

Office of the State Inspector General

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Review of Project Management and Internal Controls – Piney Woods Elementary School Construction School District Five of Lexington & Richland Counties

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Introduction

The South Carolina Office of the State Inspector General (SIG) was established by the South Carolina General Assembly in 2012 (Act No. 105) for the purpose of investigating and addressing allegations of fraud, waste, abuse, mismanagement, misconduct in agencies, specifically the executive branch of state government. The SIG's authorities are found in [South Carolina Code of Laws, §1-6-10 et seq.](#)

In 2022, the South Carolina General Assembly passed S. 202 (Act No. 223) which expanded the SIG's authority, with limitations (§1-6-35), to investigate public schools and school districts, public charter schools and authorizers, and voluntary associations that establish and enforce bylaws or rules for interscholastic sports competition for public secondary schools.

The purpose of this report is to provide a road map for the School District Five of Lexington & Richland Counties' (District) leadership and Board of Trustees (Board) to improve in its delivery of quality education to its students in a unified effort. This investigation focused specifically on procurement matters related to the Piney Woods Elementary School construction and the District's overall project management.

The SIG extends its appreciation to Dr. Akil Ross, District staff and Board members for their cooperation, providing access to documents and business records, and their intentionality of seeking solutions to the issues identified by the SIG. The SIG also extends its appreciation to current and former teachers, administrators, Board members and contractors for the valuable input and access to supporting documentation provided to the SIG during this investigation.

I. Background

A. Predicate

At the request of the Board of Trustees for School District Five of Lexington & Richland Counties (District), South Carolina Governor Henry McMaster, by letter dated 1/17/23, requested the Office of the State Inspector General (SIG) to initiate and conduct a review or investigation of the District’s procurement-related issues associated with the Piney Woods Elementary School (PWES) construction project pursuant to South Carolina Code of Laws, §1-6-35. In addition, the request provided for the SIG to initiate and conduct a review or investigation of any different or additional allegations of fraud, waste, abuse, mismanagement, misconduct, violations of state or federal law, or wrongdoing as the SIG deemed appropriate. (See [Appendix A](#))

B. Scope and Objectives

The scope and objectives of this limited review examined contractor billing, actions of the procurement selection committee, the District’s compliance with its procurement code, and contractor-related transactions in light of the issues described below regarding the PWES construction project:

- Internal controls over contractor billing and unexplained discrepancies in invoices, payments, and contingency allowances;
- Internal controls over the procurement selection committee;
- Potential conflicts of interest between or among the procurement selection committee members, the general contractor or subcontractors;
- Potential violations of the District’s procurement code or policy; and
- Compliance with the “agreed upon procedures” for school district procurement audits as approved by the Division of Procurement Services, State Fiscal Accountability Authority.

C. Methodology

The SIG reviewed relevant documentation, including emails, provided by the District, and applicable state and federal laws, regulations, and policies. The SIG conducted interviews of current and former District leadership, trustees, employees, representatives, project managers, and contractors for the PWES project, as well as the state’s Division of Procurement Services, the Office of State Engineer officials, the South Carolina Department of Education (SCDE) officials, the Office of the State Auditor, the State Ethics Commission, external auditors that provided audit services to the District, and other persons associated with the PWES project.

Reviews and investigations by the SIG are conducted in accordance with professional standards set forth by the Association of Inspectors General’s *Principles and Standards for Offices of Inspector General*, often referred to as the “Green Book.” This investigation used the preponderance of evidence standard.

D. School District Five of Lexington & Richland Counties

The District serves an enrollment of approximately 17,000 students. The District has thirteen elementary schools, two intermediate schools, three middle schools, four high schools, a career and technology center, one Center for Advanced Technical Studies and one alternative school. Currently, the District employs a full-time equivalent professional staff of approximately 2,500 employees.

E. Board of Trustees

A seven-member Board of Trustees (Board) governed the District and had fiscal autonomy to approve and administer the District’s budget. The Board operated in accordance with the [SC Code of Laws Section 59-19-](#)

90 as referenced in the District’s Board policy [BBA Board Powers and Duties](#). The District trustees and superintendents for the period of this review are depicted in Table A.

Table A

| Trustees Nov. 2016 - Nov. 2018 | Trustees Nov. 2018 - Nov. 2020 | Trustees Nov. 2020 - Nov. 2022 |
|--|---|--|
| Mr. Robert Gantt (chair) | Mr. Robert Gantt (chair) resigned chair position 2/20* | Mrs. Jan Hammond (chair) |
| Mrs. Jan Hammond | Mrs. Jan Hammond | Mrs. Catherine Huddle |
| Ms. Beth Hutchison | Ms. Beth Hutchison | Mrs. Rebecca Blackburn Hines |
| Mrs. Ellen Baumgardner | Mr. Ken Loveless | Mr. Ken Loveless |
| Mr. Larry Haltiwanger | Mrs. Nikki Gardner | Mrs. Nikki Gardner |
| Mr. Ed White | Mr. Ed White | Mr. Matt Hogan |
| Mr. Michael Cates | Mr. Michael Cates *served as chair 3/20-11/20 | Mr. Ed White resigned 6/21, replaced by Tifani Moore 11/21 |
| Superintendent Dr. Stephen Hefner thru 6/18 Dr. Christina Melton 7/18 | Superintendent Dr. Christina Melton | Superintendent Dr. Christina Melton thru 6/21 Dr. Akil Ross. Sr. interim until 1/22 |

II. Piney Woods Elementary School Contract Management

The SIG reviewed various contract documents related to the PWES construction project, contract requirements and conditions, payment requirements, and payment/support documents. The review identified deficiencies in contract management, including lack of contract oversight and questioned disbursements. An example of a lack of contract oversight involved a contractor related-party matter, which was identified at the outset of the contract but remained unaddressed by the contract management staff and legal counsel. The PWES contract management is more fully discussed below.

A. Summary of Piney Woods Elementary School Contracts

On 5/3/18, the District issued a Request for Qualifications (RFQ) for architectural design and engineering services ([Solicitation #2018-044](#)) to design Elementary School #13 (ES-13) on the Amicks Ferry Road property. On [7/16/18](#), the Board unanimously approved the selection (7–0 vote) of Quackenbush Architects + Planners, LLC (Quackenbush) as the architectural design professional for the project. On 12/18/18, the District executed a contract with Quackenbush.

