



New York State Comptroller
THOMAS P. DiNAPOLI

Custodial Service Contract Procurement and Oversight

New York City Department of
Education

Report 2020-N-8 | April 2022

Spotlight on Education



Audit Highlights

Objective

To determine whether the selected New York City Department of Education contracting practice was effective in procuring the custodial service contracts it has in effect for the 2017–2020 and 2021–2028 fiscal years at the lowest available price, while maintaining the quality of service. The audit covered DOE’s procurement of the contracts as well as its efforts to assess the quality of those services for the periods both prior to and after contract renewal (fiscal years 2018–2021).

About the Program

The New York City Department of Education (DOE), the nation’s largest school system, serves approximately 1 million students at its more than 1,800 elementary, middle, and high schools located in over 1,300 buildings (some buildings house multiple schools). DOE’s Division of School Facilities (DSF) is responsible for the maintenance, repair, and safe operation of these buildings and employs more than 900 custodian engineers to oversee these functions.

Up to and including fiscal year 2016, DOE custodian engineers were assigned their own budget allocation from which they hired and supervised their custodial staff, handled their payroll, and purchased their supplies. In April 2016, citing a disjointed custodial system with little oversight or transparency, the Mayor announced reforms to the DOE system to address mismanagement and long-standing maintenance disparities across schools and ensure all schools are clean and well-maintained.

Under this new system, a not-for-profit corporation affiliated with DOE – New York City School Support Services (NYCSSS) – was created solely to provide custodial services at DOE schools. NYCSSS would handle staffing, including hiring and payroll, and DSF would be responsible for purchasing supplies. DOE custodian engineers would remain janitorial supervisors and oversee the work of NYCSSS’ approximately 7,500 custodial staff (e.g., cleaning, garbage disposal, heating, air conditioning, plumbing, painting, minor repairs).

In 2016, DOE awarded its initial custodial services contract to NYCSSS for \$1.81 billion (revised to \$1.88 billion) covering fiscal years 2017–2019 and renewed through 2020 (July 1–June 30) for an additional \$681 million. Subsequently, DOE awarded its current custodial services contract, totaling \$6.36 billion, for fiscal years 2021–2028 to NYCSSS. New York City’s administration estimated that, despite initial cost increases, spending would “break even” by 2019 due to savings in procurement. Additionally, the contract stated that this new system would result in cost savings for DOE and/or the City.

Goods and services, such as the NYCSSS custodial services, are procured through DOE’s Division of Contracts and Purchasing (DCP) and must comply with its Procurement Policy and Procedures (PPP Guidelines). DOE used a non-competitive procurement method, known as negotiated services, in awarding its contracts to NYCSSS. PPP Guidelines require that, for this type of contract, DOE provide four elements of support, including a detailed cost breakdown of services to be provided and documentation showing that potential vendors were contacted.

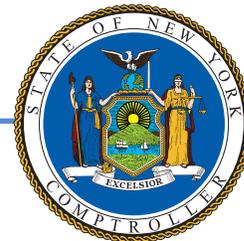
Oversight of custodial services, including performance standards, is essential to ensure all schools are clean and well maintained and to assess and measure whether NYCSSS is delivering the quality of services for which it was contracted. DOE currently has tools that capture cleaning and maintenance information, including an application that collects data on the conditions at DOE buildings, a system that tracks the status of work orders, and twice-yearly custodian engineer ratings.

Key Findings

- DOE did not fulfill all the elements required to make the determination that negotiated services – the non-competitive procurement method used to award the custodial services contracts – was in its best interest. DOE did not follow PPP Guidelines and submit a detailed cost breakdown of services to be provided. Additionally, while DOE published a notice of its pending 2021–2028 contract with NYCSSS to satisfy the obligation to contact potential vendors ahead of awarding a contract, it allowed only 5 business days for any interested parties to respond.
- DOE's contracts with NYCSSS do not include any performance standards related to the quality of work performed by custodial staff, and DOE has no system in place to record and measure the quality of how well its buildings are being cleaned and maintained.

