REPORT DIGEST

MANAGEMENT AUDIT OF THE

\$1 MILLION GRANT TO THE LOOP LAB SCHOOL

Released: July 2009



State of Illinois
Office of the Auditor General

WILLIAM G. HOLLAND AUDITOR GENERAL

To obtain a copy of the report contact:

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SYNOPSIS

House Resolution 1190 directed the Auditor General to conduct a management audit of the process involved in the \$1 million grant to the Loop Lab School (School). Our audit concluded that:

- The previous Governor initially promised the Pilgrim Baptist Church (Church) \$1 million in State grant funds on January
 9, 2006, three days after a fire destroyed the Church.
- The **previous** Governor's Office had no policies and procedures for administering these types of grants, even though it directed and approved **over \$45 million** in grants from the Fund for Illinois' Future in FY06-07.
- While the previous Governor promised the funds to the Church, it appears a **member of his staff then directed** the funds to the School and not the Church.
- While the previous Governor indicated there was a "bureaucratic mistake," his staff was aware that the Church and School were separate entities on January 18, 2006, 12 days after the fire.
- On **November 22, 2006**, DCEO executed a grant with the School to purchase property to relocate its operation.
- After numerous inquiries by auditors, spanning an 8-month period, a Governor's Office official reported to auditors that the former Governor was "unable to recall" who the exstaffers were or who told him about the situation.
- DCEO was not timely in completing the grant recovery process with the School. During the recovery process:
 - The School **attempted to sell** the property for \$950,000.
 - After outstanding expenses and liens a total of \$119,000 would have remained.
 - In May 2009, the School agreed to repay the State.

 Given that the real estate is the only reported asset the School has and given the number of claims against the School, the State will likely recover very little of the \$1 million grant to the School.
- On March 3, 2008, the previous Governor again promised \$1 million to the Church. That same morning a news story questioned his initial promise.
- While the grant was executed June 30, 2008, it has not been paid due to an ongoing lawsuit.
- Internal controls at DCEO were **circumvented** in the award and processing of the grants to both the School and Church.
- We received limited cooperation from the former Governor's Office, however, during the period of March through May 2009 staff in the current Governor's Office found and provided over 900 pages of documentation.

REPORT CONCLUSIONS

On January 6, 2006, a fire which began on the roof gutted the **Pilgrim Baptist Church** (Church) and spread to the adjacent building, which housed Church storage on the 2nd floor and leased space for the Loop Lab School (School) on the ground floor. The Church had rented the premises to the School for about two years, from 2004 to 2006.

Loop Lab School

The overall concept of the **Loop Lab School** is for parents who work in the Loop area of Chicago to have the opportunity to send their children to a school **located** in the Loop area. The School was prekindergarten through 8th grade, with a nine to twelve month program – meaning summer school was available for children who needed it or an option for parents who had to work. During the audit we found that the School:

fire destroyed the space Loop Lab School leased from Pilgrim Baptist Church.

A January 6, 2006

- Incorporated June 7, 1983, but has been negligent in maintaining its filings with the Secretary of State (SOS).
 Loop Lab School has been dissolved numerous times, indicating it has not provided its annual report to SOS.
- Has been a family-run school organization. In July 2006, while Loop Lab School was going through the grant process with DCEO, the corporation's officers included its founder as president, her nephew as secretary, and niece as treasurer. The niece and nephew have also held operational titles (finance manager and personnel manager) for the organization. On October 9, 2007, a great-niece replaced the founder as president of the organization with the founder staying on as a director.
- Has operated from five locations since its incorporation in 1983. All five of these leased facilities were located in Chicago.
- Operated under a lease with the Church to occupy approximately 6,200 square feet in the administration building and another 320 square feet in the computer room of the Church's community center building located across the street (3300 South Indiana) for a gross monthly **rent of \$9,800** per month.
- Was significantly behind in rent payments at the time of the fire in January 2006. According to Church documentation the School's director was notified that **delinquent rent payments**

The School has operated from five leased sites during its existence. The School received \$1.8 million in State childcare funds from FY00-07.