On 8/9/18, the District issued an RFQ/Request for Proposals (RFP) for Construction Manager [sic] at Risk (CMAR) Services for ES-13 ([Solicitation #2019-007](#)). On [12/10/18](#), the Board approved the selection (5–2 vote) of Contract Construction, Inc. (CCI). On 12/19/18, the District executed a contract with CCI to be the CMAR for ES-13, subsequently named the Piney Woods Elementary School. The guaranteed maximum price, after amendments, was \$26,569,355, which was below the bond cap of \$30,000,000 set by the Board.

The Office of School Facilities (OSF), SCDE reviewed the design development and construction plans, conducted in-process and final inspections based on applicable building codes, and issued a [certificate of occupancy](#) to the District on 7/30/21.

B. Construction Management at Risk (CMAR) Services Contract

The District utilized the CMAR delivery method for the construction of the PWES. The South Carolina Consolidated Procurement Code of the [South Carolina Code of Laws, §11-35-2910 \(5\)](#) defined CMAR as:

“...a project delivery method in which the governmental body awards separate contracts, one for architectural and engineering services to design an infrastructure facility and the second to a construction manager at-risk for both construction of the infrastructure facility according to the design and construction management services.”

The Associated General Contractors of America described the CMAR method as:

“Under a CM-at-Risk contract, the Agency engages a project Designer and qualified CM under a negotiated contract to provide both preconstruction services and the construction of the project with a fixed fee and Guaranteed Maximum Price (“GMP”).... CM-at-Risk allows for the early project involvement of a CM who can partner with the A/E and Agency to provide constructability assistance, estimating, design review and early procurement opportunities. Additionally, the start of construction can begin prior to 100% complete design documents. The CM at-Risk typically also provides detailed cost estimates early in the design phase, so that value engineering and cost reduction ideas can be considered when they are the most easily addressed.”¹

On 12/19/18, the District and CCI executed [American Institute of Architects \(AIA\) Document A133-2009](#) “Standard Form of Agreement Between Owner and Construction Manager as Constructor” for the PWES construction project. This established the basis of payment as the cost of work plus a fee with a “Guaranteed Maximum Price (GMP).”

The award included a pre-construction services fee of \$50,000 and a construction management fee of 3.85% of the GMP. The total GMP of the District/CCI contract was \$26,569,355. General conditions of the CCI contract are detailed in the [AIA Document A201-2007](#), “General Conditions of the Contract for Construction,” and Amendment 1, and Amendment 2.

The Sitework Guaranteed Maximum Price (SGMP) Amendment included the cost of work and the construction manager’s fee of \$3,656,858. The Building Guaranteed Maximum Price (BGMP) Amendment included the cost of work and the construction manager’s fee of \$22,862,497, District-accepted enhancements of \$542,842, and substantial completion of work by 5/31/21, with final completion of work 60 days later. On 1/27/22, CCI returned \$369,467.25 in savings to the District, which reduced the final outlay/cost to the District to \$26,199,887.75, as set forth in Table B.

Table B

| Summary of CCI CMAR Contract Reconciliation | |
|--|------------------------|
| Pre-construction services fee | \$50,000.00 |
| Amendment 1 SGMP | \$3,656,858.00 |
| Amendment 2 BGMP | \$22,862,497.00 |
| Contractual GMP | \$26,569,355.00 |
| Funds Returned to the District | \$369,467.25 |
| Final Outlay by the District | \$26,199,887.75 |

¹ [“Construction Management at Risk Benefits, Criteria and Justification Criteria,”](#) Associated General Contractors of America and National Association of State Facilities Administrators, June 2020, p.8.

On 9/27/22, CCI also returned \$14,868.62 with interest based on the \$369,467.25 reduction of the GMP in the construction manager’s fee.

C. Billing Exceptions Identified by the SIG

Billing to the District was documented in the Contractor’s Application for Payment (pay app), an AIA form² commonly used in the construction industry. The form contained the contractor’s application for payment, a change order summary, certifications by both the contractor and the architect, and detailed costs. Each pay app contained a monthly Schedule of Values (SOV) Update and Job Cost Breakdown, and periodically contained a Contingency Accounting Activity Log.

During the contract delivery period, the District received 26 pay apps totaling \$26,199,887.75 that included \$963,020 for the construction management fee based on 3.85% of the GMP. The final adjustment of \$1,013,164 within the GMP on pay app #26 resulted in the contingency balance of \$369,467.25 returned to the District on 1/27/22.

An initial examination and assessment of the District’s PWES records identified exceptions to sound contract management that resulted in \$418,556.38 of questioned disbursements. At the SIG’s request, the current chief financial officer (CFO) identified and analyzed existing District documentation that satisfied \$21,855.73 of the foregoing amount, resulting in questioned disbursements of \$396,700.65. The documentation identified by the CFO was available to the PWES contract management team during the construction of the school. A subsequent SIG review of supporting documentation provided by CCI identified sufficient documentation that reduced the final total of questioned disbursements to \$38,362.69, which is more fully described below.

Unsupported Payment of Travel Expenses

For 18 of the 26 pay apps, the District paid \$20,088.58 to CCI for fuel, travel and phone costs, and per diem travel expenses for the project manager and supervisor without proper supporting travel expense reports or documentation.

Best practices for internal controls require that all travel documents should be signed and approved. In addition, a credit for “Fuel & Travel” was applied in pay app #20 for \$3,304.95 with no documentation or explanation referenced. Set forth in Table C is the summary detail of unsupported fuel and travel/per diem expenses.

Table C

| Item Code & Description | | Expense |
|-------------------------|-----------------------------|--------------|
| 1210 | Fuel & Travel | \$20,627.86 |
| 1212 | Per Diem Expense | \$2,765.67 |
| Total | | \$23,393.53 |
| 1210 | Fuel & Travel [pay app #20] | (\$3,304.95) |
| Total Net | | \$20,088.58 |

Lack of Invoices in Support of Payments

The District made 14 payments totaling \$1,939.50 without sufficient supporting invoice documentation for vendors as set forth in Table D.

