizon.

In addition to paying Horizon \$3,715,901 (\$3,202,188 + \$513,715) for repairs to Lusher and Henderson schools, Mr. Coleman made oral agreements and paid Horizon \$197,924 for the remaining two schools. The agreement to clean and repair Walker and Mason were oral agreements between Mr. Coleman and Mr. Pollitt. B.S. 38:2241 requires that any emergency contract in excess of \$50,000 shall be in writing.

Mr. Coleman caused OPSB to pay Horizon \$3,913,825 (\$3,715,901 + 197,924) through Mr. Coleman did not have properly executed contracts and therefore authority to spend public funds. As a result of contracting with Horizon in a manner previously described, Mr. Coleman violated the Public Bid Law and OPSB policy by not reducing his oral agreements into writing.

with Mr. Pollitt, by not publicly hiding the non-emergency portion of the repairs, and by not having board approval of the contracts.

CONTRACTOR REQUIREMENTS

Louisiana law mandates certain requirements upon contractors to reduce the risk to the public entity and ensure the good and faithful service of the contractor. These requirements include contract specifications, proper bonding, and licensure by the Louisiana Contractors Board. The two written contracts entered into with Horizon lacked required essential components including work completion dates, penalties for failure to perform, and bonding. In addition, Horizon did not hold a Louisiana contractor's license.

R.S. 38:2212 requires, in part, that a description of the work to be performed, performance time, and performance terms be included in each bid. R.S. 38:2241 states that each emergency contract in excess of \$25,000 shall require of the contractor a bond with good, solvent, and sufficient surety in a sum of not less than 50% of the contract price for the payment by the contractor or subcontractor to claimants.

The two written contracts with Horizon contained several deficiencies made apparent to Mr. Coleman by conversations with the OPEB's attorney and other school board officials. Absent in the contracts and required by state law were critical terms that exposed the OPEB to unnecessary liability such as the completion date for repairs, dollar amounts for failure to complete the repairs on schedule, and payment and performance bonds.

During an April 4, 2003, interview, Mr. Coleman contradicted himself first by stating that he was not aware until now that the Horizon contracts contained incomplete sections, and later during the same interview stating that he and the school board's attorney discussed the contract. Mr. Coleman then assured us that Horizon had the necessary bonds. In a letter dated April 18, 2003, and addressed to the legislative auditor, Mr. Coleman stated that he is not in possession of Horizon's bonds but would be shortly. Horizon never provided payment or performance bonds to the OPEB.

The contracts did have articles that describe the scope of work to be done by the contractor. However, the entire description of work to be done reads "Lusher (Henderson) School Fire." Unlike the school board's standard contract, this simple description leaves critical decisions such as which repairs to make and specifications for material used open for interpretation by the contractor and reduces the school board's ability to properly manage the projects.

Had the Facility Planning Department prepared the contracts instead of Mr. Pollitt, the contracts would have contained requirements for time of completion, liquidated damages, performance and payment bonds, a detailed description of scope of work, as well as references to work specifications, work plans, and safety manuals. Safety manuals, which originate in the Risk Management Department are standard items referenced in OPEB contracts. Therefore, by the lack of safety manual references in the contracts alone, Mr. Coleman should have known that the Lusher and Henderson contracts were flawed and outside of OPEB procedures.

R.S. 37:2150-2173 requires those in the business of contracting to obtain a license from the Louisiana Contractors Board. In addition to state law, OPSSB procedures require that a representative of the State Licensing Board for Contractors notify, prior to bid opening, that all bidders are Louisiana licensed contractors.

In a letter dated April 15, 2002, and delivered by certified mail, the State Licensing Board for Contractors notified Mr. Coleman that Horizon does not hold a Louisiana state contractor's license and that OPSSB and Horizon are in violation of R.S. 37:2150-2173. Despite the letter and our questions concerning Horizon, on April 29, 2002, Mr. Coleman directed a final payment to Horizon of \$197,924.

