

**FI (3) Work Step**

Conduct appropriate investigative steps to determine:<sup>176</sup>

- If the Facilities Subcommittee recommended to the Board that SGI be selected contrary to staff recommendation **(A)**
- If SGI withheld or failed to make payments to subcontractors working on District projects through SGI **(B)**
- If SGI was paid inappropriately for sick and vacation time and if SGI billed the District for hours not worked by SGI employee **(C)**
- If District paid SGI for computers that were never received at the District office **(D)**
- If SGI employees possess the appropriate qualifications as stated in the terms specified in the SGI contract with the District **(E)**
- If sufficient supporting documentation was provided with invoices submitted by SGI to the District **(F)**
- If SGI communicated an incorrect and lower cost for change orders **(G)**

**Results of Testing**

A summary of investigative steps performed by VLS included review of certain documents, interviews of certain District employees, both current and former; interviews of certain current and former vendors of the District Bond Program. To meet the objective of this work step, VLS performed testing and investigative steps for each of the subsections (A) through (G).

**(A) Conduct appropriate investigative steps to determine if Facilities Subcommittee recommended to the Board that SGI be selected contrary to staff recommendation**

**Related Allegation**

VCA (3) - The Facilities Subcommittee recommended to the Board that SGI be selected against staff recommendation.

**Results of Work Performed****Documents reviewed**

VLS reviewed Board minutes, Board agenda packets, audio recordings of Facilities Subcommittee meetings, and video recordings of Board meetings in order to understand the process that took place leading up to the selection of SGI as the Project and Construction Manager in October 2013. In addition, VLS reviewed the related Request for Proposal (RFP), and the results of the evaluations of firms responding to the RFP.

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<sup>176</sup> The letter included in parentheses after each item in bullets provides reference to the applicable section in the “Results of Testing.”

Timeline Related to Selection of SGI as PM and CM in 2013

Table 19 provides a timeline of the relevant milestones related the selection of SGI for the 2013 contract for Project Manager (PM) and Construction Manager (CM). Additional details are presented after the table for the most critical milestones related to this process.

**Table 19: Timeline Related to Selection of SGI as PM and CM for 2013 Contract**

Date	Timeline
7/31/2012	District issued the Request for Proposals for program, project and construction management services; WCCUSD Measure D 2010 Bond Program was advertised
8/15/2012	District held an informational pre-proposal meeting
8/29/2012	District received six proposals by the due date
12/20/2012	Evaluation Committee evaluated the six proposals received
3/25/2013	Selection Committee interviewed the four firms with the highest scores
4/9/2013	Associate Superintendent of Operations and Bond Program presented the Selection Committee's recommendation to the Facilities Subcommittee (FSC) that SGI be selected as the PM and Roebbelen be selected as the CM. The FSC rejected the recommendation that Roebbelen be selected as the CM and decided that SGI would continue providing both PM and CM services (at the time, the FSC was composed of two members: Charles Ramsey and Madeline Kronenberg)
5/1/2013	On 5/1/13 the Board approved the FSC's recommendation to award the new contract to SGI for PM and CM services as consent item C.7
7/24/2013	Board approved the SGI 2013 contract as a consent item; at the time to discuss consent items Mr. Ramsey requested that the phrase "Shall be terminated only for cause" be included in the contract. The Board unanimously approved this request.
9/11/2013	Board approved the revision for SGI contract clause amendment
10/1/2013	Contract for PM/CM services was executed by SGI and WCCUSD

Evaluation of Proposals

On 12/20/2012, two District employees and two Chief Facilities Officers from other school districts, met to evaluate the six proposals received to determine the firms that would be invited to an interview. The Evaluation Committee was comprised of the following members:<sup>177</sup>

- a. Keith Holtslander, Director of Facilities & Construction for WCCUSD
- b. Luis Freese, Maintenance & Operations Executive Director for WCCUSD
- c. Lew Jones, Facilities Director for Berkeley Unified School District
- d. Steve Adamo, Director of Maintenance and Construction for San Jose Unified School District

Each committee member was provided a copy of the six proposals received, a copy of the Selection Criteria, and Evaluation Criteria, a Conflict of Interest Disclosure Form, and a Scoring Sheet. Committee members scored firms based on the criteria provided. Table 20 includes the scoring performed by the Evaluation Committee. **Exhibit FI3-01** includes a copy of the evaluations.

<sup>177</sup> The titles presented are the titles of the individuals at the time of the meeting on 12/20/2012.

**Table 20: Results of Evaluation Performed by the Evaluation Committee**

Evaluator Name	Roebbelen/ AECOM	DAGM	RGM	SGI	WLC	Miller & Assoc.
Keith Holtslander	130	132	99	96	91	80
Luis Freese	129	117	101	103	97	86
Lew Jones	130	112	104	111	74	69
Steve Adamo	145	140	145	135	135	88
Total Points Awarded	534	501	449	445	397	323
Difference to SGI	89	56	4	0	-48	-122

The four top scoring firms were invited to interview with the District's Selection Committee. The firms selected to interview were Roebbelen/AECOM, DACM, RGM, and SGI. During Phase I interviews, it was communicated to VLS that typically only the three top scoring firms are interviewed during the RFP process. However, in this case the top four firms were interviewed as SGI had come in a close fourth and because of its history with the District. According to a former District employee who was interviewed by VLS, Mr. Fay made the decision to include SGI in the interview process.

#### Interview of the Four Top Scoring Firms

On 3/25/2013, three District employees and two individuals from other school Districts (which made up the Selection Committee) interviewed the four top scoring firms. The Selection Committee was comprised of the following members:<sup>178</sup>

- a. Magdy Abdalla, Chief Engineering Officer, WCCUSD<sup>179</sup>
- b. Keith Holtslander, Director of Facilities & Construction, WCCUSD
- c. Luis Freese, Maintenance & Operations Executive Director, WCCUSD
- d. Lew Jones, Facilities Director Berkeley Unified School District
- e. David L. Goldin, Chief Facilities Officer, San Francisco Unified School District

After observing the presentations by the four firms, the Selection Committee asked questions of the candidates. According to a summary of the process provided to VLS the Selection Committee evaluated the candidate firms based on each firms' understanding of the requirements and needs of the District's Bond program as demonstrated by the four firms during the interview process. **Exhibit F13-02** includes this summary. The Selection Committee rated the candidates on the completeness of their understanding of the District's Bond program and their demonstrated

<sup>178</sup> The titles presented are the titles of the individuals at the time of the interviews on 3/25/2013.

