



Deborah K. Nichols
District of Columbia Auditor
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OFFICE OF THE DISTRICT OF COLUMBIA AUDITOR

717 14TH STREET N.W., SUITE 900

WASHINGTON, D.C. 20005

TEL. 202-727-3600 • FAX: 202-724-8814

Letter Report: Implementation Status of Auditor Recommendations Pertaining to Audits of Agencies Under the Purview of the Committee on the Judiciary (JD)

February 28, 2005



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Honorable Phil Mendelson
Chairperson, Committee on the Judiciary
Council of the District of Columbia
The John A. Wilson Building
1350 Pennsylvania Avenue, NW, Suite 109
Washington, DC 20004

Letter Report: Implementation Status of Auditor Recommendations Pertaining to Audits of Agencies Under the Purview of the Committee on the Judiciary (JD)

Dear Councilmember Mendelson:

Attached for your review is a summary of the implementation status of District of Columbia Auditor recommendations pertaining to audits of agencies under the purview of the Committee on the Judiciary. This report reflects the implementation status of recommendations contained in three audits pertaining to the Office of the Attorney General and the District of Columbia Fire and Emergency Medical Services. Additional efforts will be undertaken by my office to verify the accuracy and validity of the information reported by these agencies.

Submitted with this letter report is a matrix for each audit. Each matrix sets forth the findings, recommendations, and the agencies' status of implementing each recommendation. The report covers the following audits of agencies under your Committee's purview that were issued by the District of Columbia Auditor during fiscal years 2002 through 2005 to date:

FY 2002:

- DCA1402: City Charges District of Columbia Public Schools Nearly \$1 Million in Utility Expenses that Should Have Been Charged to Other Entities, RELEASED: April 23, 2002 (**Office of the Attorney General**)

FY 2003:

- \$1 Million Lease and Proposed \$12.5 Million Purchase of 4800 Addison Road: An Example of Misfeasance and Malfeasance, RELEASED: May 15, 2003 (**Office of the Attorney General**)

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Councilmember Phil Mendelson
February 28, 2005

FY 2005:

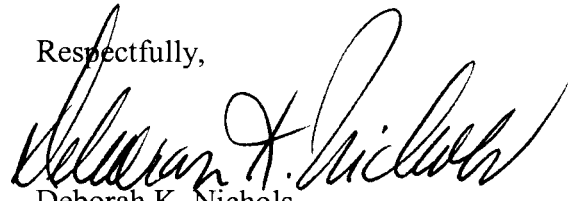
- Letter Report: Auditor's Examination of Personnel Process Used to Fill a Vacant Position In the Emergency Medical Services, RELEASED: November 12, 2004

Our review procedures consisted of staff inquiries as well as a review of the status of recommendations provided by agency management. Our follow-up work is being conducted in accordance with government audit standards established by the Comptroller General of the United States, United States Government Accountability Office.

It is my plan to follow-up on all findings and recommendations to determine whether timely and appropriate corrective actions have been undertaken and fully implemented by the appropriate agency. I believe that our efforts to ensure timely implementation of recommendations contained in District of Columbia Auditor reports will contribute substantially to the goal of making government work more efficiently, effectively, and economically. Further, we will continuously monitor recommendations that have only been partially implemented or not implemented at all. Our efforts in this particular area will be to assist the affected agency in designing and implementing corrective actions or other solutions to effectively and timely address the deficiency, weakness, or risk found during the audit.

As always, please do not hesitate to contact me at 202/727-3600 should you have any questions.

Respectfully,



Deborah K. Nichols
District of Columbia Auditor

Attachments as stated

cc: Honorable Linda W. Cropp
Chairman, Council of the District of Columbia

OFFICE OF THE DISTRICT OF COLUMBIA AUDITOR FISCAL YEAR 2002 REPORTS:

"City Charges District of Columbia Public Schools Nearly \$1 Million in Utility Expenses
That Should Have Been Charged to Other Entities"

RELEASED: April 23, 2002

TOTAL RECOMMENDATIONS: 10
RECOMMENDATIONS IMPLEMENTED OR CORRECTIVE ACTIONS TAKEN: 6
RECOMMENDATIONS PARTIALLY IMPLEMENTED OR IN PROGRESS: 4
RECOMMENDATIONS NOT IMPLEMENTED:
NO RESPONSE TO RECOMMENDATION:

FINDING NO. 1: OPM FAILED TO PROPERLY MANAGE THE UTILITY BILL REVIEW AND CERTIFICATION PROCESS WITH REGARD TO DCPS DURING FISCAL YEAR 2001

Subfinding 1: OPM Certified and OFRM Used DCPS Funds to Pay At Least \$848,309 in Utility Costs During Fiscal Year 2001 and \$44,560 for the First Quarter of Fiscal Year 2002 for Facilities That Were Not Occupied or Controlled by DCPS

RECOMMENDATIONS	STATUS OF IMPLEMENTATION OF RECOMMENDATIONS FROM DCPS Responses 4/11/03 and 2/11/05	STATUS OF IMPLEMENTATION OF RESPONSE FROM OCFO DATED 2/10/05, OAG dated 2/16/05, and OPM dated 2/17/05
<p>The Chief Property Management Officer of OPM must immediately develop an accurate database of all facilities for which DCPS has responsibility for the payment of utility expenses. The Chief Property Management Officer must develop the database of DCPS facilities in collaboration with the Chief Operating Officer for DCPS, the Deputy CFO for OFRM, and the DCPS CFO. The database must be regularly reviewed by DCPS staff and regularly updated by OPM staff. The Auditor will confirm compliance with this recommendation within 60 days of this report.</p>	<p>Letter dated April 11, 2003 from Paul L. Vance, Superintendent: Corrective action is complete. The Chief Property Manager has developed and submitted an accurate database to DCPS that lists all DCPS locations by account for which DCPS has responsibility for payment of utility expenses.</p> <p>Letter dated February 11, 2005 from Dr. Janey: This is handled by the DCPS CFO's office.</p> <p>Letter dated April 11, 2003 from Paul L. Vance, Superintendent: Corrective action is complete. All of the aforementioned agencies participated in the development of DCPS facilities database. The database is subject to regular review by DCPS Deputy Chief Financial Officer and is continuously updated by OPM's Energy Manager.</p> <p>Letter dated February 11, 2005 from Dr. Janey: This is handled by the DCPS CFO's office.</p>	<p>Letter dated February 10, 2005 from Dr. Gandhi, OCFO: "The Office of Property Management has established a database, which includes, among other things, expenditure information on all facilities that fall under the purview of DCPS. This database is continuously updated and its contents have been shared with DCPS officials at the DCPS Realty Office, DCPS CFO's Office, and the DCPS Facilities Department. The database forms the foundation for the forecast of DCPS's fixed costs. This forecast information is then submitted to OFRM and OFRM, in turn, forwards copies to OBP and DCPS's. The data pertaining to DCPS facilities is therefore subject to review by three agencies prior to DCPS confirmation of the accuracy of its facilities and the costs associated with the procurement of services deemed as fixed costs. This confirmation takes place at the annual MOU process conducted by OFRM. In addition, OPM has routinely met with DCPS officials regarding its facilities and has shared this information with DCPS officials over the past three years, on a number of occasions."</p>