	STATE LICENSING BOARD FOR CONTRACTORS STATE OF LOUISIANA 1000 Poydras Street New Orleans, Louisiana 70112		Contract Number License Number
	Agency Name Agency Address Agency City		
Date of Invoice			
Bill to (Name of Contractor) Bill to (Address) Bill to (City, State, Zip)		Bill to (Accounting Dept.) Bill to (Address)	
Bill to (Name)			
Do not duplicate the invoice for a copy of the invoice. This invoice is not to be distributed publicly or otherwise used for legal purposes.			
Payment of this invoice is subject to the terms and conditions of the contract. This invoice is not to be used as a receipt for payment.			
The State Licensing Board for Contractors is not responsible for the accuracy of the information provided on this invoice.			
Do not duplicate the invoice for a copy of the invoice. This invoice is not to be distributed publicly or otherwise used for legal purposes.			
Signature  State Licensing Board for Contractors New Orleans, Louisiana			
Date			
By			

INVOICES FROM HORIZON

The OPSSB has procedures in place for accepting contractor invoices submitted for payment. The procedures require that the invoices be itemized and descriptive enough to determine the work performed for which the contractor is requesting payment. Mr. Coleman accepted invoices from Horizon that only generally described the work performed, some lacked material information and several contained errors.

According to Dr. Ducote, when the Facility Planning Department is involved in a construction project, the contractor submits a standard invoice provided by OPSB for payment. The contractor completes the standard invoice which details the work completed, payment amount, total contract amount, and balance owed on the contract. The contractor then signs the invoice and has his signature notarized. The architect of record and the OPSB's staff coordinator assigned to the project then review the invoice before payment is made.

From October 26, 2009, to March 22, 2010, Mr. Coleman did not follow OPSB procedures and paid Horizon \$3,713,801 for cleanup and repair work at Lumbor and Henderson schools. Horizon submitted 15 invoices to Mr. Coleman. The invoices were:

- (1) not OPSB standard invoices;
- (2) not signed by Mr. Pollitt;
- (3) not notarized; and
- (4) not approved by anyone other than Mr. Coleman.

The invoices were inconsistent and only generally descriptive with respect to dollar amounts for work performed by Horizon and subcontractors. The invoices also contained incorrect dollar amounts, duplicative or no invoice numbers, and some lacked invoice dates.

Of the 15 invoices submitted to Mr. Coleman from Horizon, four had no invoice numbers or dates, six had duplicate invoice numbers, and six had mathematical errors. Fourteen invoices only generally described the work done by subcontractors and Horizon employees. One invoice had no detailed pricing of work done; it only gave a dollar amount of \$187,163.

Typically, a general contractor submits an invoice to the OPSB for payment that contains documentation from his subcontractors describing the work and charges to the general contractor for the work. During an interview, Mr. Pollitt stated that he would not substantiate his invoice charges to the OPSB with documents he received from subcontractors. He also stated that he calculated items on the invoices by estimating how much work he believed was done and then charging the OPSB a dollar amount for that work.



PAYMENTS TO HORIZON AND WORK COMPLETION

While administering the work performed by Horizon, Mr. Coleman paid Horizon for work not performed and for capital improvement work that was not part of the original repairs. In addition, for Moten, Horizon charged the school board excessive prices.

Horizon contracted with the OPSB through Mr. Coleman for repair work totaling \$4,697,934. As stated earlier, two contracts were in writing and two were oral agreements between Mr. Polite and Mr. Coleman. The written contracts were for fire damages at Lusher and Henderson schools for \$2.1 million and \$2.4 million, respectively. The oral contracts were for fire damage at Walker totaling \$99,480 and water damage at Moten totaling \$99,438.

The fire at Lusher School destroyed the cafeteria and damaged class and administrative rooms. Mr. Coleman made nine payments to Horizon totaling \$2,322,733 for the repair work at Lusher School. The repair work at Lusher is complete except for the cafeteria, where the fire began. According to Mr. Ron Lyons, Assistant Director of Facility Planning, approximately \$569,439 in additional spending is needed to complete repairs at Lusher. Combined, the OPSB will have paid \$2,892,172 for work contracted for \$2,400,000, a difference of \$562,172.