Key Recommendations

- Ensure all applicable PPP Guidelines are followed (i.e., inclusion of detailed cost breakdown of the services provided and documentation showing vendors were contacted) when procuring services using the negotiated services procurement method and before awarding the contract.
- Develop a system for consistently recording and measuring how well DOE buildings are being cleaned and maintained. In the meantime, take steps to maximize the usefulness of the tools that are available, such as ensuring all twice-yearly custodian engineer ratings are performed and including comments where deficiencies are noted.



**Office of the New York State Comptroller
Division of State Government Accountability**

April 8, 2022

David C. Banks
Chancellor
New York City Department of Education
52 Chambers Street
New York, NY 10007

Dear Chancellor Banks:

The Office of the State Comptroller is committed to helping State agencies, public authorities, and local government agencies manage their resources efficiently and effectively. By so doing, it provides accountability for the tax dollars spent to support government operations. The Comptroller oversees the fiscal affairs of State agencies, public authorities, and local government agencies, as well as their compliance with relevant statutes and their observance of good business practices. This fiscal oversight is accomplished, in part, through our audits, which identify opportunities for improving operations. Audits can also identify strategies for reducing costs and strengthening controls that are intended to safeguard assets.

Following is a report of our audit of the New York City Department of Education entitled *Custodial Service Contract Procurement and Oversight*. The audit was performed pursuant to the State Comptroller's authority as set forth in Article V, Section 1 of the State Constitution and Article III of the General Municipal Law.

This audit's results and recommendations are resources for you to use in effectively managing your operations and in meeting the expectations of taxpayers. If you have any questions about this report, please feel free to contact us.

Respectfully submitted,

Division of State Government Accountability

Contents

Glossary of Terms	6
Background	7
Audit Findings and Recommendations	9
Procurement of Custodial Services Contracts	9
Recommendation.....	11
Oversight of Custodial Services Contracts.....	11
Recommendation.....	12
Audit Scope, Objective, and Methodology	13
Statutory Requirements	14
Authority.....	14
Reporting Requirements.....	14
Agency Comments	15
State Comptroller’s Comments	18
Contributors to Report	19

Glossary of Terms

Term	Description	Identifier
CARES Act	The federal Coronavirus Aid, Relief, and Economic Security Act	<i>Law</i>
DCP	DOE's Division of Contracts and Purchasing	<i>Division</i>
DOE	New York City Department of Education	<i>Auditee</i>
DSF	DOE's Division of School Facilities	<i>Division</i>
NYCSSS	New York City School Support Services	<i>Contractor</i>
PPP Guidelines	DOE's Procurement Policy and Procedures	<i>Policy</i>
RA	Request for Authorization	<i>Key Term</i>

Background

The New York City Department of Education (DOE), the nation's largest school system, serves approximately 1 million students at its more than 1,800 elementary, middle, and high schools located in over 1,300 buildings (some buildings house multiple schools). DOE's Division of School Facilities (DSF) is responsible for the maintenance, repair, and safe operation of these buildings and employs more than 900 custodian engineers to oversee these functions.

Up to and including fiscal year 2016, DOE custodian engineers were assigned their own budget allocation from which they hired and supervised their custodial staff, handled their payroll, and purchased their supplies. In April 2016, citing a disjointed custodial system with little oversight or transparency, the Mayor announced reforms to the DOE system to address mismanagement and long-standing maintenance disparities across schools and ensure all schools are clean and well-maintained.

Under this new system, a not-for-profit corporation affiliated with DOE – New York City School Support Services (NYCSSS) – was created solely to provide custodial staffing services at DOE schools. NYCSSS would handle staffing, including hiring, and payroll, and DSF would be responsible for purchasing supplies. DOE custodian engineers would remain janitorial supervisors and oversee the work of NYCSSS' approximately 7,500 custodial staff (e.g., cleaning, garbage disposal, heating, air conditioning, plumbing, painting, minor repairs).

In 2016, DOE awarded a \$1.81 billion (revised to \$1.88 billion) custodial services contract to NYCSSS, covering fiscal years 2017–2019 and renewed through 2020 (July 1–June 30) for an additional \$681 million. Subsequently, DOE awarded NYCSSS with its current custodial contract, totaling \$6.36 billion, for fiscal years 2021–2028.