The previous
Governor's Office
was not fully
cooperative with
the audit.

The *current*Governor's Office did provide over 900 pages of audit information.

totaling \$77,800 were owed for rented space. This amount, plus rent for November and December 2005, was never paid.

- Enrollment declined over the past four reporting periods for which the School filed information with the Illinois State Board of Education. During the school year in which the fire took place, 2005-2006, Loop Lab School had an enrollment of 82 students; 3 school administrators; 8 faculty positions; and 3 support personnel.
- Also operated as a childcare center and received \$1.8 million from FY00 through FY07 from the Department of Human Services (DHS) for eligible children under the State's Childcare Assistance Program. However, in some instances, the School utilized these monies for the child's tuition, which was not an allowable use of the State funds according to DHS policy. (pages 10-14)

Limited Cooperation – Former Governor's Office

House Resolution 1190 asked the Auditor General to review the funds promised to or received by the Loop Lab School and the Pilgrim Baptist Church. Specifically the Resolution directed the Auditor General to determine how and when the funds were promised to the Church and what process was followed, if any. The **Governor's Office under the previous administration** was untimely and not fully cooperative in providing information to auditors during the audit. For instance:

- The **previous Governor** stated in early 2008 that the funds that went to Loop Lab School were part of a bureaucratic mistake by a couple of ex-staffers. We first requested the identities of these two individuals on May 27, 2008. After at least **seven additional requests**, a Governor's Office official reported on January 20, 2009, **nearly eight months later**, essentially that the former Governor was unable to recall who the ex-staffers were or who told him about the situation. The official then described the conversation with the Governor as attorney-client privileged communication.
- We also asked staff in the previous Governor's Office for any and all communications relevant to the Loop Lab School or Pilgrim Baptist Church grants. While we did receive some documentation, we were not provided with all requested information.
 - Staff from the Governor's Office in the current
 administration did make the effort to find and provide over

900 pages of documentation relative to the Loop Lab School grant that involved top level officials from the **previous administration**. This included:

- March 6, 2009 473 pages of documentation from emails:
- April 2, 2009 139 pages of documentation from email accounts of senior level staff in the former Governor's Office:
- April 21, 2009 56 pages of documentation from two boxes of information not previously made available to auditors;
- May 18, 2009 259 pages of documentation from an email account of a senior level manager in the former Governor's Office. (page 21)

REPORT CONCLUSIONS: \$1 MILLION GRANT TO LOOP LAB SCHOOL

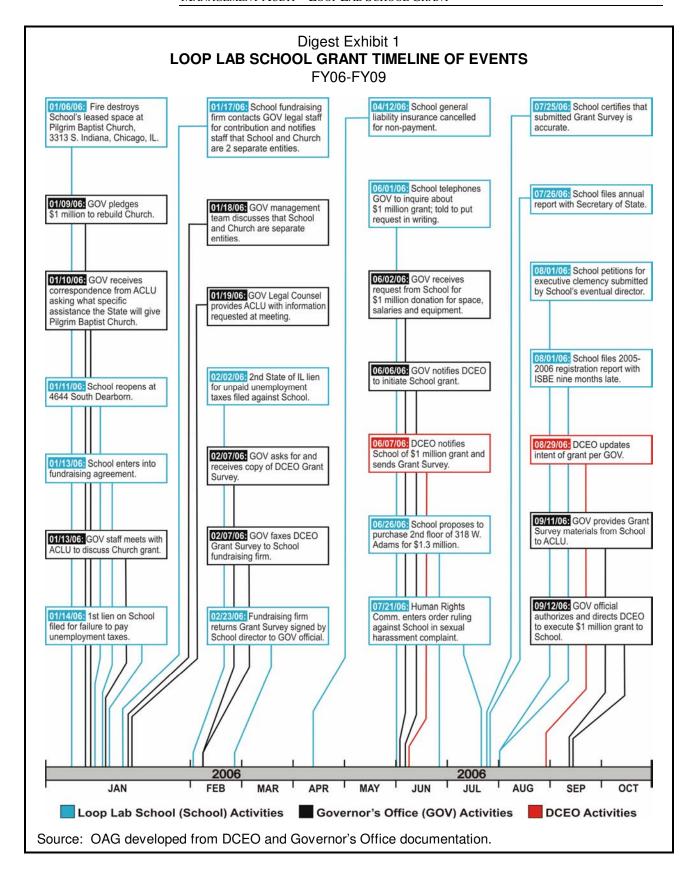
Four agencies were knowledgeable in the activities associated with or conducted activities to provide a \$1 million grant to the School from early 2006 through recovery efforts continuing in April 2009. The four agencies were the **former Governor's Office**, Department of Commerce and Economic Opportunity (DCEO), Governor's Office of Management and Budget (GOMB), and the Department of Human Services. The Governor's Office had at least 24 staff that were knowledgeable of these actions. Our examination of documentation showed participation by the:

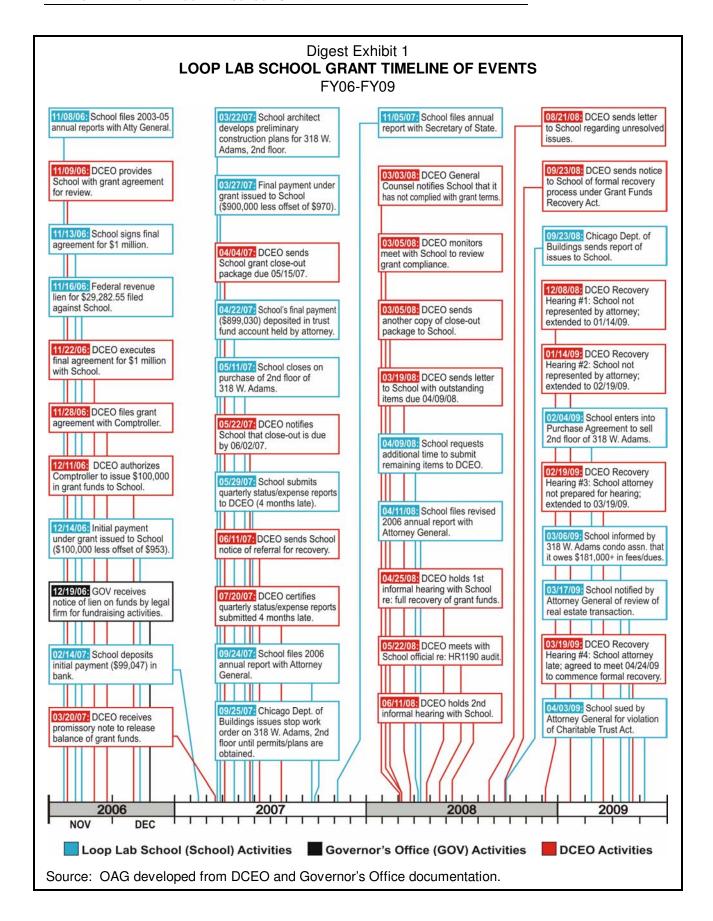
- Governor's Office including the Deputy Governor, Chief of Staff, multiple legal office officials, advisors, and communications staff.
- Department of Commerce and Economic Opportunity including the Director, legislative affairs staff, multiple legal office officials, and grants management staff.

The grant to the School was classified as a Governor's Miscellaneous Grant and DCEO was directed to award and monitor the grant. Governor's miscellaneous grants are coordinated through and approved by the Governor's Office even if a project may have been originally selected by the legislature.

Digest Exhibit 1 provides a timeline of activities associated with the \$1 million grant to the Loop Lab School. The activities are broken into those by the School, the Governor's Office and DCEO.

