

TESTIMONY BY
NYC COMPTROLLER WILLIAM C. THOMPSON, JR.
AT A MEETING OF THE
COMMISSION ON SCHOOL GOVERNANCE

THURSDAY, DECEMBER 13, 2007

Good afternoon, and thank you, Chairman Aiello, co-chairs Barrios-Paoli and Jones and other members of the Commission on School Governance. I appear before you today to share my thoughts on the management of the New York City Department of Education.

As we begin to consider the renewal of legislation enabling mayoral control of our public schools, which I strongly support, now is the time to raise concerns about the current implementation of the law and ask if there are improvements we can make to the current system.

During my tenure as President of the Board of Education, I pushed for a more centralized management of our public school system, clearing a path towards mayoral control. But in doing so we prioritized one area currently missing from the current administration's approach: transparency.

As the City's Chief Financial officer, I am responsible for enforcing the laws and regulations designed to encourage fair and open competition through my office's role in registering City Contracts.

Under the tenure of this Department of Education, the use of non-competitive bids has soared out of proportion, tripling in value between 2001 and 2003 from 15 to 45 million dollars...As a direct result of pressure brought by my office, that figure was cut nearly in half in 2004, and remained at close to 25 million dollars for the following year as well.

And yet over the course of 2006, the number of no-bid contracts crept up once again to 77, at a value of over 100 million dollars....For contracts starting in 2007, only one no-bid contract has been submitted to our office so far, but the DOE is notorious for sending over contracts months after they have begun so there is no way to predict what the final number will be.

These facts all relate to the larger concern I have....That is, the New York City Department of Education currently follows no formal rules when procuring goods and services – in great contrast to the stringent requirements of other New York State and New York City agencies.

Moreover, in spite of continued criticism, the DOE refuses to adopt a set of formal procurement rules similar to those followed by every other City agency – a process that is transparent and subject to public comment and accountability.

Contracts at all other City agencies are subject to the rules of the Procurement Policy Board, which takes a deliberative approach to developing policies under which the City procures contracts. There is discussion, debate, and an open forum through which the public can comment.

The DOE likewise claims that it need not follow “responsible contractor” rules required of all other city agencies to vet firms bidding for contracts. That process is designed to weed out firms that have spotty records of business integrity.

Since the Board of Education became the Department of Education, it has exploited a grey area in the law...one that allows it to treat itself as a State agency whenever it is convenient to do so...and then as a City agency when it is likewise convenient.

That is neither good government nor good public policy, and has led to a number of questionable contracts in recent years. Almost everyone has heard of the Snapple debacle, in which a failed bid evaluation process was defended by the bizarre claim that the DOE’s own guidelines needn’t be followed.

More recently, the DOE entered into a no-bid contract with the firm of Alvarez and Marsal. Here is a firm hired to cut costs in the DOE budget that then charges Tweed a whopping 16 million dollars for seventeen months of work, including almost five hundred dollars an hour for one employee.

You will all remember A&M’s role in last winter’s bus routing fiasco. Initiated halfway through the school year, the bus route changes recommended by A&M led to widespread confusion, inconveniencing, and potentially imperiling, thousands of school children and their parents. And only yesterday, A&M was in the news for recommending cuts of \$13 million in spending on special ed busing.

These cases reveal the risk we take in following the advice of outside experts who don’t understand our school system, but it also underscored the fundamental problem of the original decision to hire A&M without a competitive bidding process.

The DOE’s claim that they don’t need to conduct formal performance evaluations on firms they contract with has led to other problems. The City hired the company Platform Learning to tutor New York City school kids under two consecutive contracts totaling 7.6 million dollars spanning the years 2003 to 2008.

Incredibly, for Platform’s services through September of 2006, the company ended up earning in excess of 62 million dollars – almost nine times the amount in their contract.

The DOE provided very weak oversight for the work performed by the company...a fact that is especially disturbing in light of findings by the City’s

special commissioner of investigation that the firm used enticements like gift certificates to persuade local schools to use their services.

In the wake of attention we brought to the Platform Learning contract, payments have subsequently declined. To further address the Department of Education's sloppy contracting process, I met with the Department to propose changes to their procurement procedures.

To be fair to the DOE, a few of our recommendations were followed....For example, the Department now discloses on its web site, and in the City Record, the contracts that are being proposed outside of the competitive bidding process.

However, the department must have clear rules it is required to follow....To date, it has refused to promulgate such rules. In May 2004, I recommended State legislation to make the Department subject to the same procurement rules as every other City agency.

Rather than pass a new law, elected officials in Albany encouraged the DOE to work in good faith with my office to resolve the problem voluntarily. Despite our best efforts, the DOE processed approximately 100 million dollars in no-bid contracts in 2006. Clearly it is time to reconsider State legislation.

New Yorkers have a right to expect that the billions they pay in taxes are being spent through an identifiable and fair process. City agency budgets are divided into Units of Appropriation, or U of A's....The more U of A's, the more transparency and the more accountable an agency must be in its spending.

The DOE is particularly opaque. It has one U of A that is an astounding 5.61 billion dollars – larger than the entire budgets of most City agencies. The department has wide discretion on spending within that U of A, affording no opportunity for meaningful oversight.

Let me be clear. Mayoral control of the schools, when exercised wisely, is an important means of bringing efficiency, transparency and accountability to decision-making. But it was never intended to be a green light for unchecked executive power.

With greater authority and control also comes greater responsibility – responsibility to parents, responsibility to the taxpayers who help to fund our schools, and most importantly, responsibility to our children, whose educational achievement and advancement are directly tied to the future economic growth and prosperity of our city.

I hope my comments this morning have been constructive....Once again, I want to thank you for giving me this opportunity to present testimony and now I would be happy to answer any questions.