
DCPS Failed to Effectively Monitor Title I Contract

July 14, 2021

A report by the Office of the District of Columbia Auditor



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Executive Summary



Why ODCA Did this Audit

The Office of the D.C. Auditor (ODCA) received information from a District resident recommending that we review the District of Columbia Public School's (DCPS) selection of Performance Management Services, LLC (PMS) for the Title I equitable services contract. The individual alleged that PMS did not have experience in educational services or staff to perform duties related to Title I services. While noting the allegations, ODCA conducted its own risk assessment to design the audit objectives, as detailed below in the findings.

What ODCA Found

ODCA identified several high-risk areas in DCPS's management and oversight of this contract, including the current contractor's refusal to provide contract deliverables to support invoices, and noncompliance with CBE law.

- DCPS complied with procurement requirements and awarded the contract to the highest scoring bidder, PMS, but we have concerns about the process and information PMS submitted. For example, PMS made misrepresentations on its technical proposal and CBE application that DCPS did not detect.
- Neither DCPS nor PMS provided ODCA with documentation to support \$5.36 million in payments to PMS. These payments included \$421,585 in PMS overbilling that DCPS did not detect.
- DCPS's incomplete oversight of PMS teachers in the areas of background checks, and child abuse and neglect training increased risks to children.

- DCPS extended the contract despite PMS's non-compliance with Certified Business Enterprise (CBE) laws.
- PMS did not comply with District resident hiring requirements.

What ODCA Recommends

DCPS should develop policies and procedures to strengthen its proposal review process and its payment approval process. Additionally, DCPS should strengthen controls over Title I contractor equipment purchases, teacher criminal background checks, and teacher child welfare training. Finally, we recommend that DCPS improve monitoring of contractor compliance with small, local, disadvantaged business (Certified Business Enterprise) requirements and District resident hiring (First Source) requirements.

Background

“The Title I program provides supplemental educational services so that all children have a fair, equal, and significant opportunity to obtain a high-quality education.”

– U.S. Department of Education

The purpose of Title I of the federal Elementary and Secondary Education Act of 1965 is to provide all children with a “significant opportunity to receive a fair, equitable, and high-quality education, and to close educational achievement gaps.”¹ These services should be provided to low-income District of Columbia resident students enrolled in K–12 public schools as well as private schools in the District or in surrounding jurisdictions. Services to private school students must be equitable to Title I services delivered to public school students (equitable services).²

In the District, Title I funding accounts for the largest source of federal dollars for education. DCPS coordinates funding for eligible D.C. resident students who attend private schools.³ The total Title I grant for fiscal year (FY) 2019 was \$28,868,519. Of that grant total, \$14,501,546 was allocated for schoolwide and targeted assistance at DCPS and \$2,158,550 was allocated to private schools. Figure 1 provides an overview of the District’s allocation of the grant to schools. The private schools were both independent and parochial schools.

Figure 1: Impact of FY 19 Title I Allocations in the District

	Allocated Funds ⁴	At-Risk Students	Number of Schools
DCPS Public Schools	\$14,501,546	30,957	87
Private Schools	\$2,158,550	2,241	23
Total	\$16,660,096	33,198	110

Source: DCPS

Within DCPS, its Office of Federal Programs and Grants (OFPG) is tasked with coordinating funding for eligible D.C. resident students who attend private schools. OFPG conducts Title I consultation meetings with eligible private schools, as federal law requires. Both parties must reach an agreement on how to provide equitable and effective programs for eligible private school children. During the consultation,

1 Public Law 114-95, Sec. 1001, (December 10, 2015).

2 Public Law 114-95, Sec. 1011(3), (December 10, 2015).

3 <https://dcps.dc.gov/TitleI>

4 Includes instructional, administrative, and parental involvement.

officials must meet the needs of eligible students, including special education services, one-on-one tutoring, mentoring, and instructional services.

DCPS provided equitable services through a contractor

Federal law allows school districts to directly provide Title I equitable services or to contract for the services. DCPS opted to contract for the services.⁵ To meet Every Student Succeeds Act (ESSA) requirements, DCPS applied for and received a federal grant to provide Title I equitable services through OSSE. The following is the timeline from request for proposals to entering into a signed contract:

March 17, 2015. DCPS advertised a request for proposals (RFP) that included two tasks: provide instructional services to students; and provide services to parents.⁶

April 6, 2015⁷. DCPS had received four best and final offers for Task I Instructional Services.

June 24, 2015. DCPS awarded a contract to Performance Management Services, LLC (PMS) for services to begin July 1, 2015.

July 1 & 9, 2015. Two of the bidders submitted bid protests to the Contract Appeals Board in a letter to the Contract Appeals Board, DCPS's CPO and OFPG Deputy Chief of Staff allowed PMS to commence services on July 1, 2015, while the protests proceeded.

July 17, 2015. The two competing bidders consolidated their appeal of the award to the Contract Appeals Board.⁸ One protestor stated PMS was not a responsive offeror and could not comply with the RFP terms. Another protestor argued that DCPS failed to apply the technical evaluation criteria to PMS's proposal and did not treat all offerors fairly.

December 7, 2015. The Mayor requested the D.C. Council approve PMS's contract.

December 17, 2015. The contract was "deemed approved" because the D.C. Council took no action to disapprove it.⁹ DCPS and PMS signed the firm fixed-price contract.

December 5, 2016. The consolidated appeal was dismissed due to a protestor's withdrawal.

⁵ Public Law 114-95, Section 1011(c).

⁶ The CPO cancelled the second portion due to budget constraints.

⁷ DCPS's Technical Evaluation Panel received six proposals. Four proposals were for Task I Instructional Services and two proposals were for Task II Parental Involvement Services.

⁸ This is based on a review of the Contract Appeals Board's case portal, see: <https://cab.dc.gov/page/search-pending-and-closed-cases>.

⁹ The Procurement Practices Act of 2010 allows Council members 10 days to issue a resolution of approval or disapproval of multi-year \$1 million contracts. On December 22, 2015, Council Chairman Mendelson sent a letter to Mayor Bowser stating that the contract was approved December 17, 2015, per the Council taking no action to disapprove it.

Contract deliverables and payments

DCPS contracted with PMS to provide equitable Title I instructional services to District at-risk students attending private schools (the contract) starting July 1, 2015 through June 30, 2016. In addition to this base year, there were four option years extending to June 30, 2020.

Each school year, PMS submitted SMART goals, among other updates on their provision of services (attendance data reports, assessment data reports, etc.). The SMART goals include a goal statement, along with descriptions speaking to how the goal is specific, measurable, attainable, results-oriented, and time bound. For example, “Students will continue to increase their academic growth by 10% in Mathematics and Literacy for the 2018-2019 School Year.” Students receiving services must take pre- and post-assessments.

Test scores help DCPS determine whether the vendor was meeting its goals. PMS was to document how they reached their SMART goal for each school in the mid-year and final-year reports.

Figure 2 details the total DCPS payments to PMS by fiscal year, not by contract period (as those crossed fiscal years).

Figure 2: Amount DCPS Paid for the PMS Title I Equitable Services Contract, FYs 16–19

Fiscal Year (FY)	Amount
FY 16	\$1,245,438
FY 17	\$1,287,884
FY 18	\$1,548,641
FY 19 ¹⁰	\$1,337,860
Total	\$5,419,822

Source: SOAR

Origin of this audit was complainant’s request

A whistleblower requested that we review DCPS’s selection of PMS for the equitable services contract. They alleged that PMS did not have experience in educational services or staff to perform duties related to Title I services. While noting the allegations, ODCA conducted its own risk assessment to design the audit objectives, as detailed below in the methodology.