New York City's administration estimated NYCSSS' start-up costs and initial round of wage increases would cost \$40 million in the first year and \$23 million in the second; however, the changeover was anticipated to "break even" in 2019 as procurement savings offset the wage increases. Further, in the contracts between DOE and NYCSSS and the annual charity registration form NYCSSS filed with the New York Attorney General's Charities Bureau, it states that the centralizing of maintenance for all DOE schools under a single entity (NYCSSS) would achieve costs savings for DOE and/or the City.

In March 2020, DOE received \$717 million from the federal relief package as part of the Coronavirus Aid, Relief, and Economic Security (CARES) Act. The CARES Act enabled school districts to use these funds in various ways, such as for personal protective equipment and/or to buy computers for students who were learning at home. According to DOE officials, \$627 million of the \$717 million received (87%) was used to cover NYCSSS custodial staffing costs. (The other \$90 million reportedly is for the provision of equitable services for non-public schools.) This federal money covered a significant amount of NYCSSS' estimated \$674.2 million budget for fiscal year 2020.

Goods and services, such as the NYCSSS custodial services, are procured through DOE's Division of Contracts and Purchasing (DCP) and must comply with its Procurement Policy and Procedures (PPP Guidelines). DOE used a non-competitive procurement method, known as negotiated services, in awarding its contracts to NYCSSS. PPP Guidelines require that, for this type of contract, DOE provide four elements of support, including a detailed cost breakdown of services to be provided and documentation showing that potential vendors were contacted.

The PPP Guidelines were implemented to ensure the wise, prudent, and economical use of public money by DOE in the best interest of the taxpayers; to guard against favoritism, improvidence, extravagance, fraud, and corruption; to ensure that contracts are awarded consistent with law and on the basis of best value, including but not limited to maximum quality, lowest cost or lowest possible cost, and efficiency; and to provide for increased public confidence in the DOE's public procurement procedures.

Oversight of custodial services, including performance standards, is essential to ensure all schools are clean and well maintained and to assess and measure whether NYCSSS is delivering the quality of services for which it was contracted. DOE currently has tools that capture cleaning and maintenance information, including an application that collects data on the conditions at DOE buildings, a system that tracks the status of work orders, and twice-yearly custodian engineer ratings.

Audit Findings and Recommendations

Given the magnitude of the 2017–2020 and 2021–2028 custodial contracts with NYCSSS – in both cost (\$2.56 billion and \$6.36 billion, respectively) and the vital services NYCSSS is required to fulfill – it is imperative that DOE’s contract procurements follow PPP Guidelines to ensure transparency and that quality standards are being maintained.

We found that the evidence was insufficient to determine that services were negotiated in the best interest of DOE and procured at the lowest available price, as required by PPP Guidelines. DOE did not follow PPP Guidelines and submit a detailed cost breakdown of services to be provided. Additionally, while DOE published a notice of its pending 2021–2028 contract with NYCSSS to satisfy the obligation to contact potential vendors ahead of awarding a contract, it allowed only 5 business days for any interested parties to respond.

Further, there are no performance standards on the quality of work performed by custodial staff included in DOE’s contracts with NYCSSS. While DOE has tools in place that capture information on cleanliness and maintenance conditions at its buildings, it has not created a system to record and measure quality of services and, therefore, has less assurance that conditions are being properly maintained and at the same standards across all schools. Due to the COVID-19 pandemic and school closures, we were unable to visit school buildings to observe cleanliness and maintenance conditions firsthand.

Procurement of Custodial Services Contracts

DOE awarded the \$2.56 billion, 4-year and \$6.36 billion, 8-year custodial services contracts to NYCSSS based on negotiated services – a non-competitive procurement method – asserting it was in its best interest to procure custodial services in this manner from NYCSSS. However, we found that DOE bypassed some of the required procurement procedures and, therefore, lacks assurance that the procurement method selected was in the best interest of DOE and the City and demonstrated the most prudent, economical use of funds, while guarding against favoritism.