² AIA Document G702™- 1992. Section 9.3.1.3 provided, “...Each Application for Payment shall be accompanied by all information and materials required to comply with the requirements of the contract... or reasonably requested by the Owner or the Architect.”

Table D

| Code | Subcontractor | Total | Invoices |
|------|---------------------------|-------------------|-----------|
| 1552 | Carolina Connect Internet | \$956.74 | 11 |
| 1209 | Lowes | \$982.76 | 3 |
| | Total Payments | \$1,939.50 | 14 |

Incorrect Billing

The SIG determined that eight of the 70 invoices provided by CCI for services rendered by Owens Cleaning Services, reflected hours billed for various hourly rates were incorrect, as shown in Table E.

Table E

| Pay App | Invoice # | Invoiced Amount | Corrected Amount | Variance | Explanation |
|----------------------|-----------|-----------------|------------------|----------------|--------------------|
| 14 | 26 | \$6,350 | \$6,728 | (\$378) | underbilled |
| 17 | 38 | \$6,870 | \$6,278 | \$592 | overbilled |
| 17 | 40 | \$5,910 | \$6,062 | (\$152) | underbilled |
| 17 | 41 | \$5,716 | \$5,868 | (\$152) | underbilled |
| 19 | 42 | \$6,816 | \$7,024 | (\$208) | underbilled |
| 19 | 43 | \$7,468 | \$7,688 | (\$220) | Underbilled |
| 22 | 55 | \$5,168 | \$5,344 | (\$176) | Underbilled |
| 23 | 69 | \$1,701 | \$1,627 | \$74 | Overbilled |
| Total Charged | | \$45,999 | \$46,619 | (\$620) | Underbilled |

Business License Fees

The District paid CCI for business license fees on two occasions totaling \$28,221 to the Town of Irmo, the location of the CCI Office. However, CCI determined that the business license fee for pay app #25 for \$11,266.39 was for another project and should not have been included in the cost of the work for PWES.

Table F

| Pay App | Business License Fees | |
|---------|------------------------------|--------------------|
| 4 | Town of Irmo | \$16,954.61 |
| 25 | Town of Irmo | \$11,266.39 |
| | Total | \$28,221.00 |
| | Reimbursement for Pay App 25 | (\$11,266.39) |
| | Total Net | \$16,954.61 |

CCI reimbursed the District \$11,926.55 via check #60099, dated 10/27/22, for the errant invoicing of the Irmo business license and included interest in its reimbursement. In doing so, the business license questioned costs decreased to \$16,954.61 as shown in Table F.

D. Internal Controls Over Contract Payments

Payments made by the District followed CCI’s submission of pay apps. The SIG determined the District relied upon the certifications provided by CCI and the architect (Quackenbush) that the work was completed in accordance with the contract. The CCI certification on the pay app specifically provided that:

“The undersigned Contractor certifies that to the best of the Contractor’s knowledge, information and belief the Work covered by this Application for Payment has been completed in accordance with the Contract Documents, that all amounts have been paid by the Contractor for Work for which previous Certificates for Payment were issued and payments received from the Owner, and that current payment shown herein is now due.”

The architect’s certification on the pay app specifically provided that:

“In accordance with Contract Documents, based on on-site observations and the data comprising this application, the Architect certified to the Owner that to the best of the Architect’s knowledge, information and belief the Work has progressed as indicated, the quality of the Work is in accordance with the Contract Documents, and the Contractor was entitled to payment of the AMOUNT CERTIFIED.”

The SIG determined the architect’s representative walked the site every two weeks to review progress of work performed and documented the results in a report for the District. The representative reviewed the pay apps and distributed them to the various project engineers for review to ensure accuracy and appropriateness. Furthermore, the representative merely confirmed the work was completed and that the receipts seemed reasonable, but did not verify the amounts. [SIG emphasis]

A District official stated to the SIG, *“The pay application submitted by CCI served as the invoice for the District. The District’s project manager approved each invoice and verified that the items included were complete.”* The District’s director of facilities and the construction management consultant both advised they reviewed the pay apps to ensure they were consistent with the construction progress, but did not verify the pay app amounts were supported by the appropriate documentation/invoices.

The architect’s certifications occurred in a relatively short timeframe after the CCI certifications, either the same day or the following. The current CFO found no evidence the District utilized additional scrutiny over the construction progress and payments.

The close-in-time pay app certifications are highlighted in Table G.

Table G

| App # | CCI Certification Date | Architect Certification Date | Inv. Date | Voucher | Total PO 2002969 Payments |
|-------|------------------------|------------------------------|------------|--------------|---------------------------|
| 2 | 11/25/2019 | 11/25/2019 | 11/30/2019 | 1426 | \$370,527.77 |
| 3 | 1/20/2020 | 1/20/2020 | 12/31/2019 | 1493 | \$593,030.50 |
| 12 | 10/6/2020 | 10/7/2020 | 10/7/2020 | 1248 | \$2,070,280.21 |
| 13 | 11/11/2020 | 11/11/2020 | 11/11/2020 | 1372 | \$2,071,760.56 |
| 14 | 12/3/2020 | 12/3/2020 | 12/3/2020 | 1426 | \$1,620,486.42 |
| 16 | 2/1/2021 | 2/2/2021 | 2/2/2021 | 1583 | \$1,042,283.70 |
| 17 | 2/24/2021 | 2/25/2021 | 2/28/2021 | 1655 | \$519,774.00 |
| 18 | 4/13/2021 | 4/14/2021 | 3/31/2021 | 1730 | \$760,291.41 |
| 20 | 6/4/2021 | 6/4/2021 | 6/4/2021 | 1886 | \$500,986.89 |
| 21 | 7/2/2021 | 7/2/2021 | 6/30/2021 | 2063 | \$221,298.13 |
| 22 | 8/3/2021 | 8/4/2021 | 7/31/2021 | 1123 | \$878,647.78 |
| 23 | 9/2/2021 | 9/2/2021 | 9/22/2021 | 1230 | \$465,188.62 |
| | | | | Total | \$11,114,555.99 |

E. Summary Analysis of Questioned Costs

The District missed opportunities to provide effective oversight that resulted in questioned costs of \$396,700.65, which constituted 1.5% of the total amount paid for the PWES project. Subsequent investigation by the SIG identified sufficient documentation provided by CCI that reduced the final total questioned costs to \$38,362.69.