¹⁰ October 1, 2018 through August 31, 2019.

Objectives, Scope, and Methodology

Objectives

Our objectives were to assess whether:

1. PMS met the RFP's evaluation criteria to obtain the contract.
2. At-risk private school students received equitable Title I services from school year (SY) 2016 through SY 2019, per section 1117 of ESSA.
3. DCPS adequately monitored PMS's services.
4. DCPS complied with the District's procurement regulations for awarding the contract, specifically the Certified Business Enterprise (CBE) law, subcontracting, and requirements for exercising option years.
5. PMS was compliant with the District's employment regulations for hiring District residents.

Scope

This audit includes data from April 2015 through August 2019—the period from the RFP due date through the close of school year 2019. We extended the scope for Objective 5 to the end of the contract, June 30, 2020, to determine compliance with First Source requirements.

Methodology

To assess whether PMS met the RFP's evaluation criteria to obtain the contract, ODCA:

- Reviewed PMS's proposal and response to technical questions.
- Reviewed the technical evaluation panel's scoring for all four proposals.
- Attempted to verify PMS's references listed in its technical proposal to confirm experience but were unsuccessful in reaching any of the references.
- Looked into PMS's president's CPA status listed in PMS's proposal. Verified with the Virginia Board of Accountancy and CPA Verify¹¹ that PMS's president was not a CPA.

To assess whether at-risk private school students received equitable Title I services, per § 1011 of ESSA, ODCA:

- Reviewed federal and District laws.
- Reviewed PMS employee rosters for the audit scope.
- Reviewed PMS teacher qualifications, teacher criminal background clearances, and mandated reporter training certificates.
- Reviewed the District's Child and Family Services Agency mandated reporter training processes.

¹¹ <https://cpaverify.org/>

To assess whether DCPS adequately monitored PMS services, ODCA:

- Interviewed DCPS and PMS staff.
- Reviewed PMS invoices and requested supporting documentation.
- Reviewed DCPS monitoring forms.
- Reviewed DCPS's internal controls.
- Reviewed DCPS equipment logs.
- Reviewed OSSE monitoring summaries for SY 2016–2017 and SY 2017–2018.
- Reviewed DCPS private school consultation forms.

To assess whether DCPS complied with the District's procurement regulations for awarding the contract, specifically CBE requirements and requirements for exercising option years, ODCA:

- Reviewed federal and District laws and regulations; agency-specific policies and procedures; and agency records.
- Reviewed PMS's certification and recertification documentation from the Department of Small and Local Business Development (DSLBD).
- Reviewed contractor performance evaluations from DCPS's Division of Contracts and Acquisitions for school year 2015–2016 through school year 2018–2019.

To assess whether PMS was compliant with the District's employment regulations for hiring District residents, ODCA:

- Reviewed First Source compliance reports from the Department of Employment Services (DOES).

We conducted this performance audit in accordance with Generally Accepted Government Auditing Standards (GAGAS). Those standards require that we plan and perform the audit to obtain sufficient, appropriate evidence to provide a reasonable basis for our findings and conclusions based on our audit objectives. We believe that the evidence obtained provides a reasonable basis for our findings and conclusions based on our audit objectives.

Audit Results

ODCA identified several high-risk areas in DCPS's management and oversight of this contract, including the current contractor's refusal to provide contract deliverables to support invoices, and the contractor's failure to comply with CBE law.

During this audit, we issued a Management Alert Report (MAR) on April 15, 2020, to immediately inform DCPS of three findings:

- No supporting documentation for more than \$5 million in payments to PMS and PMS's refusal to provide supporting documentation.
- Non-compliance with the CBE law.
- PMS's misrepresentation on its technical proposal and CBE applications.

DCPS generally agreed with our recommendations. See Appendix A for the MAR and DCPS's response. These findings and recommendations also are incorporated below in our audit results.

DCPS complied with procurement requirements and awarded the contract to the highest scoring bidder, PMS, but PMS made misrepresentations on its technical proposal and CBE application that DCPS did not detect.

We found that DCPS generally complied with requirements for awarding the contract to PMS.¹² PMS scored the highest on their proposal and was 25 points higher than the second highest bidder. Yet, there were areas of the procurement process that raised serious concerns.

PMS misrepresented the CPA status of its president on its technical proposal and CBE application

Per DSLBD, PMS's President submitted an electronic attestation on its 2015 CBE recertification, which stated "I declare, certify, verify, attest or state under penalty of perjury that this application and the supporting documents submitted are true and correct to the best of my knowledge and belief. Pursuant to D.C. Code § 22-2402, any person convicted of perjury shall be fined not more than \$5,000 or imprisoned for not more than 10 years, or both."¹³

On PMS's technical proposal, CBE application, and CBE recertification, PMS's President John Armstrong stated that he was a certified public accountant (CPA) licensed by the Virginia Board of Accountancy. Based on our review of a national CPA database,¹⁴ ODCA could not corroborate PMS's president's CPA

¹² See generally D.C. Code Title 2. Government Administration, Chapter 3A, Government Procurement.

¹³ DSLBD's electronic attestation references DC Code § 22-2402, but incorrectly states that the fine for a perjury conviction is \$5,000. The electronic attestation also should reference D.C. Code § 22-3571.01, which sets forth fines for defendants who have been found guilty of an offense. The Defendant must pay a \$25,000 fine if the offense is punishable by imprisonment for 10 years or less but more than 5 years.

¹⁴ The national CPA database is maintained on CPA Verify, which is a CPA lookup tool populated by official state regulatory data sent from Boards of Accountancy to the national database. CPA Verify website is located at <https://cpaverify.org/>

license. We contacted the Virginia Board of Accountancy, which confirmed that PMS's president did not hold a CPA license.

Mr. Armstrong identified himself as an inactive CPA on the resume portion of the technical proposal. To qualify for inactive status with the Virginia Board of Accountancy, a licensee's "current job duties cannot require a **substantial** use of accounting, financial, tax or other skills that are relevant."¹⁵ In its 2013 CBE application, PMS listed its services as accounting, auditing, and business consultations. PMS was granted nine CBE points and the second highest bidder was not a CBE so it was not granted any points.

When we shared with DCPS the results of our verification of Mr. Armstrong's CPA status, DCPS stated that Mr. Armstrong being a CPA did not impact the contract scoring for PMS. We later learned, however, that the inclusion of the CPA designation in the proposal did in fact filter into DCPS's perception of the contractor. DCPS's belief that Mr. Armstrong was a CPA affected the level of oversight that DCPS exercised over its contractor, which resulted in overbilling and insufficient supporting documentation that will be discussed in our next finding, below.

DCPS described the steps it takes to certify and verify information made by a contractor, yet these steps were not sufficient to detect the CPA misrepresentation. This is especially important in the granting of a multi-million dollar contract to provide services required pursuant to federal law to a vulnerable population.

Retaining a CPA is not a requirement to perform contractual duties. ODCA is concerned, however, about the misrepresentation on the CBE documents and the technical proposal, and the risk that other elements of the proposal, which resulted in PMS receiving the highest score, may have been misrepresented.

