

SIGNIFICANT ACTIVITY REPORT

OIG 13-00930

TUESDAY, JULY 31, 2018

IMPROPER MANIPULATION OF CPS PROCUREMENT PROCESS BY ALTERNATIVE-SCHOOL OPERATOR, GARY SOLOMON, THOMAS VRANAS AND BARBARA BYRD-BENNETT

OVERVIEW

An OIG investigation has found that an alternative-school operator used Gary Solomon and Thomas Vranas as undisclosed lobbyists to help the company gain improper access to then-CPS CEO Barbara Byrd-Bennett, manipulate CPS procurement processes and win contracts to operate four CPS schools. Byrd-Bennett, Solomon and Vranas are currently serving prison sentences for a separate CPS matter investigated by the OIG, the FBI and the U.S. Attorney's Office for the Northern District of Illinois.

Solomon's and Vranas's work for the alternative-school operator — much of it highly unethical — was critical in establishing and growing the company's presence in CPS. The company presently operates six CPS schools and has received more than \$67 million in CPS business.

Specifically, the OIG found that the alternative-school operator: (1) leveraged Solomon's and Vranas's relationship with Byrd-Bennett to obtain confidential inside information regarding forthcoming Requests for Proposals and to gain behind-the-scenes access to her and her staff; (2) sought to ensure that a direct competitor would not obtain CPS business; (3) used Solomon and Vranas to ensure that it would bypass the district's normal procedures for establishing contract schools and instead work directly with Byrd-Bennett and her staff; (4) hired a former CPS Network Chief (the "Former CPS Chief"), whom Byrd-Bennett had mentored at the SUPES Academy, as part of a "wink-wink" agreement with Byrd-Bennett to continue the company's business dealings with the district; and (5) improperly failed to disclose that the company had retained Solomon and Vranas to represent its interests to CPS officials. Additionally, the OIG learned that, while the company was doing business with CPS, it considered offering Byrd-Bennett post-CPS employment.

The OIG's investigation of the company began during the OIG's investigation of Byrd-Bennett and the companies owned by Solomon and Vranas — the SUPES Academy, Synesi Associates and PROACT Search. At that time, the OIG learned that the school operator had retained Solomon and Vranas to represent its interests before "key district administrators" in seeking to open contract schools at CPS. Under the company's consulting agreement with Solomon and Vranas, the company paid them a monthly base fee, as well as a \$25,000 "success fee" for each CPS school it opened.

The company paid Solomon and Vranas a total of \$294,000 in consulting fees for their work in Chicago. Those payments included \$194,000 in base consulting fees and \$100,000 in "success fee" payments for their work in establishing four of the company's schools in CPS ("School A," "School B," "School C" and "School D") from 2012 to 2014.

Furthermore, in October 2012 the company paid SUPES \$60,000 to be named a sponsor of the SUPES Academy on Byrd-Bennett's suggestion.

The company also paid the Former CPS Chief it hired to obtain additional CPS business just over \$340,000 while it employed him from March 2013 to October 2015.

When considering the salary the company paid the Former CPS Chief on top of the payments it made to Solomon and Vranas, the school operator spent a total of nearly \$700,000 to obtain confidential information and Byrd-Bennett's ear and favor.

The financial investment in influence peddlers was well worth it for the school operator, which received tens of millions of dollars in CPS funding. Through Solomon's and Vranas's coordination with Byrd-Bennett and manipulation of CPS's procurement process, the company opened its first four schools in CPS. It subsequently opened more CPS schools, and to date, CPS has paid it more than \$67 million.

Because the school operator's actions constituted significant violations of CPS's procurement processes, the OIG recommended that the company be debarred as a Board vendor and that the company executives who oversaw its violations ("Executive A" and "Executive B") be debarred as well.¹ The OIG, however, also recognized that the Board may decide that the company's debarment may be too disruptive for CPS given that it currently operates several schools. In the event the Board reaches that determination, the OIG recommended that the Board fine the

¹ Because the company operates contract schools, and not charter schools, the Board does not need to establish the limited circumstances outlined in the Illinois Charter Schools Law to justify the revocation of a school's charter.

company at least \$6.7 million and appoint an independent monitor to review and assess the company's conduct over a three-year period.

The OIG also made policy recommendations, including that the CPS Code of Ethics be amended to place a duty on lobbyists to register with the Board and disclose their interests in Board contracts. The OIG recommended that the lobbyist registry be accessible by the public on CPS's website.

The OIG reported its findings and recommendations to the Board of Education on June 29, 2018. The school operator's misconduct is discussed below, followed by the OIG's disciplinary and policy recommendations.