<sup>179</sup> Mr. Abdalla is no longer employed by the District. Mr. Freese currently holds the position of Chief Engineering Officer.

ability to meet the District's capital program needs. Based on the Selection Committee's evaluation, the following recommendation was prepared to present to the FSC:<sup>180</sup>

*Given SGI's invaluable institutional knowledge regarding the District's Capital Program, SGI should be retained to perform Program Management services. Roebbelen should be retained to provide Construction Management services because it has greater demonstrated construction management experience and skills. The Selection Committee agreed that RGM could be appropriate for certain select, construction management projects, but RGM did not have sufficient experience or capacity to perform the entire Program/Construction Management services. Finally, the Selection Committee agreed that DACM was not sufficiently experienced to provide the services required by District's Capital Program.*

#### Staff Recommendation to FSC

On 4/9/2013, according to the audio recording of the FSC meeting, Cate Boskoff, the District's legal counsel from Orbach, Huff & Suarez, presented to the FSC the process undertaken to design the selection process to ensure that it complied with California Public Contract Code and relevant government code sections. She also detailed the evaluation process for the six firms responding, and the seven-hour interview process that took place on 3/25/2013. Bill Fay, Associate Superintendent of Operations, presented the staff recommendation to bifurcate the Project Management and the Construction Management by retaining SGI as the Program Manager and Roebbelen as the Construction Manager.<sup>181</sup> Mr. Ramsey stated that he did not see a performance issue with SGI and that he was not going to make that recommendation. He stated that he was glad the District went through that process because he is "a lawyer and the District wants to be able to stay legally sufficient, if somebody sues." Then he interjected "ain't nobody gonna sue anyway."<sup>182</sup>

Mr. Fay emphasized that part of the evaluation panel included "outside people," and the issue was not related to the performance of SGI. Mr. Fay then stated that a secondary recommendation was to install SGI as the PM and CM, set up a bench, and recommend that the Board give two contracts, with SGI being the prime.<sup>183</sup> Mr. Ramsey stated that this was not necessary. He stated, "I don't mean to bring Roebbelen in, I don't want to bring anybody in. I have a performance audit that says the marriage is working." Ms. Kronenberg added that she

<sup>180</sup> VLS was not provided any additional scoring of the firms after the interview process or any further records related to the interview process.

<sup>181</sup> Mr. Fay is no longer employed by the District. Currently, Lisa LeBlanc holds the position of Associate Superintendent of Operations.

<sup>182</sup> As per the audio recording of the FSC meeting.

<sup>183</sup> It did not appear by the review of the FSC recording that Mr. Fay was given an opportunity to present what he meant by setting up a bench and awarding two contracts with SGI as the primary.

did not see anything that persuaded her that the District should leave SGI. She stated that the performance audit showed that "we are doing a good job with our program" and that to suddenly decide to bifurcate even though it has been effective does not make any sense to her.

Mr. Ramsey stated that his recommendation would be to "keep the current situation with the Seville Group as the PM and CM." Mr. Ramsey told Ms. Boskoff, "You have gone through the RFP process, you've gone through an independent, neutral, --I didn't talk anybody into-I didn't get involved. No Board member got involved. They went throughout the process, you went through your own screening, you decided who you wanted to interview, they came in and they interviewed, you did your scoring, you did your recommendation, and you're giving us your recommendation. That's great. We reject it." Mr. Ramsey then concluded that the recommendation to the Board would be to keep SGI as the PM and reject the part of the staff recommendation to award Roebbelen the CM contract. Ms. Kronenberg agreed to make this recommendation to the Board.<sup>184</sup> **Exhibit FI3-03** shows the transcript of the voice recordings for this meeting.

#### FSC Recommendation to the Board and Approval by the Board

On 5/1/2013, the Board approved the FSC's recommendations to award a new contract to SGI for PM and CM services as consent item C.7 along with eleven other items. A consent item is considered a routine matter and is normally enacted, approved and adopted in one motion, unless a request for removal, discussion, or explanation is received from any Board member or member of the public in attendance.<sup>185</sup>

The Board was provided the following information related to the recommendation to select SGI as the PM and CM, which was included in the meeting Agenda and Board Packet (**Exhibit FI3-04** includes the relevant pages of the agenda packet for 5/1/2013):

*The District undertook an RFP/RFQ process for the Program and Construction Management of the WCCUSD Bond program. This process was adjunct to the Education Code provisions on contract terms.*

*Six firms submitted proposals that were screened by a committee that consisted of facility management professionals employed by WCCUSD and other Districts that have G.O. Bond programs. Four firms proceeded to the*

<sup>184</sup> It was noticed by VLS during review of contributions by vendors as discussed in FI (1), that on 4/3/2013, less than a week before this meeting where the recommendation by staff members was rejected, SGI had made a \$25,000 contribution to the ILC. It was also noticed that in years prior to 2012/13 and the year after it, the contributions to ILC by SGI had been \$50,000 annually, while in the 2012/13 year, the contribution for the fiscal year was \$75,000. Refer to FI (1) section for the entire listing of SGI contributions made to ILC.

<sup>185</sup> The meaning of a consent item is explained in the Board agenda packets at the beginning of the Business Items Section.

*interview phase by the panel that suggested an alternate approach for these services that was presented to the Facilities subcommittee on April 9, 2013.*

*The FSC felt that a change in course was not warranted, as the program was already well managed and there was no basis to introduce an alternate management solution. As such, the committee recommends maintaining the continuity by awarding a new contract to the Seville Group, Inc., to provide both Program and Construction Management Services.*

*Staff will negotiate a new contract to be executed by the Superintendent of Schools.*

The totality of the discussion during the Board meeting on 5/1/2013 related to this matter as shown in the video recording of this Board meeting was the following:<sup>186</sup>

*Ms. Kronenberg: Consent Calendar*

*Ms. Kronenberg: Have a motion?*

*Mr. Ramsey: Move forward with the Consent Calendar*

*Ms. Kronenberg: Was anything pulled from Consent Calendar?*

*Indistinct Voice: No*

*Mr. Ramsey: Move forward with Consent Calendar*

*Ms. Kronenberg, do we have a second?*

*Mr. Enos: Aye*

*Ms. Kronenberg: All in favor?*

*Unanimous: Aye (Mr. Enos, Mr. Groves, Ms. Merriweather, Mr. Ramsey, and Ms. Kronenberg)<sup>187</sup>*

#### Board Approval of SGI 2013 Contract and Addition of “Terminated Only for Cause” Clause

On 7/24/2013, the Board approved the SGI 2013 contract as a consent item. The video recording of this Board meeting shows that, at the time to discuss consent items, Mr. Ramsey interjected: “I do not want to pull it. I just want to add a clause or amendment to C.13.” Consent item C.13 was the agreement for Program, Project, and Construction Management Services between the District and SGI. The following paragraph was Mr. Ramsey’s recommendation to the Board that the “*shall be terminated only for cause.*” Clause be added to the SGI contract and his explanation as to why he believed it to be necessary:

<sup>186</sup> This group of consent items was approved by the Board at the 1:39:14 to 1:39:35 time mark of the recording, which is available at the following link:

[http://richmond.granicus.com/MediaPlayer.php?view\\_id=15&clip\\_id=3248](http://richmond.granicus.com/MediaPlayer.php?view_id=15&clip_id=3248)

<sup>187</sup> It was noticed by VLS during review of contributions by vendors as discussed in FI (1), that on 5/10/2013, less than two weeks after this meeting, SGI had made a \$25,000 contribution to the ILC, and had made another contribution of \$25,000 on 6/21/2013.

*The final clause should be that the agreement “shall be terminated only for cause.” This is an agreement that keeps the continuity of the program flowing, so that if there is a change of Board, change of administration, that we don’t take something that has been created over the last 15 years and dismantle on the whims of individuals. I’ve seen that happen all the time and this District can’t afford it. We’ve been running a smooth program and we need to have the continuity to make sure that happens. Now if it is for cause, fine then it is justifiable, but if it’s not then you can’t just be on the personal whims of someone coming in. I think the history of the program for the last fifteen years, it is too critical for that so, that is my request... I tell you, I was not happy with staff recommendation. I thought it was ludicrous. I thought it was ridiculous to basically dismantle a whole program, based on the whims of what? So, that made me even more committed to add something that something won’t become arbitrary other than change is needed. It would be complicated we are talking about people who have been ten years with the District.<sup>188</sup>*

The Board unanimously approved Mr. Ramsey’s recommendation that the SGI contract should include the phrase “shall be terminated only for cause.”