ODCA could not verify PMS had the required experience

The RFP sought information about the bidder's qualifications, experience, key personnel, and references to support its ability to provide instructional programs to students who are deficient in math and reading, alongside their teachers and parents. We could not, however, verify whether PMS had the required experience at the time of the contract award, as the four PMS references did not respond to our requests for comment. In PMS's technical proposal, its project manager was listed as having "Over 18 years of PreK-12 administrative and classroom experiences" and four and half pages of professional background information was provided.

PMS defined itself in its proposal as a business that specialized in administrative and general management consulting, but did not have specialized expertise in educational services, specifically in Title I, and was comprised of just two full-time staff people. In its 2015 CBE recertification, PMS listed just two full-time staff people. In this same application, this is how PMS described its services, which notably did not include education:

¹⁵ <https://boa.virginia.gov/individual-cpas/inactive-status/>

Describe the business' primary line, trade, or service:

Incorporated in 2009, Corporate Office located in Washington, DC PMS, LLC is an 8(a) (Pending) and SDB Certified, Minority Owned, Veteran and Service Disabled Veteran Owned Small Business specializing in General Management Consulting Services for various areas including Financial Management Services, Human Resources and Information Technology. Serving government clients throughout the Country we provide specialized management services to include Contract Auditing Services, Asset Management Financial, Financial Administrative Support, General Finance Management Support, Acquisition Support and Compliance & Oversight Government Regulations.

Abnormal scoring patterns in the bidder review process

We closely reviewed the DCPS scoring of the four bidders. We found that all three of the DCPS evaluators gave PMS the exact same score in four of the five review categories. This also occurred for two of the other bidders; the same scores for all categories, except one evaluator gave a different score for one category. Additionally, all the DCPS evaluators gave the same exact score for all categories for the fourth bidder. This level of scoring consistency is highly unusual. Figure 3, shows how most categories received an identical score from all three DCPS evaluators.

Figure 3: Evaluator Records Show Identical Scores for Most Criterion

Criteria	PMS Proposal	Proposal B	Proposal C	Proposal D
Value Added Experience	Identical	Identical	Identical	Identical
Proposed Methodology	Identical	Identical	Identical	Identical
Past Performance and Experience	One evaluator scored higher	One evaluator scored lower	Identical	Identical
Proposed Project Team	Identical	Identical	Identical	Identical
Compliance with Schedule	Identical	Identical	One evaluator scored lower	Identical
Total Points	84	59	47	40

Source: ODCA analysis of DCPS documentation

Recommendation

1. DCPS should develop policies and procedures to ensure information provided in proposals is accurate by verifying it through external sources.

Neither DCPS nor PMS provided ODCA with documentation to support \$5.36 million in payments to PMS. These payments included \$421,585 in PMS overbilling that DCPS did not detect.

The contract required that PMS provide DCPS supporting documentation with its invoices to support costs.¹⁶ ODCA requested documentation to support PMS's instructional costs, which includes equipment¹⁷ and administrative costs. Neither DCPS nor PMS provided supporting documentation that align to the invoices, such as payroll records and receipts, to support a majority of the \$5.41 million payments to PMS. Rent was one of the only costs supported by documentation, a lease agreement.

We found that DCPS approved nearly \$5 million in payments to PMS without PMS providing supporting documentation, as seen in Figure 4.

Figure 4: DCPS Payments to PMS Without Supporting Documentation

Amount Unsupported by Documentation	Category	Notes
\$3,208,517	Instructional Costs (teacher salaries, fringe benefits)	Neither DCPS nor PMS provided copies of payroll records to prove the accuracy of these costs
\$1,212,403	Administrative Costs (management salaries, supplies, wireless)	Neither DCPS nor PMS provided copies of payroll records or receipts to prove the accuracy of these costs
\$554,183	Equipment (iPads, laptops, etc.)	Neither DCPS nor PMS provided copies of receipts for the specific equipment purchased
\$17,058	Parental Involvement (event costs)	Neither DCPS nor PMS provided supporting documentation
\$4,992,161	Total	

Source: ODCA analysis of PMS invoices and DCPS payments

Of the \$554,183 that DCPS paid PMS for equipment, we found that 98% of this spending was not reflected in DCPS's equipment logs, a key control to prevent theft or misuse. DCPS described steps it takes to

¹⁶ Contract Section G.2.3: "The Contractor shall ensure administrative costs are invoiced separately and have appropriate supporting documentation aligned to the invoice." Contract Section G.2.4: "The Contractor must ensure instructional costs are invoiced separately and have appropriate supporting documentation aligned to the invoice."

¹⁷ Section C.6.3 states, "The Contractor shall provide all equipment for the Title I students and teacher, i.e. laptops, iPad, Title I teacher's computer and printer, software, wireless capability, etc., as well as all IT support for all equipment and connectivity issues."

request and log equipment by school that PMS billed, but this was not sufficient to track equipment from PMS purchase to school receipt to the DCPS equipment log.

In terms of why almost \$5 million in Title I spending was not supported by documentation, a DCPS management representative stated that the supporting documentation was secured on a former employee's laptop computer and could not be retrieved. ODCA then asked PMS to provide supporting documentation for the invoices, which are contract deliverables, and PMS refused to do so in direct violation of the contract's audit clause.¹⁸

Upon our request, PMS provided some quotations for equipment purchases, instead of invoices or receipts. Quotations are estimated costs for products and services, whereas, invoices are proof that products and services were purchased.

Due to the lack of invoices to substantiate equipment purchases, there is a risk that PMS purchased items that cost less than what DCPS was billed, PMS billed for equipment that was not purchased, and/or PMS billed for equipment that was purchased but used for other purposes.

Lack of DCPS invoice review resulted in PMS overbilling

We also found that DCPS did not carefully review PMS invoices to detect billing inaccuracies resulting in \$421,585 PMS overcharged the District, as detailed in Figure 5.

Figure 5: PMS Billing Inaccuracies that Resulted in Overbilling

Amount Overbilled	Billing Category	Notes
\$362,293	General and Administration and Fees	General and Administration and Fees are not authorized in the contract, however, PMS charged 2.5% for General and Administration and a 7.0% Fee on instructional services and administrative costs. On three monthly invoices, PMS charged an additional .50% Fee for instructional services that DCPS did not detect.
\$23,731	Office Lease	Monthly office lease charges varied, but during our audit scope, DCPS overpaid for PMS's office lease.

¹⁸ In addition to this supporting documentation required as contract deliverables, the contract also contained an audit clause, see: "H.12.6 Availability. The Contractor shall make available at its office at all reasonable times the records, materials, and other evidence described in clauses H.12.1 through H.12.5, for examination, audit, or reproduction, until three (3) years after final payment under this contract...."

Amount Overbilled	Billing Category	Notes
\$17,100	Fringe Benefits	The standard fringe benefit charge was 10% of salaries. On the February 2016 invoice, PMS charged 100% of \$19,000 in salaries, resulting in an overpayment of \$17,100. PMS caught the error the following month but did not issue a credit.
\$16,344	Fringe Benefits	The standard fringe benefit charge was 10% of salaries. On the August 2018 invoice, PMS charged 74% of \$25,622 in salaries, resulting in an overpayment of \$16,344.
\$2,118	General Overcharges	The August 2016 invoice summary for administrative costs totaled \$180,810, but the invoice cover sheet was \$182,928.
\$421,585	Total	

Source: ODCA analysis of PMS invoices and DCPS payments. Totals do not add due to rounding.

These examples clearly illustrate that the DCPS staff responsible for invoice review did not do a thorough review. The contract required that DCPS's contract administrator review invoices and ensure costs were consistent with the negotiated amounts,¹⁹ yet DCPS failed to verify the accuracy of these invoices or, in most cases, obtain supporting documentation.

