

Memorandum

19 West Flagler Street ♦ Suite 220 ♦ Miami, Florida 33130
Phone: (305) 375-1946 ♦ Fax: (305) 579-2656
visit our website at www.miamidadeig.org

To: Hon. Solomon C. Stinson, Chair
and Members, Miami-Dade County School Board

From: Christopher Mazzella, Inspector General
for Miami-Dade County Public Schools

Date: March 16, 2009

Subject: OIG Review of the M-DCPS FY 2008-09 Budget, Ref. IG08-64SB

As you may be aware, the Office of the Inspector General (OIG) has been reviewing various aspects of the FY 2008-09 Budget. We were originally engaged by Superintendent Carvalho in October 2008 when it was discovered that M-DCPS would face a budget shortfall of approximately \$114 million. My staff has been working closely with key M-DCPS budget and finance staff to verify the false budgetary assumptions that have contributed to the current deficit.

Recently, on February 11, 2009, the Administration brought forth Agenda Item E-13 *Resolution No. 2 General Fund Mid-Year Budget Review*. This item contained a transfer of \$17 million to the "Contingency" a.k.a. Unreserved General Fund Balance. We are concerned that \$13 million of the amount transferred is really a "book entry" of funds that do not exist now and expectedly may not appear on or before June 30, 2009. Based on our assessment, as of February 11, 2009, we believe that the district's projected Unreserved General Fund Balance is approximately 1.58% of revenues, which impacts the M-DCPS's reporting of its financial condition to the State.

Recent meetings have been held with M-DCPS senior staff regarding this concern and the actions that may be necessary to correct the "at risk" situation of not achieving the State's unreserved general fund balance requirements.

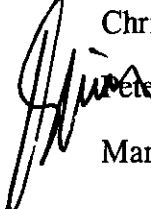
Attached, please find a memorandum prepared by a member of my staff regarding this issue. As always, feel free to contact me should you have any questions.

cc: Alberto Carvalho, Superintendent, Miami-Dade County Public Schools
Dr. Richard H. Hinds, Associate Superintendent and Chief Financial Officer
Judith Marte, Chief Budget Officer, Office of Budget Management
Allen Vann, Chief Auditor, Office of Management and Compliance Audits



Memorandum

19 West Flagler Street ♦ Suite 220 ♦ Miami, Florida 33130
Phone: (305) 375-1946 ♦ Fax: (305) 579-2656
visit our website at www.miamidadeig.org

To: Christopher Mazzella, Inspector General
From:  Peter Liu, Contract Oversight Specialist
Date: March 13, 2009
Subject: Review of the Miami-Dade County Public School's Fiscal Year 2008-09 Budget, Ref. IG08-64SB

As you are aware, during the past few months, I have dedicated a significant number of hours reviewing various aspects of the FY 2008-09 Budget for the Miami-Dade County Public School (M-DCPS). Concurrently, there have also been continuing presentations and extensive discussions at M-DCPS School Board meetings by members of the administrative staff towards resolving the budgetary issues.

While I believe that most of the budget issues have been openly discussed and resolved, there is one particular issue that I am bringing to your attention because of my concern with the situation. This issue relates to an item contained in Agenda Item E-13, *Resolution No. 2, 2008-09 General Fund Mid-year Budget Review*, which was adopted by the M-DCPS School Board on February 11, 2009. This item is contained in the agenda item on page 7 as illustrated below:

<u>TRANSFERS/RESERVES</u>	<u>INCREASE (DECREASE)</u>
<i>2. Increase Contingency from \$39,544,827 to \$56,544,827 (2.04% of revenue). This increase is due to the elimination of the appropriation for the tax roll yield and a strict hiring freeze.</i>	\$17,000,000

The \$17 million is comprised of a \$4 million projected savings due to a strict hiring freeze and the elimination of a \$13 million "appropriation," which was previously established to offset a projected shortfall in property tax collections. This combined amount would then be consolidated with the current Contingency (Unreserved General Fund Balance) to bring that total to \$56,544,827 or 2.04% of revenues.¹

¹ Agenda Item E-14 refers to the Contingency. However, for consistency with the state statutory language, this memorandum will refer to the Contingency as the Unreserved General Fund Balance.