The \$1 million grant to the School was coordinated through and approved by the previous Governor's Office.





The grant was paid from the Fund for Illinois' Future. In FY06-07, 491 grantees received over \$45 million from the Fund.

The School used the funds to purchase property in Chicago which never actually opened for school purposes. With regard to the funds used for the Loop Lab School grant:

- The \$1 million grant to the Loop Lab School was paid from the Fund for Illinois' Future (Fund).
- DCEO officials indicated, and documentation supports that the Governor's Office, under the previous administration, made the decision to utilize the Fund for the grant.
- Significant grant funding was provided through the Fund for Illinois' Future during the time when the grant to Loop Lab School was processed. During FY06, **181 grantees received over \$19 million** in grant funds coordinated and approved by the Governor's Office. In FY07, those numbers increased to **310 grantees and over \$26 million.**
- The State Finance Act outlines the uses for the Fund. Moneys "may be appropriated for the making of grants and expenditures for planning, engineering, acquisition, . . . of public infrastructure in the State of Illinois, including grants to local governments for public infrastructure, grants to public elementary and secondary school districts for public infrastructure, grants to . . . non-profit corporations for public infrastructure, and expenditures for public infrastructure of the State and other related purposes, including but not limited to expenditures for equipment, vehicles, community programs, and recreational facilities (30 ILCS 105/6z-47(c))."
- The School purchased property at 318 W. Adams in Chicago that, as of April 2009, has **never** been suitable for school purposes. We question whether the use of this Fund for this purchase, made by a private school that charges tuition, was for "public infrastructure" and an appropriate expenditure from the Fund.

DCEO processed payments to the School as a grant for elementary and secondary educational purposes as defined by the Comptroller. Payment provisions for grant distribution included in Section 2.3 of the executed grant agreement showed that ten percent would be provided upon execution and the balance once the School provided DCEO with proof of the closing date for the property to be purchased with grant funds. The funds were distributed in two payments, both of which had distribution problems. An examination of the payments showed:

• The Comptroller **issued the initial payment** (\$99,047) on December 14, 2006. The postal service returned the warrant twice to the Comptroller as undeliverable before it was decided that a School official could **pick up the grant payment** with two forms of identification and the presence of the grant

manager. On January 31, 2007, the official received the first payment.

- The **initial payment** was endorsed by the School official and deposited into a bank account on February 14, 2007. Over a month later, on March 23, 2007, the seller received the funds as earnest money on the sale.
- The Comptroller issued the **final payment** (\$899,030.46) on March 27, 2007. This warrant was also returned as undeliverable on April 16, 2007. On April 18, 2007, the DCEO grant manager instructed the Comptroller to mail the warrant to the home address of a Loop Lab School official since the School was not able to use the 318 W. Adams mailing address until it closed on the property.
- The final payment was endorsed "Pay to the order of Atty [Attorney Name Omitted] Atty/Client Trust Fund Acct." It was also signed by the Loop Lab School Interim Director. This was deposited into a different account than the first payment.

The previous Governor's Office **did not have** a grant file to show how it authorized the \$1 million to Loop Lab School. Given that the Governor's Office authorized \$45 million in grants just from the Fund for Illinois' Future during FY06-07, the lack of grant files shows a **lack of due diligence** by the former Governor and his staff.

While the former Governor promised the Pilgrim Baptist Church \$1 million after the fire in January 2006, communications among Governor's staff appear to indicate that it was a member of the Governor's staff that directed the grant to the School rather than to the Church. A January 29, 2007 email communication from a Deputy Chief of Staff of the former Governor regarding a potential lien being placed on the Loop Lab School grant included a section which stated: "In January 2006, the Governor committed \$1 million to the Pilgrim Baptist Church project. [The Deputy Chief of Staff for Communications] directed me to the staff at Loop Lab School, an institution that leased space from the Church, to start processing the grant. Grant funds were to be used for costs associated with acquiring a new school facility. [Legal Counsel] and I worked to walk Loop Lab through the application process." Other communications showed:

• Another correspondence between Governor's Office staff, in March 2008, explained that for the grant in 2006 "After the announcement, and after a few weeks had passed and the ACLU contacted us, [the Deputy Chief of Staff for Communications] directed the grant to Loop Lab School."

