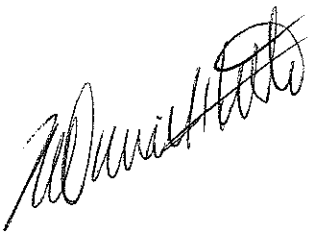




MEMORANDUM

TO: Inspector General

FROM: L. Daniel Hutto, President 

DATE: December 18, 2009

SUBJECT: Six-Month Follow-Up Response in accordance Section 20.055, Florida Statutes

BOARD OF TRUSTEES

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In accordance with Section 20.055 Florida Statutes, the enclosure is a six-month follow-up attached for your review.

If you have questions, please do not hesitate to contact me at (904) 827-2210 or Terri Wiseman at (904) 827-2301 or wisemant@fsdb.k12.fl.us for response.

Enclosure

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**AG Audit for FYE 2008
Findings, Recommendations and FSDB Responses**

Finding No. 1: Legislative Budget Requests and Facilities Master Plan

The School's 2008 Facilities Master Plan (Plan) was not consistent with, or comparable to, the School's prior Plans, and the School's 2006 and 2008 Plans did not adequately support either the School's Legislative Budget Requests for 2007-08, 2008-09, and 2009-10 or its projected capital funding needs.

Recommendation: In consultation with the Department of Education, the School should review and revise its Plan methodology, as appropriate, to ensure that PECO funds are requested as necessary to meet the essential needs of the School; comparability exists between Plans for prior, current, and succeeding years; funding needs for Campus Infrastructure are specifically identified to ensure that they are not also included in Campus Wide Building Maintenance and Campus Wide Site; and funding needs for the Campus Wide Building Maintenance and Campus Wide Site are specifically identified and prioritized as required by law.

FSDB Response: In accordance with your recommendation, the School will consult with the Department of Education and determine the Department's expectations concerning the School's master plan and PECO LBR. We will work with our planning consultant to ensure our Facilities Master Plan is comprehensive and consistent to document our needs and facility condition assessments.

6-Month Follow-up: In the Department of Education's response to the preliminary and tentative findings, the Commissioner stated that the Department of Education has no statutory authority to regulate the decisions or processes of the Florida School for the Deaf and the Blind. A copy of the Commissioner's response is attached. The School continues to seek ways to improve the quality of its facility condition assessments that form the core of its Facilities Master Plan and the PECO LBR.

Finding No. 2: Expenditures for Major Renovations and New Construction

The School did not always administer its Public Education Capital Outlay (PECO) appropriation in accordance with its Facilities Master Plan and Legislative Budget Request.

Recommendation: In consultation with the Department of Education, the School should revise its procedures to ensure that all requests for PECO funding are adequately supported and PECO appropriations are expended as specified in the School's Facilities Master Plan and LBR, unless appropriately justified and documented.

FSDB Response: In accordance with your recommendation, the School will consult with the Department of Education and determine the Department's expectations concerning the School's master plan, PECO LBR, and deviations there from.

6 Month Follow-up: In the Department of Education's response to the preliminary and tentative findings, the Commissioner stated that the Department of Education has no statutory authority to regulate the decisions or processes of the Florida School for the Deaf and the Blind. A copy of the Commissioner's response is attached. The School continues to seek ways to improve the quality of its facility condition assessments that form the core of its Facilities Master Plan and the PECO LBR.

AG Audit for FYE 2008
Findings, Recommendations and FSDB Responses

Finding No. 3: Renovation or Replacement of Collins Property

The School's requested PECO appropriation of \$1.38 million to renovate certain property was approved for expenditure by the School's Board of Trustees; however, the Board's action was contrary to analyses that supported replacement rather than renovation.

Recommendation: The School should ensure that the final construction costs are adequately supported.