		<p>Letter dated February 17, 2005 from Carol Mitten, Director, OPM: "OPM has developed a database that lists the facilities associated with DCPS for which OPM is responsible for certifying payment of utilities. The database has been designed to incorporate the changes recommended in the DC Auditor's report. Information regarding the DCPS facilities in the database was shared with the DCPS CFO, the DCPS Realty Officer, and OFRM's Director of Financial Operations, the Deputy CFO's designee. The database is updated regularly to reflect the current status of DCPS facilities inventory."</p>
<p>Prior to certifying payment for any DCPS utility bills, OPM managers and staff must ensure that the payment is only for a facility occupied and controlled by DCPS. OPM managers and staff who fail to comply with this recommendation must be held accountable to the fullest extent permitted under the District of Columbia Comprehensive Merit Personnel Act of 1978, as amended, and the District Personnel Regulations.</p>	<p>Letter dated April 11, 2003 from Paul L. Vance, Superintendent: Corrective action is complete. Prior to certifying any utility expenditure for a DCPS facility, OPM verifies that the facility in question is part of the current inventory for DCPS. If an expenditure is found not to belong to DCPS, that charge and the associated facility are moved from DCPS and allocated to the appropriate agency.</p> <p>Letter dated February 11, 2005 from Dr. Janey: This is handled by the DCPS CFO's office.</p>	<p>Letter dated February 17, 2005 from Carol Mitten, Director, OPM: "Subsequent to the DC Auditor's report, OPM realigned those DC government accounts that do not fall under the purview of DCPS. Certification of payments associated with DCPS is reviewed within OPM for accuracy, based upon facility location and payable amount. OPM maintains contact with DCPS, particularly the Facilities Department, on a continuous basis regarding facility verification. Updated DCPS facility listings are requested by OPM and provided by DCPS on a regular basis. Information regarding contractual work and verification of work period are monitored constantly and cooperatively between OPM and the DCPS Facilities Department to ensure that certification of payment is made for only facilities operated and controlled by DCPS. Moreover, OFRM makes available all certification-of-payment information, to all agencies including DCPS, on a monthly basis for agency perusal and verification. It must be understood that OPM and DCPS share the responsibility for the accuracy of the information regarding DCPS locations."</p>
<p>The Deputy Chief Financial Officer for the Office of Finance and Resource Management must work in collaboration with the Chief Property Management Officer, DCPS Chief Operating Officer, and the Chief Financial Officer of DCPS to ensure that DCPS funds are used to pay utility expenses only for those facilities occupied and controlled by DCPS.</p>	<p>Letter dated April 11, 2003 from Paul L. Vance, Superintendent: Corrective action is complete. This requirement has been complied with. This is an on-going process. Meetings have been held between all aforementioned agencies including the Deputy Mayor to ensure that DCPS funds are used to pay utility expenses only for the facilities under the purview of DCPS.</p> <p>Letter dated February 11, 2005 from Dr. Janey: This is handled by the DCPS CFO's office.</p>	<p>Letter dated February 10, 2005 from Dr. Gandhi, OCFO: "At the beginning of the fiscal year all agencies certify their facilities through the MOU process. On a monthly basis, OFRM receives a certified document indicating which agencies should be charged for utility expenses from OPM. OFRM charges the appropriate agencies that are detailed in the certified document. In addition, agencies receive electronic billing information of the expenditures charged for each utility monthly."</p>

		<p>Letter dated February 17, 2005 from Carol Mitten, Director, OPM: "As indicated in response to #2 recommendation, OPM has been working closely with DCPS to ensure that it is not charged for facilities that are not under their responsibility and control. In addition, OPM has made the list of DCPS facilities available to all DCPS Chief Financial Officers. Since the issuance of the DC Auditor's report, OPM has worked closely with OFRRM to ensure that certification of payment for all District facilities, including DCPS, accurately reflects the District agencies' facilities."</p>
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FINDING NO. 2: SUBSTANTIAL IMPROVEMENTS ARE NEEDED IN MONITORING COMPLIANCE WITH USE AND LEASE AGREEMENTS TO ENSURE THAT UTILITY COSTS ARE PAID IN ACCORDANCE WITH SUCH AGREEMENTS

Subfinding 1: OPM Erroneously Certified and OFRM Paid Utility Expenses from DCPS Funds for Facilities Occupied and Controlled by Other District Agencies

Subfinding 2: OPM Erroneously Certified and OFRM Paid Utility Expenses From DCPS Funds for At Least 11 Charter Schools