My concern is that the projected \$13 million deficit from the “tax roll yield” transferred into the Unreserved General Fund Balance is considered revenues that will not be collected. It is not projected to be available now but somehow it is expected to be available by June 30, 2009. As a result, it may not be proper to comingle what are effectively non-existing or “book-entry” funds with actual cash funds held in the Unreserved General Fund Balance.

Based on the original shortfall projection by M-DCPS staff, the OIG recalculated the Unreserved General Fund Balance at fiscal year-end and found that it would more likely be closer to \$43,544,827 or 1.58% of revenues and not \$56,544,827 or 2.04% of revenues as stated in Agenda Item E-13.²

The ramification of this action is discussed below.

BACKGROUND

In October 2008, Superintendent Carvalho informed the Office of the Inspector General (OIG) that his staff had recently completed an extensive review of the FY 2008-09 General Fund Budget. That review showed a potential operating deficit of \$114 million, parts of which related to technical defects in the salary lapse calculations, assumptions used in employer health insurance costs, and an expected property tax shortfall. As a result, the Superintendent requested the OIG to perform an independent review of the FY 2008-09 Budget.

Since that time, I have had numerous meetings with M-DCPS budget and fiscal staff and Miami-Dade County staff of the Tax Collection Division and the Property Appraiser’s Office. I have reviewed numerous budget workshop presentations, prior years’ Comprehensive Annual Financial Reports, budget amendment resolutions, salary projections, interest earnings projections, correspondence from the State of Florida regarding revenue sharing, a transcript of the Special Magistrate hearing of the issue of salary negotiations impasse, and the budget discussion of the February 11, 2009 Board meeting.

The initial review by M-DCPS staff indicated that should the mid-year corrective action not be taken, it was reasonable to expect that there would be a year-end operating deficit of \$114 million. On November 18, 2008, the Board adopted Agenda Item E-14, Budget Resolution No. 1, to address that situation. Furthermore, the records indicate that \$64 million of that problem was due to reductions in State revenues that were extensively discussed during mid-2008 budget workshops, prior to the adoption of the FY 2008-09 Budget. Thus, this inevitably delayed corrective action until November 2008.

² In a letter dated February 23, 2009, The Superintendent reported to the Deputy Commissioner of Education, that General Fund Balance is projected to be \$56,814,637 or 2% of revenues.

PROPERTY TAX SHORTFALL - \$13 MILLION

During discussions with M-DCPS staff regarding built-in budget assumptions, staff advised (and OIG confirmed) that during the past 2 years, property tax collections were running well below the budgeted amount due to the crisis in the housing/real estate market as evidenced by actual collections and by the rising number of foreclosures and value appeals filed with the Property Appraiser. These factors were confirmed by the OIG in meetings with the Miami-Dade County Tax Collection Division and the Property Appraiser. In part, the Property Appraiser advised the OIG that appeals are being filed in record numbers and currently stand at over 90,000 filed during 2008.

M-DCPS staff advised the OIG that even with the knowledge that property tax collections would be \$13 million below the budget amount, they were prohibited from reducing their budgeted revenue estimates beyond that permitted by State Law.³ As a means of addressing this situation, the OIG suggested that consideration be given to establishing a “contingent” amount to match the expected amount of the shortfall on the Appropriation side of the budget to ensure that the projected shortfall in revenues would not be spent.

AGENDA ITEM E-14, BUDGET AMENDMENT RESOLUTION NO. 1, NOVEMBER 18, 2008

The OIG suggestion was implemented in the form of an appropriation in the amount of \$13 million to offset the projected property tax collection shortfall and incorporated in Agenda Item E-14, providing a resolution for the first budget amendment, adopted on November 18, 2008. In addition, this resolution also maintains the Contingency Reserve at \$39,544,827.⁴

For the most part, up until the February 11, 2009 Board meeting, the OIG was not able to find any other significant issues that were not brought to the attention of the Board.

FS 1011.051 – GUIDELINES FOR GENERAL FUNDS

FS 1011.051 – *Guidelines for General Funds* became effective on February 1, 2009 and provides for financial thresholds that measures the fiscal health of school districts. The thresholds of 3% and 2% for the unreserved general fund balance were established as statutory requirements. By statute, if, at any time, the unreserved general fund balance is projected to be below 3% of general fund revenues, the superintendent is required to provide written notification to both the Commissioner of Education and the School Board. If that projection is

³ FS 200.065(2)(a)1 requires that: “ In computing proposed or final millage rates, each taxing authority shall utilize not less than 95 percent of the taxable value certified pursuant to subsection (1).”