Mr. Coleman did not require Horizon to come to an agreement with the insurance company before beginning work on Lusher School; therefore, Mr. Coleman did not have a budget and was paying Horizon without knowing the dollar amount the insurance company would reimburse the OPSB. To date, the insurance company and OPSB have not settled the fire claim. According to the insurance claim adjuster's report completed November 2001, the fire damages to Lusher were approximately \$1,228,082 (\$1,171,918 less than the contracted price).

Lusher School - Amount Paid Over Contract Price	
Actual Amount Paid by OPSB	\$2,892,172
Contract Amount	\$2,400,000
Difference	\$892,172
Lusher School - Contract Price Versus Loss Estimate	
Contract Amount	\$2,400,000
Insurance Adjuster's Estimate	\$1,228,082
Difference	\$1,171,918

The fire at Henderson destroyed an entire building containing 12 classrooms and support facilities. Mr. Coleman made five payments to Horizon totaling \$1,383,168. According to Mr. Lyons, the repair work at Henderson is 30% complete. Mr. Coleman paid Horizon 69% of the \$2,000,000 contracted price; therefore, Mr. Coleman should have only paid Horizon 69% of the contracted price or \$1,380,000. The OPSB has currently contracted to have Henderson School completed for \$435,538. Combined, the OPSB will have paid \$1,818,518 to complete repair work at Henderson School.

To date, the insurance company and the CPSSB have not settled the Henderson School fire claim; therefore, Mr. Coleman was once again working without a budget and paying Horizon without knowing the dollar amount the insurance company would reimburse the CPSSB. According to the insurance claim adjuster's report completed December 2001, the fire damage to Henderson School were approximately \$534,276 (\$1,245,724 less than the contracted price).

Henderson School - Amount Paid Versus Work Completed	
Amount Paid to Horizon	\$1,383,168
Amount of Work Completed by Horizon	\$850,000
Difference	\$533,168
Henderson School - Amount Paid Versus Loss Estimate	
Total Amount Paid for Repairs	\$1,818,318
Insurance Adjuster's Estimate	\$854,276
Difference	\$964,042
Henderson School - Contract Price Versus Loss Estimate	
Contract Price	\$2,100,000
Insurance Adjuster's Estimate	\$854,276
Difference	\$1,245,724

In addition to the overpayments to Horizon for repair work at Luther and Henderson schools, the CPSSB, according to Dr. Dacosta, has set aside \$400,000 to cover possible claims from subcontractors that may have performed work at the four schools but not paid by Horizon. Clerk of court records show that by May 2002, at least one company filed a claim for \$7,180 against the CPSSB for unpaid material used to repair Walker School.

Repair work at the two remaining schools, Walker and Mason appear to be complete. The invoices submitted are detailed enough to determine the types and costs of repairs at each school.

According to Mr. F. G. Dowden, Executive Director of Facility Planning, his understanding from Mr. Coleman is that most of the repair work done at Walker was donated to the school board because Mr. Pollitt expanded the job from repairing fire damage to include capital improvements without CPSSB approval. Mr. Dowden also stated that Mr. Pollitt approached him with an invoice dated January 12, 2002, for Walker School totaling \$393,486. Mr. Dowden refused to approve the invoice for payment. Mr. Dowden then notified Mr. Coleman in a memorandum dated January 30, 2002, that Mr. Pollitt should discontinue doing unauthorized work at Walker.

During an April 3, 2002, interview, Mr. Pollitt stated that he donated \$199,000 in repair work done at Walker School to the CPSSB. Mr. Pollitt then resubmitted an invoice to Mr. Coleman for \$99,486. On April 29, 2002, Mr. Coleman directed payment of \$99,486 to Mr. Pollitt for the repair and capital improvement work done at Walker despite knowing the capital improvement part of the work was unauthorized. A review of Horizon's invoice indicates that of the \$99,486, Mr. Pollitt charged approximately \$74,012 for capital improvement work.