RECOMMENDATION	STATUS OF IMPLEMENTATION OF RECOMMENDATIONS	STATUS OF IMPLEMENTATION OF RECOMMENDATIONS RESPONSE FROM OCFO DATED 2/10/05, OAG dated 2/16/05, and OPM dated 2/17/05
<p>The District of Columbia Board of Education and the Chief Property Management Officer must immediately establish a valid lease or use agreement with the D.C. Fire and Emergency Medical Services Department and the D.C. Department of Corrections which provides that these two agencies pay, at minimum, all utility expenses for Grimke School.</p>	<p>Letter dated April 11, 2003 from Paul L. Vance, Superintendent: Corrective action is in progress. OPM's Energy Manager has put in place a tracking system to ensure that all agencies are being charged appropriately for their specific energy expenditures. In this regard, the costs associated with Grimke School have been allocated to both D.C. Fire and Emergency Medical Services Department and the D.C. Department of Corrections. The Chief Property Management's Office along with the District's Office of the Corporation Counsel is in the process of negotiating lease/use agreements for the Fire and Corrections Departments who are currently occupy Grimke.</p> <p>Letter dated February 11, 2005 from Dr. Janey: This is handled by the DCPS CFO's office.</p>	<p>Letter dated February 17, 2005 from Carol Mitten, Director, OPM: "Since the receipt of the DC Auditor's report, OPM has charged all utility expenses for the Grimke School to DCFEMS and the Department of Corrections."</p>
<p>The Chief Property Management Officer and the Deputy Chief Financial Officer for OFRM must immediately determine the amount of DCPS intra-District funds that</p>	<p>Letter dated April 11, 2003 from Paul L. Vance, Superintendent: Corrective action is complete. The Grimke School was included in the DCPS inventory between fiscal years 1999 through 2002. While the facility's</p>	<p>Letter dated February 10, 2005 from Dr. Gandhi, OCFO: "OPM's Energy Manager has put in place a tracking system to ensure that all agencies are being charged appropriately for their specific energy expenditures. In this regard, the costs associated with Grimke School have been allocated to both DC Fire/EMS and DC Dept. of Corrections."</p>

<p>were used to pay utility expenses for the D.C. Fire and Emergency Medical Services Department and the Department of Corrections between fiscal years 1999 through 2002. These payments must be recovered from the DCFEMS and Corrections, and credited to DCPS' intra-District utility account for fiscal year 2003. The District's Chief Financial Officer should provide assistance, where necessary, in recovering these payments from DCFEMS and Corrections.</p>	<p>inclusion was incorrect, the DC Government gave budget authority and provided funding to DCPS to cover the fixed costs expenses associated with the Grimke School. The D.C. Fire and Emergency Medical Services Department and the Department of Corrections received neither budget authority nor District funding for this facility. Such costs, had they been appropriately allocated, would have been apportioned to both D.C. Fire and Emergency Medical Services Department and the Department of Corrections, respectively. Consequently, any recovery of expenses from D.C. Fire and Emergency Medical Services Department and the Department of Corrections would have the effect of appropriating the expenditures associated with Grimke twice over for these two agencies.</p> <p>Letter dated February 11, 2005 from Dr. Janey: This is handled by the DCPS CFO's office.</p>	<p>Regarding period 1999 to 2002, efforts to recover funds from the DC Fire/EMS were futile because although the facility was misaligned the facility was in fact a DC govt. property and payment of the utility expense by the District was appropriate. IF the OCFO were to retrieve the funds from two recipient agencies the funds would be returned to the District's general fund and not to DCPS because the fiscal year(s) in question are closed."</p> <p>Letter dated February 17, 2005 from Carol Mitten, Director, OPM: "OPM has been unable to determine the extent of the payments made on Grimke School over the period 1999 to 2003 due to missing invoices. During the period when the Office of the DC Auditor conducted the audit, the audit arm of the CFO's office also audited OPM. OPM was made to turn over all invoices to OFRM and DCPS. On return of invoices, OPM discovered that there were missing invoices. However, it should be noted that recovery of any payments would have been returned to the general fund since the fiscal years (1999 through 2002) would have concluded and the corresponding fiscal periods closed. OPM maintains, however, that while the appropriations may have been misaligned, by agency, the authority for the appropriation expenditure rested with the agencies in which the funds resided, namely DCFEMS and Corrections, respectively."</p>
<p>The manager of DCPS' Realty Office, in collaboration with the Chief Property Management Officer, must immediately ensure that the MPD complies with the lease agreement between MPD and DCPS, and that MPD transfers all utility accounts for the Petworth School to MPD's name. Further, the Chief Property Management Officer and the manager of DCPS' Realty Office must immediately take all steps necessary to recover the \$8,538.30 from MPD; and must immediately take the appropriate steps legally necessary to credit this amount to DCPS' fiscal year 2003 intra-District utility account.</p>	<p>Letter dated April 11, 2003 from Paul L. Vance, Superintendent: Corrective action is complete. OPM has transferred all utility accounts for Petworth into MPD's name. MPD has submitted payment in the amount of \$8,538.30 to DCPS as reimbursement of utility expenditures.</p> <p>Letter dated February 11, 2005 from Dr. Janey: No further action required by DCPS Realty Office.</p>	<p>Letter dated February 17, 2005 from Carol Mitten, Director, OPM: "OPM has been unable to recover the \$8,538.30 from MPD and credit this amount from prior fiscal periods since, as previously indicated in response #5, any moneys recovered prior to 2003 would have been returned to the general fund since the fiscal years 1999 through 2002 would have concluded and the corresponding fiscal periods closed."</p>

