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January 5, 1999

Mr. Milo E. Rivero Ph.D., P.E.
President
New York City School
Construction Authority
30-30 Thomson Avenue
Long Island City, NY 11101-3045

Re: Report 98-F-31

Dear Mr. Rivero:

Pursuant to the State Comptroller's authority as set forth in Article X, Section 5 of the State Constitution and Section 2503 of the Public Authorities Law, we have reviewed the actions taken by officials of the School Construction Authority, as of December 1, 1998, to implement the recommendations contained in our prior audit report, *Improvements Needed in Construction Contracting Practices* (Report 96-N-5). Our report, which was issued March 27, 1997, examined procedures used by the School Construction Authority to monitor and award contracts for construction work in New York City schools.

Background

The School Construction Authority (SCA) is responsible for the design, construction and modernization of New York City schools. In 1988, the SCA was established by the New York State Legislature to improve the conditions of the elementary and secondary schools in New York City. The SCA is governed by a three-member Board of Trustees comprised of the Chancellor of the New York City Board of Education, one member appointed by the Governor and one by the Mayor of New York City. The SCA is funded through the Board of Education which has budgeted \$4.4 billion for SCA's five-year capital plan for fiscal years 1995 through 1999.

Summary Conclusions

Our prior audit found that the SCA needed to improve its construction contracting practices for pre-qualifying and re-qualifying contractors and subcontractors, selecting contractors and construction management firms, approving subcontractors, controlling contract costs and for evaluating contractors and completed projects. In our follow-up review, we found that SCA

officials have taken steps to strengthen practices in these areas.

Summary of Status of Prior Audit Recommendations

Our prior audit contained 20 recommendations. We found that SCA officials have implemented 15 recommendations, partially implemented two recommendations and did not implement two recommendations. One recommendation is no longer applicable.

Follow-up Observations

Recommendation 1

Ensure that the required reference and financial checks are completed before approving firms for requalification or contract award.

Status - Implemented

Agency Action - The same procedures and forms are used to requalify firms as are used to prequalify firms. The procedures adequately address this recommendation. We examined 15 contract files and found documentation of both Vendex and financial reference checks was available.

Recommendation 2

Ensure that final contractor evaluation forms are prepared as required.

Status - Partially Implemented

Agency Action - A new computer program identifies when evaluations are done. However, a computer printout indicates that some of the evaluations are still missing.

Auditors' Comments - We urge SCA officials to obtain missing evaluations.

Recommendation 3

Revise its written prequalification procedures to reflect current practices.

Status - Implemented

Agency Action - The procedures were revised in December 1996, and are now being updated again.

Recommendation 4

Require that architectural and engineering firms be prequalified before submitting proposals for SCA contracts.

Status - Not Implemented

Agency Action - SCA officials continue to disagree with this recommendation. They indicate that implementing this recommendation limits competition. The SCA officials advise that they qualify architectural and engineering firms before contracts are awarded.

Auditors' Comments - We believe that SCA's practice defeats the principal benefit of prequalification which is intended to permit an agency to evaluate the capability and qualifications of potential contractors before invitations for bids or requests for proposals are issued for specific contracts.

Recommendation 5

Revise its request for proposal procedures to enhance the objectivity of the selection process.

Status - Implemented

Agency Action - SCA Procedure (CA-1, Section B) has been revised and is now being updated again. Objectivity has been added to the selection process by making the decision by committee rather than by a single person.

Recommendation 6

Comply with its criteria for sole source contract awards.

Status - Partially Implemented

Agency Action - Based on our sample of contracts, the SCA complied with all but one procedural step. In each case the Senior Counsel's approving signature was missing for emergency contracts.

Auditors' Comments - All other requirements for emergency contracts and all requirements for non-emergency contracts were met. Therefore, we believe that SCA is striving to meet the intent of this recommendation. Senior Counsel approval on emergency contracts is still needed.

Recommendation 7

Ensure compliance with required procedures for prior approval of subcontractors, including the completion of all required reference checks.