We were told by a Director within the Office of Federal Programs & Grants that DCPS expected the PMS invoices to be accurate because DCPS was led to believe that the PMS president was a CPA. This indicates a culture within DCPS disposed to trust the contractor without verification. Our first finding detailed that we determined that the president was not a CPA, which points to the risk of trusting, but not verifying, the qualifications and work experience of a contractor.

As students are identified for Title I funds based on need, this lack of oversight created the risk that participating schools and students did not receive every available resource to close achievement gaps. While we are confident that some services were provided based on our review of DCPS monitoring forms, we could not determine if students received equitable services because of the lack of supporting documentation (i.e. teacher sign-in sheets, support for invoices, equipment receipts). The potential impact is displayed in Figure 6 showing the number of participating students at private schools for SY 2015 – 2016 through SY 2018 - 2019.

¹⁹ Contract Administrator (CA) G.9.1.3: Reviewing invoices for completed work and recommending approval by the CO if the Contractor's cost are consistent with the negotiated amounts and progress is satisfactory and commensurate with the rate of expenditure. G.9.1.4: Reviewing and approving invoices for deliverables to ensure receipt of goods and services. This includes the timely processing of invoices and vouchers in accordance with the District's payment provisions.

Figure 6: Number of Students Eligible for Title I Funds at Private Schools by School Year

School Year (SY)	Number of Students
SY 15–16	2,436
SY 16–17	2,436
SY 17–18	2,306
SY 18–19	2,241

Source: DCPS

Additionally, a lack of supporting documentation puts the District at risk that the funds were used inappropriately and could cause the District to lose federal funding.

Recommendations

2. DCPS should update its policies and procedures (SOPs) to require the submission of supporting documentation prior to payment approval and instruct staff how to detect billing errors during invoice review. DCPS should provide training to staff on updated SOPs.
3. DCPS should ensure that equipment purchases are supported by invoices and reported on equipment logs. Equipment logs should be reconciled periodically.

DCPS's incomplete oversight of PMS teachers in the areas of background checks, and child abuse and neglect training increased risks to children

The contract had requirements to ensure that all Title I teachers and staff cleared background checks and completed training in identifying D.C. child abuse and neglect. We found that these requirements were not met in every instance.

DCPS approved the hiring and placement of PMS teachers without cleared background checks

The contract required PMS staff to have been cleared to work in DCPS pursuant to D.C. Code § 4-1501.03, which includes fingerprinting and a background check.²⁰ Of the background checks for the 14 teachers that ODCA reviewed, we found:

- Five teachers (36%) did not have active background checks on the date of hire.
- Four of the five teachers received background checks after being hired, and the number of days after

²⁰ Section C.12.1 of the executed contract states, "To ensure the continuity of service delivery, the Contractor shall ensure that their staff have been fingerprinted and cleared to work in DCPS. The Contract shall ensure teachers complete any additional requirement for the private school, such as child abuse/neglect training, and maintain up to date certifications by August 1st of every year." Section C.12.2: "The Contractor shall ensure all of its employees, contractors, volunteers and other personnel providing services under this contract (Contractor Personnel) submit to any background check required by DCPS (refer to Section H.13)..." Also see: D.C. Code Sec. 38-951.03; D.C. Code Sec. 4-1501.03.

hire date ranged from 5 days to 44 days.

- One of the five teachers did not receive a criminal background check during their employment, a total of 223 days.
- Three teachers (21%) had lapses in background checks during employment. Note: Background checks are good for two years.

The contract states that criminal background checks are required prior to delivering services to students. We sought to determine if these five individuals entered the schools and worked unsupervised without their background checks completed, but the teacher sign-in sheets were unavailable, and we were not provided with payroll data (supporting documentation) to determine their period of work. Therefore, we were unable to determine when these teachers began delivering services.

PMS and DCPS did not follow their respective processes and coordinate to ensure that all teachers obtained cleared criminal background checks prior to delivering services. PMS's Safe Environment Compliance checklist stipulates staff successfully complete criminal background checks before receiving employment badges from DCPS. DCPS stated that its policy is that all teachers meet the fingerprinting and criminal background checks prior to receiving their badges.

Additional D.C. Code requirements were enacted. The D.C. Council passed a new law effective April 2019²¹ specifically stating that contracted teachers must complete criminal background checks. While it is clear that Title I providers were subject to the background checks already in the Code, this provides additional support for those background checks, which were also required by the contract. The background check requirement is a key control to protect children and the school community. When it is not followed, it creates risks for children, the schools, and the District government.

Not all PMS teachers completed D.C.'s certification for identifying child abuse and neglect

The contract required that all PMS teachers who have direct contact with students annually complete the District's Child and Family Services Agency (CFSA) Mandated Reporter Training.²² DCPS did not ensure PMS teachers completed DC's mandated reporter training and received the training annually. Specifically, we found:

- In our sample of 14 PMS teachers, six teachers did not receive D.C.'s mandated reporter training at or near the time of hire.
- Of the six teachers, 50%, or three received training from other jurisdictions, which does not meet the requirement.
- We also noted that one of the eight teachers who received the D.C. training, received it six months after they were hired.

²¹ D.C. Code § 38-951.03.

²² Section H.13.21 of the executed contract states: "The Contractor shall ensure that any Contractor Personnel having direct contact with students while providing service under this contract annually take the mandated reporter training offered by the DC Child and Family Services Agency (Mandated Reporter Training), which is provided for ANY person or employee (private and public) at no cost." Section C.12.1 of the executed contract states: "To ensure the continuity of service delivery... such as child abuse/neglect training and maintain up to date certifications by August 1st of every year."

- Seven of the 14 teachers, or 50%, were PMS employees for more than a year, and were required to receive training annually, but did not.

This happened because DCPS accepted out-of-state certificates; however, CFSA does not accept out-of-state certificates. PMS's Safe Environment Compliance checklist did not specify that the training must be completed through CFSA.

Although DCPS accepted mandated reporter training certifications, they did not ensure it was completed annually or completed in the District. Without annual training, PMS teachers were not properly trained to:

- Define the types of child abuse and neglect.
- Recognize signs of child abuse and neglect.
- Identify groups of children who may be at a higher risk for abuse or neglect.
- Learn how to respond to a child who discloses abuse or neglect.
- Know how to prepare for and make a report of child abuse/neglect.
- Understand the process that occurs after a report is made.

Recommendations

4. DCPS should develop policies and procedures (SOPs) to ensure contracted Title I teachers obtain cleared criminal background checks prior to, and throughout the duration of, issuing direct educational services.
5. DCPS should develop policies and procedures to ensure all contracted teachers obtain the required CFSA Mandated Reporter Training certificates annually and prior to issuing direct educational services.

DCPS extended the contract despite PMS's failure to comply with Certified Business Enterprise (CBE) law.

D.C. Code requires all contracts for government-assisted projects larger than \$250,000 to subcontract 35% of the dollar volume of the contract to a qualified small business enterprise or certified business enterprise (CBE).²³ We found DCPS extended the contract by exercising an option year when PMS did not have an active CBE status, nor had PMS, alternatively, subcontracted 35% of the dollar volume of the contract to a qualified small business enterprise or CBE.

Figure 7 details that DCPS exercised a \$1,189,962 option year modification during the period that PMS's CBE status was expired.