MANIPULATION OF CPS'S PROCUREMENT PROCESSES AND OTHER MISCONDUCT

A. USING SOLOMON TO IMPROPERLY OBTAIN ACCESS AND INSIDE INFORMATION

The alternative-school operator improperly used Solomon's and Vranas's relationship with then-CPS CEO Barbara Byrd-Bennett to obtain confidential inside information regarding forthcoming Requests for Proposals and to gain behind-the-scenes access to her and her staff.

The OIG's investigation showed that Solomon brokered a meeting between Executive B, Byrd-Bennett and her top aide at a conference in Nashville, Tennessee, in November 2012, at which time they discussed the company opening several schools in CPS. An email produced to the OIG by Solomon and Vranas's companies showed that, one week after the meeting in Nashville, the top aide emailed several high-ranking CPS employees to emphasize that Byrd-Bennett wanted to open more of the company's schools simply by amending a contract for a campus that the company was already opening: "Let me reiterate — the CEO would like the contract with [the school operator] signed this week. The CEO wants the option of 4 more [of the company's] schools."

On December 5, 2012, Byrd-Bennett emailed Solomon: "Friends at [the company] need to connect with me again. . . . trying to figure it out without breaking laws[.] So far they are on the Board agenda for 12/19[.]" Solomon responded, "Sure. Whenever is good for you."²

² At the same time Byrd-Bennett and Solomon were discussing how they could give the alternative-school operator CPS business without breaking the law, they also were negotiating the terms of their illegal kickback scheme and how Byrd-Bennett would receive money for her relatives. One day after Byrd-Bennett's December 5 email to Solomon concerning the school operator, she emailed both Solomon and Vranas asking whether there had been "any progress with [my relatives]?" Solomon immediately responded:

One week later, Solomon emailed Executive A and Executive B to relay inside information from CPS about how the district would be moving forward with their company. Among other things, Solomon said that he and CPS had discussed that: (1) CPS would approve an additional school and contract for the company at the upcoming December Board meeting; (2) “[d]uring the first week in January, an RFP will go out and [you] will respond to all parts of the RFP that you feel you can deliver upon”; (3) much of the RFP would be consistent with what Executive B, Byrd-Bennett and her top aide had discussed in Nashville; and (4) “CPS will give you all you can handle and then some.” Solomon also said in the email that on the night of the December Board meeting, in which the Board was going to approve an additional school for the company, he, Vranas and two of the executives from the company were going to go out “to celebrate.”

When the OIG spoke to the CPS official who was responsible for working on the contract issues with the company (the “CPS Official”), she confirmed that Byrd-Bennett’s top aide had pressured her in November 2012 to open more schools for the company as quickly as possible. Specifically, the CPS Official recounted, Byrd-Bennett wanted the company to grow quickly to five more campuses, and for the company’s contract with CPS for School A to be amended so as to allow for that expansion. CPS’s Law Department and Department of Procurement informed the CPS Official that CPS could not award additional contracts to the company through the amendment of one contract, and that CPS would have to issue an RFP for any new school that the district would like to open.

B. SOLOMON HELPED THE COMPANY SIDESTEP THE CPS OFFICIAL

The school operator also undermined CPS’s procurement process by taking advantage of Solomon’s and Vranas’s ability to circumvent normal procurement channels for contract schools.

Although the Board had approved a contract award for School A the week before Byrd-Bennett began working at CPS, that contract was not finalized until the following year, after Solomon and Vranas used their secret access to Byrd-Bennett to bypass CPS’s normal procurement channels. In fact, the OIG found that company executives considered Solomon and Vranas instrumental in working with Byrd-

Like we have discussed, we have created accounts that, upon withdrawal, we will pay down the taxes and distribute. You can distribute to [your relatives] as you deem appropriate. It is our assumption, that the distribution will serve as a signing bonus upon your return to SUPES/Synesi. If you only join for the day, you will be the highest paid person on the planet for that day. Regardless, it will be paid out on day one.

Make sense?

Bennett to sidestep the CPS Official, who was responsible for working with the school operator to address contract issues related to the location of School A.

In an August 25, 2012, email, Solomon informed Executive A and Executive B that Byrd-Bennett had essentially threatened the CPS Official over delays in securing School A's location by telling her "to make it happen or suffer a miserable fate." Solomon further stated that Byrd-Bennett's threats were "the driving force behind the [B]oard action" on August 22, 2012, in which the Board approved the location of School A. The contract for School A was eventually executed in March 2013, after the company again sought Solomon's assistance. Earlier that month, Executive A emailed Solomon: "Gary can you call BBB and have her lean on someone to get our contract signed in the next couple of days?"