According to the PPP Guidelines, where a competitive procurement method, such as competitive sealed bidding, is not practical or advantageous, other procurement methods can be used to award contracts, such as request for proposals, sole source goods procurement, negotiated services, emergency purchases, and purchases through governmental contracts. In choosing the negotiated services method, DOE is required to provide the following four elements of support that this method is in its best interest and that it is not practical or possible to use a competitive method of procurement:

1. A detailed cost breakdown of the services
2. A statement describing the circumstance applicable to this procurement
3. An explanation of why the proposed vendor was selected

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4. Pertinent information concerning other vendors that have been contacted (e.g., why they cannot provide the service, pricing offered), as applicable

To determine whether these four elements existed in awarding the 2017–2020 and 2021–2028 contracts to NYCSSS, we requested supporting documentation from DOE. In response, DOE provided us with its Requests for Authorization (RAs), which were submitted to DCP. The RA is prepared for all contracts, summarizes the procurement process, and documents the determinations made and internal approvals associated with the awarding of the contract. Among other content, the RA should contain such information as the vendor’s name, description of services to be provided, dollar amount of contract, contract term, source selection method, basis for award, justification for utilizing a source selection method other than competitive sealed bidding, and other written determinations/justifications made.

Our review found that the RAs had adequate information to support two of the four elements. For example, there is both a statement and an explanation in the RAs alluding to the City’s history of contracting with affiliated not-for-profits and that NYCSSS’ structure specifically meets the requirements for DOE’s transition to the new centralized custodial structure without disruption to the school system and its workers. However, the information provided for the other two elements is insufficient to make the determination that negotiated services and the selection of NYCSSS were in the best interest of DOE, as follows:

- DOE did not have a detailed cost breakdown of the services, instead providing us with cost estimate spreadsheets – similar to what is included in the contracts – showing the total dollar amount budgeted for the fiscal years covered in each contract for custodial staff wages, associated supplemental benefits, payroll taxes, and NYCSSS administration costs.
- Contrary to PPP Guidelines, DOE’s spreadsheets only provide basic annual data and do not give a breakdown of costs by month or quarter, by individual school buildings, or by job titles of custodial staff. Specific funding allocations based on various factors (i.e., job title, building) would allow for more in-depth analysis and appropriate, tailored decision making.
- There is no support in the RAs that DOE contacted other vendors. In response, DOE commented that its posting of a notice in The City Record, in which it requested approval to enter negotiations with NYCSSS and directed other interested organizations to contact DOE, was sufficient to satisfy this PPP Guidelines requirement. (The City Record is the official newspaper of the City of New York where procurement notices regarding solicitations and awarding of procurement contracts must be advertised.) Furthermore, DOE officials stated that no other organization expressed interest in response to The City Record notice. We reviewed The City Record and found that the notice about the pending 2021–2028 contract between DOE and NYCSSS was posted in the November 6, 2019 edition and other interested parties had just 5 business days – until 9 a.m. on November 14 – to respond.

Recommendation

1. Ensure all applicable PPP Guidelines are followed (i.e., inclusion of detailed cost breakdown of the services provided and documentation showing vendors were contacted) when procuring services using the negotiated services procurement method and before awarding the contract.

Oversight of Custodial Services Contracts

Given that poor oversight and inequitable maintenance across City schools was one of the driving forces behind the custodial reform, we would expect the contracts to include cleaning and maintenance performance standards to ensure that NYCSSS is delivering the quality of services for which it was contracted. However, neither the current NYCSSS contract nor its precursor includes any such provisions. For example, while the contracts incorporate job descriptions, payroll/personnel practices, and lists of responsibilities, they do not include specific standards to measure cleanliness in the school buildings, such as frequency of cleaning specific areas. As DSF officials acknowledge, while they have tools that capture cleaning and maintenance information, none are designed to assess and measure the quality of services in the schools.

Twice a year, non-custodial staff observe, evaluate, and rate the cleanliness and maintenance conditions at DOE buildings. The results of those inspections are documented in SchoolStat, an application used to collect data about the conditions of DOE buildings. However, because the inspections are done by staff who are not experts in custodial services and are done so infrequently, DSF officials choose not to use the inspection results to assess the quality of custodial services. Moreover, due to the COVID-19 pandemic, there have been delays in performing such inspections.