²³ See D.C. Code § 2-218.46(a)(2). If the recipient of the contract is themselves certified as a small business enterprise, local business enterprise, or disadvantaged business enterprise, then they do not have to comply with this requirement. See D.C. Code § 2-218.46(a)(3).

Figure 7: DCPS Exercised Option Year When PMS Was Not an Active CBE



Source: ODCA analysis of DSLBD CBE records and DCPS contracts

DCPS's process before every option award did not contain a sufficient review of PMS's CBE status. For example, in its letter to the contractor of items that needed to be completed prior to exercising an option year, DCPS did not flag CBE recertification or the creation of a subcontracting plan. DCPS stated that it searched DSLBD's database to verify whether PMS was a CBE, as required. However, ODCA verified with DSLBD that PMS did not have active CBE status for 14 months, and during that period an option year contract was awarded.

Qualified CBE subcontractors could have earned \$416,487 if PMS had complied with subcontracting requirements for SY 2019-2020. CBEs were not given the opportunity to provide educational services and generate income.

Recommendation

6. DCPS should include a CBE checkbox in its correspondence to the contractor, as well as its renewal policies, to ensure that the contractor is an active CBE or the contractor is going to subcontract to an active CBE, and then follow-up with monitoring and verification.

PMS did not comply with District resident hiring requirements

PMS did not comply with First Source requirements to ensure that 51% of all new hires were District residents.²⁴ According to DOES compliance reports, of PMS's 107 total hires for this contract, only 31 were District residents (29%).

According to PMS, it sought qualified teachers from DCNET, an online system administered by DOES, where employers can find job candidates. PMS expressed that a lot of the job candidates in DCNET reside outside of the District in Maryland or Virginia. Also, DCNET did not have many qualified teachers. Regardless, DCPS should have ensured that PMS was compliant with contract requirements. D.C. Code provides a procedure to seek a waiver of compliance with First Source hiring requirements²⁵, however PMS did not seek nor did they receive such a waiver.

²⁴ See generally D.C. Code Title 2. Government Administration. Chapter 2. Government Contracts and Business Development. Subchapter X. First Source Employment.

²⁵ See D.C. Code § 2-219.03.

It is possible that qualified District residents did not receive employment opportunities to provide Title I Equitable Services to District children attending private schools.

Recommendation

7. DCPS's contract administrator should regularly monitor compliance with the First Source program to ensure the contractor complies with the 51% requirement by the end of the contract term.

Conclusion

While PMS was the highest scoring bidder, we identified several red flags about DCPS's procurement of the Title I equitable services contract. These issues included inaccurate information submitted by PMS, lapses in PMS's CBE status, over-charges, and errors on PMS invoices. All of these could have been detected through careful oversight by DCPS.

We could not determine the quality of the services provided by PMS, which was at the center of the complainant's concern, because PMS's references did not respond to our repeated requests and DCPS did not provide detailed program documentation as requested. The target population for Title I services are some of the District's most vulnerable residents—children in poverty and at risk of not meeting educational benchmarks. If the District continues to contract out these services, it should perform rigorous vetting of its bidders and well-documented oversights of its contractor.

Agency Comments

On June 8, 2021, we sent a draft copy of this report to the District of Columbia Public Schools (DCPS) for review and written comment. DCPS responded with comments on June 22, 2021. Agency comments are included here in their entirety, followed by ODCA's response.

VIA EMAIL

June 22, 2021

Kathleen Patterson
District of Columbia Auditor
717 14th Street, N.W. Suite 900
Washington, DC 20005

Dear Ms. Patterson:

This letter responds to your June 8, 2021, draft audit report entitled, “*DCPS Failed to Effectively Monitor Title I Contract*”. Thank you for conducting this audit and allowing us the opportunity to respond and provide feedback. Our responses to the seven recommendations contained in the draft audit report are set forth below.

Recommendation

- 1. DCPS should develop policies and procedures to ensure information provided in proposals is accurate by verifying it through external sources.**

DCPS Response:

DCPS does not agree with this recommendation. DCPS does believe that having policies and procedures that ensure the accuracy of information provided in contract proposals is important, and these procedures are currently in place. DCPS procedures align with procedures set forth and carried out by the District’s Office of Contracts and Procurement (OCP).

As noted in our response to your April 2020 Management Alert Report (MAR), every solicitation presented to the public by DCPS’ Office of Contracts and Acquisitions (OCA) is accompanied by a Bidder-Offeror Certification form that must be submitted with the proposal. The certification form is renewed annually and provides representations and warranties to the Contracting Officer about the contractor. The most important portion of the certification is whether the potential contract awardee has not been found to be irresponsible or unworthy in federal court, or by any other District agency. DCPS reviews letters of reference and/or completes calls to confirm references on behalf of each contractor that submits a bid. These reference checks verify that the content expertise/experience claims being made by each contractor and their ability to complete the work can be verified by other organizations and/or agencies. In alignment with OCP policy and procedures, references are not sought or obtained for factors that are *not* being evaluated as a part of the solicitation. The possession of a CPA did not impact scoring for Performance Management Systems (PMS).

Recommendation

- 2. DCPS should update its policies and procedures (SOPs) to require the submission of supporting documentation prior to payment approval and instruct staff how to detect billing errors during invoice review. DCPS should provide training to staff on updated SOPs.**

DCPS Response:

While DCPS agrees with the importance of policies and procedures related to invoice reviews and has instituted strengthened procedures related to this contract upon receipt of the MAR, more information is needed to fully respond to this recommendation.

First, it must be noted that DCPS continues to ensure that all DCPS Contract Administrators receive the required training offered by OCP prior to being assigned to a contract, to ensure they understand the diverse types of contracts with which they may interact, how work performance is to be received and evaluated under those contracts, and billing/invoicing expectations and standards under each of these contract types. Through this process, DCPS systematically addresses the invoice verification process and ensures the retention of transparent supporting documentation.

Additionally, we recognize that some documentation related to DCPS' billing verification process for this vendor could not be retrieved by the DCPS team upon ODCA's request. As the report notes, DCPS was unable to retrieve the documentation at that time because it had been stored on the hard drive of an employee's laptop and the employee had left the agency. Since that time, DCPS has developed a strengthened system for document storage, which ensures that all supporting documentation and approved invoices are uploaded onto the agency's shared drive and retained for three years from the end of the contract period.

Further, DCPS strengthened its internal controls related to this contract, which is inherently complex due to the delivery of a multitude of different service types delivered across numerous campuses. To ensure that the Contract Administrator (CA) is able to detect errors on submitted invoices, the CA reviews monthly binder submissions from the vendor that detail student service hours, teacher lesson plans, attendance sheets and teacher/administrator communication logs, cross referencing the submitted invoice against the amount in the appropriate billing code within the contract. The CA also reviews purchased equipment, materials and supplies, and administrative costs, and verifies the receipt of purchases with required backup documentation from the vendor. For a description of the process used, please review the "05-20 Procurement and Invoicing" attachment.

After documentation is reviewed by the CA, the program coordinator conducts a secondary review to ensure the accuracy of each invoice category (instructional, administrative, materials/equipment and supplies).

Finally, your report notes that an overpayment occurred. We request access to the analysis that was conducted to make this determination and the underlying documentation that was reviewed in order to fully respond to this finding.

