

# CITY OF NEW ORLEANS

ED QUATREVAUX, INSPECTOR GENERAL



July 1, 2013

Mr. John White, Secretary  
Louisiana Department of Education  
P.O. Box 94064  
Baton Rouge LA 70804-9064

RE: Review of Program Management /Construction Management

Dear Mr. White,

My letter of June 27, 2013 omitted an important qualification, an error for which I apologize. The corrected version of the paragraph in question is as appears below:

*The failure to amend the 2007 contract to reduce the professional services fee when only 48% of the construction value was completed may have cost taxpayers an estimated \$9,472,055 for services not required. The failure to amend the 2010 contract when the value of completed construction projects was reduced by 56% may have cost taxpayers an estimated \$23,207,386 for services not required.*

A corrected version of the letter is appended.

A handwritten signature in black ink, appearing to read 'Ed Quatrevaux'.

Ed Quatrevaux  
Inspector General  
City of New Orleans

Cc:

Board of Elementary and Secondary Education

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June 27, 2013

Mr. John White, Secretary  
Louisiana Department of Education  
P.O. Box 94064  
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RE: Review of Program Management /Construction Management

Dear Mr. White,

Your letter of June 19, 2013 makes a number of points with which we disagree and will address below. We have been advised that the Cooperative Endeavor Agreement is unclear on how reports should be directed, and for that reason we will replace our report with this letter. I have appended your letter, and note that it summarized the four page letter prepared by your contractor.

The principal disagreement involves compensation to the Program Manager/ Construction Manager (PM/CM), Jacobs/CSRS, for services delivered from November 30, 2007 through March 31, 2013. The RSD entered into two contracts for PM/CM services that appear to favor the contractor. We found that compensation to the PM/CM remained close to the contracted amount while the amount of rebuilding in dollar terms was greatly reduced.

The PM/CM received \$18,189,198 for its services in accordance with the 2007 contract. The contract related that the professional fee was for managing the completion of 13 newly constructed or major renovations plus nine other schools estimated to be in construction at the end of the 2007 contract. The estimated cost of rebuilding work in the contract was \$483,930,344.

By the end of the contract, the PM/CM had managed the completion of five new or major renovated schools and 11 major or minor demolition projects. Only \$231,922,820, or 48%, of the estimated \$483,930,344 work was actually completed, yet the PM/CM was paid the entire contracted amount of \$18,189,198.

The 2010 contract called for the PM/CM to be compensated \$26,994,177 for its services. The original contract also stipulated that the professional fee was for: managing the completion of 22 newly constructed or major renovations and 70 minor school renovations; seven demolitions of campuses; mothballing nine historic school buildings; and dismantling or relocating of five temporary education facilities. The estimated cost of rebuilding work in the contract was \$983,487,533.

Amendment #3 to the contract was executed in April 2012 and increased compensation to the PM/CM by \$7,899,903 (29%) to a total of \$34,894,080. At the same time, the amendment reduced the estimated value of work from \$983,487,533 to \$432,840,524, a 56% reduction.

As of March 31, 2013, the PM/CM had managed: completion of seven newly constructed or major renovations to schools (with an additional three estimated to be complete by end of the contract term); 27 minor renovation/stabilization projects; 15 major or minor demolition projects and three mothball projects. The 1stQuarter 2013 Project Status Report showed that only \$235,128,842, or 54%, of the estimated \$432,840,524 was actually completed with eight months left on the contract term. We estimate that the PM/CM was paid \$25,735,412 or 74% of the amended 2010 contract total compensation.

The PM/CM was paid \$43,924,610, or 83%, of the estimated \$53,083,278 called for in the two contracts as amended. At the same time, the estimated value of actual work completed shrank from \$1.5 billion to \$467,051,662, a reduction of 68%.

We are fully aware that the above professional services contracts are not “at-risk” contracts; however, professional services contracts do require services to be performed. We are also aware that there is no provision that calibrates PM/CM compensation precisely with the value of construction completed. However, RSD management should have realized that the PM/CM would require fewer professional staff after the rebuilding program was slowed by two-thirds from its original estimated value. Within the scope of our review, RSD continued to pay for PM/CM services that were underutilized without altering contract language to permit for variations, delays or changes within the rebuilding program.

In response to a question from a potential PM/CM bidder during the re-proposal of these contracted services in 2013, the RSD advised that PM/CM compensation would be reduced if the estimated design/construction schedule was scaled back. Proving that RSD was aware that the PM/CM would need fewer professional staff, on June 19, 2013, the RSD executed Amendment #4 altering the Jacobs/CSRS services contract “to decelerate a portion of the required Staffing and Resources...” that was provided to RSD via Amendment #3 in the amount of \$3,022,763. The issuance of this “credit” for PM/CM services demonstrated that RSD understood that proper management called for the PM/CM contract to be amended to reduce the professional services fee when the construction program was reduced by two-thirds.

The failure to amend the 2007 contract to reduce the professional services fee when only 48% of the construction value was completed may have cost taxpayers an estimated \$9,472,055 for services not required. The failure to amend the 2010 contract when the value of completed construction projects was reduced by 56% may have cost taxpayers an estimated \$23,207,386 for services not required.

Your letter stated that the OIG team did not consult with RSD and Jacobs/CSR staff in this project. Your letter failed to mention that RSD and Jacobs/CSR staff refused to meet without RSD counsel present. Requiring the presence of organizational counsel reflects RSD’s attempt to monitor and control oversight, which is incompatible with independent oversight. A request by employees that their *personal* counsel be present would have been acceptable.

I advised your predecessor at RSD that a criminal prosecution in New York City revealed that the construction company had colluded with the independent concrete testing firm to falsify the results of concrete tests at 117 sites in Manhattan. Those sites included the base of the Freedom Tower, Yankee Stadium and the Second Avenue Subway station. The faulty concrete that threatened the structural integrity of them was replaced at considerable expense.

The state Legislative Auditor reported in 2012 that RSD allowed the construction company to hire the concrete testing firm, and recommended that a third party firm conduct the tests. The RSD did not accept the recommendation. On January 30, 2013, the OIG advised the RSD that allowing the construction company to select a testing firm was a poor practice and recommended independent concrete testing (attached). The RSD never responded.

I urge you to reconsider what is an invitation for fraud by substitution of inferior goods, a fraud that could threaten the structural integrity of the buildings that serve our children.

The School Construction Authority of New York City and other governmental entities were established on the belief that educators should not manage construction projects. If it is not too late in the program, I recommend you consider ending the reliance on a contractor to protect the state's interests. In addition, you may wish to consider establishing an Inspector General for the Department of Education.

I wish the RSD success in its rebuilding program.



Ed Quatrevaux  
Inspector General  
City of New Orleans

Cc:

Board of Elementary and Secondary Education