<p>OPM and DCPS officials must work cooperatively in determining which agency will manage each of the properties that the Control Board transferred to the Mayor and ensure that OFRM does not continue paying utility costs from DCPS' intra-District fund transfers for schools not occupied or controlled by DCPS.</p>	<p>Letter dated April 11, 2003 from Paul L. Vance, Superintendent: Corrective action is complete. All surplus properties transferred to the Mayor by the Control Board are managed by OPM. OPM's Energy Manager does not certify any funds for utility expenditures that are not under the control of DCPS.</p> <p>Letter dated February 11, 2005 from Dr. Janey: No further action required by DCPS Realty Office. This matter is handled exclusively by the OPM's Energy Manager.</p>	<p>Letter dated February 10, 2005 from Dr. Gandhi, OCFO: "OPM and DCPS officials worked in conjunction with the management of the DCPS facilities to ensure that utility bills are paid only on DCPS schools, on all facilities transferred from the DC Control Board to the Mayor. In this regard, OPM has worked with the DCPS Realty Office, the DCPS CFO and officials within that office and with the DCPS Facilities Department to ensure that the DCPS facilities are accurately identified and payments are made only on those facilities for which intra-District funds are available."</p> <p>Letter dated February 17, 2005 from Carol Mitten, Director, OPM: "OPM has resolved all issues regarding the management of properties transferred by the Control Board to the Mayor to ensure that OFRM does not pay utility costs from DCPS's intra-District fund for schools not occupied or controlled by DCPS."</p>
<p>DCPS and OPM officials must immediately review all use and lease agreements for DCPS facilities and negotiate and execute new agreements to replace those that have expired.</p>	<p>Letter dated April 11, 2003 from Paul L. Vance, Superintendent: Corrective action is in progress. The Office of Property Management is in the process of putting in place use agreements for facilities without existing use agreements in place. In addition, one expired use agreement is currently being prepared by OPM.</p> <p>Letter dated February 11, 2005 from Dr. Janey: The Office of Property Management, Realty Specialist along with Senior Counsel in the Office of the Attorney General are continuing to work together to resolve any use/lease renegotiations as required.</p>	<p>Letter dated February 17, 2005 from Carol Mitten, Director, OPM: "OPM has conducted and completed an exhaustive review of all use and lease agreements for DCPS facilities, and has and continues to negotiate and execute new agreements to replace those that have expired."</p>
<p>OPM and DCPS officials specifically designated by the Chief Property Management Officer and Superintendent of DCPS must monitor lease and use agreements to ensure that all provisions of the agreements are met. Lessees must show proof that utilities have been placed in their name and that they have received and paid all utility bills. Further, the Chief Property Management Officer and the</p>	<p>Letter dated April 11, 2003 from Paul L. Vance, Superintendent: Corrective action is in progress. Over the past year the Office of Property Management (OPM) in conjunction with the manager of DCPS Realty Office and the Office of the Corporation Counsel have aggressively pursued the recovery of funds that should have been assessed to Charter Schools as identified in the DC Auditors report. To date, a total of approximately \$256,279.42 has been collected. This has been an ongoing process and collection efforts have been</p>	<p>Letter dated February 16, 2005 from Robert J. Spagnoletti, Attorney General, OAG: "Between fiscal years 2002 and 2004, OPM in conjunction with the manager of DCPS Realty Office and OAG have aggressively pursued the recovery of funds that should have been assessed to Charter Schools as identified in the DC Auditor's report. To date approximately, \$300,000 has been collected. This has been an ongoing process and collection efforts have been intensified in order to collect the outstanding sums. It is anticipated that the entire sum of \$602,151 will be recovered."</p>

<p>manager of DCPS' Realty Office must take the appropriate administrative and/or legal steps necessary to recover \$602,151 from charter schools identified in this report and credit this amount to DCPS for fiscal year 2003. The Office of the Corporation Counsel should provide assistance, where necessary, in recovering these payments from charter schools.</p>	<p>intensified in order to collect the outstanding sums. It is anticipated that the recovery of funds will be finalized by the end of the fourth quarter of fiscal year 2003.</p> <p>Letter dated February 11, 2005 from Dr. Janey: OPM in conjunction with manager of DCPS Realty Office and Office of the Attorney General are working together to renegotiate lease agreements. The DCPS Realty Office collected \$147,363.50 to cover utility expenses in FY 2003.</p>	<p>Letter dated February 17, 2005 from Carol Mitten, Director, OPM: "OPM, in cooperation with the DCPS Realty Office, continues to monitor lease and use agreements to ensure that all provisions of the agreements are met. DCPS leases are constantly monitored for adherence to the provisions contained therein, particularly with respect to the payment of utility expenditures. In this regard, OPM, in conjunction with the DCPS Realty Office, has been able to recover on excess of \$300,000 from the charter schools identified in the DC Auditor's report for utility expenses paid in error. The recovery of outstanding charges from charter schools is ongoing."</p>
<p>DCPS' Superintendent and CFO should seek the recovery of the \$1.2 million paid to vendors for unauthorized services provided to individuals identified in this report.</p>	<p>Letter dated April 11, 2003 from Paul L. Vance, Superintendent: Corrective action is in progress. As previously indicated, a collaborative effort by the Office of Property Management, the DCPS Realty Office, and the Office of the Corporation Counsel is ongoing to collect the outstanding sum of \$602, 151 due to DCPS from Charter Schools. The remaining sum of approximately \$0.6 million, while correctly identified in the DC auditor's report as being misappropriated under the wrong agency code, was nevertheless provided with the budget authority and required funding attributes under DCPS fixed costs allocation for the fiscal periods under consideration. Efforts to collect this sum from District agencies would constitute double jeopardy and undue hardship on these agencies since the fixed costs were properly allocated to the facilities identified in the DC Auditor's report. It should be noted that while the facilities in question were misallocated, payment made under the wrong agency do not mitigate against the fact that the fixed costs associated with these facilities were properly placed. In light of the foregoing, the paramount objective is the collection of the outstanding sums due from the surplus schools that either were leased or sold to non-DC agencies.</p> <p>Letter dated February 11, 2005 from Dr. Janey: No further action required by DCPS Realty Office. This matter is handled by the OPM's Energy Manager.</p>	

OFFICE OF THE DISTRICT OF COLUMBIA AUDITOR FISCAL YEAR 2003 REPORTS:

**"\$1 Million Lease and Proposed \$12.5 Million Purchase of 4800 Addison Road:
An Example of Misfeasance and Malfeasance"**

RELEASED: May 15, 2003

TOTAL RECOMMENDATIONS: 12

RECOMMENDATIONS IMPLEMENTED OR CORRECTIVE ACTIONS TAKEN: 9

RECOMMENDATIONS PARTIALLY IMPLEMENTED OR IN PROGRESS: 2

RECOMMENDATIONS NOT IMPLEMENTED:

NO RESPONSE TO RECOMMENDATION: 1

FINDING NO. 1: SOLE SOURCE, NONCOMPETITIVE \$998,250 ANNUAL LEASE OF 4800 ADDISON ROAD CIRCUMVENTED COUNCIL REVIEW, LACKED COORDINATION, AND WAS PRINCIPALLY DRIVEN BY NEGATIVE PRESS REPORTS: No Recommendations