#### Board Approval of SGI Contract with Clause Amendment

On 9/11/2013, the Board approved the revision of the SGI contract clause amendment. The following clause was added to the contract:

*In no event shall the District have the right to terminate the Agreement for its own convenience. Construction Manager shall only be terminated for cause, as set-forth herein.*

The following clause was struck from the contract:

*District shall have the right in its sole discretion to terminate the Agreement for its own convenience. In the event of a termination for convenience, Construction Manager may invoice the District and District shall pay all undisputed invoice(s) for work performed until the notice of termination. This shall be the only amount(s) potentially owing to Construction Manager’s if there is a termination for convenience.*

**Exhibit FI3-05** includes the relevant pages related to this item as presented in the Board packet.

<sup>188</sup> The discussion related to this item took place between the 0:5:04 – 0:8:33 recording times as shown in the video recording, of the Board meeting on 7/24/2013, which is available at the following link: [http://richmond.granicus.com/MediaPlayer.php?view\\_id=15&clip\\_id=3325](http://richmond.granicus.com/MediaPlayer.php?view_id=15&clip_id=3325)

## Analysis

The evaluation and selection process performed by District staff appears to have been an unbiased evaluation of the firms that responded to the RFP. Although the recommendation by the District staff that resulted from this process was rejected by the FSC, the FSC is not required to approve all of the staff recommendations; however, rejecting staff recommendations may not be prudent.

It appears that the FSC rejected the staff recommendation based on the FSC member's belief that there were no issues or problems with SGI's performance as the performance audit findings were not the results of SGI's poor performance. At the time the FSC made this decision the most current performance audit had been completed by TSS and a report had been issued on 3/21/2013. The objective of the performance audit as stated in the TSS audit report was the following: "Besides ensuring that the District uses bond proceeds from each bond measure in conformance with the provisions listed in the corresponding ballot language, the scope of the examination includes a review of design and construction schedules and cost budgets; change orders and claim avoidance procedures; compliance with state law and funding formulas; District policies and guidelines for facilities and procurement; and the effectiveness of communication channels among stakeholders, among other facilities-related issues." The findings in this report were related to the following:

- SGI not having an effective contract
- District staff awarding contracts for two construction projects without submitting staff action to the Board for approval or ratification
- District staff rejecting the bids in five construction projects without submitting staff action to the Board for approval or ratification
- Three checks not including all of the authorized signatures
- Twelve checks not including the date of signature approval

It appears that the FSC relied on the fact that the findings listed in the performance audit did not appear to be the responsibility of SGI but rather the responsibility of the District.

However, the performance audits did list some items that could be considered issues with the performance of SGI. These items were labeled as "observations" and not findings. Observations, according to the performance audit report, are items of evidence found during the audit that relates to the quality of the product, process, or system. Observations may or may not require



corrective action and do not rise to the level of a finding. The following are some examples of observations identified in the performance audit that may be attributed to SGI's performance:

- During the 2010/11 audit period it was reported that the transition to Primavera Expedition was 90 percent complete. As of the time of writing of the 2011/12 audit, this transition remained incomplete and was not expected to be completed until early 2013. This software was anticipated to be fully integrated with the District's budgeting software by September 2012, however, that transition remains incomplete.<sup>189</sup>
- Inaccuracies in one of the primary tools used in the monitoring and reporting of bond funds, the Capital Assets and Management Plan, have been reported by the District staff and have been noted in the past. This can lead to over budgeting for projects or lead to expenditures in excess of the established budgets.<sup>189</sup>
- The District consistently has an unusually high number of amendments to all their agreements for architectural services. Excessive amendments can lead to confusion with invoicing and payments.<sup>189</sup>
- In the 2011/12 performance audit, it was reported that the Program and Construction Management staff had increased significantly. Increases were observed again in the 2012/13 audit year. These increases do not appear to correlate to the workload as indicated by the Program Expenditure Report.<sup>190</sup>

During an interview with VLS, Ms. Kronenberg mentioned that she had asked District staff whether SGI had made mistakes and asked if there was something staff could identify as to why the District should not keep SGI. During interviews conducted by VLS it was communicated that there were concerns about SGI's performance; however, VLS was not provided with evidence that these concerns were formally communicated to the Board.

### **Conclusion**

The Facilities Subcommittee recommended to the Board that SGI be selected as Construction Manager, contrary to staff recommendation, even though District staff had followed a thorough process for examining each of the RFP respondents and had based their decision on a comprehensive evaluation process. The FSC, composed of Mr. Ramsey and Ms. Kronenberg at the time, expressed as their rationale for rejecting the staff recommendation (and selecting SGI to continue as both the PM and CM) that there were no problems with SGI's performance and

<sup>189</sup> Source: Performance Audit Report for the 2011/12 fiscal year.

<sup>190</sup> Source: Performance Audit Report for the 2012/13 fiscal year.

they did not believe it was necessary to follow staff's recommendation to establish Roebbelen as the CM.

In addition, it was conveyed to VLS during interviews that the District had issued the RFP because of problems with SGI. Some of the problems mentioned included SGI billing the District for vacation time and holidays when these individuals were not actually working. However, as stated in the analysis section, VLS was not provided with evidence that these concerns were formally communicated to the Board. See FI 3-1 and FI3-6 recommendations for this area.

**(B) Conduct appropriate investigative steps to determine if SGI withheld or failed to make payments to subcontractors working on District projects through SGI**

**Related Allegation**

VCA (13) - SGI forced out subcontractors by not paying them

**Results of Work Performed**

**Documents reviewed**

VLS reviewed the Invoices SGI submitted to the District and the support attached to this invoices to identify SGI subcontractor invoices. VLS also reviewed the SGI's disbursement ledger where it recorded all payments made to subcontractors working on District projects for 7/1/2008 through 2/29/2016.<sup>191</sup>

VLS selected a sample of 70 invoices to test if SGI had paid the subcontractors in a timely manner.<sup>192</sup> VLS identified the subcontractor invoices submitted by SGI as support with its invoices to the District for General Conditions Reimbursements (GCR).<sup>193</sup> From the SGI Disbursement ledger, VLS identified the payment date for each subcontractor invoice selected to identify the number of days between the subcontractor's invoice date to the date the invoice was submitted to the District for payment, and the number of days for SGI to issue payment to subcontractors.<sup>194</sup> VLS does not know the payment terms SGI had with its subcontractors;

<sup>191</sup> As stated in Section VI, VLS had selected a sample of SGI payments to subcontracts and requested that SGI provide supporting documentation for these items. After it was evident that SGI would not comply with this request, VLS devised the alternative method of testing used for this section.

<sup>192</sup> VLS judgmentally selected the sample of 70 subcontractor invoices to ensure that there was coverage across several different vendors throughout the years included in this review.

<sup>193</sup> Invoices for GCR contained billings for expenses incurred by SGI for the use of subcontractors' services, various office expenses, and certain classifications of SGI employee labor, such as office personnel. Billings for GCR will be explained and discussed further in subsection Work Step (F).

