

**Testimony of Comptroller William C. Thompson, Jr.
City Council Committee on Contracts
Monday, December 8, 2003
1 P.M.**

**Delivered by Greg Brooks
Deputy Comptroller for Policy, Audit, Contracts and Accountancy**

Good afternoon, Chairman Jackson and members of the Contracts Committee. Thank you for the opportunity to share Comptroller Thompson's concerns about the Department of Education's (DoE) plan to expand the use of Job Order Contractors – or JOCs -- by its Division of School Facilities.

The JOC program was instituted to help the Department's School Facilities Division address maintenance and repair needs in the City's more than 1,100 school buildings.

From the outset, the program was intended to complement the efforts of the skilled trades workers employed by the DoE. By helping reduce the backlog of work orders, JOCs would provide important support to the DoE's ongoing maintenance efforts.

It is now our understanding that the DoE is seeking to reduce the number of in-house skilled trades professionals on payroll, and essentially shift the workload to independent JOCs.

We have been informed that more than 500 skilled electricians, carpenters, plumbers and other professionals will lose their jobs, while the volume of work orders handled by JOCs will triple. Currently, JOCs handle 25 percent of all DoE work orders; under the proposed contract amendment, they would perform the work in 75 percent of job orders.

Increasing the use of JOCs by such an exponential factor raises numerous concerns. Over the past few years, there have been troubling developments in the program, and allegations have arisen that should be addressed before the City considers making such a fundamental change in the program.

First, our office has learned that some JOCs may not be submitting certified payrolls, which raises suspicion about the possibility of prevailing wage violations.

The Comptroller's Office is responsible for enforcing the City's prevailing wage laws, which require contractors doing business with the City to pay their workers fairly.

We have received more than 30 allegations to date about underpayment of workers currently employed by JOCs. While I cannot comment on individual cases, I can say that our office is concerned about the issue. We are working hard to examine each complaint we receive, and we have initiated several full investigations.

Second, we have concerns about the quality of work that would be performed in the schools.

The workers slated for layoff by the DoE are highly skilled professionals with special expertise in their fields. They have first-hand knowledge of the buildings, many of which are old and have unique characteristics. The workers often have long histories with the buildings and considerable experience with finding safe and cost-effective ways to solve problems in their facilities.

JOCs come to the job without this valuable experience, and the City may already be paying the price. We have received allegations about shoddy work performed by the JOCs, and we all know that poor quality workmanship can drive costs up, and lead to the very inefficiencies that the DoE is trying to combat.

For this reason, our office has requested evaluations from the DoE of JOCs performance in our schools.

Third, our office has concerns about the current contract with the Gordian Group, which administers the JOC program for the DoE.

The Gordian Group receives a construction management fee for overseeing projects. The fee ranges from 11.5 to 13.9 percent of the total cost of the project.

The use of a percentage-based system of compensation is deeply flawed, as it gives the Gordian Group a direct incentive to keep costs as high as possible for the City.

Additionally, industry sources have indicated to us that in the private sector, construction management fees usually do not exceed 5%.

Finally, we are concerned that the DoE is not complying with Local Law 35, which requires agencies to certify that a contract will not displace city workers or, in the alternative, provide a comparative analysis of costs and benefits. As this program potentially will have a dramatic impact on city workers and as the DoE is portrayed as a city agency, such analysis would be beneficial.

There is simply inadequate information about the performance of the existing JOCs program. We have seen no analysis of the efficacy of the JOCs

currently working in our schools. We do not know if they have saved the City money, or if their work is in compliance with industry standards.

With a school system that is larger than many cities, it is appropriate for New York to adopt a creative and open-minded approach to finding the best ways to care for our school facilities, such as the use of JOCs.

However, the City should not expand a program without the benefit of a full review, including an analysis of the real costs, and an evaluation of the efficacy and efficiency of the investment.

It is in the best interest of our students, and our city, to know more before we proceed.

Thank you.

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