DSF officials also have access to PassPort, a maintenance management system for tracking work orders, such as the installation of a locker. PassPort shows the status of each work order from when a repair/service is requested until it has been completed. However, it does not record information about the quality of work performed; rather, it only shows whether the work has been completed.

Finally, DOE's school principals and DSF's Deputy Directors of Facilities (otherwise referred to as plant managers) conduct twice-yearly ratings of custodian engineers' performance in four major categories: cleanliness, maintenance, management, and custodial competencies. The ratings range from 1 to 5, with 1 being the lowest (unsatisfactory performance) and 5 being the highest (excellent performance). While these ratings are not specifically of the work performed by NYCSSS custodial staff but rather the custodian engineers who supervise them, they can, by extension, also be viewed as indicators of the school principals' and plant managers' perceptions of the quality of custodial services at their building(s).

We determined that, as DSF officials had indicated, neither SchoolStat nor PassPort could be used to assess how well the buildings are being cleaned and maintained

with the information currently tracked. We therefore reviewed custodian engineers' ratings for a sample of 15 schools for the most recent year available (2020–21) and compared them to the ratings these same individuals received in the previous 2 years (2018–19 and 2019–20). Based on the available ratings sheets in 2018–19 and 2019–20, the average ratings given by the school principals in our sample were 4.4 and 4.6, respectively. In the 2020–21 school year, the average ratings increased to 4.7; however, we point out that this included 4 to 12 months when there was a decrease in foot traffic in school buildings as instruction was being conducted virtually due to the COVID-19 pandemic. However, buildings generally remained open for maintenance, cleaning, and pandemic-related purposes, including for staff who prepared meals for pickup by families. Our review of plant managers' ratings of the custodian engineers' performance yielded similar results. In 2018–19 and 2019–20, their ratings for the 15 schools averaged 4.3 and 4.4, respectively, and increased in 2020–21 to 4.6. We also note that, for the schools in our sample, not all custodian engineer ratings were done. For example, at P.S. 844 in Manhattan, only two of six total school principal ratings were conducted during the 3 years.

While the ratings for custodian engineers' performance were positive overall for these 3 years, the evaluations themselves could be more informative. Besides the numeric ratings of 1 to 5, narrative comments are allowed to support the rating; however, for the ratings we reviewed, either there were no associated comments or the comments were not specific in nature. For example, the custodian engineer at P.S. 410 in the Bronx received a rating of just 2.62 in fall 2019, but there were no comments detailing the specific deficiencies. While subsequent ratings for this custodian engineer were higher (4 and above), without the additional baseline comments, there is no context to ascertain the specific problem area that warranted the initial lower rating or the extent to which it was corrected and justified higher ratings later.

While SchoolStat, PassPort, and the twice-yearly ratings of custodian engineers' performance provide useful information, these methods are inadequate to ensure that all schools are being maintained safely and meet quality standards. As a result, DOE has little assurance that services delivered under the NYCSSS contracts are an improvement over pre-contract conditions. A robust system for measuring the quality of cleanliness and maintenance services by NYCSSS custodial staff and comparing quality across schools is critical to ensure that the contracts meet their aim of improving oversight and decreasing inequity across the school system.

Recommendation

2. Develop a system for consistently recording and measuring how well DOE buildings are being cleaned and maintained. In the meantime, take steps to maximize the usefulness of the tools that are available, such as ensuring all twice-yearly custodian engineer ratings are performed and including comments where deficiencies are noted.

Audit Scope, Objective, and Methodology

The objective of this audit was to determine whether the selected DOE contracting practice was effective in procuring the custodial service contracts it has in effect for the 2017–2020 and 2021–2028 fiscal years at the lowest available price, while maintaining the quality of service. The audit covered DOE’s procurement of the contracts as well as its efforts to assess the quality of those services for the periods both prior to and after contract renewal (fiscal years 2018–2021).