<sup>194</sup> This was an alternative procedure performed as VLS did not receive copies of the payment checks issued by SGI to its vendors (subcontractors) and relied instead on the disbursement ledger provided by SGI to VLS. It is possible that the payment dates reflected in the SGI disbursement ledger do not

therefore, VLS relied on construction industry standard. For four subcontractors, VLS identified subcontractor payment terms included in some of the invoices submitted by SGI. These payment terms mentioned that SGI was required to pay the subcontractor invoices within 30 days from the date the District paid SGI on the subcontractor invoice.<sup>195</sup> One subcontractor had payment terms that stated SGI was required to pay the subcontractor's invoice within 15 days from the date SGI was paid by the District on the subcontractor invoice. **Exhibit F13-06** includes examples of the SGI subcontractor payment terms.

#### Results of Invoice Testing

Based on the testing performed for the 70 subcontractors selected, VLS determined the following:

- A total of 29 (42%) subcontractor invoices were paid within 30 days of the date of subcontractor invoice. This is considered appropriate timing for payment of subcontractor's invoices based on industry standards.
- A total of 19 (27%) subcontractor invoices were paid after 30 days of the date of the subcontractor invoice, however, within 30 days of SGI receiving payment from the District for said invoice. SGI had billed the District within 30 days of receiving the subcontractor invoice (therefore, the total elapsed time was within 60 days). This is considered appropriate timing for payment of subcontractor's invoices based on industry standards.
- A total of 4 (6%) subcontractor invoices were paid after 30 days of the date of the subcontractor invoice, but within 30 days of SGI receiving payment from the District for said invoice. However, SGI had failed to bill the District within 30 days of the date of the subcontractor invoice. The invoice with the longest elapsed time to payment was 126 days after the date of the SGI subcontractor invoice. The payments on these invoices are considered to have been made late based on industry standards.
- A total of 18 (25%) subcontractor invoices were paid after 30 days of the date of the subcontractor invoice, and after 30 days of SGI receiving payment from the District for said invoice. Six of these invoices were paid by SGI more than 140 days after SGI received the District payment. The two invoices with the longest elapsed time to

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accurately reflect the dates on which the actual payments were made to the subcontractors. The only way to know exactly when the subcontractors were paid would be to review a copy of the check and SGI's bank statement to determine when the check was written and deposited by the vendor.

<sup>195</sup> The subcontractors for whom payment terms of 30 days from date paid by District, were stated within SGI invoices were CMR, MBCM and Miller and Associates.

payment were 183 and 195 days after SGI received payment from the District. This does not appear to be an appropriate length of time to pay subcontractor's invoices.

From this review, it appears that SGI submitted payments for all subcontractor invoices for which it had billed and been paid for by the District.

#### Results of Email Review

Through the review of email communication of certain SGI and District employees, and emails provided by individuals interviewed, some emails were identified where subcontractors document complaints about the delay in receiving payment from SGI. In an email to MBCM, an MBCM employee states "we've been 1-month plus as many as 4-additional-months behind current month due solely because of SGI's failure to pay MBCM." **Exhibit FI3-07** includes a copy of this email communication.

#### Conclusion

The results of VLS testing show that 48 out of 70 (69%) of subcontractor invoices appear to have been paid in a timely manner (based on industry standards) and/or according to the payment terms specified by the subcontractors on their invoices. Conversely, 22 (31%) subcontractor invoices appear to not have been paid in a timely manner (based on industry standards) and/or according to the payment terms specified by the subcontractors on their invoices.

Although over 30% of invoices tested appear to have delays, and email communication showed that SGI was not paying some of its subcontractors in a timely manner, the intent on SGI's part to "force subcontractors out" could not be substantiated as all of the invoices appeared to have been paid based on the information available to VLS.<sup>196</sup> See FI3-2 recommendation for this area.

**(C) Conduct appropriate investigative steps to determine if SGI was paid inappropriately for sick and vacation time and if SGI billed the District for hours not worked by SGI employees**

#### Related Allegation

BPO (2) - SGI Billed for time not worked, sick and vacation time

During interviews conducted during Phase I the following concerns related to this allegation were raised:

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<sup>196</sup> VLS did not receive copies of the payment checks issued by SGI to its vendors (subcontractors) and relied instead on the disbursement ledger provided by SGI to VLS. It is possible that the payment dates reflected in the SGI disbursement ledger do not accurately reflect the dates on which the actual payments were made to the subcontractors. The only way to know exactly when the subcontractors were paid would be to review a copy of the check and SGI's bank statement to determine when the check was written and deposited by the vendor.

1. SGI had been billing the District for sick and vacation time.
2. SGI was billing time for Lance Jackson for about 30 to 35 hours monthly; however, it was not believed that he was actually spending this time working on the District Bond Program. Claims were made that, as long as Magdy Abdalla, District Engineering Officer from 2011/12 through 2013/14, was there, SGI was not allowed to bill for Mr. Jackson’s time.
3. Gregory Smith, the SGI Construction Manager for the Greenwood/Gompers project, was often not at the construction site.

### **Results of Work Performed**

The District’s disbursement ledger for the Bond Program (Fund 21) listed 207 checks (warrants) issued to SGI for the fiscal years 2008/09 to 2014/15. VLS requested from the District that the support packets for these payments be provided.<sup>197</sup> All of the support packets were provided with the exception of four – one for 2008/09, two for 2009/10, and one for 2012/13. Table 21 provides a summary of the total warrant amount, number of warrants, amount for warrants not received, and number of warrants not received. In summary, VLS received support for 98% of the payments that the District made to SGI for the years that were part of the scope of Phase II.

**Table 21: Summary of Total Warrants Received for Payments to SGI**

Year	Amount	No. of Warrants	Amount for Warrants not Received	No. of Warrants Not Received
2008/09	\$ 4,625,300	24	\$ 383,674	1
2009/10	5,899,894	21	518,220	2
2010/11	7,561,009	28	-	-
2011/12	8,153,000	31	-	-
2012/13	8,347,602	34	303,438	1
2013/14	9,914,711	36	-	-
2014/15	9,959,336	33	-	-
Total	\$ 54,460,851	207	\$ 1,205,332	4

VLS used the information contained in these support packets to identify billings for sick and vacation time (or any other paid time off), Mr. Jackson’s time, and Mr. Smith’s time. VLS requested from SGI timecards and SGI payroll records for a sample of SGI employees working on District projects. This information would have allowed VLS to verify that the hours billed by SGI to the District were substantiated and appeared appropriate based on employee timecards and

<sup>197</sup> Support for these payments includes a copy of the check (warrant) issued along with all of the supporting invoices and other documentation that SGI would have submitted as part of its invoices.

payroll records. As stated previously, SGI replied via its legal counsel that it would not comply with VLS's request. Because VLS was not able to obtain these documents, this review was limited to the support SGI had provided the District with the submitted invoices.

## 1. ***Billings for Sick and Vacation Time***

### Review of Contract Terms

According to the 2004 contract between the District and SGI, SGI "understands and agrees that the Program Manager's personnel are not and will not be eligible for...paid vacation, paid sick leave or other leave, with or without pay or for other benefits which accrue to a District employee." The 2013 contract contains similar language.