As stated previously, Mr. Coleman violated state law and OPSB policy by not reducing the contract into writing, not obtaining school board approval in a public meeting, and not ensuring the contractor was licensed, insured, or bonded before performing the emergency and capital improvement work. Mr. Coleman also deprived the public from seeking the lowest bid for capital improvements performed at Walker by violating OPSB policy and not publicly bidding that portion of work done by Horizon.

A review of Horizon's invoice indicates that Horizon charged \$98,438 for repair work at Moton resulting from a broken water pipe. Water seeped into two classrooms and a computer lab. When presented with the Horizon invoice, Moton School Principal Pamela Bruns stated that not all of the work listed was performed. Ms. Bruns pointed to ten items listed on the invoice not performed totaling \$33,168. We were informed that these subcontractors, A-Max Interiors, Inc., Labor Ready, Inc., and Service Master Advanced Cleaning Services, performed the majority of work done at Moton.

According to A-Max records, it replaced, as subcontractors to Horizon, carpet and a small amount of molding. The entire carpet installation charge from A-Max to Horizon was \$30,734. However, Horizon charged OPSB \$20,762 for the carpet installation.

According to Labor Ready and Service Master records, it supplied to Horizon laborers for cleaning, debris removal, and sanitation of walls and furniture. The total charges from Labor Ready and Service Master to Horizon were \$4,767. However, Horizon charged OPSB \$14,270 for those services. It should be noted that according to Horizon's billing process, Horizon should have charged the actual cost from the subcontractors and not inflate those costs to the OPSB.

The Horizon invoice also contained Mr. Politt's charges for his administrative fees, job supervision fees, overhead fees, and profit totaling \$38,788. Together, his fees, profit, billing for work not performed, and cost markups from subcontractors, Mr. Politt collected \$72,417, which represents 73.4% of the invoice to the OPSB for repair work at Moton School.

The balance of the invoice, \$26,021, is also questionable since it appears to be higher than fair market prices. Mr. Politt charged the OPSB \$2,000 for equipment rental, \$2,000 for cleaning supplies, \$1,500 for carpet cleaning, \$3,650 for disposing the old carpet, \$225 for obtaining five new rugs, and \$480 for removing and replacing desks and chairs.

In an April 2, 2002, interview, Mr. Coleman stated that he was responsible for determining if the work was completed before the invoice was submitted for payment.

APPROVAL FOR PURCHASES AND PAYMENTS

OPSB policy requires signature approval for contract services and payment. For services of \$100,000 and above, the policy requires adherence to the formal bid process and the signature approval of the superintendent or chief executive officer (CEO) and school board.

witness to the subcontractor's signature and also signed an affidavit to the accuracy of the amounts on the lien waivers.

When questioned about the lien waivers, Ms. Brown stated that she knew they were false. She also stated that she helped create the lien waivers as a means of collecting money she was owed from Mr. Pollitt for work she performed at Henderson School. During an interview, Ms. Brown admitted that she never worked at Moses or Walker schools.

Of the five lien waivers submitted to Mr. Morgan for work on Meigs School, two were from Mr. Ronald Mitchell, co-owner of B&M Construction. Mr. Mitchell stated that Mr. Ray Brown, Mr. Robin Brown's father, is his partner in B&M Construction. Mr. Mitchell also stated that he never worked for Horizon or for GPSH and never signed lien waivers for Horizon. Another lien waiver was from Mr. Milton Egan, owner of Service Master, Inc. Mr. Egan stated that his lien waiver was for another job and not Meigs School. The remaining lien waivers were from Mr. Brown and Ms. Brown.

According to Mr. Brown, his daughter was not a state licensed contractor and was using his license to conduct business. Mr. Brown also stated that he never signed a lien waiver nor did he ever work for Horizon. Ms. Brown signed lien waivers for her and her father claiming to have performed at least \$38,750 in work at Meigs School.

According to Mr. Morgan and despite his concerns, Ms. Callahan insisted that he pay Horizon. Mr. Morgan stated that on April 29, 2003, Mr. Pollitt met him in the parking lot as he was arriving for work. Mr. Pollitt demanded payment and followed him inside his office. Mr. Morgan then wrote a check for \$197,504 made payable to Horizon Group of New England, Inc.