Recommendation

- 3. DCPS should ensure that equipment purchases are supported by invoices and reported on equipment logs. Equipment logs should be reconciled periodically.**

DCPS Response:

DCPS agrees with this recommendation and reviewed and strengthened procedures related to this process. In August 2020, DCPS updated its equipment policy for Equitable Services. The policy was issued to all private school officials and stakeholders, including vendors delivering the goods and services. Please see the MPS "Policy 0012 – MPS Equipment, Materials, and Supplies" and the "Equipment Log," attached. In addition to updating and implementing the policy, DCPS ensures that equipment purchases are supported by invoices through the process outlined in the above response.

Recommendation

- 4. DCPS should develop policies and procedures (SOPs) to ensure contracted Title I teachers obtain cleared criminal background checks prior to, and throughout the duration of, issuing direct educational services.**

DCPS Response:

DCPS agrees with this recommendation and has strengthened its policies and protocols to ensure compliance. Contracted teachers who are identified to provide instructional supports and services must be verified through the DCPS clearance system and are not allowed to provide instructional services to students participating in the Equitable Services program until a clearance notification is received by DCPS Employee Services.

Recommendation

- 5. DCPS should develop policies and procedures to ensure all contracted teachers obtain the required CFSA Mandated Reporter Training certificates annually and prior to issuing direct educational services.**

DCPS Response:

DCPS accepts this recommendation but must note that Mandated Reporter training must be completed on a biannual basis, and not annually. DCPS has fully addressed this recommendation and ensures that teachers providing services receive Mandated Reporter training in compliance with District regulations. The Mandated Reporter training includes a post-test which allows contracted teachers with a passing score to receive a certification confirming they have completed the training. This certification is housed at DCPS and must be renewed biannually.

Recommendation

- 6. DCPS should include a CBE checkbox in its correspondence to the contractor, as well as its renewal policies, to ensure that the contractor is an active CBE or the contractor is going to subcontract to an active CBE, and then follow-up with monitoring and verification.**

DCPS Response:

DCPS does not agree with this recommendation. In line with ensuring that all information received in proposals is accurate, DCPS maintains that verifying CBE status with the Department of Small and Local Business Development (DSLBD) instead of vendor self-certification is the most appropriate way to ensure that accurate, up-to-date information is obtained. To ensure ongoing compliance, DCPS issued Directive No. GA-2021-D-001 on July 1, 2020, which speaks to 27 DCMR § 4727 – the portion of the Municipal Regulations which requires that each option year of a contract be evaluated for all necessary compliance, including all required compliances under DSLBD. This directive, entitled “Policy Directive - CBE Compliance Review Per Option Year,” is attached.

All reports for monitoring are due directly to DSLBD, which retains oversight of the small business contractor compliance via ongoing monitoring.

Recommendation

- 7. DCPS’s contract administrator should regularly monitor compliance with the First Source program to ensure the contractor complies with the 51% requirement by the end of the contract term.**

DCPS Response:

We do not believe that this recommendation requires DCPS action. DCPS follows DC Code 2-219.03 regarding First Source compliance. DC Code requires the following: 1) First Source agreements are submitted to the District Department of Employment Services (DOES) at least 7 days prior to the start of contract work; and 2) Agencies

must engage with DOES about the completion of contract work before the final payment is made at the end of the contract term.

Once DCPS has completed its portion of the submission, DOES retains oversight of the contractor compliance to First Source via monitoring.

Thank you again for conducting this audit and for the opportunity to respond to the draft report.

Sincerely,

A handwritten signature in black ink, reading "Lewis D. Ferebee". The signature is written in a cursive style with a large initial "L" and a stylized "F".

Lewis D. Ferebee, Ed.D.
Chancellor
District of Columbia Public Schools

ODCA Response to Agency Comments

ODCA appreciates DCPS's review and comments on this report and its agreement with recommendations 2, 3, and 4. We value DCPS's commitment to making improvements to the Title I Equitable Services program.

Regarding Recommendation 1, DCPS stated that it "does believe that having policies and procedures that ensure the accuracy of information provided in contract proposals is important, and these procedures are currently in place." DCPS did not, however, ensure the accuracy of the contractor's claim to be a certified public accountant (CPA). Although DCPS stated it relies on the Bidder-Offeror Certification form and reviews letters of reference and/or completes calls to verify expertise or experience, DCPS failed to provide evidence it verified PMS's expertise and experience prior to the award of the contract.

In addition, as discussed in the audit report, we identified instances where DCPS relied on the credibility of a contractor's invoices because DCPS believed the contractor's CEO was a CPA, what is now known as a false representation. Therefore, ODCA recommends that DCPS develop policies and procedures to ensure that information vendors provide in proposals is verified through external sources as a failsafe against misrepresentation.

With respect to comments on Recommendation 2, in which DCPS requests additional information to fully respond to the recommendation, ODCA believes that DCPS has all of the documentation required for a response. For example, the bulk of the overcharges on invoices concerned administrative fees totaling \$362,293, which PMS should not have charged DCPS and which DCPS should not have approved and paid. DCPS is in possession of the invoices with these administrative fees and there is no further supporting documentation for them.

In response to Recommendation 5, DCPS stated that Mandated Reporter Training must be completed on a biannual basis. Section H.13.21 of the contract, however, clearly states that Mandated Reporter Training is required annually.

"The Contractor shall ensure that any Contractor Personnel having direct contact with students while providing service under this contract annually take the mandated reporter training offered by the DC Child and Family Services Agency (Mandated Reporter Training), which is provided for ANY person or employee (private or public) at no cost."

Therefore, to ensure contract compliance, DCPS should ensure that contractor personnel having direct contact with students complete the Mandated Reporter Training annually as required.

Although DCPS did not agree with Recommendation 6, it issued Directive No. GA-2021-D-001 on July 1, 2020, requiring proof of a contractor's Certified Business Enterprise (CBE) compliance status per option year. The Directive applies to contract option year periods totaling \$100,000 or above. We are encouraged by DCPS procedures for obtaining and retaining CBE documentation.

In response to the Recommendation 7, DCPS states that it does not believe the recommendation requires action. The Department of Employment Services determines First Source compliance at the end of

the contract term. However, we are troubled by Performance Management Service, LLC.'s (PMS) non-compliance with the First Source program and the risk of such non-compliance occurring again. By regularly monitoring compliance, DCPS will ensure that qualified District residents receive employment opportunities and contractors are on track to meet First Source and contractual requirements.

We look forward to additional improvement in DCPS contract oversight.

Summary of Report Recommendations

Most of the recommendations in this report can be implemented without any additional costs and help to advance the goals of DCPS, as seen below.

Recommendation	Is There a Cost to the Agency/ Entity to Implement?	Potential to Generate Revenue or Savings to the District?	Specific Agency/Entity or District-Wide Goal Advanced by Recommendation
1. DCPS should develop policies and procedures to ensure information provided in proposals is accurate by verifying it through external sources.	No	No	The District's purpose and policies for procurement ■ To ensure the fair and equitable treatment of all persons who deal with the procurement system of the District government. ■ To increase public confidence in the procedures followed in public procurement. ■ To provide for timely, effective, and efficient service to District agencies and individuals doing business with the District government.
2. DCPS should update its policies and procedures (SOPs) to require the submission of supporting documentation prior to payment approval and instruct staff how to detect billing errors during invoice review. DCPS should provide training to staff on updated SOPs.	No	No	OCFO Strategic Plan 2017 – 2021 Initiative #5, which includes ensuring “timely and accurate payment of valid vendor invoices...”