### Review of Email Communication

During the review of emails performed by VLS, email messages on 7/2/2012 show that Mr. Fay directed Martin Coyne, Executive Director Business Services, to audit SGI invoices for vacation/illness and any other extraneous expenses billed to the District over the previous three years.<sup>198</sup> **Exhibit FI3-08** includes a copy of this email communication (Martin Coyne email inbox).

Based on the date of the emails and Mr. Fay's instructions, had Mr. Coyne conducted this review of SGI billings to identify sick and vacation time billed to the District, the time period covered would have likely been the fiscal years of 2009/10, 2010/11 and 2011/12. However, there was no documentation provided to VLS to support that this review actually took place at this time, that SGI was requested to reimburse the District for any billings related to sick and vacation time, or that this practice by SGI stopped at this time.

### Review of Audit Reports

In the 6/30/2013 fiscal year end performance audit, dated 2/11/2014, the following observation was made: "In TSS's review of SGI invoices, an invoice listed detailed personnel charges of SGI employee's vacation and sick hours that were charged to the District. Typically, contracting agencies do not compensate an independent contractor for their employee's vacation time, sick time, and other fringe benefits." The recommendation was made that the District "review SGI's management contract to determine whether SGI's employee's vacation and sick hours are valid charges in accordance with the contract." **Exhibit FI3-09** includes the relevant page from the performance audit.

### Review of District General Ledger and Warrant Support

VLS identified by the review of the general ledger a payment to SGI for \$1,396.62 with warrant number 115919 that was not associated with a contract number. VLS reviewed the

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<sup>198</sup> Mr. Coyne is no longer employed by the District. Mark Bonnett currently holds this position.

warrant support related to this payment and noticed that this payment was a refund to SGI related to an alleged overpayment made by SGI when it refunded the District \$15,364 on 8/28/2014 for sick and vacation billings. SGI had submitted this payment to the District as a refund for billings made previously for sick and vacation time. The support for the refund to SGI provided the history behind the request from the District that SGI refund the District for prior billings of sick and vacation time. The support included with this warrant showed the months with invoices that billed for sick or vacation time were May 2012, June 2012, September 2012, November 2012, December 2012, and July 2013. **Exhibit FI3-10** includes the support included for this reimbursement to SGI.

Per VLS's review of the of the support included, it appears that the review performed by the District spanned from June 2012 to July 2013 (one fiscal year), and skipped July and August of 2012, as those months had billings for sick and vacation that were not captured in the review performed by the District. In addition, it appears that the District limited its review to the months previously stated and did not go further back more than one fiscal year in its review. The total for these billings related to sick and vacation time, as identified by the District, was \$13,966 plus an additional \$1,396 for the 10% service fee that SGI normally collected on the GCR billings.<sup>199</sup> The total amount SGI refunded the District was \$15,364. The support included with this warrant also showed that on 10/20/2014, Mr. Coyne communicated by email to Tomas Goco, who appeared to be in accounts payable, to prepare a reimbursement check to SGI for \$1,396 stating that this amount was an overpayment by SGI when refunding the District. After this refund to SGI, the net amount refunded to the District for these overbillings related to sick and vacation was \$13,966. This email is included in **Exhibit FI3-11**.

#### Review of SGI Invoices Support

VLS reviewed the support SGI provided to the District with its invoices and noticed that billings for labor of SGI employees under the GCR category were the only labor hours for which SGI had billed the District for sick and vacation time. Individuals billed in the GCR category typically worked at the central office and did not work at the construction sites and were not part of program management, design management or construction management.<sup>200</sup> Invoices for labor within the GCR invoices included time entry detail as support within the invoice. Other types of labor such as construction management and program management did not include time entry detail until about the 2014/15 fiscal year. The hours billed for construction management and program management, did not appear to always be the full 40 hours per week, which may indicate that employees' time off was accounted for and a reduction was made to reflect only the hours worked when billing the

<sup>199</sup> The appropriateness of SGI billing an additional 10% for GCR labor is discussed in the FI (4) Section.

<sup>200</sup> SGI billed the District under a separate invoice for each area of work performed: GCR, construction management, program management, etc. What was included in each type of invoice from SGI is discussed in the subsection (F) starting on page 190.

District. However, VLS did not have access to time entry detail (time cards) or payroll records from SGI, which would have allowed VLS to state with certainty that no sick or vacation time was billed for construction management and program management.

SGI billed, and was paid by the District for a total of 2,857 hours of sick time, vacation time, and other types of paid time off as reflected in the detail provided for hours billed.<sup>201</sup> These hours amount to total billings of \$120,146, which includes \$10,922 for the 10% markup applied to GRC. Table 22 provides the total annual hours and amounts billed to the District for sick time, vacation time, and other types of paid time off.<sup>202</sup>

**Table 22: Annual Hours and Amounts Paid by District to SGI for Sick and Vacation Time**

Fiscal Year	Hours Billed	Amount Billed	Amount Billed plus 10% Mark up.
2008/09	536	\$ 18,990	\$ 20,889
2009/10	495	19,084	20,993
2010/11	695	26,033	28,637
2011/12	756	30,312	33,343
2012/13	343	13,699	15,069
2013/14	32	1,105	1,216
Total	2,857	\$ 109,224	\$ 120,146
Less Refund from SGI			(13,996)
Net Paid to SGI for Sick and Vacation			\$ 106,150

### Conclusion

SGI's contract with the District did not allow for SGI to bill for any paid time off, in the form of sick, vacation, holiday, or any other type of paid time off. Based on email communications identified, it appears that the Associate Superintendent of Operations at the time (Mr. Coyne) was aware that this was an issue as early as 6/18/2012. However, the practice of SGI billing the District for sick and vacation time continued and was revisited only after it was cited as a finding in the bond performance audit report for the fiscal year ended 6/30/2013.

<sup>201</sup> Other types of paid time off included items such as holiday, personal leave and medical leave.

<sup>202</sup> The District's general ledger shows that the payments made related to the four warrants that were not provided to VLS did not contain any billings for GCR. Because the inclusion of labor hours for sick and vacation time appears to be limited to the GCR labor, the missing invoices associated with these four warrants likely did not contain billings for sick time, vacation time or any other type of paid time off. Warrant number 458521 included billings for 96.5 hours of GCR labor that had been identified by the District as billings for sick and vacation time and for which SGI had reimbursed the District. The time entry detail for this GCR labor billing was five pages long; however, VLS received only three pages. The two pages not received would have contained the details for this overbilling. Because (1) the District identified it as an overbilling and (2) SGI reimbursed the District for this, VLS included these 96.5 hours in its analysis.



When the District conducted its review of the billings for sick and vacation time, it was done for only one fiscal year and two of the months in that year were missed.

From the warrant support received, it appears that SGI consistently billed the District for sick and vacation time within the GCR invoices for the period from July 2008 through July 2013. The inclusion of sick and vacation appears to cease after July 2013. The total number of hours for sick, vacation time and any other type of paid time off was 2,857 hours and totaled \$120,146. Because SGI reimbursed the District for \$13,996,<sup>203</sup> it appears that the District paid SGI \$106,150 for sick, vacation, and any other type of paid time off that was expressly not authorized under the contract.

## **2. *Billings for Lance Jackson’s Time***

### Review of Contract Terms

The 2004 contract between the District and SGI lists Mr. Jackson in the capacity of Deputy Program Manager, and the 2013 contract lists Mr. Jackson in the capacity of Principal in Charge. Although the contract does not list the roles and responsibilities of either of these two positions, it is reasonable to expect that some hours would be billed to the District for the hours incurred by Mr. Jackson in the fulfillment of his duties.