To put this in perspective, the \$38,362.69 in questioned costs amounted to 0.14% of the overall GMP of \$26,569,355.

The SIG assessed that District officials did not secure sufficient documentation that supported the pay app requests and that the District failed to provide proper contract management and oversight of the payment process. These questioned costs by themselves, however, are not indicative of fraud or illegitimate reimbursements; rather, they point to weaknesses in the District's internal controls over contract management.

F. Contingency Allowances and Change Orders

Board minutes from the 12/10/18 meeting reflected a 5-2 vote to contract with CCI for an amount "*not exceeding \$30 million dollars of general obligation bonds.*" CCI presented a [budget status report](#) at each level of the design and construction progress to the Board. CCI did not exceed the contractual GMP amount of \$26,569,355 approved by the Board.

As part of the contract, CCI established the \$26,569,355 GMP that included contingency allowance items in the SOV. Each pay app submitted by CCI identified SOV expenditures. CCI rendered contractual services within the established GMP and returned to the District \$369,467.25 in unused contingency funds. On 7/30/21, the OSF, SCDE issued a Certificate of Occupancy for the PWES project, the contracted date for final completion of the work.

As established in the CMAR contract, contingency allowances were permissible and normal among CMAR industry standards. Additionally, the CMAR contract provided for the following:

- *§ 2.2.3 A statement of the proposed Guaranteed Maximum Price, including a statement of the estimated Cost of the Work organized by trade categories or systems, allowances, contingency, and the Construction Manager's Fee.*
- *§ 2.2.4 In preparing the Construction Manager's Guaranteed Maximum Price proposals, the Construction Manager shall include its contingency for the Construction Manager's exclusive use to cover those costs considered reimbursable as the Cost of the Work but not included in a Change Order.*
- *§ 5.2.1 The Construction Manager guarantees that the Contract Sum shall not exceed the Overall Guaranteed Maximum Price, as it is amended from time to time. To the extent the Cost of the Work exceeds the Overall Guaranteed Maximum Price, the Construction Manager shall bear such costs in excess of the Overall Guaranteed Maximum Price without reimbursement or additional compensation from the Owner.*
- *§ 5.2.2 The Overall Guaranteed Maximum Price is subject to additions and deductions by Change Order as provided in the Contract Documents and the Date of Substantial Completion shall be subject to adjustment as provided in the Contract Documents.*

CCI did not use change orders to adjust the monthly SOV, but included a Contingency Accounting Activity Log along with the SOV Update and Job Cost Breakdown with the pay apps.

By contrast, the AIA in its publication [The Fundamentals of Change Orders in Construction](#) provides in part:

“The change order is fundamental to construction contracting as the primary means to modify the contract for construction.... Common reasons for construction change orders [include] unforeseen or differing site conditions...discovery of hazardous materials...delays beyond the contractor’s, architect’s or owner’s control...which may lead to reasonable delays and associated costs.... Lastly, at closeout, contract adjustments may be required to account the aforementioned items, back charges, liquidated damages or early completion bonuses, and any punch list credits due the owner for incomplete or unsatisfactory work not remedied.”³

To ensure compliance with the CMAR contract, the District contracted with Mead & Hunt for a closeout assessment of the completed project in November 2021, in accordance with a new policy the Board adopted on 10/11/21, [Policy FED: Close-Out of Construction Projects](#). The assessment included the verifications of change orders, contingency allowances, completion of deficiency items, completion of final list items (punch list), receipt of closeout documents, final payment documents, and other items as indicated in the project manual.⁴

The District did not have a change order or contingency allowance policy in effect during the PWES construction contract period. Any reference to a District change order policy that formed the basis of an opinion in an external audit or report of the District prior to 5/9/22 was based on an unapproved “draft” change order policy dated 1/19/22. [SIG emphasis]

The SIG identified the Board’s Policy Committee reviewed and proposed a change order and contingency allowance policy on 1/19/22, six months after the completion of the PWES construction project and occupancy of the school. After two revisions to the draft policy, the Board adopted [Policy FGG: Facility Construction Project Administration](#) on 5/9/22, which states in part:

“Purpose: To establish the basic structure for use of Change Orders as well as Contingency Allowances included in school construction contracts after the effective date of this Policy.”

G. Leadership in Energy and Environmental Design (LEED) Certification

Questions arose about the omission of LEED from the CMAR contract even though LEED was a component of the RFQ/RFP solicitation. Consequently, the SIG assessed whether CCI wrongfully omitted LEED certification from its construction of PWES.

The United States Environmental Protection Agency (EPA) defines [LEED certification](#) as:

“A series of rating systems aimed at increasing the environmental and health performance of buildings' sites and structures and of neighborhoods. LEED covers the design, construction, and operation of all types of buildings...EPA uses it as an umbrella term to encompass model codes, rating systems, and other publications that provide criteria for the design, construction, and maintenance of buildings.”

The CMAR RFQ/RFP identified project objectives for the construction of ES-13, which included Project Objective 1.2.1:

“Sustainability: The Owner expects to have the project designed to be certified by the Green Building Initiative (GBI) for a minimum of two (2) Globes or a project designed to achieve

³ Verrastro, Salvatore and Baum, Mark I., “The Fundamentals of Change Orders in Construction.” Retrieved from <https://learn.aiacontracts.com/articles/6378493-the-fundamentals-of-change-orders-in-construction> on 7/3/23.

⁴ [Mead & Hunt Final Report with Deficiency Corrections - Construction Closeout on Piney Woods Elementary School Dated 4/22/22](#)

LEED Silver status. Special attention is being given to energy efficiency, water conservation, photovoltaic panels, storm water quality and quantity, indoor air quality, recycling and renewable resources in addition to other sustainable practices. The requirement for the availability of Green Globes certification of this project scope will be combined with the site development package of a separate scope. Coordination with the separate site development package is required for the Green Globes certification.”