Subfinding 1: District Was Forced to Reprogram Funds to Pay Lease and Renovation Costs for 4800 Addison Road

Subfinding 2: District Paid \$ 260,919 For the Cost of Renovation Performed by the Owner of 4800 Addison Road Pursuant to a Sole Source

Subfinding 3: Arrangement with OPM's Former Deputy Director

Subfinding 4: District Decides to Purchase 4800 Addison Road for \$12.5 Million

Subfinding 5: OPM Attempted to Purchase 4800 Addison Road Without Funding Having Been Appropriated

FINDING NO. 2: OFFICE OF THE CHIEF FINANCIAL OFFICER PROVIDED A DEFECTIVE AND INADEQUATE FISCAL IMPACT STATEMENT FOR THE PURCHASE OF 4800 ADDISON ROAD: No recommendations.

FINDING NO. 3: OPM OFFICIALS FAILED TO EXERCISE DUE DILIGENCE IN ATTEMPTING TO ENTER INTO AN AGREEMENT TO PURCHASE 4800 ADDISON ROAD: No recommendations.

Subfinding 1: Competitive Procedures Were Not Used In Acquiring Initial Appraisals of 4800 Addison Road or 438 Massachusetts Avenue, NW

Subfinding 2: Former Deputy Director of OPM Provided False and Misleading Information to Appraisers to Inflate Appraised Value for 4800 Addison Road

Subfinding 3: Agreement of Purchase and Sale Indicated Properties to be Transferred "AS IS" Notwithstanding Extraordinary Assumption

Subfinding 4: Contained in Appraisal Regarding Fire Damage

Subfinding 5: Addison Road Property May Not Be Available for the District's Use as Intended

Subfinding 2: Former Deputy Director of OPM Provided False and Misleading Information to Appraisers to Inflate Appraised Value for 4800 Addison Road

Subfinding 3: Agreement of Purchase and Sale Indicated Properties to be Transferred "AS IS" Notwithstanding Extraordinary Assumption

Subfinding 4: Contained in Appraisal Regarding Fire Damage

Subfinding 5: Addison Road Property May Not Be Available for the District's Use as Intended

FINDING NO. 4: PROPOSED STRUCTURED TRANSACTION WAS NOT IN THE DISTRICT'S BEST FINANCIAL INTEREST DUE TO INADEQUATE PLANNING, COORDINATION AND OVERSIGHT: No recommendations.

Subfinding 1: District Lost Almost \$1 Million In Revenue During FY02 Due to Inability to Tow Vehicles to Addison Road

Subfinding 2: New Appraisals for 4800 Addison Road and the Firehouse Found Substantially Lower Value for 4800 Addison Road and

Subfinding 3: Substantially Higher Value for 438 Massachusetts Avenue, NW

Subfinding 4: District Did Not Use Competitive Procedures to Determine the Firehouse's Highest and Best Use

FINDING NO. 5: OPM’S INEPT MANAGEMENT AND LACK OF ADEQUATE OVERSIGHT CREATED POOR INTERNAL CONTROL ENVIRONMENT OVER REAL PROPERTY DISPOSAL AND ACQUISITION PROCESSES

Subfinding 1: Director of OPM Failed to Exercise Command and Control of Subordinate

Subfinding 2: Deputy Director of OPM May Have Been Subject to Improper Influence and Conducted a Private Business With an Off-Shore

Subfinding 3: Bank Using District Equipment and Facilities

Subfinding 4: Purchase and Sale Agreement May Have Authorized Broker’s Fees to be Paid to the Same Firm That Performed the Appraisals

RECOMMENDATIONS	STATUS OF IMPLEMENTING RECOMMENDATION FROM OAG, DPW, AND OCFO	STATUS OF IMPLEMENTING RECOMMENDATION FROM OPM LETTER DATED 2/17/05
<p>The Director of OPM’s claimed lack of knowledge and management oversight of the former Deputy Director’s leasing and purchase activities, among other deficiencies noted throughout this report that were the direct responsibility of the OPM Director necessitate his immediate termination as the District’s Chief Property Management Officer and Director of the Office of Property Management for misfeasance and malfeasance in those positions.</p>		
<p>The responsibility for obtaining and overseeing the performance of appraisal services for the acquisition of real property by lease and purchase as well as the disposal of surplus District real property should be reassigned to a qualified entity within the District government other than the Office of Property Management and Office of the Deputy Mayor for Planning and Economic Development in order to remove the potential for conflict of interest and to ensure the integrity of appraisal results.</p>		<p>“OPM currently follows all procurement regulations in obtaining the services of Appraisers; and follows all District regulations in the disposing of surplus property. We strongly feel that these functions are a part of the whole real estate transaction process, and should remain under the purview of the District’s Chief Property Management Officer. As these responsibilities are outlined in OPM’s charter, it would require an amendment to the legislation creating and guiding the operations of OPM.”</p>
<p>The Mayor and Chief Property Management Officer must develop and implement a multi-year facilities need, use and maintenance plan and strategy</p>		<p>“This plan is being created under the direction of the City Administrator’s Office. A Facilities Assessment Team was created in the fall of 2003 to develop a needs and use plan for all District facilities. OPM</p>