The CPS Official corroborated that Byrd-Bennett and her top aide had pressured her with regard to using School A as a foothold for the company's expansion throughout Chicago. And the CPS Official also said that the company eventually bypassed her altogether to meet with other CPS officials.

C. THE COMPANY ATTEMPTED TO BLACKBALL A DIRECT COMPETITOR

In August 2012, Executive B asked Solomon by email to take steps to ensure that a direct competitor would not obtain CPS business. When the alternative-school operator learned that the competitor had submitted proposals in response to a CPS RFP, Executive B emailed Solomon to tell him that the company was "bad news" and "we don't want them to get started in Chicago." According to CPS payment records, the district never paid the competitor for work.

The OIG cannot say for sure that CPS did not award the competitor work specifically because of Executive B's request. But whether CPS blackballed that other company because of Executive B's request is beside the point. The request, by itself, was highly improper. He explicitly instructed the individual whom the school operator had specifically hired to exert influence over Byrd-Bennett to rig CPS's procurement process and shield the company from a direct competitor. That is, Executive B took advantage of Solomon's relationship with Byrd-Bennett to again game CPS's procurement processes to the advantage of the company and to the disadvantage of a competitor.

D. THE COMPANY'S "WINK-WINK" AGREEMENT

As part of a "wink-wink" agreement that Solomon brokered on Byrd-Bennett's behalf, the school operator hired the Former CPS Chief — who had recently resigned while under CPS investigation — with the understanding that his hiring was necessary for the company to continue doing business with CPS.

The Former CPS Chief had come under investigation by CPS's Law Department in November 2012 for having engaged in several types of misconduct, including carrying on an affair with a subordinate and residing outside of the City of Chicago. In a memorandum dated November 29, 2012, Law detailed its investigation of the then-CPS Network Chief and its conclusions. The Chief resigned from CPS on December 4, 2012, and for unknown reasons the Board chose not to place a DNH designation in his personnel file at that time, as would be expected in such instances.

The Former CPS Chief's mentor, Byrd-Bennett, came to his aid by instructing Solomon to help him find a new job, and Solomon did just that. On December 12, 2012, Solomon told Executive A and Executive B in an email that he had discussed with CPS that: "[Executive A and Executive B] are going to meet with [the Former CPS Chief] about a local Chicago position to assist in growing the number of [the company's] schools to 10, over the next three years. Hopefully, [the Former CPS Chief] came come [sic] on board by January." The Former CPS Chief officially began working for the company in March 2013.

Vranas told the OIG that the company hired the Former CPS Chief as part of a "wink-wink" arrangement that would lead to more CPS business for the company. Solomon told the OIG that hiring the Former CPS Chief was a critical piece of the company getting and maintaining work with CPS because his hiring was directly tied to the company obtaining CPS business. Solomon said he did not believe Byrd-Bennett was making a decision to use the company based on any quality considerations. Solomon further stated that the company continued to employ the Former CPS Chief despite his poor work performance solely to keep its business with CPS. When the OIG interviewed the Former CPS Chief, he acknowledged that the school operator hired him to take advantage of his connection to Byrd-Bennett.

For a while, the Former CPS Chief delivered for the company by becoming another conduit to Byrd-Bennett and using his relationship with her to the company's benefit. Even before he formally began working at the company, he coordinated strategic meetings between company personnel and Byrd-Bennett. In the months after officially joining the company, he secured a former CPS elementary school, which would eventually house the company's School B, and he worked with Byrd-Bennett to arrange for the building to be cleaned. He subsequently worked with CPS to secure another school site. Notably, the company promoted the Former CPS Chief only three months after he had officially joined the company.

The OIG believes the Former CPS Chief effectively rendered important parts of Solomon's job redundant — access to Byrd-Bennett and the ability to clear logjams. In fact, the Former CPS Chief told the OIG that, once the school operator hired him, the company no longer needed Solomon because the Former CPS Chief provided the company's connection to Byrd-Bennett. According to the Former CPS Chief, an

officer at the company said, “We no longer need Gary.” Within a year and a half of hiring the Former CPS Chief, the company appears to have made its final payment to Solomon and Vranas.

Despite some apparent misgivings about the Former CPS Chief’s performance, the company continued to employ him until shortly after Byrd-Bennett, Solomon, Vranas and their companies — including the SUPES Academy, where the Former CPS Chief also had worked — were indicted in federal court and the details of their kickback and bribery scheme were made public. Those parties were indicted on October 8, 2015, and Byrd-Bennett pleaded guilty on October 13. The next day the company dismissed the Former CPS Chief. He told the OIG he was convinced that the company ultimately let him go because of the Byrd-Bennett investigation.