During the solicitation and RFP process, the District evaluated the contractor’s ability to deliver a product, rather than define the scope of work. With a CMAR contract, the architect (Quackenbush) is the agent for the project design, and the contractor only builds according to the architect’s design specifications.

The Quackenbush [contract](#) specified in Section 12.4, the following meeting schedule as a part of the basic services of the architect:

- Schematic Design: two meetings with the architect and District’s project team;
- Design Development: three meetings with the architect and District’s project team;
- Construction Documents: two meetings with the architect and District’s project team;
- Construction Administration: 36 site visits by the architect; and
- Twelve [meetings](#) with the District’s Board of Trustees.

In addition, during the programming and design phases to initiate the schematic design, members of the Quackenbush design team held three [programing workshops](#) to elicit input/feedback from [District representatives and the community](#). Participants (43) in the workshops included the superintendent, Board trustees (2), District office staff (14), principals and teachers (15), parents and community members (4), and consultants (7), which included the District’s construction management consultant for the PWES project.

The SIG determined the omission of the LEED requirement from the CMAR contract occurred during the negotiation phase between the District, Quackenbush, and CCI as the District sought to reduce the GMP. Both the District’s coordinator of facilities operations and the construction management consultant expressed the lack of desire to pursue the LEED certification. Regardless, the SIG determined that none of the contractor-candidate finalists was disadvantaged in the solicitation and evaluation process.

Quackenbush explained that many K-12 clients believed that LEED certification added unnecessary costs to construction projects. For example, under LEED the contractor was required to track all lift tickets and track the number of dumpsters used to haul construction debris. The LEED certification for a middle school recently designed by the same PWES architect included a sustainability fee of \$30,000 and a registration fee of approximately \$20,000. In addition, LEED practices have at times conflicted with energy efficiency, such as ventilation requirements that required more cycles. Finally, LEED scoring may include impractical items for a site like Amicks Ferry such as bike racks to encourage less reliance on automobiles.

The PWES design contract negotiated by the District specifically excluded LEED certification in order to save the costs of LEED registration, submission, implementation, and review estimated at \$150,000. The estimated savings to the District of \$150,000 permitted the acquisition of additional equipment and amenities for the school.

The SIG determined that the PWES architect’s design contract with the District, Section 1.1.6 indicated that LEED or Green Globes certifications were anticipated sustainable objectives for the project. In support of this possibility, Section 4.1 of the contract identified additional sustainable project services in Section 4.1.1.24 that contained the statement, “*Only in Design by Architect. Any actual Certification to be an Additional Service*” as illustrated in the contract excerpt [page 15] below.

| Included Additional Services | Responsibility |
|---|---|
| § 4.1.1.11 Value analysis | Architect |
| § 4.1.1.12 Detailed cost estimating beyond that required in Section 6.3 | Not Provided by Architect |
| § 4.1.1.13 Continuous On-site project representation | Not Provided by Architect |
| § 4.1.1.14 Conformed documents for construction | Architect |
| § 4.1.1.15 As-designed record drawings | Architect |
| § 4.1.1.16 As-constructed record drawings | Architect |
| § 4.1.1.17 Post-occupancy evaluation | Not Provided by Architect |
| § 4.1.1.18 Facility support services | Not Provided by Architect |
| § 4.1.1.19 Tenant-related services | Not Provided by Architect |
| § 4.1.1.20 Architect's coordination of the Owner's consultants | Architect |
| § 4.1.1.21 Telecommunications/data design | Architect, but compensation outlined in Attachment B |
| § 4.1.1.22 Security evaluation and planning | Not Provided by Architect |
| § 4.1.1.23 Commissioning | Not Provided by Architect |
| § 4.1.1.24 Sustainable Project Services pursuant to Section 4.1.3 | Only in Design by Architect. Any actual Certification to be an Additional Service |
| § 4.1.1.25 Fast-track design services | Not Provided by Architect |
| § 4.1.1.26 Multiple bid packages | Not Provided by Architect |
| § 4.1.1.27 Historic preservation | Not Provided by Architect |
| § 4.1.1.28 Furniture, furnishings, and equipment design | Architect, but compensation outlined in Attachment B |
| § 4.1.1.29 Other services provided by specialty Consultants | Not Provided by Architect |
| § 4.1.1.30 Other Supplemental Services | Not Provided by Architect |

Section 4.1.3 of the contract reflected, “[intentionally omitted].”

The SIG determined the PWES architect’s design incorporated sustainability and energy conservation principles, including materials, energy-efficient mechanical systems, proper shading and glazing to avoid glare and heat retention, and sustainable practices on site. In consultation with the Office of the State Engineer the SIG determined that while state law has given agencies the option to pursue LEED/Green Globe, it is not a requirement for school districts.

II. Piney Woods Elementary School Selection Committee

The District established a selection committee for the purpose of evaluating and selecting qualified contractors for the design, engineering and construction of PWES. Specifically, the selection committee was tasked with evaluating responses for the following solicitations:

- Design and Engineering Services Solicitation #2018-044, and
- CMAR Services for a “New Elementary School” Solicitation #2019-007.

A. Selection Committee Composition

The South Carolina Consolidated Procurement Code established the procedures and qualifications for members of a procurement selection committee. Specifically, South Carolina Code of Laws, §11-35-3220 (*Qualifications based selection procedures*) states,

“Agency Selection Committee. A governmental body shall establish its own architect-engineer, construction management, and land surveying services selection committee, referred to as the agency selection committee, which must be composed of those individuals the agency head determines to be qualified [emphasis added] to make an informed decision as to the most competent and qualified firm for the proposed project. The head of the governmental body or his qualified responsible designee shall sit as a permanent member of the agency selection committee for the purpose of coordinating and accounting for the committee's work. To assist an agency selection committee in the selection of firms to be employed for significant or highly technical projects and to facilitate prompt selections, the agency selection committee may invite the State Engineer or his designee to sit as a nonvoting member of the committee.”

The [District’s procurement code](#) (3220.1 District Selection Committee) in effect at the time of the PWES procurement, stated in part:

“The District shall establish its own architect-engineer, construction management, and land surveying services selection committee, referred to as the "District Selection Committee", that must be composed of those individuals whom the Board of Trustees or its designee determines to be qualified to make an informed decision as to the most competent and qualified firm for the proposed project. The Superintendent or his qualified responsible designee shall sit as a permanent member of the District Selection Committee for the purpose of coordinating and accounting for the committee’s work. Final selection and award of contracts for architect/engineer and surveying services must be approved by the Board of Trustees.”⁵

The composition of the selection committee, which included the Board chair, is set forth in Table H.