To accomplish our audit objective and assess DOE’s relevant internal controls, we interviewed DOE officials from DCP and DSF. We also met with officials from NYCSSS to understand their relationship with DOE and their role in procuring and providing custodial services at the schools. We reviewed the custodial contracts between DOE and NYCSSS and DOE’s PPP Guidelines for procuring contracts. We also reviewed DSF-provided information on SchoolStat and PassPort as well as ratings done by school principals and plant managers of custodian engineers’ performance.

We selected a judgmental sample of 15 schools/buildings based on factors such as building size (greater/less than 120,000 square feet) and location (by borough). For these sample schools, we reviewed available ratings for custodian engineers provided by school principals and DSF plant managers conducted in 3 school years, from fall 2018 through spring 2021. The results of this sample cannot be projected. Because of the COVID-19 pandemic school closures and safety concerns, we were unable to visit school buildings to observe existing cleanliness and maintenance conditions.

Statutory Requirements

Authority

This audit was performed pursuant to the State Comptroller's authority as set forth in Article V, Section 1 of the State Constitution and Article III of the General Municipal Law.

We conducted our audit in accordance with generally accepted government auditing standards. These standards require that we plan and perform the audit to obtain sufficient, appropriate evidence to provide a reasonable basis for our findings and conclusions based on our audit objective. We believe that the evidence obtained during our audit provides a reasonable basis for our findings and conclusions based on our audit objective.

As is our practice, we notify agency officials at the outset of each audit that we will be requesting a representation letter in which agency management provides assurances, to the best of their knowledge, concerning the relevance, accuracy, and competence of the evidence provided to the auditors during the audit. The representation letter is intended to confirm oral representations made to the auditors and to reduce the likelihood of misunderstandings. Agency officials normally use the representation letter to assert that, to the best of their knowledge, all relevant financial and programmatic records and related data have been provided to the auditors. They affirm either that the agency has complied with all laws, rules, and regulations applicable to its operations that would have a significant effect on the operating practices being audited, or that any exceptions have been disclosed to the auditors. However, officials at the New York City Mayor's Office of Operations have informed us that, as a matter of policy, mayoral agency officials do not provide representation letters in connection with our audits. As a result, we lack assurance from DOE officials that all relevant information was provided to us during the audit.

Reporting Requirements

A draft copy of this report was provided to DOE officials for their review and formal comment. Their comments were considered in preparing this final report and are included in their entirety at the end of it. DOE officials generally agreed with the report's recommendations and indicated actions they have taken or will take to implement them. Our responses to certain DOE comments are included in the report's State Comptroller's Comments.

Within 180 days of the final release of this report, we request that the Chancellor of the New York City Department of Education report to the Governor, the State Comptroller, and the leaders of the Legislature and fiscal committees, advising what steps were taken to implement the recommendations contained herein, and if the recommendations were not implemented, the reasons why.

Agency Comments



February 10, 2022

Mr. Thomas P. DiNapoli, State Comptroller
Office of the New York State Comptroller
Division of State Government Accountability
110 State Street, 11th floor
Albany, NY 12236

**Re: New York City Department of Education's
Custodial Service Contract Procurement and
Oversight (2020-N-8)**

Dear Comptroller DiNapoli,

This letter constitutes the formal response of the New York City Department of Education (DOE) to the recommendations made by the Office of the State Comptroller (Comptroller) in its draft audit report on the DOE's Custodial Service Contract Procurement and Oversight (Report).

Every year since its inception, New York City School Support Services, Inc., (NYCSSS), the not-for-profit created to provide custodial services to NYC schools, has had a lower cost to the DOE than the year prior. This extraordinary feat was accomplished each year despite prevailing wage increases, portfolio growth, and the fulfilled promise of not employing lay-offs as a cost reduction measure. Simultaneously, this report shows that average rating scores, i.e., the metrics demonstrating the level of satisfaction with custodial service, have consistently increased.

NYCSSS has been instrumental to creating a more transparent and equitable system through centralized administration and new technology. It was not created to improve the cleanliness nor maintenance of buildings but to centralize staffing and payroll operations. The responsibility for cleanliness and minor maintenance of DOE buildings rests solely with the DOE's custodian engineers. These custodian engineers are the site managers and part of the supervisory structure that the Division of School Facilities (DSF) uses to keep over 1,400 school buildings clean and safe.