Recommendation	Is There a Cost to the Agency/ Entity to Implement?	Potential to Generate Revenue or Savings to the District?	Specific Agency/Entity or District-Wide Goal Advanced by Recommendation
3. DCPS should ensure that equipment purchases are supported by invoices and reported on equipment logs. Equipment logs should be reconciled periodically.	No	No	Chapter 18 Employee Electronic District Personnel Manual 1800.3(i) Applicability and Basic Employee Obligations Employees shall protect and conserve government property and shall not use it for other than authorized activities. OCFO Strategic Plan 2017 – 2021 Initiative #5, which includes ensuring “timely and accurate payment of valid vendor invoices...”
4. DCPS should develop policies and procedures (SOPs) to ensure contracted Title I teachers obtain cleared criminal background checks prior to, and throughout the duration of, issuing direct educational services.	No	No	The Child and Youth Safety and Health Omnibus Amendment Act of 2000 legislative introduction notes The Act was intended to dramatically improve the variety of protections available to ensure the health, safety and well-being of children and youth in the District of Columbia.

Recommendation	Is There a Cost to the Agency/ Entity to Implement?	Potential to Generate Revenue or Savings to the District?	Specific Agency/Entity or District-Wide Goal Advanced by Recommendation
5. DCPS should develop policies and procedures to ensure all contracted teachers obtain the required CFSA Mandated Reporter Training certificates annually and prior to issuing direct educational services	No	No	D.C. Code §4-1321.01 Subchapter II. Reports of Neglected Children It is the purpose of this subchapter to require a report of a suspected neglected child in order to identify neglected children; to assure that protective services will be made available to a neglected child to protect the child and his or her siblings and to prevent further abuse or neglect; and to preserve the family life of the parents and children, to the maximum extent possible, by enhancing the parental capacity for adequate child care.
6. DCPS should include a CBE checkbox in its correspondence to the contractor, as well as its renewal policies, to ensure that the contractor is an active CBE or the contractor is going to subcontract to an active CBE, and then follow-up with monitoring and verification	No	No	DSLBD's Mission Statement DSLBD's mission is to support the development, economic growth and retention of District-based businesses. DSLBD agency goal of "extending economic prosperity to local business owners, their employees, and the communities they serve."

Recommendation	Is There a Cost to the Agency/ Entity to Implement?	Potential to Generate Revenue or Savings to the District?	Specific Agency/Entity or District-Wide Goal Advanced by Recommendation
7. DCPS's contract administrator should regularly monitor compliance with the First Source program to ensure the contractor complies with the 51% requirement by the end of the contract term.	No	No	DOES's Mission Statement: "The Department of Employment Services (DOES) mission is to connect District residents, job seekers, and employers to opportunities and resources that empower fair, safe, and effective working communities"

Appendix A

Management Alert Report to District of Columbia Public Schools (DCPS) Regarding Performance Management Services, LLC. Compliance with Legal Requirements and Contract Terms, April 14, 2020

DCPS Response to ODCA Management Alert Report, April 27, 2020

April 14, 2020

Dr. Lewis Ferebee
Chancellor
District of Columbia Public Schools
1200 First Street, N.E.
Washington, DC 20002

Management Alert Report: District of Columbia Public Schools (DCPS) has not ensured Performance Management Services, LLC. complied with legal requirements and contract terms.

Dear Dr. Ferebee:

The Office of the D.C. Auditor (ODCA) is conducting an audit of the District of Columbia Public Schools (DCPS) Title I Equitable Services program. The Every Student Succeeds Act (ESSA) and No Child Left Behind (NCLB) ensure all eligible Title I private-school students receive equitable services, as compared to their public-school counterparts.

On March 17, 2015, DCPS issued a solicitation to provide instructional programs to D.C. resident students in grades K-12 attending private schools in the District, Maryland and Virginia and identified as deficient in math or reading. DCPS's Office of Federal Programs & Grants evaluated four proposals for this task. Performance Management Services, LLC (PMS) received the highest scores including receiving nine out of 12 points for the Certified Business Enterprise (CBE) preference. On December 17, 2015, DCPS awarded the initial contract to PMS to provide instructional services to private school students and exercised four option years. From January 2016 through July 2019, DCPS paid PMS over \$5 million for their educational services¹.

PMS's contract expires on June 30, 2020, and DCPS officials have informed ODCA they will issue a Request for Proposals (RFP) for the next contract. Due to COVID-19, DCPS will exercise a sole source contract to provide continued services.

ODCA writes this Management Alert Report to inform you that PMS is not complying with legal requirements and contract terms. ODCA identified several high-risk areas, including the current contractor's refusal to provide contract deliverables to support invoices and noncompliance with CBE law. We also confirmed that the PMS chief executive officer and president misrepresented himself as a

¹ Performance Management Services, LLC (PMS) provides direct, indirect, and blended services. PMS' teachers provide direct educational services. PMS provide indirect services by purchasing goods/services, including equipment and materials for private school students. PMS also provides blended services by issuing direct and indirect services to schools.

Certified Public Accountant (CPA) on his CBE application and the technical proposal submitted to DCPS. We provide details on these concerns below.

No supporting documentation for \$5.1 million in payments to PMS and PMS's refusal to provide supporting documentation

DCPS and PMS failed to provide supporting documentation as required in Sections G.2.3 and G.2.4 of the contract for more than \$5 million in expenditures.

- Contract Section G.2.3 states, "The Contractor shall ensure administrative costs are invoiced separately and have appropriate supporting documentation aligned to the invoice."
- Contract Section G.2.4 states, "The Contractor must ensure instructional costs are invoiced separately and have appropriate supporting documentation aligned to the invoice."

ODCA requested documentation to support instructional and administrative costs. Neither DCPS nor PMS provided documentation to support payments, such as invoices, timesheets, and other items. A DCPS management representative stated that supporting documentation was secured on a former employee's laptop computer and could not be retrieved. ODCA then asked PMS to provide supporting documentation for the invoices, which are contract deliverables. PMS declined to provide the contract deliverables.

Non-compliance with CBE law

D.C. Code § 2-218.46(a)(2) requires all non-construction contracts for government-assisted projects in excess of \$250,000 to subcontract 35% of the dollar volume of the contract to a qualified small business enterprise or certified business enterprise (CBE).²

PMS currently is not a certified business enterprise under D.C. law. PMS's CBE status expired on September 28, 2018. Nine months later, in July 2019, DCPS exercised a \$1,189,962 Option Year Modification. To comply with the D.C. Code, at the expiration of their CBE status, PMS should have subcontracted 35% of the dollar volume of the contract to a qualified small business enterprise or CBE. Based on the Option Year Modification, PMS should have subcontracted at least \$416,487 for SY 2019-2020³.

Misrepresentations on PMS's technical proposal and CBE applications

ODCA discovered misrepresentations in the PMS Technical Proposal and the firm's 2013 initial CBE application and 2015 CBE recertification. In the PMS Technical Proposal and CBE application and recertification, PMS CEO and President John Armstrong stated that he is a CPA licensed by the Virginia Board of Accountancy. Mr. Armstrong also identified himself as an inactive CPA on the resume portion of the Technical Proposal.

ODCA learned that the PMS CEO and president is not a CPA. Based on our review of a national CPA

² If the recipient of the contract is themselves certified as a small business enterprise, local business enterprise, or disadvantaged business enterprise, then they do not have to comply with this requirement. See D.C. Code § 2-218.46(a)(3).

³ PMS submitted a subcontracting plan within their technical proposal but has not subcontracted work to another business.

database⁴, ODCA could not corroborate his CPA license. Further, we contacted the Virginia Board of Accountancy, and the regulatory agency confirmed that Mr. Armstrong does not hold a CPA license.