Table H

| 6/21/18 Meeting | 7/10/18 Meeting | 9/18/18 Meeting | 10/25/18 Meeting | District relationship as a Selection Committee member |
|--|-------------------|------------------------|------------------------|---|
| Scott Carlin | Scott Carlin | Scott Carlin | Scott Carlin | District Coordinator of Facilities |
| Anna Miller | Anna Miller | Anna Miller | Anna Miller | District Director of Academic Affairs |
| Bruce Shealy | Bruce Shealy | Bruce Shealy | Bruce Shealy | District Director of Finance |
| | Robert Gantt | Robert Gantt | Robert Gantt | District Board Chair |
| Larry Haltiwanger | Larry Haltiwanger | | Larry Haltiwanger | District Board Trustee |
| The following ad hoc members were in attendance: [non-voting] | | | | |
| A. Len Richardson | A. Len Richardson | A. Len Richardson | A. Len Richardson | District CFO, Committee Chair |
| Lynda Robinson | | Lynda Robinson | Lynda Robinson | District Procurement Officer |
| Dan Neal | Dan Neal | Dan Neal | Dan Neal | District Consultant |
| | | P. Douglas Quackenbush | P. Douglas Quackenbush | Design Architect & Principal Quackenbush Architects |
| | | Barbara Haller | Barbara Haller | Principal Quackenbush Architects |

⁵The South Carolina Division of Procurement Services (DPS) approved the District’s procurement code by [letter dated 6/4/08](#).

B. Internal Controls Over the Selection Committee

The internal controls over the selection committee included the appointment of the qualified members, certification of no actual or apparent conflict of interest, the recording of minutes of the committee proceedings, the use and retention of work papers related to the evaluation of contractor-candidates, and approval by the District's Board. On 9/11/18, each member of the selection committee executed an acknowledgement and certification document titled, "[Confidentiality and Conflict of Interest Policy](#)."

The SIG determined the District did not maintain documentation to support the appointment of qualified committee members. Specifically, the District was unable to provide the identity of the appointing official, documentation regarding the appointments, the timing of the appointments, or the criteria used for determining qualified committee members.

1. Selection Committee Evaluations and Board Approvals

Selection committee actions were recorded in the approved minutes and posted on the District's website. The minutes for the 10/25/18 meeting were marked "DRAFT" as no additional meeting was held to approve the minutes. Committee members received minutes of the final meeting by email to review for accuracy with a request to respond with any changes. The committee's work papers were retained and each evaluator certified the use of the RFP's evaluation criteria along with a narrative explanation of the evaluator's scoring.

The selection committee presented the results to the Board in executive session on 12/10/18, which the Board subsequently approved in a 5-2 vote during the public session to approve the architect contract, the CMAR agreement, and the issuance of general obligation bonds not to exceed \$30 million. A detailed timeline of the committee's actions and Board approvals is set forth in [Appendix B](#).

C. Conflict of Interest Disclosures by Selection Committee Members

In May 2018, subsequent to the appointment to the selection committee, one member provided a written disclosure of a potential conflict of interest for consideration by the chair of the selection committee prior to conducting any evaluation of potential respondents to the procurement solicitations. The SIG determined that the District's counsel and Board chair reviewed the matter and deemed the committee member qualified to serve on the selection committee. The member made a similar disclosure in 2016 on an unrelated procurement matter and was deemed qualified to serve on that selection committee.

Subsequent to the PWES committee's review of respondent submissions to the CMAR solicitation a 2016 letter of reference, included in the CCI submission was identified as having been authored by another committee member. The letter of reference was general in nature and not specific to the 2018 CMAR solicitation. The SIG determined the Board chair and another Board member, as representatives on the selection committee, reviewed the matter and determined that no conflict of interest existed and the committee member was deemed qualified to serve on the selection committee.

Further analysis of the committee's evaluations of CMAR submissions determined that CCI remained the highest-rated contractor-candidate even with the exclusion of both committee members' scoring from the aggregate scores.

Notwithstanding the determinations made by the Board chair and the District's counsel at that time, a minority number of Board members continued to question the composition of the PWES selection committee even after the Board approved the contract award for the PWES construction to CCI in December 2018.

Throughout 2020 and into 2021, the same minority number of Board members continued to question the composition of the selection committee. Between August 2021 and October 2021, a separate District counsel conducted an investigation of the same selection committee member for the same potential conflict of interest previously disclosed and evaluated. The District counsel briefed the Board in executive session in October 2021 and opined that no conflict of interest existed for the committee member.

Contemporaneous to the second investigation the District retained a third attorney in August 2021 to conduct an independent review of the same matter. On 11/15/21, the independent, third attorney briefed the superintendent and concluded the investigation did not support a finding of conflict of interest by the committee member. Furthermore, no documentation was provided to the SIG by the District that sought an official or unofficial opinion from the State Ethics Commission on this matter.

D. SIG Summary Analysis

The SC Code of Laws, §8-13-700 (B) (1) requires that, *inter alia*, public employees shall:

“...prepare a written statement describing the matter requiring action or decisions and the nature of his potential conflict of interest with respect to the action or decision...”

The statute further provides that *“...a public employee...shall furnish a copy of the statement to his superior, if any, who shall assign the matter to another employee who does not have a potential conflict of interest.”*

The SIG determined the committee member prepared written statements as required by South Carolina Code of Laws, §8-13-700 (B) that provided written notice to the selection committee of a potential conflict of interest, and the agency head was apprised of the potential conflict who deemed the committee member was qualified to serve on the committee.

In support of this determination, between May 2018 and November 2021, the District and the Board received three separate legal reviews from District attorneys each of whom opined that no conflict of interest existed with respect to the selection committee member.

The SIG assessed that the Board’s disregard of three legal reviews, including two investigations constituted a waste of District resources and Board interference in violation of Board Policy BBA, “[Board Powers and Duties](#).”