FSDB Response: A Capital Improvement Budget Validation Study was completed in 2005 to support the Facilities Master Plan for 2006-2011 and related LBRs. This documentation supported the 2008-2009 Collins Property budget request that you reviewed. Subsequent studies regarding the possible historical significance to the community supports the efforts the school has undergone to ensure the facility will be rehabilitated rather than razed. FSDB will ensure the final construction cost for the rehabilitation of the Collins property will be supported by approved construction documents and construction procurement procedures.

6 Month Follow-up: The Board of Trustees have completed numerous studies and reported to the State the findings of the evaluations. Renovation of the existing structure will be completed during 2010.

Finding No. 4: Student Enrollment, Capacities, and PECO Appropriations

The School's current and projected enrollment figures are significantly below its current and projected classroom and dormitory capacities; however, documentation supporting the School's PECO funding requests do not appear to evidence consideration of these enrollment figures and capacities.

Recommendation: In consultation with the Department of Education, the School should review its current and projected enrollments and capacities, and determine whether the amounts requested for PECO funding continue to be appropriate. Additionally, the School should include appropriate justifying explanations for the individual projects specified in its future Plans and LBRs.

FSDB Response: As we indicated in our responses to other audit findings, the School is planning to consult with the Department of Education on other PECO related issues, and these issues will part of the agenda as well. For example, our current plan accounts for a reduction of 51 student stations with the demolition of the existing Bryant Hall #33 (42 student stations) and Multi-Purpose #14 (9 student stations). We will continue our discussions with DOE in regard to the Florida Inventory of School Houses (FISH) documentation of other student stations on the campus.

6 Month Follow-up: With due consideration to the Commissioner's response to the preliminary and tentative findings, the School plans to continue consulting with the DOE

**AG Audit for FYE 2008
Findings, Recommendations and FSDB Responses**

on the subject of student enrollment and capacity in the legislative budget request process.

Finding No. 5: Operating Budget and Certain Nonrecurring Items

As noted in a prior audit, the School continued to include certain nonrecurring items in its subsequent operating budget requests.

Recommendation: As recommended in our report No. 2006-169A, the School and the Department of Education should confer with the Governor's Office of Policy and Budget regarding the issue of non-recurring items being made part of the School's continuing funding base.

FSDB Response: School administrative staff has conferred many times with budget staff at the Department of Education (DOE) via telephone, fax and e-mail regarding this issue. However, the DOE has advised the School that the DOE should be the liaison between the School and the Governor's Office of Policy and Budget. DOE has assured the School that it has conferred with the Governor's Office of Policy and Budget (OPB) regarding the matter.

In its response to the finding (No. 2) in report No. 206-169A, DOE said, in part:

"The DOE does not agree with the portion of the finding dealing with nonrecurring items. Although the report recognizes the legislative change in the manner of appropriating funds for the school that occurred in 1994-95, the finding does not appear to take into account the legislative intent.

Prior to 1994-95, appropriations for FSDB were made to the traditional account categories (Salaries and Benefits, Other Personal Services (OPS), Operating Capital Outlay (OCO), etc.). However, in 1994-95, the legislature transferred funding for FSDB to an Aid to Local Governments/Grants and Aids category (reference Line Item 529A, Ch. 94-357, Laws of Florida). In 1995-96, the legislature transferred the FSDB appropriation to Special Categories (reference Line Item 166, Ch 95-429, Laws of Florida), which continues to date. This change evidenced intent for the school to have flexibility in establishing, within the line item appropriation, its operating budget. The intention is further reflected in Section 1011.57, F.S., which specifically provides flexibility to FSDB in the operations and management of the school, including financial operations."

Nothing described above in the previous response to this finding by the DOE has changed (please reference Line Item No. 110, Ch. 2007-72, Laws of Florida). However, after conferring with the DOE budget staff in December 2008 and again in May 2009, and with the concurrence of DOE, School administration has directed its budget staff to itemize, in subsequent budget requests (2010-11 being the next), items of a nonrecurring nature in the nonrecurring column of the Legislative

**AG Audit for FYE 2008
Findings, Recommendations and FSDB Responses**

Budget Request (LBR), according to LBR instructions provided by the OPB. Therefore, nonrecurring items are automatically precluded from inclusion in the recurring budget base for LBRs prepared for fiscal years 2011-2012 and future.