Status - Implemented

Agency Action - The SCA has formulated checking procedures specific to the type of subcontractors and adheres to these procedures.

Recommendation 8

Revise the language in construction contract specifications to clearly indicate that subcontractors must be approved before they begin work.

Status - Implemented

Agency Action - This language is now in the specification documents.

Recommendation 9

Verify the Local, Minority and Women Based Enterprise certifications of firms before they begin work and ensure that contractors comply with the contract requirements.

Status - Implemented

Agency Action - Only certified members are used. SCA's Economic Employment Opportunity Office makes sure that contract requirements are complied with.

Recommendation 10

Correct the inaccuracies in its subcontractor data base and remind prime contractors that it is not necessary to submit subcontractor approval forms for suppliers that do not perform installation work.

Status - Not Applicable

Agency Action - A new local area network database system has been implemented to replace and improve upon the old mainframe system.

Recommendation 11

Ensure that construction management firms obtain prior written SCA approval for increases in personnel.

Status - Implemented

Agency Action - Appropriate wording to obtain SCA prior written approval appears in the contract and is being adhered to.

Recommendation 12

Discontinue the practice of awarding construction management contacts wherein the fee is based on a percentage of the company's payroll costs. Future contracts should provide for fixed fees or fees that provide incentives for the company to minimize its costs.

Status - Implemented

Agency Action - Construction management fees are now based on the percentage of construction costs. Also, there is an incentive for early completion and penalties for late completion.

Recommendation 13

Change its procedures to require independent cost estimates for change orders and actual cost information to evaluate the reasonableness of the negotiated prices.

Status - Implemented

Agency Action - The SCA Change Order Unit prepares cost estimates based on published wage scales for various workers and on published time estimates for specific jobs. The Change Order Unit and the Internal Audit Unit check the reasonableness of negotiated prices on a limited sample basis.

Recommendation 14

Ensure that project officers obtain proper approvals when work must begin before change order prices can be negotiated.

Status - Implemented

Agency Action - Change order procedures detail steps and circumstances under which work may continue prior to change order price negotiations. Procedures also list the required approval levels.

Recommendation 15

Develop specific guidelines for determining when claims for design errors and omissions should be pursued.

Status - Implemented

Agency Action - The procedures currently in place address the recommendation.

Recommendation 16

Develop a mechanism with the Board of Education to ensure that the practice of bidding construction contracts before the project's design is complete is minimized.

Status - Implemented

Agency Action - SCA procedures require design completion prior to bidding.

Recommendation 17

Ensure that there are sufficient edits and controls over information entered into the Financial Management System.

Status - Implemented

Agency Action - The entire Financial Management System has been improved and modified to provide additional edits and controls.

Recommendation 18

Prepare final evaluations after the completion of all projects and ensure that evaluations include input from Board of Education Officials.

Status - Not Implemented

Agency Action - SCA does not perform overall project evaluations after each project is completed.

Auditors' Comments - We believe that overall project evaluations which include input from school based personnel would provide valuable feedback to SCA. Such information would be beneficial in planning subsequent projects.

Recommendation 19

Establish better communications with school officials in order to improve their perception of SCA's performance.

Status - Implemented

Agency Action - The SCA Community Relations Department solicits input from school principals and other appropriate staff. A follow-up of problems noted in survey reports is performed. Also, an electronic complaint tracking system is maintained by the Community Relations Department.

Recommendation 20

Ensure that contractors with a history of poor performance do not obtain new contracts.

Status - Implemented

Agency Action - Histories of poor performance are recorded on SCA systems and are used by SCA to implement this recommendation.

Major contributors to this report were Robert Lindholm, Anthony Carbonelli, Ken Sifontes and Carole Siegall.

We would appreciate your response to this report within 30 days, indicating any action planned or taken to address any unresolved matters discussed in this report. We also thank the management and staff of the SCA for the courtesies and cooperation extended to our staff during this review.

Very truly yours,

Jerry Barber
Audit Director

cc: H. Wilson
R. Kahn