E. Change in Board Policy FEC: Selection of Professionals in Facilities Construction

On [5/9/22](#), the Board adopted a change to [Policy FEC: Selection of Professionals in Facilities Construction](#) for establishing *“...the basic structure for the selection of professionals by the district.”* The revised policy further provided that:

- *Members of the Board of Trustees be [sic] barred from voting or ad Hoc [sic] membership on professional selection committees;*
- *Candidates for voting or ad hoc membership of the selection committee be [sic] vetted to determine apparent or actual conflicts of interest and [sic] conflicts of interest are determined, that candidates must withdraw their name from consideration;*
- *Voting or ad hoc members of selection committees be required to sign and adhere to the Districts’ [sic] Confidentiality and Conflict of Interest Policy.*

III. District Procurement Code Compliance

The District's procurement code in effect during the PWES project received approval from the Division of Procurement Services (DPS), State Fiscal Accountability Authority by letter dated 6/4/08. On 2/7/22, the District amended its procurement code, which also received approval from DPS on 4/5/22.

A. Unapproved Brokerage Service Agreement

On 9/23/15, the District's chief financial officer, on behalf of the District, executed a Buyer Agency Agreement with The Educational Group, Inc. (TEG) to act as a buyer's exclusive agent to locate real property for purchase as a suitable site for an elementary school. The District's procurement code and [list of exemptions](#) list of exemptions provided that brokerage services were subject to Board approval.⁶

On 7/17/17, the Board approved, by a vote of 6-1, the District's purchase of real estate, previously optioned, near the intersection of Amicks Ferry Road and Lake Tide Drive for \$932,950. However, the Board did not vote on the brokerage services agreement as required by the District's procurement code.

The SIG determined that while the Board approved the District's purchase of the Amicks Ferry Road on 7/17/17 the District failed to comply with its procurement code when it executed a brokerage services agreement with TEG without Board approval in 2015.

B. Procurement Audit Services Solicitation #2022-011

The District issued an RFP ([Solicitation #2022-011](#)) on 10/6/21, for procurement audit services for fiscal years (FY) 2018-19, 2019-20, 2020-21, with optional years of 2016-17 and 2017-18. The District selected the Jaramillo Accounting Group (JAG), LLC, of Albuquerque, New Mexico to perform the audit.

By letter dated [12/16/21](#), the Division of Procurement Services approved JAG to perform an Agreed Upon Procedures (AUPs) audit for the District "*contingent upon the firm following our School District AUPs as revised on May 24, 2021.*" Specifically, the approval of JAG to perform an AUP procurement audit was solely for FY 2020-21.

Amendments to the solicitation could occur at any time prior to opening the bids. By doing so, all bidders that requested a bid package would receive copies of all amendments. This in turn allowed bidders to modify their response to the solicitation prior to the opening of the bids. The SIG verified the District did not amend the scope and intent of the solicitation, which sought to acquire a certified public accounting firm to provide "independent procurement audit services" for the District.

By letter dated [1/15/22](#), the Board, District and JAG entered into an agreement that diverged from the RFP's original scope and intent of "procurement audit [emphasis added] services" to "procurement consulting services" for FYs 2017-2020. The agreement acknowledged the RFP required that the procurement audit "*...must be performed in accordance with...the audit procedures issued by the South Carolina State Fiscal Accountability Authority, Division of Procurement Services,*" among others. Moreover, the agreement recognized the District received procurement audits for FYs 2017-2020, but added:

"...Eliminating this requirement [SFAA, DPS audit procedures] is necessary since the procurement audits have already been performed (except for fiscal year 2021, which has a separate attestation examination engagement letter). The scope is hereby changed to consulting services, for fiscal years 2017-20 and includes providing recommendations for

⁶ School District Five of Lexington & Richland Counties [Procurement Code](#), §710 (effective 6/4/08).

improvement over various risk areas reported to JAG during our planning and testing samples of risk areas.”

Over the course of the engagement, the District paid a total of \$105,650 on the consulting services contract. As of 6/30/23, invoices totaling \$50,582.81 remained unpaid for lack of sufficient detail, including time, dates, and description of work performed by JAG.

In response to the auditor findings [conditions], the District published a [corrective action plan](#) to address the issues and promote financial accountability and transparency.

C. Annual Financial and Procurement Audit Solicitation #2022-035

On 2/16/22, the District issued an RFP ([Solicitation #2022-035](#)) for financial and procurement audit services for FY 2021-22 with renewal options for FYs 2022-23 and 2023-24. On [3/28/22](#), the Board voted unanimously to authorize a contract with JAG for financial and procurement audit services for FYs 2021-2022, 2022-2023, and 2023-2024.

On 11/29/22, JAG issued the District’s FY 2021-22 Annual Comprehensive Financial Report.⁷ The auditor issued a single finding of material non-compliance and material weakness.⁸

In response to the finding, the District published a [corrective action plan](#) that included a plan to change organizational culture, starting with tone at the top, including training, employee evaluations, consequences for violations, rewards for ethical behavior, posting a fraud hotline in the District, implementing an audit committee, hiring an internal auditor, and carefully choosing procurement committee members.

D. SIG Summary Analysis

Consulting service vendors listed on the statewide contract are available for use by state agencies, public school districts, and other governmental entities. Inasmuch as the scope of the JAG engagement letter with the District diverged from the RFP’s solicitation for procurement audit services, the SIG determined this solicitation for procurement audit services was an unnecessary expenditure of District resources.

The District only needed the most recent fiscal year (2020-21) audited, not the prior five fiscal years. While JAG’s winning bid of \$46,000 included procurement audits for five fiscal years (2017 – 2021) the SIG noted the District only needed to spend \$9,500 quoted by JAG for the FY 2020-21 procurement audit. As a result, the change in scope from the original RFP to a consulting services engagement resulted in Board-approved increases totaling \$105,650.

The SIG determined that the change in scope from a procurement audit to a consulting services contract constituted:

- A substantial departure from the RFP scope and the approval granted by DPS;
- The standard audit reporting procedure required by DPS did not contain provisions for examination of campaign contributions, ethics issues, and legal conclusions;
- The RFP solicited procurement audit services for four prior fiscal years that previously received procurement audits consistent with the audit procedures required by the DPS; and
- The consulting services agreement constituted waste amounting to \$105,650.