The former Governor's Office did not maintain a file to show how it authorized the School grant.

The former
Governor
promised \$1
million in State
support to the
Church after the
2006 fire.

A staff member of the *former* Governor directed the grant to the School instead of the Church. The former
Governor's staff
were aware that
the Church and
School were
separate entities
12 days after the
fire.

- The former Deputy Chief of Staff for Communications, however, provided a different account when she reported to auditors that "It is her understanding that [Deputy Chief of Staff for Social Services] made the initial recommendation that the grant be awarded to the Loop Lab School, and that [Deputy Governor] approved the recommendation."
- The former Deputy Chief of Staff for Communications also told auditors that the Deputy Chief of Staff for Social Services and the Deputy Governor were operating under the assumption that the school and church were associated with each other and that the money would be used for the administration building where the school had been housed.
- However, based on an email communication, we know this to not be the case. An email communication dated **January 18**, **2006**, from legal counsel reported that a letter received on behalf of the School "clarifies that the School and the Church are separate entities (emphasis added)." This email went to:
 - The Deputy Governor referenced above;
 - The Deputy Chief of Staff for Communications referenced above;
 - The Deputy Chief of Staff for Social Services referenced above; and
 - The Governor's General Counsel.

The Governor's Office under the previous administration had no policies or procedures in awarding and administering of grants. Given that the Governor's Office was approving and directing millions of taxpayer dollars through grants, prudent practice would be for the Governor to have such policies and procedures in place.

Loop Lab School used a major portion of the \$1 million State grant for its intended purpose as stated in the budget section of the executed grant agreement, the purchase of a building. However, from an overall perspective, Loop Lab School failed to open a school.

The final intended purpose for the State funds to Loop Lab School was not completely the same as the intent in the **initial request** from the School. The previous Governor's Office **changed the intended use** of the funds (from a purpose which included some operational funds to exclusively the purchase of a building), a move that may have impeded the School from opening.

DCEO classified the grant to Loop Lab School as a Governor's miscellaneous grant. DCEO has procedures in place to process the grants directed and authorized by the Governor's Office. Our examination of available documentation found that the Governor's Office and DCEO

circumvented the internal controls in place at DCEO to process the grant authorized and directed by the Governor's Office for the School. Additionally, DCEO procedures should be reviewed to include more safeguards for State monies.

Loop Lab School was delinquent in its filing of progress reports with DCEO per provisions of the grant agreement. While DCEO notified the School it had been referred for recovery of funds in June 2007, it was **approximately nine months later**, on March 3, 2008, that DCEO notified the School it was not in compliance with the terms of the grant agreement. Coincidentally, this was **the same day** a Chicago newspaper published a story questioning whether the previous Governor had broken his promise to the Pilgrim Baptist Church when the funds went to the School.

DCEO has not been timely in completing the recovery process, putting the State funds at risk of not being recovered. As of April 2009, 22 months after first notifying the School it was referred for recovery, DCEO had still not completed the process and had not requested the Attorney General commence collection. Delays in completing the recovery process at DCEO have resulted in other entities having claims against the assets of Loop Lab School leaving potentially nothing for the State to collect.

While Loop Lab School was attempting to find an attorney to represent it in the recovery process with DCEO, it did try to sell the 2nd floor at 318 W. Adams that was purchased with the State grant. We found:

- On February 4, 2009, Loop Lab School officials executed a purchase agreement to sell the real estate purchased at 318 W. Adams to a group of other tenants of that same location in Chicago.
- The selling price for the real estate was \$950,000.
- Closing documents prepared for the proposed sale list a number of expenses for Loop Lab School for the sale. These costs included: federal and State tax liens, State and county transfer taxes, property taxes, condominium association fees and dues, commissions, legal fees and consulting fees.
- After expenses, the amount remaining from the proposed sale totaled \$119,000.