Response to Recommendations

Recommendation 1. *Ensure all applicable PPP Guidelines are followed (i.e., inclusion of detailed cost breakdown of the services provided and documentation showing vendors were contacted) when procuring services using the negotiated services procurement method and before awarding the contract.*

Response. The DOE agrees with the Comptroller's recommendation in as much as it reflects current practice.

[Comment 1](#)

[Comment 2](#)

[Comment 3](#)

To be clear, the DOE disagrees with the Comptroller’s conclusion that DOE did not follow PPP guidelines in the awarding of the negotiated service contract to NYCSSS. The DOE’s PPP rules are governed by State Law and approved by the DOE’s Panel for Educational Policy.

The Comptroller cites PPP Section 3-08(c)(1) and (4) as areas where DOE did not follow PPP guidelines.

Under Section 3-08(c)(1), the DOE is required to include a detailed cost breakdown of the services and did so. The cost breakdown for the Negotiated Service agreement includes the historical rates for Wages and Supplemental Benefits for the following titles: Cleaner, Handyperson, Fireperson, and a Stationary Engineer between Fiscal Year (“FY”) 2016 and 2020. Furthermore, the cost breakdown indicates the average increase percentages for all the aforementioned titles between Calendar Year 2018 and 2019. The total estimated costs for all the contract years were based on the total school wide expenditures from FY 2020. The historical average percent increases were then applied year over year for the projected estimated annual contract amounts between FY 2021 and 2028. Additionally, the cost breakdown indicates the FY 2019 percent distribution of the expenditures across the four titles, for additional clarity. The Comptroller concludes that this does not meet the PPP’s standard under Section 3-08(c)(1) and asserts that DOE did not provide a breakdown by month, quarter, building, or job title. However, the PPP standard does not require such a breakdown, requiring simply “a detailed cost breakdown for the services,” without more particularized information. The Comptroller does not provide a basis or justification for its position that more detail is required than what is set forth in law. Therefore, DOE disagrees with the Comptroller’s conclusion on this point.

[Comment 4](#)

Turning to the Comptroller’s second item where variance from the appropriate standard is asserted: under Section 3-08(c)(4), the DOE is required to provide “pertinent information concerning other vendors that have been contacted ... **as applicable**” (emphasis added). The DOE was not and is not aware of other vendors that can provide the service NYCSSS provides at scale, and as a result no other vendors were directly contacted. To ensure that all other interested parties were given the chance to submit a proposal, DOE published a public notice of intent to procure in the City Record, the official newspaper of the City of New York where procurement notices must be advertised, as per PPP Section 3-08(e). Section 3-08(e) requires the following:

[Comment 5](#)

[Comment 6](#)

Notice of intent to procure shall be published once in the City Record **seven days** prior to the Chancellor’s Committee on Contracts meeting where such item is on the agenda. The notice shall be posted simultaneously on the DOE’s website in a location that is accessible by the public. Such notice shall solicit expressions of interest from vendors qualified to compete on this procurement or in the future. Any expressions of interest received shall be evaluated. This subsection shall not apply in cases where the Corporation Counsel or his/her designee has provided a written statement that such notice may impair the conduct of litigation.

As the Comptroller notes, the notice of intent to procure was published in the November 6, 2019 edition of the City Record and other interested parties had until November 14, 2019 to respond. Interested parties had adequate time, per the PPP Requirement, to respond and no responses were

received. The meeting of the Chancellor's Committee on Contracts took place approximately one month after the City Record advertisement, as required.

[Comment 7](#)

New York City vendors are aware of the role of the City Record, and DOE routinely reaches out to the vendor community via the City Record and has received comments and/or inquiries from vendors interested in other proposed negotiated service awards in recent years. The Comptroller's critique seems rooted in a view that City Record posting does not meet the standard for attempting to contact other interested vendors; however, no other metric is proposed by the Comptroller in their assertion that DOE did not follow PPP rules.

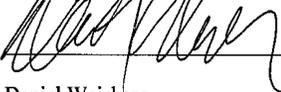
As was done during the procurement of NYCSSS, the DOE will continue to ensure all applicable PPP Guidelines are followed when procuring services using the negotiated services procurement method and before awarding contracts.