6 Month Follow-up: No further corrective action is planned.

Finding No. 6: Administration of Construction Projects

Deficiencies noted in the School's administration of its construction projects included continuing construction manager services not acquired in accordance with applicable State laws and rules; documentation that vendors were competitively selected not always maintained; performance bonds not purchased for the required amount or appropriately filed with the Clerk of Court; no evaluation of subcontractor default insurance; and direct cost items not adequately reviewed before making payment.

Recommendation: The School should enhance its procedures for administering construction projects to ensure that: continuing CM services are acquired in accordance with applicable State laws and rules; vendors and subcontractors are competitively selected in accordance with contractual agreements and documentation is maintained to adequately support its selection of vendors; when construction project costs exceed \$200,000, payment and performance bonds in an amount equal to the project contract price are filed with the Clerk of the Court; and, labor burden rates are adequately documented and explained if not comparable to industry averages. The School should also consult with the Department of Management Services concerning the use of default insurance for subcontractors; evaluate such insurance for cost and risk in comparison to bonding; and ensure that it does not pay for both insurance and bonding for the same projects.

FSDB Responses:

Selection of Construction Managers:

The School used continuing contracts for many years until it learned from legal counsel that the law does not give the School authority to use continuing contracts. Once aware of the absence of authority, the School stopped using continuing contracts. The 2009 legislature has passed Senate Bill 2666 and it awaits the Governor's signature. Once signed, the School may begin using continuing contracts again as early as July 1, 2009.

6 Month Follow-up: Chapter 2009-227 became effective July 1 2009; however, it does not appear to provide authority for state agencies to use continuing contracts as had been hoped. The School has taken its case to the Department of Management Services and that Department is actively working with the School and other state agencies to assist them with their construction contracting needs within the existing legal framework.

Subcontractor and Vendor Selection:

**AG Audit for FYE 2008
Findings, Recommendations and FSDB Responses**

We concur with this finding, and we now require that construction managers conduct their competitive bid openings at our facility and document justification for not selecting subcontractors and vendors with low bids.

6 Month Follow-up: No further corrective action is planned.

Payment and Performance Bonding:

We concur with this finding, and we now require construction firms to provide us with evidence that they have obtained and recorded appropriate bonds with St. Johns County before we authorize them to proceed with construction.

6 Month Follow-up: No further corrective action is planned.

Direct Costs – Labor Burden:

At the time the School entered into the subject agreement the construction manager could not predict with certainty which laborers would be working on the project during the course of construction. With regard to the 1.67 labor burden rate, the construction manager did provide us with a detailed list of the seventeen individual components comprising the rate that seemed reasonable to us at the time. Based on our documentation, the School paid direct labor employees of the construction manager \$40,006 including the labor burden during the course of the Rhyne Hall project. The labor burden included in this amount is \$16,050, and the amount above the industry average of 31.4 percent is \$7,522. A post audit for that amount is not economically feasible. However, in our consultations with the Department of Education, we will determine whether post audits of PECO funded projects are an allowable expense. If so, such random post audits of entire PECO projects would enhance our assurance that amounts charged are proper. Our current construction manager contracts contain the provision that the School may audit their records.

6 Month Follow-up: The School has made inquiries of the DOE and determined that post audits of PECO funded projects are not allowable expenses of the PECO program.

Subcontractor Bonding versus Subcontractor Default Insurance:

We concur with this finding. The School will consult with the Department of Management Services concerning the use of default insurance for subcontractors in lieu of requiring bonds. The economy issues will be addressed, if they remain relevant after consulting with the Department of Management Services.

6 Month Follow-up: In accordance with the auditor's recommendation, the School has consulted with the Department of Management Services and determined that the Department has neither promulgated rules, nor provided other direction to the state agencies on the subject of subcontractor default insurance.