According to Ms. Brown, that same day she and Mr. Pollitt went to Regions Bank, and he converted the check into a certified check. A copy of the check shows that it was endorsed "Horizon Group of New England, Inc." and "Toll Pollitt." Ms. Brown further stated that Mr. Pollitt negotiated the check into four certified checks of \$120,000; \$35,000; \$32,974; and \$9,530 made payable to Horizon Group of New England, Inc. Copies of three of the four checks show they were then negotiated with a more generic endorsement of Horizon Group and Mr. Pollitt's name.



Mr. COLEMAN'S HOUSE

City building permit records indicate that Mr. Coleman completed building his personal residence on 5938 Doral Court during January or February 2002. According to two contractors working directly for Horizon, they were asked to perform work at Mr. Coleman's house.

Mr. Brown was contacted by Mr. Politt to perform roofing work on Mr. Coleman's house. According to Ms. Brown, she subcontracted the work to two individuals, paid them, and was reimbursed for costs from Mr. Politt. The total value to Mr. Coleman for the roofing work was \$6,450.

Mr. Jack Allen, Jr., owner of TASCII, Inc., was hired by Mr. Politt as a subcontractor to perform over \$550,000 in repair and renovation work at Luther, Walker, and Henderson schools. According to Mr. Allen, Mr. Politt asked him if he could help correct sheet rock and painting problems someone was having with a personal residence. At the time, he did not know the house belonged to Mr. Coleman.

Mr. Allen provided us with copies of two invoices billed to Mr. Coleman totaling \$6,888. However, Horizon records indicate that TASCII also billed Horizon \$6,888 for the same work done on Mr. Coleman's house. The invoices reveal that the work was completed on Mr. Coleman's house on December 2, 2001. When questioned about the invoices, Mr. Allen stated that he originally billed Horizon because the arrangement to do the work was between him and Mr. Politt. Later, in 2002, he began to have trouble collecting money from Mr. Politt for the work he was performing at the schools and Mr. Coleman's house, so he then billed Mr. Coleman for the work.

On March 20, 2002, Mr. Allen stated that although the invoices were 90-days overdue, he did not bother Mr. Coleman for payment. In May 2002, Mr. Allen stated that he tried to collect payment from Mr. Coleman, but Mr. Coleman contested the invoices, and on April 26, 2002, paid him approximately one-third of the involved amount or \$2,126.

As of this time, we have not determined the extent additional work might have been performed on Mr. Coleman's house and paid for by Mr. Politt or other contractors. To make this determination, the legislative auditor needs to examine certain records belonging to Mr. Coleman, Mr. Politt, and Horizon. We have subpoenaed these records, however, both Mr. Coleman and Mr. Politt are contesting these subpoenas in court.

In addition, the legislative auditor provided Mr. Coleman and Mr. Politt copies of the report and requested their responses to the report. Mr. Coleman and Mr. Politt did not respond. We are continuing our investigative audit regarding this matter.

On May 28, 2002, Mr. Coleman resigned employment with the OPSB.

In addition to violations of R.S. 37:2130-2173 and R.S. 38:2312, 2341, the actions described above may be violations of the following:

- 14:26, "Criminal Conspiracy"²
- 14:67, "Theft"³
- 14:118(A), "Public Bribery"⁴
- 14:133, "Filing False Public Records"⁵
- 14:134, "Malfeasance"⁶
- 18 U.S.C. 666, "Theft Involving Federal Programs"⁷
- 18 U.S.C. 1344 (J), "Bank Fraud"⁸

The actual determination as to whether an individual is subject to formal charges is at the discretion of the district or federal attorney.

² N.J. 14:26 provides, in part, that criminal conspiracy is the agreement or combination of two or more persons for the specific purpose of committing the crime, provided that an agreement or combination to commit a crime shall not amount to a criminal conspiracy unless, in addition to such agreement or combination, two or more of such persons does an act in furtherance of the object of the agreement or combination.