M-DCPS did use the maximum permissible discount of 95% to calculate the property tax proceeds. Actual collections are projected to be approximately 94%.

⁴ Subsequent correspondence referred to the Unreserved General Fund Balance being \$39,544,827.

below 2%, not only is the Superintendent required to provide the required notification but must also have a plan to restore the unreserved general fund balance to 2% or more.

The statute further requires that if the Commissioner of Education reasonably anticipates that the plan is not sufficient to restore the unreserved general fund balance, the statute requires the Commissioner of Education to appoint a financial emergency board to take over and manage the local school district.⁵

AGENDA ITEM E-13, BUDGET AMENDMENT RESOLUTION NO. 2, FEBRUARY 11, 2009

On February 11, 2008, the Administration recommended, and the Board adopted, Agenda Item E-13 providing for the second amendment to the General Fund Budget. Included in the budget amendment is a consolidation of contingencies; i.e. the transfer-in of \$17 million (\$13 million non-cash appropriation and \$4 million cash salary savings due to the hiring freeze) to the Unreserved General Fund Balance thereby increasing the total from \$39,544,827 to \$56,544,827. The increased Unreserved General Fund Balance now represented 2.04% of revenues.

After reviewing the audio/video recordings of the discussions related to that agenda item, the OIG notes that there was significant discussion regarding the benefits of "consolidating" the two contingencies. Comment was made that the "money is already there" and that the consolidation was less about meeting the "state formula" and more about having a healthy financial condition. This discussion included a clear reminder by the Superintendent that while the Unreserved General Fund Balance would now increase to \$56.5 million, it is possible that the property tax shortfall could be between \$17 million to \$20 million. Should that occur, the unreserved fund balance would likewise be reduced to between \$36.5 million to \$39.5 million.

NOTIFICATION TO THE COMMISSIONER OF EDUCATION

On February 23, 2009, pursuant to the requirements of FS 1011.051, the Superintendent provided written notification to the Commissioner of Education that M-DCPS projected unreserved fund balance will be less than 3% but be equal to or greater than 2% of revenues at the end of the fiscal year. On the same date, a similar notice was sent to the members of the M-DCPS School Board.

⁵ FS 1011.051(2) - If the unreserved general fund balance in the district's approved operating budget is projected to fall during the current fiscal year below 2 percent of projected general fund revenues, the superintendent shall provide written notification to the district school board and the Commissioner of Education. Within 14 days after receiving such notification, if the commissioner determines that the district does not have a plan that is reasonably anticipated to avoid a financial emergency as determined pursuant to 218.503, the commissioner shall appoint a financial emergency board that shall operate consistent with the requirements, powers, and duties specified in s. 218.503(3)(g).

IMPLICATIONS

Ever since October 2008 up until February 11, 2009, I concurred with M-DCPS staff that there is a projected shortfall of at least \$13 million in property tax collections for FY 2008-09. Furthermore, there was no expectation that there may be other sources of revenues increasing sufficiently to offset that loss. Since these funds were not expected to be collected, it is my belief that there was insufficient justification to support the transfer of the \$13 million property tax contingency to the Unreserved General Fund Balance. At that time, I believe a more accurate projection of the Unreserved General Fund Balance on June 30th would be \$43.5 million or 1.58% of revenues.

Subsequent to the February 11, 2009 School Board meeting, I have had meetings with the Chief Financial Officer, Chief Budget Officer and Treasurer Manager to discuss the consolidation of the contingencies and to express my concern regarding the current fund balance projection and any variations in revenues or appropriations that might occur prior to June 30th. During these meetings, it was acknowledged that constant monitoring of property tax collections along with necessary expenditure control is critical towards achieving the fund balance target. Additionally, there was optimism by the aforementioned administrators that tax certificate redemptions from prior year delinquencies will contribute to reducing the deficit to be caused by the current year property tax shortfall. These discussions were held with the caution that the fund balance is "at risk" of falling below the 2% threshold at June 30th and that every precaution must be taken to ensure that this does not occur.