<p>within 90 days of the date of this report. This plan should project the real property needs, both leases and purchases, of the District government, including the projected benefits and costs and appropriations necessary for acquiring the needed interests in real property. The Auditor will assess the compliance status of this recommendation at the end of the 90-day period.</p>		<p>plays a lead role on this team and in the creation of the District's Master Facilities Plan."</p>
<p>All appraisals for real property needed by the District government should be procured in strict compliance with the Procurement Practices Act of 1985, as amended, and Title 27 of the District of Columbia Municipal Regulations.</p>		<p>"OPM currently follows the PPA for appraisal procurements."</p>
<p>All planned relocations of District government facilities and operations must be accompanied by a thorough cost-benefit analysis taking into consideration all material, operational, and other direct costs as well as indirect costs such as anticipated lost revenues likely to be incurred in relocating District government facilities and operations.</p>	<p>Letter dated February 10, 2005 from Herbert Tillery, Deputy Mayor for Operations: "All current appraisals procured by OPM are procured in compliance with the Procurement Practices Act and Title 27 of the DCMR. OPM utilizes several mechanisms to procure appraisal services. For single property appraisals, OPM obtains a minimum of three bids from qualified individuals. This procurement parallels a typical small purchase under \$25,000. For multi-property appraisals (such as the land acquisitions for the new baseball stadium), OPM is utilizing the Brooks Act procedures outlined in Title 27, whereby a panel interviews qualified firms and the contracting officer negotiates a price with the firm deemed most qualified. Both of these methods are consistent with Title 27."</p>	<p>"This is done as a requirement of the Real Estate Review Committee ("RERC"). The RERC was established under Mayoral Order in the fall of 2003 to review all real estate transactions, including agency relocations. OPM submits these analyses to the RERC, as required under the rules."</p>

<p>The Director of the Office of Property Management, with the assistance of the Office of Contracting and Procurement, must competitively procure all construction renovation, or rehabilitation services to be performed on District government owned or leased facilities after a formal solicitation. Alternative methods of procurement should only be utilized where fully and adequately justified in writing and where such method of procurement is demonstrably in the best interest of the District government. Further, all payments for such services must be processed through the District's System of Accounting and Reporting (SOAR).</p>	<p>Letter dated February 10, 2005 from Herbert Tillery, Deputy Mayor for Operations: Construction services in the District of Columbia are procured using two methods. Larger construction projects are competed using an RFP process; smaller projects make use of IDIQ (Indefinite Delivery/Indefinite Quantity) contracts. IDIQ contracts themselves are competed in the same way as RFPs, but the individual tasks that are assigned under the contract are not competed. Both of these methods of procurement are managed by the Office of Contracting and Procurement and are consistent with the requirements of DCMR Title 27.</p>	<p>"OPM currently follows all procurement regulations in obtaining construction contracts, and all vendors are paid via SOAR. Commission pool accounts are no longer created on behalf of OPM and managed outside of the District's system of financial record."</p>
<p>Prior to attempting to purchase an interest in real property, the Mayor, Deputy Mayor for Operations, City Administrator, Chief Property Management Officer, and the Corporation Counsel should certify that they have reviewed all assessments, evaluations, opinions, fiscal impact statements, appraisals, and all agreements or other documents relating to or effecting such purchase, and specifically state in a writing signed by all parties and supported by written findings that the proposed purchase is in the best interests of the District government.</p>	<p>Letter dated February 10, 2005 from Herbert Tillery, Deputy Mayor for Operations: The District's Real Estate Review Committee was established by mayoral order and is tasked with reviewing and approving all proposed real estate transactions whereby the District procures real property, disposes of real property, or enters into a lease agreement with a private landlord. The Committee is comprised of representatives from the Office of the Deputy Mayor for Operations, the Office of the Deputy Mayor for Planning and Economic Development, the Office of Property Management, the Office of the Chief Financial Officer, the Office of Finance and Resource Management,</p>	<p>"OPM submits these documents to the RERC. This is done as a requirement of the Mayoral [Order] established Real Estate Review Committee."</p>

the Office of Contracting and Procurement, and the Office of the Attorney General. Among other tasks, in conducting its review of proposed real estate transactions the Committee is responsible for reviewing all relevant appraisals, reviewing proposed disposition and lease agreements, and ensuring funding certifications are in place to cover all costs related to proposed transactions. The Committee, which meets twice monthly, maintains minutes and under the Chair's signature advises parties on the Committee's decision regarding proposed transactions. The overarching goal of the Committee is to ensure that proposed real estate transactions comply with District law and are in the best interest of the District government and its citizens.

Letter dated February 16, 2005 from Robert J. Spagnoletti, Attorney General, OAG:

Pursuant to Mayor's Order 2003-161 a Real Estate Review Committee has been established comprised of the following representatives (or their delegees) *sic.* the Office of the Office of the Deputy Mayor for Operations, the Office of the Dep. Mayor for Planning and Economic Development, the Office of Property Management, the Office of the Chief Financial Officer, the Office of Finance and Resource Management, the Office of Contracting and Procurement, and OAG.

	<p>That Committee reviews all real estate acquisitions in excess of \$500,000.00 and all real estate dispositions for a term in excess of 1 year. The Committee is responsible for reviewing the relevant documents concerning the transaction. OAG continues to review such transactions for legal sufficiency. It has recently prepared proposed regulations to be published for public comment. The Committee makes a written determination of whether to approve or disapprove the transaction, considering, <i>inter alia</i>, the interests of the District government.</p>	
<p>The Mayor, City Administrator, Deputy Mayor for Operations, Deputy Mayor for Planning and Economic Development, and Chief Property Management Officer should develop and adopt for the District government written procedures and guidelines mandating and prescribing detailed processes and benchmarks to ensure an adequate degree of planning and coordination whenever economic development initiatives will displace or substantially impact any aspect of District government facilities or operations.</p>	<p>Letter dated February 10, 2005 from Herbert Tillery, Deputy Mayor for Operations: As indicated in the response to Recommendation #3, the Real Estate Review Committee is tasked with reviewing and approving all proposed real estate transactions. This includes ensuring that a proper level of coordination occurs when a real estate transaction - whether for operational, economic development, or other purposes - is proposed.</p>	<p>"OPM is in the process of preparing and updating these documents. The Administrator of our Facility Management Division is tasked with drafting such documents by fiscal year end."</p>
<p>The former Deputy Director of OPM repay the District government \$20,000 paid from the Commission Pool for appraisal services that were improperly authorized and appraisal results that were based on false and misleading information provided by him. If the former Deputy Director fails or refuses to voluntarily repay these funds, the Office of the Corporation Counsel should initiate the appropriate legal measures to obtain these funds.</p>	<p>Letter dated February 10, 2005 from Herbert Tillery, Deputy Mayor for Operations: As has been reported separately by the OAG in their response to you, the former Deputy Director has not yet voluntarily made restitution to the District. The OAG has, however, initiated a number of actions against parties involved in the transactions that were the subject of the Auditor's review.</p>	<p>"As this is an active criminal case, OPM plays no part in retrieving these funds. A court date has been scheduled."</p>