³ N.J. 14:67 provides, in part, that theft is the appropriation or taking of anything of value which belongs to another, either without the consent of the owner or the misrepresentation or taking, or by means of fraudulent means, promises, or representations.

⁴ N.J. 14:118(A) provides, in part, that public bribery is the giving or offering to give, directly or indirectly, anything of apparent present or prospective value to any public official, public employee, or person in a position of public authority with the intent to influence his conduct in relation to his position, employment, or duty. The offender is, in the offer to accept, directly or indirectly, anything of apparent present or prospective value, under such circumstances, by any public official, public employee, or person in a position of public authority shall also constitute public bribery.

⁵ N.J. 14:133 provides, in part, that filing false public records is the filing or depositing for record in any public office or with any public official, or the maintaining as required by law, regulation, or rule, with knowledge of its falsity, any forged document, any tampered official document, or any document containing a false statement or false representation of a material fact.

⁶ N.J. 14:134 provides, in part, that malfeasance in office is committed when any public official or public employee shall (1) intentionally refuse or fail to perform any duty lawfully required of him, as such officer or employee, (2) intentionally perform any such duty in an unlawful manner, or (3) knowingly permit any other public official or public employee, under his authority, to intentionally refuse or fail to perform any duty lawfully required of him or to perform any such duty in an unlawful manner.

⁷ 18 U.S.C. 666 provides, in part, that distributing property including federal funds means when obtained by an organization, state, local, or federal governmental or quasi-governmental entity, directly or indirectly, by fraud, or other-wise intentionally misapprehends property that is valued at \$5,000 or more, and is caused by an undue interest of such organization, state, or entity when the organization, state, or quasi-government or any other governmental instrumentality of the United States is federal program involving a governmental, or other form of federal assistance.

⁸ 18 U.S.C. 1344(J), "Bank Fraud" states, in part, that whoever knowingly executes, or attempts to execute, a scheme or artifice to obtain any of the money, funds, credits, assets, securities, or other property owned by, or under the control or custody of, a financial institution, by means of false or fraudulent pretenses, representations, or promises, shall be fined not more than \$1,000,000 or imprisoned not more than 30 years, or both.

Recommendations

We recommend that the CPSSD:

1. Prevent the Risk Management Department from engaging in capital improvement projects
2. Limit the involvement of the Risk Management Department in managing emergency repair projects
3. Implement policies and procedures to ensure that internal policies and state laws are adhered to in dealing with emergency repair work and capital improvements

We also recommend that the District Attorney of Orleans Parish and the United States Attorney for the Eastern District take appropriate legal action, to include seeking restitution.

Attachment I

Management's Response



Orleans Parish School Board

KILLIANE BROOKS-SIMMS, M.Ed., Superintendent
One B. Anderson, 8007 P.O. PARCOURT

201 B. ANDERSON, SUITE 2100
NEW ORLEANS, LOUISIANA 70114

(504) 383-6084
FAX (504) 383-5443

September 16, 2003

Dr. Daniel G. Kyle, CPA, CFE
Legislative Auditor
State of Louisiana
1808 North Third Street
Post Office Box 94887
Baton Rouge, Louisiana 70804-0887

Dear Dr. Kyle:

After careful review of your investigative staff's report, we are pleased to provide you with our response. Please find attached that response with the understanding that we will provide any additional information needed.

Sincerely,


Killianne Brooks-Simms

Enclosure

SEP 16 2003
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MANAGEMENT'S RESPONSE

Introduction

We have reviewed the Legislative Auditor's report on unauthorized (and in some instances, illegal) activities of the New Orleans Public Schools' Risk Management Department between October 17, 2001 and April 28, 2002. These activities involve construction projects to repair damages caused by fires in two schools and flooding due to a broken pipe in a third school.

The report's findings are well documented and its conclusions, well-reasoned. Essentially, the report concludes that Carl Coleman, the former director of Risk Management, directed all of the emergency repair work to Horizon Group of Louisiana, Inc., an unlicensed contractor, in violation of the Public Bid Law and the Board's long-standing policies and procedures.