Internal controls at DCEO were circumvented in the processing of the grant to the School.

DCEO notified the School it was not in compliance with the grant on the same day a story was published that questioned whether the previous Governor broke a funding promise to the Church.

The School attempted to sell the property during the grant recovery process. Net proceeds after the sale would have left little for the State to collect from the \$1 million grant. On May 20, 2009, DCEO completed the administrative hearing process and Loop Lab School agreed to repay the State grant.
 However, with the number of claims against the School, that repayment process may be lengthy and will likely recover very little of the original \$1 million grant.

In April 2009, the Attorney General filed suit in the Circuit Court of Cook County against the School and two of its directors for violations of the Charitable Trust Act (Act). The suit has two counts:

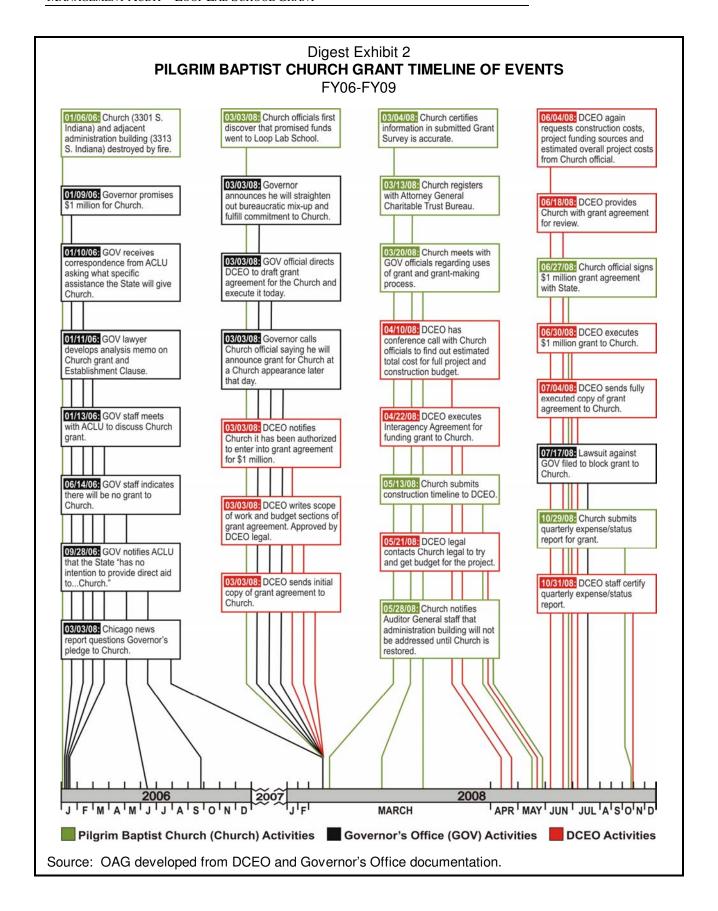
- In the **First Count**, the lawsuit states that in February 2009, Loop Lab School signed an agreement to sell the charitable asset it held at 318 W. Adams. The Attorney General contended that absent any accounting submitted by Loop Lab School, the Attorney General could not determine whether there was any waste or misuse of charitable assets in this attempted sale.
- The **Second Count** of the lawsuit alleges a breach of fiduciary under Section 15 of the Charitable Trust Act. By not timely filing its registration with the Attorney General, the directors named in the suit are in violation of Sections 15(a)(7) and 15(a)(8) of the Act. (pages 23-54)

REPORT CONCLUSIONS: \$1 MILLION GRANT TO PILGRIM BAPTIST CHURCH

Four agencies were knowledgeable in the activities associated with or conducted activities to provide a \$1 million grant to the Pilgrim Baptist Church from the time the funding was first promised in January 2006 through the actual execution of the grant in June 2008. The four agencies were the **former Governor's Office**, Department of Commerce and Economic Opportunity, Governor's Office of Management and Budget and the Capital Development Board (CDB). The Governor's Office had at least 37 staff that were knowledgeable of these actions. Our examination of documentation showed participation by the:

- **Governor's Office** including the Governor, Deputy Governor, and Chief of Staff.
- Department of Commerce and Economic Opportunity including the Director, multiple legal office officials, budget/fiscal staff, grants management staff and special projects liaison.