	<p>Letter dated February 16, 2005 from Robert J. Spagnoletti, Attorney General, OAG: "The former Deputy Director has not yet made voluntary restitution. OAG has initiated a number of actions against the various parties involved in the transactions that were the subject of this request, including the former Deputy Director. In addition the U.S. Attorney has brought several criminal charges against him to which he has pled guilty but awaits sentencing. Restitution remains an element of recovery in all these pending actions."</p>	
<p>The executive branch establish a credible process under which a suitable site for the District's vehicle impoundment operation can be located.</p>	<p>Letter dated February 10, 2005 from Herbert Tillery, Deputy Mayor for Operations: The District has successfully relocated its impoundment operation from 4800 Addison Road to District-owned property at Blue Plains. The transfer of this function from a leased site to a District-owned site has <i>resulted</i> in significant lease cost savings to the District. Not only was the District able to eliminate a \$1 million annual lease payment, but the Department of Public Works is now enjoying certain synergies by locating both short-term and long-term impoundment in the same location.</p> <p>Letter dated January 28, 2005 and rec'd on February 8, 2005 from Wm. O. Howland, Jr. Director, DPW: "Beginning in 2003, the Executive established a multi-agency team charged with identifying an in-town alternative to the Addison Road impoundment lot. Selection criteria included location, size, condition of the property, and cost. Several properties were identified, but all were either claimed by another DC agency or bought by the private sector for development. In September 2004, DPW</p>	<p>"OPM assisted the Department of Public Works in relocating from the Addison Road location to Blue Plains."</p>

	<p>vacated the Addison Road lot and consolidated its impoundment operations at the Blue Plains Impoundment and Storage lot, resolving the immediate need for additional vehicle impoundment capacity."</p>	
<p>The Director of the Department of Public Works perform an analysis of the costs incurred by DPW in operating a vehicle impoundment lot at 4800 Addison Road in comparison with conducting the same operation at the Brentwood site. The analysis should be detailed and take into consideration the lowest level of costs, including the costs of towing each impounded vehicle to Addison Road and to Brentwood, the length of time to tow impounded vehicles to Addison Road and Brentwood from different parts of the City. The analysis should also include labor, equipment, fuel, and maintenance costs, at a minimum, for a one-year period.</p>	<p>Letter dated January 28, 2005 and rec'd on February 8, 2005 from Wm. O. Howland, Jr. Director, DPW: "DPW conducted the requested analysis in August 2003. Briefly, the analysis reveals that the difference between the operating costs of Addison Road and Brentwood Road was less than \$135,000, except for the cost of rent. The analysis also discussed at length that a centrally located vehicle impoundment lot was key to the success of the District's rush hour enforcement service. DPW is still seeking one or more impoundment facilities near to the central business district and major commuter arterials. I [Mr. Howland] have attached a copy of the analysis for your review. I trust that this information meets all your outstanding issues with regard to the subject audit report."</p>	
<p>The Office of the Chief Financial Officer adhere to Council Rule 443 in preparing fiscal impact statements. Fiscal impact statements should be sufficiently detailed financial analyses of the impact of legislation on the revenues and budget of the District government rather than vague perfunctory missives that serve no legitimate use.</p>	<p>Letter dated February 11, 2005 from Dr. Natwar M. Gandhi, CFO: "Fiscal impact statements convey the effect a measure would have on current and subsequent year fiscal year budgets. As referenced in your report, Council Rule 443 requires fiscal impact statements to include a general statement of the effects the legislation will have on operating and capital budgets as well as a quantitative estimate of the expenditures needed to implement the measure. It also requires an identification of the revenues and funds available from existing revenue sources if the measure is to be implemented in the current year, a statement on the extent to which current appropriations are available, and an identification of specific funding</p>	

sources for future years. As a matter of procedure this Office has developed standard language for all fiscal impact statements to indicate our conclusions. Accordingly, all fiscal impact statements begin with a general statement that "Funds are sufficient in the FY (appropriate fiscal year) budget and financial plan", or where funds are not available, "Funds are not sufficient in the FY (appropriate fiscal year) budget and financial plan". In the latter case, the impact statement provides an estimate of the needed expenditures or revenue costs. Our fiscal impact statements also include a section which discusses funding sources and costs and includes a table of future year budget impacts where appropriate. This has been the procedure this Office has followed for the past several years. I believe this approach complies with the requirements of Council Rule 443. Your audit report specifically took issue with the language in the "Conclusion" paragraph of the impact statement, stating that the language used was "vague" and not sufficiently detailed enough to inform the Council of the resolution's fiscal impact.

Albeit brief, the July 1, 2002, fiscal impact statement identified the cost to the District of purchasing the property and the source of funds. The statements in the "Financial Plan Impact" section were based on information available to the OCFO that proceeds were available from the sale of District property at New York Avenue to the federal Bureau of Alcohol, Tobacco and Firearms for the purchase of 4800 Addison Road, and that the Office of Property Management was seeking budget authority for that purpose. In cases where the OCFO determines that funds are available in the District budget and that

	<p>authority is being requested to use the funds, such information is indicated in fiscal impact statements as was done in this case. The fiscal impact statement stated that the funds had "not yet been allocated to the Office of Property Management" and that a request was being made to fund the purchase. Since your audit report was issued, the OCFO has submitted over 400 fiscal impact statements to the Council; some are fairly simple while others are more detailed, depending on the complexity of the legislation. In my judgment, these statements have met the requirements of the Home Rule Act and Council Rule 443. In the future, should draft reports reference the operations of the Office of the Chief Financial Officer, we would appreciate an opportunity to comment on the draft report."</p>	
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OFFICE OF THE DISTRICT OF COLUMBIA AUDITOR FISCAL YEAR 2005 REPORTS:
"LETTER REPORT: AUDITOR'S EXAMINATION OF PERSONNEL PROCESS USED TO FILL A
VACANT POSITION IN THE EMERGENCY MEDICAL SERVICES"
RELEASED: NOVEMBER 12, 2004