**AG Audit for FYE 2008
Findings, Recommendations and FSDB Responses**

Finding No. 7: Travel Vouchers and Invoices for Professional Services

The School had not established appropriate procedures to control and review consultants' travel vouchers and invoices submitted by its primary, contracted law firm.

Recommendation: The School should revise its agreement with the law firm to include provisions governing the law firm's use of consultants and the submission of consultants' travel vouchers and invoices; review all travel vouchers and invoices submitted by the law firm for its consultants during the fiscal year ended June 30, 2008, to ensure that all submitted charges were reasonable and adequately supported, and seek reimbursement of those charges that were not; and establish review procedures over travel vouchers and invoices submitted by the law firm to ensure all future charges are appropriate.

FSDB Response: The School has amended its contract with the School's law firm to preclude the payment of non-attorney travel time. Procedures necessary to comply with Section 112.061, Florida Statutes, have been reinforced with particular emphasis being placed on the reimbursement of travel expenses to consultants and others who constitute authorized persons under the statute. The School's administration will revisit the issue of reimbursement of payments for questioned travel charges and, in consultation with its attorney and the contracted law firm, determine the practicality of pursuing collection of any amounts determined to be due.

6 Month Follow-up: In addition to the corrective actions specified in the School's response to the preliminary and tentative findings, the School has consulted with legal counsel on the matter of reimbursement of questioned payments. Legal counsel has concluded that attempts to obtain a refund of any amounts questioned would either be futile or the fees and costs associated with recovery efforts would outweigh any amounts recovered.

Finding No. 8: Collection of Social Security Numbers

The School did not conduct a review and evaluation of the collection of social security numbers (SSNs), prepare written statements notifying individuals of the purpose for collection of the numbers, or submit the certification of its compliance with the new SSN requirements to the Legislature, contrary to Section 119.071(5)(a), Florida Statutes.

Recommendation: The School should continue its efforts to comply with Section 119.71(5)(a), Florida Statutes, and properly monitor its collection and use of social security numbers.

FSDB Response: We concur with the finding, and the School will continue its efforts to comply with Section 119.71(5)(a), Florida Statutes.

6 Month Follow-up: As indicated in the School's response to the preliminary and tentative findings, the School continues its efforts to comply with Section 119.71(5) (a), Florida Statutes.

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June 12, 2009

Mr. David W. Martin, CPA
Auditor General
Claude Pepper Building
111 West Madison Street
Tallahassee, Florida 32399-1450

Dear Mr. Martin:

The Department of Education has reviewed the Auditor General's preliminary and tentative findings and recommendations on the operational audit of the Florida School for the Deaf and the Blind (School). The findings primarily focus on the development of the School's Master Plan, submission of a legislative budget request, and the use of appropriated Public Education Capital Outlay (PECO) funds consistent with the Legislative Budget Request (LBR) and Master Plan. Other findings include deficiencies in the School's administration of construction projects, insufficient procedures and controls for the review of consultants' travel vouchers and invoices, and deficiencies in the collection process of social security numbers.

In addressing the findings related to fixed capital outlay issues, the Department of Education has no statutory authority to regulate the decisions or processes of the School. It is solely the responsibility and decision of the School to change its Master Plan or the methodology used to determine funding needs, or to spend funds on projects other than for those requested by the School as part of the LBR process.

In an effort to enhance accountability in the LBR process, the Office of Educational Facilities of the Department of Education will require the School to submit not only the Master Plan and the

Mr. David W. Martin, CPA
June 12, 2009
Page Two

corresponding budget request, but also the School's educational plant survey and any other available documentation supporting the project funding needs. In the annual notification of appropriations to the School, the Office of Educational Facilities will re-state the specific projects to receive funding as presented in the School's budget request and subsequently included in the Department's legislative budget request.

Sincerely,



Dr. Eric J. Smith
Commissioner

EJS/ewj/br