Taken together, the circumstances surrounding the Former CPS Chief’s employment with the company — particularly those that relate to his hiring and termination of employment — show that, at a minimum, a tacit “wink-wink” agreement did exist in which his employment was tied to the company continuing its business dealings with CPS.

E. FAILURE TO DISCLOSE SOLOMON AND VRANAS AS LOBBYISTS OR CONSULTANTS

The school operator never disclosed to CPS that it had retained Solomon, Vranas or their companies to represent its interests to CPS officials, even though CPS’s Code of Ethics required the company to do so. Pursuant to the Code:

All contracts and leases valued at \$25,000 or more to which the Board is a party shall be accompanied by a disclosure of the name and address of:

1. Each attorney who was retained by the Board Vendor in connection with the contract or lease;
2. Each lobbyist who was retained by the Board Vendor in connection with the contract or lease;
3. Each consultant who was retained by the Board Vendor in connection with the contract or lease; and
4. Any other Person who will be paid any fee for communicating with Officials or Employees when such communications are intended to influence the issuance of the contract or lease.
See CPS Policy Manual § 503.1(XVI).

The CPS contracts that the company executed regarding the company’s schools stated that the company was required to follow all Board policies and rules. In addition, each purchase order the company received for its services stated that, as a condition of payment, the company was required to follow the CPS Code of Ethics — which includes the lobbyist disclosure requirement.

Based on Solomon’s and Vranas’s actions, as well as the consulting agreements they entered into with the school operator, the company clearly retained them as lobbyists and, thus, needed to disclose them under the Code. And, for good measure, they also constituted disclosable consultants and “other Person[s] ... paid ... for communicating with Officials or Employees ... to influence the issuance of [a] contract.”

Nevertheless, the company never disclosed to CPS that it retained Solomon and Vranas to influence the procurement process by which it opened contract schools in CPS. Notably, the CPS Official — who was responsible for coordinating with the company with respect to the procurement process — had no idea that Solomon was manipulating the process through discussions with Byrd-Bennett.

RECOMMENDATIONS

A. DISCIPLINARY RECOMMENDATIONS

Based on the evidence in this case, the OIG made the following disciplinary recommendations against the alternative-school operator and its executives:

1. The OIG recommended that the Board debar the company for its manipulation and circumvention of CPS’s procurement process. *See* CPS Policy Manual §§ 401.6(2)(i)(6), (2)(i)(9), (2)(i)(18) & (2)(k) (Bd. Rpt. 08-1217-PO1); CPS Policy §§ 503.1(I), (XVI) & (XXI)(C) (Bd. Rpt. 11-0525-PO2).
2. The OIG also recommended that the Board debar Executive A and Executive B for their respective roles in the company’s procurement violations. *See* CPS Policy Manual §§ 401.6(1.4)(s), (7.2).
3. The OIG recognized, however, that the Board may decide that the company’s debarment may be too disruptive for CPS given that it currently operates several schools. Should the Board decide that it is not feasible to debar the company, the OIG recommended that the company should still be held to account through a number of significant sanctions:
 - a. First, the OIG recommended that the Board sanction the company in an amount no less than \$6.7 million, which is ten percent of the amount that CPS had paid the company as of the OIG’s report to the Board on this matter.
 - b. The OIG also recommended that the Board not renew the contracts that it currently has in place with the company. Instead, the Board should allow the contracts to lapse and place them back out to bid. The Board should decide whether to allow the company to bid on the

contracts, taking into account the company's actions detailed in this report.

- c. Further, and as a condition of continuing to do business with CPS, the OIG recommended that the Board direct the company to enhance its internal policies and training related to doing business with CPS. The Board should further require the company to certify on an annual basis that it has complied with the CPS Code of Ethics and procurement policies.
- d. As an additional condition for continuing to do business with CPS, the OIG recommended that the Board appoint an independent monitor that is selected by the Board and the OIG, but that is paid for by the company. The OIG must be involved in determining the terms of the independent monitor's engagement, and the OIG recommended that those terms include the following:

The independent monitor shall provide services for a three-year period. Throughout that entire three-year period, the independent monitor shall have access to all of the company's books, records, personnel and facilities.

Among other services, the independent monitor shall:

(1) conduct a baseline assessment of the company's corporate ethics and compliance culture; (2) issue recommendations for improvement after that baseline assessment; and (3) conduct subsequent quarterly reviews to follow up on the monitor's recommendations so as to ensure the company's compliance with them.