As the report points out, the Board's policies and procedures for public work contracts substantially track the Public Bid Law. In fact, these policies and procedures have won recognition and awards from the Bureau of Governmental Research. Yet, the report documents that Mr. Coleman managed to evade the normal scrutiny resulting from the Board's procedures. Your recommendations for remedial actions are well-founded.

As a result of these unfortunate events, the Board and the Administration face the daunting challenge of trying to: 1) identify precisely the methods used to breach the integrity of Board policies and procedures, 2) understand the weaknesses in the governance, organization and culture of the system that these events may have exposed, and 3) implement measures to remedy the problems identified. Additionally, the Board and Administration are charged with the responsibility of seeking recovery of any misappropriated funds.

The Essential Causative Factor

To pinpoint the deviations from the policies and procedures that occurred here, it is necessary to lay out the policies and procedures currently in place and then identify how they were breached.

The Typical Process and Procedures of the Board

- La.R.S. 38:2212 requires that political subdivisions, such as the Orleans Parish School Board, advertise and let out for public bid public works over \$100,000 in value.
- The projects involved in this report exceeded this threshold.
- Both state law and Board policy make exceptions for emergency situations. Competitive bidding is still required but the advertising period is abbreviated.

- The Facility Planning Department is charged with planning, budgeting, and overseeing the public works of the Board.
- The Board maintains a Capital Projects Budget for capital projects on a priority basis set by the Board.
- The Risk Management Department's responsibilities include designing insurance requirements, putting those requirements out for bid, administering the Board's insurance policies, and managing property and casualty risks.
- Third party contractors or vendors are paid either through the public voucher or purchase order process. Public work contractors are paid through the purchase order process, which is tied into the Capital Projects Budget.
- Typically, the Board selects design professionals from a pool of firms on a rotating basis. The selected firms recommend a budget for each project. Upon acceptance by the Board, the project is included in the Capital Budget. Funds in the Capital Budget Fund are encumbered by the budgets assigned to the projects.
- The Purchasing Department manages the bid process. At the opening of bids, a representative of the State Board of Licensed Contractors is present to confirm that bidders are properly licensed.
- When a bid is accepted, a proposal assigned to Facility Planning Department prepares the necessary and customary contract documents, which may be reviewed by Board counsel for completeness.
- After the documents are complete and signed by the Contractor, they are brought to the Board President for signature. Thereafter, the Facility Planning Department monitors the work.
- When a contractor defaults and its insurer takes over the project, the insurer arranges for another contractor to complete the work at the insurer's expense. In those cases, Facility Planning merely monitors the work in order to protect the Board's interest. Since the insurer is spending its own funds, the Board's only interest is that the contractor adheres to the terms of the contract.
- The Board maintains property and casualty insurance on its property with a deductible of \$500,000. The Board does not maintain any special account to fund the deductible amount. In the event of property loss, the Board may allocate funds from the General Account to pay the deductible amount. This is done in full view of the public at a Board meeting.

- + Insurance proceeds to cover the Board's property losses should be allocated to the Capital Budget Account to fund the needed repairs, not kept in an escrow insurance account administered by Risk Management.

Significant Deviation from Policies and Procedures

The report catalogues repeated deviations from Board policies and procedures. The most significant deviations, without which the misdeeds could not have occurred, involved the mishandling of an escrow account of approximately \$4,440,342.75. It is important to understand how this escrow account came into being.

On January 23, 2000, a hail storm damaged the roofs of many New Orleans Public School buildings. Mr. Coleman made a claim on the Traveler's Insurance Company, the Board's insurer for the property loss. Traveler's sent a check to Mr. Coleman in the amount of \$4,440,342.75 as a down payment on the amount owed.

On August 17, 2001, these funds were deposited in an escrow account restricted to the repair of roof damage resulting from the hail storm. Those funds should have been allocated to the Capital Projects Account and budgeted for roof repairs. Had this been done, the funds would have been allocated and spent under the normal budgeting process, subject to full review of several departments and, most importantly, the Board. Instead, Mr. Coleman was allowed to exercise dominion over the escrowed account. The escrowed account was used to fund the emergency repairs for the two fires and the flood.