Digest Exhibit 2 provides a timeline of activities associated with the \$1 million grant to Pilgrim Baptist Church. The activities are broken into those by the Church, the Governor's Office and DCEO.



The *previous*Governor first
promised funding
to the Church on
January 9, 2006.

In September 2006, the *previous* Governor's staff told the ACLU that no direct aid would go to the Church.

The Pilgrim Baptist Church was promised a \$1 million grant on two separate occasions by the former Governor. The **first** promise, on January 9, 2006, did not result in funding for the Church. The **second** promise, on March 3, 2008, did result in a grant agreement and a formal commitment of State funds.

Our review of available documentation found, for the **first promise**, that:

- On January 9, 2006, three days after fire destroyed the Pilgrim Baptist Church, the former Governor stood up and pledged \$1 million to the Church during an interdenominational service in Chicago. According to the Governor's Deputy Chief of Staff at the time, the decision to give \$1 million to the Church was made by the Deputy Governor.
- On January 10, 2006, the Governor stated, apparently unaware that the Church and Loop Lab School were separate entities, the funds were "to support the reconstruction of its school." The American Civil Liberties Union (ACLU) also asked the Governor's Office about the specific assistance being pledged to the Church.
- A January 18, 2006 communication from Legal Counsel in the Governor's Office to top level staff (Deputy Governor, Chief Legal Counsel, Deputy Chief of Staff for Communications and the Deputy Chief of Staff for Social Services), 12 days after the fire, reported that a law firm representing the School had sent a communication clarifying "that the School and Church are separate entities (emphasis added)." The correspondence stated "I'm not certain who from the administration has been in contact with the Loop Lab School or any other entities involved in a potential grant to rebuild the school building at Pilgrim Baptist. I also wasn't certain if there was any notion to grant funds to the Loop Lab School, or if they are not involved at all."
- At least by June 2006, the Governor's Office knew the \$1 million promised to the Church would not be expended on an administration building at the Church site. In a June 14, 2006 correspondence among Governor's Office officials, one official reported "There is no grant to Pilgrim Baptist Church. The State is working with the Loop Lab School to provide assistance as they try to relocate and rebuild (emphasis added)."
- On September 28, 2006, the Governor's Office notified the ACLU that the State "has **no intention** to provide direct aid to Pilgrim Baptist Church (emphasis added)."

Our review of available documentation found, for the **second promise**, that:

- On March 3, 2008, the former Governor, in responding to a press story, again promised the Church \$1 million to rebuild the administration building. This was the same administration building that was the focus of the 2006 promise, a promise which had never been fulfilled by the former Governor.
- On June 30, 2008, the State did **execute** a \$1 million grant with the Church as the culmination of four months of extensive communication between State officials and the Church in an attempt to fulfill a commitment made **30 months earlier** by the former Governor to the Church.
- As of the drafting of this report in May 2009, the Church had not received the grant funds.