Six months before the end of the three-year review, the independent monitor shall provide an evaluation to the Board and the OIG of the company's progress and improvement regarding its recommendations. At the end of the three-year period, the independent monitor shall provide a final report to the Board and the OIG that assesses: (1) the company's corporate ethics and compliance culture; and (2) the company's overall improvement and progress.

This matter is complicated by the fact that Executive A and Executive B should be debarred from CPS business for their misconduct. But if the company is permitted to continue to do business with CPS, Executive A and Executive B cannot be debarred effectively, given their high-ranking positions with the company. To address this problem, as part of the independent monitor's final review at the end of the three-year monitoring period, the monitor should assess Executive A's and Executive B's individual contributions to the company's progress and improvements with regard

to the monitor's recommendations. Based on the monitor's final, three-year assessment, the Board should determine whether additional measures should be taken as to Executive A, Executive B or the company, individually, or if they each should be permanently debarred.

With regard to the former CPS employees implicated in this investigation, the OIG noted and recommended the following:

1. Former CPS CEO Barbara Byrd-Bennett is no longer employed with CPS. She resigned her position on May 29, 2015, while under OIG investigation and is currently serving a four-and-a-half-year prison sentence for a kickback scheme involving a CPS contract with the SUPES Academy where she once worked. The Board had already placed a DNH designation in her personnel file in response to the OIG's report in another matter (OIG 15-00005), and the OIG had no further disciplinary recommendations for her.
2. Byrd-Bennett's top aide declined to speak to the OIG. She no longer is employed with CPS, having resigned her position on August 1, 2015. The Board had already placed a DNH designation in her personnel file in response to the OIG's report in another matter (OIG 15-00005), and the OIG had no further disciplinary recommendations for her.
3. As discussed above, the Former CPS Chief resigned under investigation on December 4, 2012. It certainly is not clear to the OIG why a DNH designation was not placed in his personnel file at the time of his resignation. In any event, because he should have been classified as a DNH at that time, the OIG recommended that the Board do so now.

B. NECESSARY ENHANCED PROCUREMENT PROCEDURES AND LOBBYIST REGISTRY

During this investigation, the OIG determined that CPS lacked sufficient processes to ensure that it receives all Contractor's Disclosure Forms from prospective vendors and that those forms are readily available to the public. Therefore, consistent with the Code of Ethics' disclosure requirements for contracts valued at \$25,000 or more, the OIG recommended that the Department of Procurement must take steps to ensure that: (1) it receives Board vendors' disclosures of lobbyists, attorneys, consultants and/or any other third party retained to influence the award of such contracts; and (2) the disclosures are "kept in a form which allows inspection by the public" that is easier for the public to access than their current form. *See CPS Policy Manual § 503.1(XVI)(A)-(B)*. Because Procurement told the OIG that the Office of Innovation and Incubation is responsible for RFP submissions and contracts related to contract schools, Procurement should coordinate with Innovation and Incubation to ensure that CPS receives the disclosures pertaining to contract schools.

As to the public's ability to access the Contractor Disclosure Forms, the OIG understands that, currently, the Department of Procurement maintains the forms, and that the only way that the public may access them is through a request made under the Illinois Freedom of Information Act. Accordingly, the OIG recommended that the Department of Procurement also allow the public to access the forms by placing electronic copies of them on a publicly accessible website on the cps.edu domain.

The OIG further recommended that the Code of Ethics be amended to place an explicit affirmative burden on lobbyists to register with the Board and disclose their involvement in Board contracts. The lobbyists should state whether they have a financial interest in any vendor successfully obtaining a Board contract, and, if so, they should state with specificity the nature of that financial interest. To facilitate this process, the OIG recommended that the Board create and maintain a lobbyist registry, which should be modeled on the City of Chicago's electronic lobbyist filing system that is accessible on the City's website and, among other things, should be kept in an electronic format that is maintained on the cps.edu domain. And the OIG should be involved in the development of the registry.

The OIG advised that the Board should consider which CPS department is best suited to manage the lobbyist registry, including, perhaps, the Ethics Advisor, Procurement or some other unit. Critically, the Board must provide sufficient funding and additional staff to whichever unit becomes responsible for the registry so that it has the capacity to establish the registry, ensure that it is kept up to date, and communicate with other departments, such as Procurement and the Ethics Advisor, as the need arises. In addition, the unit managing the registry should refer any inconsistencies or improprieties involving registered parties to the OIG as appropriate.