⁷ Per [South Carolina Code of Laws §59-17-100](#), school districts must submit their annual single audit report to the South Carolina Department of Education by December 1st of each year.

⁸ [Schedule of Findings and Questioned Costs](#), pp. 138-140

IV. Way Forward

This review identified procurement and contract management issues over an eight-year span of the PWES construction project. The District's students have utilized the new PWES and its amenities for the past two school years. Without question, the District is moving forward through the proactive strategies, policies, and efforts implemented by the District's Board, superintendent, and CFO to be ahead of a problem as opposed to reacting to one.

Over the past two years, the following policy changes related to this review enhanced the District's internal controls and Board oversight:

- On 10/11/21, the Board adopted [Policy FED: Close-Out of Construction Projects](#) to ensure that district construction projects are completed in compliance with the specifications of the project.
- On 1/24/22, the Board adopted a revised [Policy FEE: Site Acquisition](#) to establish the basic structure for the acquisition of sites for school construction.
- On 5/9/22, the Board adopted [Policy FGG: Facility Construction Project Administration](#) to establish the basic structure for use of change orders as well as contingency allowances.
- On 5/9/22, the Board adopted a revised [Policy FEC: Selection of Professionals in Facilities Construction](#) to establish basic structure for the selection of professionals by the district.
- On 1/23/23, the Board adopted a revised [Policy AR DI/DIE-R: Fiscal Accounting/Audits - External Auditor Selection](#).
- On 2/13/23, the Board adopted a revised [Policy DI/DIE: Fiscal Accounting/Audits](#) to establish the basic structure for accounting and reporting of the district's financial resources, enhanced internal controls, external audits, and the role of an internal auditor.

In addition, on [2/7/22](#) the Board adopted a revised District Procurement Code that was submitted to DPS for approval. The new [District Five Procurement Code](#) received approval from DPS on 4/5/22, which is substantially similar to the provisions of the South Carolina Procurement Code and Regulations.

The District initiated other process improvements as advised by the District's CFO, in response to identified weaknesses in internal controls to include:

- In July 2023, the finance office completed two training classes with bookkeepers and secretaries who performed finance/procurement functions in preparation for the new school year;
- The District developed a mechanism to consolidate and track procurement violations by employees to assess and prevent repeated occurrences;
- The District is developing a new financial services procedures manual and a revised procurement manual that is expected to be completed in the fall of 2023 and shared on the District's website; and
- The District is in the process of hiring an internal auditor.

During this review, the SIG conducted extensive interviews and studied large volumes of documents. The SIG did not identify where the District, its personnel, and its Board had anything but the best intentions for the success of the procurement process for the construction of the PWES. However, as a public body tasked as a steward of state and federal monies, the District could have done better.

The SIG identified several areas of concern as detailed in the Findings and Recommendations section of this report, for which most have been addressed through the initiation of new policies or the implementation of policy changes that enhanced the District's internal controls and processes through the District's efforts.

The SIG extends its appreciation to the District's current and former leadership, Board members, employees, representatives, project managers, and contractors for the PWES project. In addition, the SIG is appreciative of the collaboration with the state's Division of Procurement Services, the Office of State Engineer, the South Carolina Department of Education, the Office of the State Auditor, the State Ethics Commission, the District's external auditors, and other persons associated with the PWES project for their assistance and cooperation provided during this review.

V. Findings and Recommendations

Finding #1: The SIG determined the District's accounts payable officials and project managers did not ensure sufficient documentation was provided by CCI to support the amount requested for payment in the pay apps and that the District failed to provide proper contract management and oversight of the payment process. This resulted in missed opportunities to ensure stewardship of taxpayer funds and questioned costs of \$396,700.65 for the PWES project. Subsequent investigation by the SIG identified sufficient documentation that reduced the final total of questioned disbursements to only \$38,362.69.

Recommendation #1: The SIG recommends that the District ensure sufficient supporting invoices or other documentation are provided by the contractor to support the amount requested for payment, provide proper contract management and oversight of the contract payment process, and remediate and strengthen internal controls. Based on policy changes, internal controls, and training initiated by the District's Board, superintendent, and CFO over the past two years this matter has been addressed. **No further action is required.**

Finding #2a: The SIG determined that a selection committee member prepared written statements as required by the South Carolina Code of Laws §8-13-700 (B)(3) that provided notice to the selection committee of his/her potential conflict of interest, and the agency head was apprised of the member's potential conflict and deemed him/her qualified.

Finding #2b: The SIG determined District officials and selection committee members were unable to provide the identity of the appointing official, documentation regarding the appointments, the timing of the appointments, or the criteria used for determining qualified committee members.

Recommendation #2: The SIG recommends that the agency head ensure any delegation of authority, the appointment of selection committee members, and the criteria used for selection be documented and retained in the procurement file. Based on policy changes, and internal controls implemented by the District's Board, superintendent, and CFO over the past two years this matter has been addressed. **No further action is required.**

Finding #3: The SIG determined that the Board's disregard of at least three legal reviews, including two investigations, in order to pursue ethics actions against a selection committee member constituted waste of District resources, amounting to at least \$12,605 and Board interference in violation of Board policy BBA.

Recommendation #3: The SIG recommends that the Board should adhere to all Board policies.

Finding #4a: The SIG determined that the District's execution of a Buyer Agency Agreement with The Education Group, Inc. without Board approval was a violation of the District's procurement code.

Finding #4b: The SIG determined that the District issued an RFP (Solicitation #2022-011) seeking a certified public accounting firm to provide procurement audit services for FYs 2019 - 2021, with the option to also audit FYs 2017 and 2018. As specified in the Scope of Work of the RFP, the procurement audit was required to be performed in accordance with the agreed upon audit procedures issued by the DPS. However, the audit agreement was changed by Board and District representatives from a procurement audit to a procurement consulting services contract, which was a substantial departure from the RFP requirements that resulted in the waste of \$105,650 in District resources.

Recommendation #4: The SIG recommends that the Board and District leadership receive training regarding the District's procurement code and the role and authority of the procurement officer in awarding contracts.