### Interviews Conducted

According to the interview conducted with Mr. Abdalla during Phase I, he expressed concern that he would never see Mr. Jackson at the FOC building where the rest of the SGI office staff worked. Mr. Abdalla indicated that, because of this, he often rejected the billings that included Mr. Jackson’s time. Mr. Abdalla also stated that Mr. Jackson was around perhaps visiting the construction sites and “driving Mr. Ramsey around.”

### Review of SGI Invoices

VLS identified all billings made for Mr. Jackson and discovered that most of the billings for Mr. Jackson did not include time entry detail. However, time entry detail was not included as support for any other individual billed by SGI for the program management, construction management or design management until late in the 2014/15 fiscal year.<sup>204</sup> Even when SGI began to include time entry detail for other employees in the program management, construction management or design management, time entry detail was sometimes not provided as support with the billings for Mr. Jackson. VLS requested time entry detail such as time cards for Mr. Jackson; however, as stated earlier, SGI did not comply with VLS’s

<sup>203</sup> This is the net of the reimbursement from SGI to the District for the billing of sick and vacation time (\$15,362) less the reimbursement from the District to SGI for the SGI “overpayment” (\$1,396).

<sup>204</sup> The issue of SGI not submitting time entry detail as support with its invoices is discussed in section (F) of this works step.

request. Therefore, VLS was limited to performing analytical procedures, which are not as reliable as if a review of time cards and payroll records would have been conducted.

VLS noticed that, in the first half of 2008/09, the SGI billings included approximately 66 to 88 hours per month for Mr. Jackson’s time. After the first half of 2008/09, the billings for Mr. Jackson’s time decreased to an average of approximately 30 to 32 hours per month.<sup>205</sup> The billings for Mr. Jackson’s time, and the payment by the District for these billings, appeared consistent for the period of time that Mr. Abdalla was the District Engineering Officer compared to when he was not. The billings for Mr. Jackson’s time stopped after February 2015, which coincides with the timing that Mr. Jackson was named Interim Head of Facilities Planning and Management at Oakland Unified School District.<sup>206</sup> Table 23 provides the annual number of hours and the amount SGI billed the District for Mr. Jackson’s time.

**Table 23: Billings for Mr. Jackson’s Time**

Fiscal Year	Number of Hours	Amount
2008/2009	536	\$ 108,065
2009/2010	344	71,423
2010/2011	384	80,690
2011/2012	392	82,371
2012/2013	395	83,043
2013/2014	402	85,965
2014/2015	253	54,453
Total	2,706	\$ 566,010

#### Email Review

The District provided SGI employees working in the Bond program with a District email address; however, the use of District email was not required of SGI employees. VLS reviewed the District issued email for Mr. Jackson to assess the level of activity, which may be an indication of the amount of time that Mr. Jackson spent working on the District Bond Program. The assumption was that if he was emailing individuals under his supervision, VLS could reasonably assess that he was actually working on District projects. However, Mr. Jackson appeared not to use the District provided email, and, although he received emails to this email address, he never appeared to send any emails from this email address. In addition, VLS searched for Mr. Jackson’s SGI email address within the emails of certain other

<sup>205</sup> Per review of the general ledger for the Bond Fund (Fund 21), out of the four warrants for which support was not provided to VLS, three warrants were for invoices that would have likely included billings for Mr. Jackson’s time. It was assumed that the hours billed for Mr. Jackson in these missing invoices were close to the actual hours billed in the preceding and succeeding months. Therefore, VLS used the average of the hours billed in the three months just before and after the missing invoices to complete this analysis.

<sup>206</sup> **Exhibit FI3-12** includes a news article mentioning Mr. Jackson’s employment with Oakland Unified School District. **Exhibit FI3-13** includes an example of billings for Mr. Jackson’s time.

SGL employees and certain District employees to assess whether he was sending emails from his SGI email address. This search returned four emails that he sent to recipients with District emails (see table below).

**Table 24: Emails Sent by Mr. Jackson to District Email Addresses**

Date	To	Subject
3/31/2015	Melissa Payne	Re_Need More Info on Internship Opp
3/25/2015	Melissa Payne	Re_Summer Internship Program
1/22/2015	CCd Juan Garrahan	Re_Valley View Cost_Scope Review
6/19/2014	Bruce Harter	Re-Time to Meet

Based on these results, it appears that VLS was not able to assess the times he worked based on analysis of email activity.

### **Conclusion**

Based on the analytical procedures performed, it appears that billings for Mr. Jackson's time were to be expected as he performed his duties in the capacities listed in the 2004 and 2013 contract. Billings for Mr. Jackson's time were fairly consistent throughout the period of time analyzed, including the time that Mr. Abdalla was the District's Engineering Officer. Furthermore, billings for Mr. Jackson's time ended in February 2015, which was about the time he was named Interim Head of Facilities Planning and Management at Oakland Unified School District. However, because pursuant to VLS's request, SGI did not provide VLS with the requested documents and allow interviews of SGI personnel, it is not possible to formulate a conclusion on this allegation. This failure of SGI to provide requested documents and allow interviews of SGI personnel resulted in a scope limitation of the work VLS was able to perform for this work step. This has been stated in the Limitations Section of the report.

### **3. *Billings for Gregory Smith's Time***

#### **Interviews Conducted**

VLS interviewed Ray Moreno who was the Inspector of Record for the construction project where Mr. Smith was the Construction Manager. The Inspector of Record is an independent inspector required by the Division of the State Architect (DSA) and hired directly by the District. Mr. Moreno specified that his duties as the Inspector of Record did not include keeping track of when the Construction Manager was on site. However, he stated that, based on his many years as an inspector, he normally expects to see the construction manager on site approximately 90% to 100% of the time. Mr. Moreno recalled Tim Peel, who was the Construction Manager for this project prior to Mr. Smith, being at the construction site for the entire day and would often stay late or arrive early. Mr. Moreno stated that there was a noticeable difference in the days and hours that Mr. Smith was on

site. According to Mr. Moreno, Mr. Smith often arrived late or left the construction site early. He also recalled that Mr. Smith would occasionally take long weekends. Mr. Moreno estimated that, on average, Mr. Smith was on site for about 70% to 80% of the time.

VLS also interviewed John Gramling, an architect employed by HMC and who was the architect on this project. Mr. Gramling stated that he did not notice Mr. Smith being excessively absent or often not present at the construction site. Instead, he recalled that Mr. Smith was at the construction site the normal time that any other construction manager would have been.

#### Review of SGI Invoices

Per review of warrant support for invoices related to the Greenwood/Gompers construction project, Mr. Smith was not the original SGI Construction Manager.<sup>207</sup> Tim Peel was the original SGI Construction Manager for this project until 8/14/2013, and Mr. Smith began his duties as Construction Manager on 8/15/2013.<sup>208</sup>

VLS identified the hours billed by SGI to the District for Mr. Smith on the Greenwood/Gompers project through the end of the 2014/15 fiscal year. This covered the period from when he first became the Construction Manager in August 2013 to June 2015. Table 25 shows the available work hours for each month, the actual hours billed for Mr. Smith, and a percent of available hours billed.<sup>209</sup>

**Table 25: Billings for Mr. Smith for Greenwood Gompers Project**

Month	Available Work Hours for the Month	Hours Billed	Percent of Available Hours Billed
August 2013	96	96	100%
September 2013	168	160	95%
October 2013	94	184	196%
November 2013	168	152	90%
December 2013	176	160	91%
January 2014	184	160	87%
February 2014	160	152	95%
March 2014	168	168	100%
April 2014	176	176	100%
May 2014	176	168	95%
June 2014	168	168	100%
July 2014	184	176	96%

<sup>207</sup> At the commencement of this project, the school name was Greenwood, towards the end of this project the name of the school was changed to Gompers. For clarity VLS will refer to this school site as Greenwood/Gompers.