Our examination found that the Governor's Office and DCEO circumvented the internal controls in place at DCEO to process the grant authorized and directed by the Governor's Office for the Church. Also, it is unclear whether the Church would have been able to expend the State grant during the grant time period given the lack of planning for the construction of the administration building, the purported use for the \$1 million grant. Our review of available documentation found:

- The Governor's Office wanted a grant to move expeditiously to the Church.
 - On March 3, 2008 at 9:10 a.m., the Governor's Chief of Staff directed the DCEO director to "draft a grant agreement for the church. We want it ready for execution today. [Deputy Governor], who can we get to appear with us today from the church?" This was the same day the news story was published questioning the former Governor's initial pledge to the Church.
 - Drafting up a grant agreement without any information from the Church would appear to violate the procedures in place at DCEO.
 - DCEO officials developed the scope of work and budget sections for the grant agreement before the Church responded to the Grant Survey.
- In its haste to process the \$1 million grant to respond to the news report, the Governor's Office was not even aware of what the Church utilized the building for.
 - In a March 3, 2008 correspondence, the GOMB director questioned the use of the Build Illinois Bond Fund as a funding source for the Church grant. A Governor's Office official indicated the uses were "Libraries and library

On March 3, 2008, the *previous* Governor again promised funding to the Church.

That same day a news story questioned the *previous* Governor and his initial commitment to the Church.

DCEO internal controls were again circumvented in the rush to get a grant to the Church.

When the grant was again promised in March 2008, the Church was not planning on the reconstruction of its administration building.

The Church has not received the grant funds from the State. systems...materials for scientific and historical surveys; eligible voc ed programs; school shops and labs; capital improvements for univs and comm. colleges; health care facilities" When questioned as to whether the Church had any community or education program in the administration building, the Governor's Office official stated "I know they had an admin building that housed the loop lab school. Presumably, that space was used for other community activities. I see that as the ONLY way we could grant funds to a religious institution – if they have a community building."

- At the time the grant process was initiated, in March 2008, the Church was not contemplating reconstruction efforts on the administration building. Given that there was no documentation to show the architectural plans or agreements with contractors to perform the work, it is difficult to know whether the funds would have been spent on their intended purpose. We noted:
 - In the March 5, 2008 Grant Survey the Church submitted to DCEO, the Church indicated that there were actions and approvals necessary before the start of the project to rebuild the administration building.
 - In May 2, 2008 documentation provided to DCEO, the Church noted that the following activities would be housed in a new administration building: Community Food Programs, Community Job Readiness Programs, Community Health Fairs, Community Legal Clinics, Community Literacy Programs, and Community Family Activities.
 - On May 28, 2008, approximately three months after the Governor's Office announced the second promise of \$1 million to the Church, a Church official stated that in time the Church planned to raze the administration building. However, the first priority was to get the Church restored.
 - As of September 20, 2008, the day Church officials unveiled the rebuilding plans and three months after the execution of the State grant agreement, architects and Church officials stated they planned to focus on the Church first.
 - As of January 15, 2009, a Church official noted that the Church had not selected a contractor to rebuild the administration building because it had not received the grant from the State.
 - DCEO, per the grant agreement, authorized 100 percent of the grant award for disbursement by the Comptroller upon execution of the agreement by DCEO.

The former Governor's Chief of Staff directed GOMB to find an appropriate funding source for the Church grant. The decision was to use Build Illinois Bond Fund monies. However, an Interagency Agreement between CDB and DCEO had to be developed to transfer \$1 million in Build Illinois Bond Funds to be used for the grant to the Church.

On July 17, 2008, as a result of the grant to the Church, a lawsuit was filed against the Governor, the DCEO Director, and the Comptroller. The lawsuit requests an injunction preventing the release of grant funds to the Church based on the First and Fourteenth Amendments of the United States Constitution and Article I § 3, Article VII § 1, and Article X § 3 of the Illinois Constitution. Due to this legal action, the Comptroller, in consultation with the Attorney General, decided to hold the payment of the \$1 million grant to the Church. (pages 55-72)

A lawsuit was filed to prevent the release of funds to the Church in July 2008.

AUDIT RECOMMENDATIONS

The Audit contains eight total recommendations directed to the Governor's Office, the Department of Commerce and Economic Opportunity and the Department of Human Services. The agencies generally agreed with the recommendations. Appendix G of the audit report contains the agency responses.

WILLIAM G. HOLLAND Auditor General

WGH\MJM July 2009