Recommendation 2. *Develop a system for consistently recording and measuring how well DOE buildings are being cleaned and maintained. In the meantime, take steps to maximize the usefulness of the tools that are available, such as ensuring all twice-yearly custodian engineer ratings are performed and including comments where deficiencies are noted.*

Response. The DOE disagrees with this recommendation.

It is not NYCSSS, but rather custodian engineers who are responsible for the cleanliness and minor maintenance of DOE buildings. Therefore, NYCSSS does not have a role to play with respect to cleanliness and minor maintenance. Separately, the DOE has created feedback tools to accurately and reliably measure custodial engineer's success. As an example, custodian engineers, who are the direct managers at their sites, are responsible for ensuring custodial staff are fulfilling their duties, including but not limited to performing cleaning and maintenance responsibilities. Custodial staff are responsible for logging the performance of outlined duties which are tailored to the physical plant needs of the sites. Those logs which outline what needs to be reviewed and maintained, are scrutinized and monitored by the custodian engineer, who is responsible for those building conditions. A custodial engineer's effective use of the management tools at their disposal is a consideration in their rating. The DOE consistently updates these tools and will continue to do so to the greatest extent possible in order to enhance the services provided within our school communities.

Sincerely,



Daniel Weisberg
First Deputy Chancellor
NYC Department of Education

State Comptroller's Comments

1. We have not audited and therefore cannot verify the accuracy of DOE's claims that the NYCSSS contract has resulted in lower costs to them every year since the contract's inception. In addition, while our review of the custodian engineers' ratings sheets shows some increases during the period reviewed, as indicated on page 12, not all ratings had been done. Further, some of the ratings were for periods when there was a decrease in foot traffic in school buildings as instruction was being conducted virtually due to the COVID-19 pandemic. However, buildings generally remained open for maintenance, cleaning, and pandemic-related purposes, including for staff who prepared meals for pickup by families.
2. Numerous documents that DOE provided or that were publicly released by the City related to the NYCSSS contract contradict this statement. In fact, the 2016–2019 DOE contract with NYCSSS references the goal of "cleaner and safer schools." It states that DOE sought to enter into a negotiated services agreement to provide employment services for custodian assistants to "provide clean and safe schools"; "improve services to students and schools"; and "ensure that schools are clean." Moreover, in the November 6, 2019 issue of The City Record, it states that DOE is seeking approval to enter into a negotiated service agreement with NYCSSS to provide employment services for custodial staff to "ensure schools are clean and safe." Additionally, an April 27, 2017 City Hall press release announcing major reforms to the public school custodial system, including the NYCSSS contract, indicated these reforms will "help ensure all schools are clean and well-maintained."
3. While DOE custodian engineers are ultimately responsible for cleanliness and minor maintenance of DOE buildings, NYCSSS nevertheless plays a major role because NYCSSS custodial staff perform these cleaning and maintenance tasks at DOE schools.
4. We stand by our assertion that the information provided by DOE is not a detailed cost breakdown of the services, as required by the PPP Guidelines. As stated on page 10, a detailed breakdown based on the factors cited would allow for more in-depth analysis and provide support for and transparency regarding the decision. Such a breakdown provides assurance to interested stakeholders that the procurement was in the best interest of the City.
5. A memorandum attached to the 2016 contract, where DOE sought approval for a negotiated services contract with NYCSSS, identifies two other vendors who provided custodial services to DOE in the past. However, other than comments about management fees, there is no evidence that DOE reached out to these vendors for the contract. Additionally, because the services previously provided were on a different scale, as DOE itself notes, it is unclear how relevant that information was to the current contract. DOE states, "DOE was not and is not aware of other vendors that can provide the service NYCSSS provides at scale, and as a result no other vendors were directly contacted." Yet, without speaking to any vendors, it is unclear how DOE made this assessment given that these services were never procured at this scale in the past.
6. We believe that advertising solely in The City Record was insufficient (see Comment 5).
7. Given the magnitude of this contract in both cost and the vital services to be provided, giving vendors 5 business days to respond is not sufficient.

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