<sup>208</sup> 8/15/2013 was the first date when an invoice for this project included billings for Mr. Smith.

<sup>209</sup> **Exhibits FI3-14** includes a sample of invoices including the hours billed for Mr. Smith.

Month	Available Work Hours for the Month	Hours Billed	Percent of Available Hours Billed
August 2014	168	168	100%
September 2014	176	152	86%
October 2014	184	176	96%
November 2014	160	136	85%
December 2014	184	160	87%
January 2015	176	160	91%
February 2015	160	160	100%
March 2015	176	176	100%
April 2015	176	176	100%
May 2015	168	160	95%
June 2015	176	176	100%
Total	3,822	3,720	97%

### **Conclusion**

Although one of the independent witnesses confirmed the statement that Mr. Smith was often not at the construction site, VLS cannot conclude that the District paid SGI for hours that Mr. Smith did not work. SGI did not bill for 100% of the billable days available in the invoices for Mr. Smith's time, therefore it is reasonable that because he was not on site 100% of the time, it may have appeared as if he were often absent. However, because pursuant to VLS request, SGI did not provide VLS with the requested documents and allow interviews of SGI personnel, it is not possible to formulate a conclusion on this allegation. This failure of SGI to provide requested documents and allow interviews of SGI personnel resulted in a scope limitation of the work VLS was able to perform for this work step. This has been stated in the Limitations Section of the report. See FI3-3, FI3-4, FI3-7, and FI3-8 recommendations for this area.

### **(D) Work step - Conduct appropriate investigative steps to determine if the District paid SGI for computers that were never received at the District office**

#### **Related Allegation**

BPO (4) - SGI purchase of computers that were not delivered to WCCUSD but were billed to WCCUSD

#### **Results of Work Performed**

According to interviews conducted during Phase I, this may have occurred sometime in 2013.

### Interviews Conducted

VLS inquired of various current and former District and SGI employees regarding whether there was a specific invoice or a specific date when this had potentially occurred. No one at the District or SGI could provide specific details regarding this allegation.

### SGI Invoice Review

As a specific invoice(s) could not be isolated for this allegation, VLS reviewed all of the SGI invoices and support provided for General Conditions Reimbursements (GCR) billings for the 2012/13 and the 2013/14 fiscal years to attempt to identify when computers were billed to the District. Based on the terms of SGI's contracts, had computers been billed to the District, they would have been in a GCR invoice.

GCR includes certain types of SGI labor and items such as computer hardware, computer equipment maintenance, software upgrade, cost of printing, cost of estimating, cell phone services and various office supplies among others. In essence, all that is needed for SGI to perform its work for the District. SGI labels its invoices to the District for these costs with the identifier "GCR" within the invoice number.<sup>210</sup>

During VLS's review of the GCR invoices paid by the District, it was discovered that five laptop computers were purchased by SGI and reimbursed by the District during the time period relevant to the allegation. The support provided by SGI to the District for these computers included invoices from Dell. The "ship to" address listed on the Dell invoices was the District Facilities office at "1300 Potrero Ave, WCC USD Kaiser Bld. G Richmond, CA 94804." The invoices were stamped "received," which would indicate that the computer had been received.<sup>211</sup> The additional support provided with this invoice indicates that there was a purchase authorization process approved by the SGI Program Manager and the SGI Deputy Program Manager working with the District. Following is a description of the details of these purchases.

- Two laptops were purchased and delivered to the SGI office at the District office on 6/27/2012, at the cost of \$1,306 each for a total of \$4,164 inclusive of tax from Dell. Dell invoice number was XFTDFX278 and it was included as support for this reimbursable within SGI's Invoice number WCC J GCR-1213-01A. The District paid this invoice on 8/29/2012 with warrant number 455744.
- Three laptops were purchased and delivered to the SGI office at the District office on 8/29/2012, at the cost of \$1,581.58 each for a total of \$3,377.22 inclusive of tax from Dell. Dell invoice number was XFX9WKTF2 and it was included as support for

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<sup>210</sup> For example, invoice number "WCC J GCR-1314-07" represents an invoice to the District for Measure J general conditions reimbursement for the fiscal year 2013/14 for the month of January. In turn, the District's disbursement ledger always identified the invoice number.

<sup>211</sup> The received stamp is an SGI stamp, which was used on GCR invoices submitted to the District by SGI.

this reimbursable within SGI's Invoice number WCC J GCR – 1213-04. The District paid this invoice on 11/21/2012 with warrant number 458521.

### Analysis

The purchase order authorization for the purchase of these computers was signed by Karim Nassab, Program Director; and Juan Garrahan, Program Manager. Both Mr. Nassab and Mr. Garrahan were SGI employees. From the support included in the invoice it appears that no District representative authorized these purchase order authorizations prior to the purchase being made. However, the SGI contract allowed for SGI to purchase items such as these and then submit a GCR invoice for payment by the District. Per review of SGI's disbursement ledger, it is apparent that SGI issued payment to Dell for the purchase of these computers in advance of receiving payment from the District.

It was communicated to VLS by the District Engineering Officer that SGI was responsible for maintaining an inventory listing where the purchase of these laptop computers would have been recorded. The District did not maintain its own inventory listing for these items. Currently, as SGI projects with the District are in the finalizing stages, items that were purchased that have not exhausted their useful life will be returned to the District. Additionally, the District Engineering Officer explained that beginning in 2014 SGI was no longer responsible for purchasing equipment for its use and then submitting a GCR billing for these items. As of 2014, when items needed to be purchased for SGI's use, these items were purchased by the District and the normal District inventory tracking process was followed.

### Conclusion

Per review of the SGI invoices and supporting documentation for 2012/13 and 2013/14 for GCR billings, it appears that the District was billed for five laptop computers, for which the documentation for these purchases show a "ship to" address that belonged to the District, and the invoices for these purchases were stamped received. See FI3-5 recommendation for this area.

**(E) Conduct appropriate investigative steps to determine if SGI employees possess the appropriate qualifications as stated in the terms specified in the SGI contract with the District**

### Related Allegation

BPO (5) - SGI billed in excess of actual employee qualifications

## Results of Work Performed

In order for VLS to perform this review, additional information and documentation related to the qualifications of SGI employees working on District projects was necessary (for example, resumes, reference letters, and proof of degree completion, where appropriate). Because of the insufficiency of the information provided by the resumes included within the RFP response, VLS requested resumes of SGI employees working on District projects along with proof of degree completion if a professional degree was required for the specific position. As discussed in Section VI, SGI did not comply with VLS's request.