While retaining a CPA license is not a requirement to perform contractual duties, ODCA is concerned with the misrepresentation on the CBE documents and the technical proposal and the risk that other elements of the proposal, which resulted in PMS receiving the highest score, may have been misrepresented. Mr. Armstrong submitted an electronic attestation on the 2015 CBE recertification, which stated "I declare, certify, verify, attest or state under penalty of perjury that this application and the supporting documents submitted are true and correct to the best of my knowledge and belief. Pursuant to D.C. Code § 22-2402, any person convicted of perjury shall be fined not more than \$5,000 or imprisoned for not more than 10 years, or both."

Given the significant deficiencies identified with the current contractor during our audit we bring these issues to your attention in advance of the next solicitation and recommend the following:

Recommendation

DCPS should develop policies and procedures to ensure:

- Supporting documentation for invoices are retained.
- Contractors are in compliance with CBE laws prior to extending option years.
- Contracts are forwarded to the Department of Small and Local Business Development for monitoring and compliance.
- Information provided in proposals is accurate.

Please let me know in writing by Monday, April 27, 2020, whether DCPS concurs and plans to implement the recommendation. If you have any questions about this Management Alert Report, please feel free to contact me. When our final audit report is issued, this Management Alert Report and your response will be made public.

Thank you for your consideration. I look forward to continuing to work with you to improve the District government.

Sincerely yours,



Kathleen Patterson
District of Columbia Auditor

cc: Paul Kihn, Deputy Mayor for Education

⁴ The national CPA database is maintained on CPA Verify, which is a CPA lookup tool populated by official state regulatory data sent from Boards of Accountancy to the national database. CPA Verify website is located at <https://cpaverify.org/>.



DISTRICT OF COLUMBIA
PUBLIC SCHOOLS

Office of the Chancellor

April 27, 2020

Kathleen Patterson
District of Columbia Auditor
717 14th Street, N.W. Suite 900
Washington, DC 20005

Dear Ms. Patterson:

This letter responds to your April 15, 2020 Management Alert Report (MAR) entitled “*District of Columbia Public Schools (DCPS) has not ensured Performance Management Services, LLC complied with legal requirements and contract terms.*” The MAR finds that the current vendor for providing Title I Equitable Services, Performance Management Services, LLC, (PMS) is not complying with legal requirements and contract terms. The MAR also identifies several high-risk areas, including documentation deficiency concerns, non-compliance with the District Certified Business Enterprise (CBE) preference and the upcoming Request for Proposal (RFP) for the new contract¹ award for the provision of Title I Equitable Services. The MAR contains one, four-part, recommendation aimed at informing and improving the next Title I Equitable Services contract award. Please accept this letter as DCPS’ response to the recommendation and concerns raised in the MAR and planned actions for improvement.

Recommendation

DCPS should develop policies and procedures to ensure:

- **Supporting documentation for invoices is retained.**

DCPS Response:

DCPS agrees that an official policy outlining the retention of supporting documentation is needed and is currently in the process of finalizing strengthened procedural guidance for Contract Administrators. DCPS maintains that supporting documentation for invoices submitted by the vendor were retained as outlined in sections C.10.1.4 and C.10.1.5 of the existing contract agreement. Specifically, these sections of the contract require that the vendor submits binders by the 15th of each month which contain supporting documentation for invoices submitted to DCPS.

While some electronic tracking documentation was unavailable due to circumstances outlined in the MAR, representatives from the Office of the DC Auditor were provided access to hard copy documents from the July 2019 - February 2020 time period. Specifically, representatives were provided access to binders that contain documentation including 1) teacher communication logs; 2) student daily instructional hours by school; 3) sample lesson plans; 4) administrative updates; 5) professional development and training; 6) teacher observations, evaluations and feedback; and 7) supplies procured to enhance instruction. DCPS staff use this supporting documentation to confirm the accuracy of the invoices submitted by the vendor. This documentation is maintained for three to five years.

As noted above, to improve the invoice verification process and ensure the retention of transparent supporting documentation going forward, DCPS is in the process of developing Contract Administrator guidance and training official guidance before the beginning of the school year. This guidance will include specific documentation requirements for expenditures greater than \$1 million annually, in accordance with section G.9.1.5.

¹ PMS’s existing contract for the provision of ESEA Title I Equitable Services will expire on June 30, 2020.

-
- **Contractors are in compliance with CBE laws prior to extending option years.**

DCPS agrees with this recommendation and has processes to evaluate compliance with CBE laws before every option award. The DCPS Contracts and Acquisitions (OCA) team is bound by Title 27 of the District of Columbia Municipal Regulations (27 DCMR). 27 DCMR § 4727 requires that each option year of a contract is evaluated for its necessity and all necessary compliance is recorded. This includes the requirement for a CBE, at either the prime or subcontractor level, for every contract/option award. To this end, DCPS avers that it conducted a search in the District's Department of Small and Local Business Development's (DSLBD) database to determine and verify whether PMS was and continued its status as a CBE within the District of Columbia as required. Once the CBE verification was complete, the compliance documents were forwarded to the Office of Attorney General (OAG) for a certification of legal sufficiency.² To our knowledge, the contractor was and has been a CBE in the District for the entirety of the contract award. While these procedures are already regularly followed, we will document this procedure as part of our standard operating procedures effective July 1, 2020.

- **Contracts are forwarded to the Department of Small and Local Business Development for monitoring and compliance.**

DCPS agrees with the recommendation, as the agency is already complying with required procedures.

Regarding this contract, on April 15, 2020, OCA conducted a search of the DSLBD Certified Contractors Database. As of that date, PMS is listed as a CBE within the District. The results of the CBE search are included for your reference.

- **Information provided in proposals is accurate.**

DCPS agrees that accurate information in proposals is important and believes that the agency currently has appropriate procedures in place. DCPS notes that every solicitation³ presented to the public by the OCA is accompanied by a Bidder-Offeror Certification form that must be submitted with the proposal. The purpose of the certification form is to provide representations and warranties to the Contracting Officer about the contractor. Chief amongst these certifications is whether the potential awardee has not been found to be irresponsible or unworthy in federal court, or by any other District agency. This certification is renewed annually. Additionally, letters of reference or reference calls are received on behalf of each contractor who submits a bid to verify that the content expertise/experience claims being made and ability to complete the work can be verified by other organizations and/or agencies. References are not sought or obtained, however, for factors that are *not* being evaluated as a part of the solicitation. It should be noted that in this instance the possession of a CPA did not impact scoring for PMS. DCPS has also shared the concerns around the contractor's credential for a CBE certification with the Department of Small and Local Business Development. Thank you for conducting this audit and bringing these concerns to our attention.

Sincerely,



Lewis D. Ferebee, Ed.D.
Chancellor
District of Columbia Public Schools

cc: Paul Kihn, Deputy Mayor for Education

² All contracts over \$1 million dollars must be submitted to OAG.

³ DCPS adopted this practice from OCP Procurement Procedures Manual, effective (February 2018).

About ODCA

The mission of the Office of the District of Columbia Auditor (ODCA) is to support the Council of the District of Columbia by making sound recommendations that improve the effectiveness, efficiency, and accountability of the District government.

To fulfill our mission, we conduct performance audits, non-audit reviews, and revenue certifications. The residents of the District of Columbia are one of our primary customers and we strive to keep the residents of the District of Columbia informed on how their government is operating and how their tax money is being spent.

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