Without access to these funds Mr. Coleman would have had to request funds from the Board to cover the Board's deductibles (self-insured retentions) under the insurance policies applicable to the affected schools. With access to these funds, Mr. Coleman was able to evade the regular processes and procedures. The two substantive deviations were 1) Risk Management's improper exercise of dominion over the escrowed account and 2) the improper use of the escrow account to fund repairs unrelated to the hail storm.

Implications for larger organizational issues

This Board has long grappled with several of the structural issues identified in this report, including 1) governance, 2) organizational effectiveness, 3) loss of institutional memory by hasty personnel transition, 4) lack of organizational transparency and agility, 5) an organizational culture that is not open and that discourages dissenting opinions.

Governance Philosophy

Even before I was elected to the Board, it was clear to me that certain persons in this community had pressured the New Orleans Public Schools to adopt a governance structure that was inappropriate and unworkable for a public school system. The new structure radically and improperly shifted power from the Board to the Administration, based on the sound bite that the Board should not "micromanage" the Administration, (an imprecise term that means different things to different people.)

The imprecise accusation of "micromanaging" suggests that the Board's role is limited to setting policy and allowing the Administration to implement that policy. In contrast, the law imposes on the Board a clear duty to not only set policy, but to ensure compliance with the laws and with Board policies and procedures. Along with other Board members, I have labored to readjust the relationship between the Board and Administration to provide for accountability.

The inappropriate governance concept described above has produced many harmful consequences. The Compliance Department, which is charged with the responsibility to advise and report to the Board on compliance issues, was no longer allowed to report directly to the Board. Thus, a vital source of information was cut off from the Board. Had Compliance been allowed to do its job and report to the Board as it had prior to the change in governance, Mr. Coleman would not have had the free rein to flout the Board's policies and procedures.

Similarly, the Internal Auditor was stripped of the independence from the Administration that this position requires. Interestingly, as a result of the corporate scandals of this year, many of the governance issues I have championed have been adopted in the Sarbanes-Oxley Act of 2002 and other changes contemplated by the Securities and Exchange Commission.

Organizational Fault Lines

The current organizational structure of NOPS is inimical to school governance. The structure erects a wall between the academic side and the business side. The academic side often does not know what is going on in the business and vice versa, preventing an opportunity for mischief of the sort documented in the Legislative Auditor's report.

Loss of Institutional Memory

Compounding the problem of organizational realignment, too many experienced employees were replaced by inexperienced employees, too rapidly, depleting the system's institutional memory. Mr. Coleman, an experienced employee, took advantage of the loss of institutional memory.

Lack of Transparency and Agility

As reported by the Board's insurance consultant, Mr. Stuart Pilch, the system has yet to realize the benefit of a fully functioning Oracle system, because of mismanagement. A fully functioning system would have produced the type of transparency and agility needed to prevent the violations noted in the report. Those violations occurred over a three to four month period.

Cultural Fault lines

Finally, and perhaps most fundamentally, the system cries out for a culture of openness that encourages employees to dissent and to report bad news. It is my belief that leaders in the previous Administration treated dissent and reporting of bad news as acts of disloyalty. In that atmosphere, an organization loses the eyes and ears of people who would otherwise report mistakes. The system's culture needs to be changed.

Remedial Actions

Even before discovering the extent of Mr. Coleman's misconduct, the Board retained a consultant to examine some of these issues surrounding its insurance and benefits programs. The Board has also revised its policies regarding the Compliance Officer and the Internal Auditor, to increase the independence of these offices from the Administration.

In addition, the Board has sought to restore some of the system's institutional memory by calling on the services of experienced employees who have retired or left the system for other positions. The Board has pressed its technology division to fully implement the Oracle system online to enhance the organization's transparency and agility.

On September 3, I visited the United States Attorney for the Eastern District of Louisiana, along with Board Vice-President Una Anderson and our General Counsel, Trevor Bryan, to report the misconduct documented in your report. The Board will consider soon a revision to the current organizational structure. And most importantly, the Board continues to encourage a culture of openness.