TOTAL RECOMMENDATIONS: 7 RECOMMENDATIONS IMPLEMENTED OR CORRECTIVE ACTIONS TAKEN: 7 RECOMMENDATIONS PARTIALLY IMPLEMENTED OR IN PROGRESS: RECOMMENDATIONS NOT IMPLEMENTED:		
FINDING NO. 1: THE USE OF A SELECTIVE PLACEMENT FACTOR REQUIRING "YEARS OF EXPERIENCE" SUCH AS THE ONE ADDED TO VACANCY ANNOUNCEMENT #FB (67) 03-19 FOR A SUPERVISORY EMT/PARAMEDIC EVALUATOR MSS-699-12 SERIES WAS INAPPROPRIATE		
RECOMMENDATIONS	STATUS OF IMPLEMENTING RECOMMENDATION	CURRENT STATUS OF IMPLMENTATION DCOP UPDATE FEBRUARY 2005
The Deputy Director, Management & Employee Services Administration, DCOP, develop, implement, and disseminate clearly articulated rules, directives and policies with regard to agencies' appropriate use of selective placement factors in recruiting and evaluating candidates to fill vacant positions.	Letter dated October 26, 2004 from Mary L. Montgomery, Deputy Director, DCOP: "DCOP is charged with conducting Human Resources (HR) Advisors' meetings once a month for all agencies. Information in reference to compliance with personnel policies and procedures is discussed during these meetings as outlined in the DPM. In the HR Advisors meeting held on Sept. 16, 2004, a session was conducted on vacancy announcements and the definition and use of selective placement factors.	Another HR Advisors meeting on Vacancy Announcements was held on February 9, 2005, which detailed selective placement factors, ranking factors and general preparation of announcements.
The Deputy Director, Management & Employee Services Administration, DCOP, work more closely with immediate staff and designated personnel officers within agencies to ensure compliance and oversight with personnel policies and procedures.	Letter dated October 26, 2004 from Mary L. Montgomery, Deputy Director, DCOP: "DCOP is charged with conducting Human Resources (HR) Advisors' meetings once a month for all agencies. Information in reference to compliance with personnel policies and procedures is discussed during these meetings as outlined in the DPM. In the HR Advisors meeting held on Sept. 16, 2004, a session was conducted on vacancy announcements and the definition and use of selective placement factors.	Another HR Advisors meeting on Vacancy Announcements was held on February 9, 2005, which detailed selective placement factors, ranking factors and general preparation of announcements.
The Deputy Director, Management & Employees Services Administration, DCOP review existing vacancy announcement postings to determine whether DCOP staff are including selective placement factors requiring years of experience and if so, to immediately correct this inappropriate use government-wide.		Team Leaders have been appointed to review all announcements before posting.

FINDING NO. 2: THE INCLUSION OF A SELECTIVE PLACEMENT FACTOR CALLING FOR FOUR YEARS OF PREVIOUS SUPERVISORY EMT/PARAMEDIC EVALUATOR EXPERIENCE WAS DESIGNED TO IMPROPERLY FAVOR ONE CANDIDATE OVER SIMILARLY ELIGIBLE, RANKED CANDIDATES

RECOMMENDATIONS	STATUS OF IMPLEMENTING RECOMMENDATION	CURRENT STATUS OF IMPLEMENTATION DCOP UPDATE FEBRUARY 2005
<p>The Assistant Director, Management & Employee Services Administration of DCOP review the file of Brandon W. Graham to determine whether he received the appropriate credit for his time in-grade service and re-evaluate Mr. Graham's qualifications record</p>	<p>Letter dated October 26, 2004 from Mary L. Montgomery, Deputy Director, DCOP: "Our office conducted a thorough review of Brandon W. Graham's qualifications and determined that he met the required specialized experience and certification for the MS-699-12, Supervisory EMT/Paramedic Evaluator.</p>	
<p>The Assistant Director, Management & Employee Services Administration of DCOP revisit the memo dated November 5, 2003, to resolve the apparent conflict between DCOP's preliminary findings regarding Mr. Graham's qualifications and issue a new memorandum accurately reflecting the disposition of issues addressed therein.</p>	<p>Letter dated October 26, 2004 from Mary L. Montgomery, Deputy Director, DCOP: "As stated in DCOP's memorandum dated November 5, 2003, Mr. Graham was certified to the selecting official as a Residency Preference (RP) candidate, and therefore, should have been selected over a Non Residency Preference (NRP) candidate.</p>	
<p>The Assistant Director, Management & Employee Services Administration of DCOP revisit the memo dated November 5, 2003, to re-evaluate the determination that Brandon W. Graham, who was not placed in or promoted to a DS-12 Supervisory EMS/Paramedic Evaluator position, should be given priority consideration under a new promotion or other placement.</p>	<p>Letter dated October 26, 2004 from Mary L. Montgomery, Deputy Director, DCOP: DCOP recommended that Mr. Graham receive priority consideration for the next available Supervisory EMT/Paramedic Evaluator, MS-699-12. To date, there has not been a recruit action available for the position of Supervisory EMT/Paramedic Evaluator for Mr. Graham to receive priority consideration.</p>	
<p>Officials and employees within DCOP and Fire/EMS who were involved in the improper use of the personnel process which resulted in the selection of Ms. Frazier to fill the vacant Supervisory EMT/Paramedic Evaluator position should be held accountable to the fullest extent permitted under applicable personnel rules.</p>	<p>Letter dated January 18, 2005 from Fire/EMS Chief Adrian H. Thompson: According to his letter, Deputy Chief John T. Spruill, Asst. EMS Administrator, MS-0699-14/2 was reduced in grade to a Supervisory Paramedic, MSS-0699-12/10. "No other agency employees were named in the report as being responsible for the improper selection process." Process will be completed within 90 days.</p>	<p>Letter of Reprimand has been drafted for Staffing Specialist, Elaine Rice-Fells who amended the vacancy announcement to require a selective placement factor using years of service. Letter should be issued within next 10 days.</p>