### Review of the SGI 2004 Contract

The 2004 contract between the District and SGI states that SGI was selected to perform the work specified in the contract because of the skills and expertise of key individuals. The key individuals' titles listed were Principal in Charge, Program Director, and Deputy Program Manager. Other titles such as Project Controls Engineer, Project Manager, and Construction Manager, are listed in the SGI staffing plan. However, there is no mention of minimum qualifications required for any of the positions listed.

### Review of the SGI 2013 Contract

The 2013 contract between the District and SGI states that SGI was selected to perform the work specified in the contract because of the skills and expertise of key individuals as set forth in the parameters of the RFP/RFQ, "Minimum District Requirement."<sup>212</sup> However, specific experience for each position is not expressly stated in the RFP/RFQ although some specific experience requirements were listed. On page 6 of the RFP, in the Required Information Section, the following experience related requirements are listed:

- Extensive experience with OPSC, CDE, DSA, Uniform Building Code ("UBC"), and Title 24 of the California Code of Regulations
- At least one principal of Firm must have a minimum of fifteen (15) years' experience in performing construction management services
- Firms must have employees certified with Primavera Project Management and Primavera Contract Management, with at least fifteen (15) years' experience in performing technical application/system support for both.

The District provided VLS a more extensive document titled Program, Project and Construction Requirements for RFP NO. 07-31-12-01 (**Exhibit FI3-16**). This document lists multiple positions

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<sup>212</sup> The RFP/RFQ referenced in the 2013 contract is the Request for Proposals for Program, Project, and Construction Management Services advertised by the District with RFP number 07-31-12-01 on 7/31/2012 (**Exhibit FI3-15**).



such as Program Manager, Deputy Program Manager, Project Manager I, etc. This document contains more specific requirements such as minimum years of experience, degrees, etc. for each position. According to the District, this is the document that was used to assess all of the four firms being interviewed prior to awarding SGI the 2013 contract. However, this document was not shared with the interviewing firms and it was rather a document that was compiled after receiving responses for the RFP. VLS planned to use this document to assess whether SGI employees possessed the appropriate qualifications.

#### Review of SGI Employee Resumes Included in SGI's Proposal

The District provided a copy of the proposal submitted by SGI where the resumes for 44 individuals were included. With the exception of the titles of Office Engineer III, Office Engineer II, and Office Engineer I, it appears that the resumes for most of the positions that were listed in the Program, Project and Construction Requirements for RFP NO. 07-31-12-01 were included. VLS compared the minimum requirements listed for each position in the Program, Project and Construction Requirements for RFP NO. 07-31-12-01 to the qualifications listed in the resumes included in the Proposal. It appears that the experience listed for many individuals was portrayed vaguely and not in a level of detail that would allow VLS to form a conclusion as to whether each individual possessed the required experience. For example, the minimum experience required for a Project Engineer is "Four years' experience in construction management of commercial and/or public facilities." The resume for one Project Engineer listed "has 13 years of experience in K-12 education, client relations, and more recently, construction management." The "more recently" is left to interpretation; therefore, further inquiry of SGI would have been needed to assess whether this individual met the minimum qualifications. The resumes that were sufficiently clear for VLS to make an assessment as to experience or education were compared to the minimum requirements, and it appears that all of the individuals possessed the appropriate experience and qualifications, with the following exceptions:

- Program Manager required a minimum of 15 years of experience in Educational Facility Construction – The resume for one Program Manager did not list the number of years of experience in this specific field.
- Deputy Program Manager required a minimum of 10 years of experience in Educational Facility Construction – The resume for one Deputy Program Manager did not list the number of years of experience in this specific field.
- Project Engineers required a minimum of four years of experience in construction management of commercial and/or public facilities. From eight Project Engineers resumes provided, the resume of two Project Engineers did not appear to meet the minimum years' experience requirement. One did not state the number of years

and instead mentioned “began with SGI as an intern.” Another stated “recent experience with construction management” (**Exhibit FI3-17** shows these resumes).

In addition, the Program, Project and Construction Requirements for RFP No. 07-31-12-01, provided by the District contained the assessment of some of the resumes. However, the titles under which the resumes appeared to be assessed were different from the title provided in the resumes. For example, a particular resume listed her as a Document Controls Engineer, while the assessment by the District appeared to have compared her experience and education requirements to those of a Project Engineer. The billings from SGI listed this employee as a Project Engineer.

### **Conclusion**

Because SGI did not provide VLS with the requested documents nor allow interviews of SGI personnel, it is not possible to formulate a conclusion on this allegation. This failure of SGI to provide requested documents and allow interviews of SGI personnel resulted in a scope limitation of the work VLS was able to perform for this work step. This has been stated in the Limitations Section of the report. See FI3-8 recommendation for this area.

### **(F) Conduct appropriate investigative steps to determine if sufficient supporting documentation was provided with invoices submitted by SGI to the District**

### **Related Allegation**

BPO (6) - Does SGI keep all records current and updated?

### **Results of Work Performed**

As stated in Work step (C), the District’s disbursement ledger for the Bond Program (Fund 21) listed 207 checks (warrants) issued to SGI for the fiscal years 2008/09 to 2014/15. Refer to page 176 of that section for additional details. These 207 warrants were issued in payment for 2,304 separate SGI invoices from 112 different purchase order numbers. VLS judgmentally selected a sample of 145 invoices from 83 different purchase orders paid with 103 different warrants. SGI presented the District with mainly three types of invoices as follows:

- Construction Management: These were invoices for SGI labor for construction management that was related directly to the construction sites. These invoices listed the construction site name.
- Program Management, Design Management: These were invoices for SGI labor for the overall management of the District Bond Program and not related directly to the construction sites. For the earlier years, SGI invoices allocated these costs to the

construction sites based on a percentage and around the middle of the 2012/13 fiscal year, SGI invoices allocated 100% of these costs to the central office.

- General Conditions Reimbursements (GCR): These were invoices for expenses incurred by SGI for the use of subcontractors' services, various office expenses, and certain types of SGI employee labor such as office personnel.<sup>213</sup> For the earlier years, SGI invoices allocated these costs to the construction sites based on a percentage and about mid 2012/13 fiscal year, SGI invoices allocated 100% of these costs to the central office.

The judgmental sample selection process was undertaken to ensure that all invoice types (Construction Management, Program Management, Design Management, and GCR) and a variety of District projects were selected.

Neither the 2004 nor the 2013 SGI contracts specified the type of supporting information that should have been included with SGI invoices. VLS assessed if the invoices submitted to the District by SGI contained sufficient supporting documentation according to best practices. As a reference, if the invoice was for payment of SGI employees' labor, appropriate documentation would include a summary of hours worked and time entry detail.<sup>214</sup> If the invoice was for reimbursement of expenses or payment of subcontractors, sufficient documentation would include copies of receipts for the purchase and/or invoices from the subcontractors.

#### Example of Sufficient Supporting Documentation for SGI Labor Invoices

As a reference, an invoice for SGI labor that would be considered to have sufficient supporting documentation would have included the following supporting documentation:

- Summary of work hours should include the type of invoice, site or location, employee name, employee position, hourly rate, and hours worked. Figure 7 is an example of a summary of work hours provided in an SGI invoice.

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<sup>213</sup> Not all of the invoice numbers for GCR were structured in the same manner; however, GCR invoices always included "GCR" within the invoice number.

<sup>214</sup> Time entry detail is, for example, a listing of days worked, the hours worked for each day, the site where the work was performed, and a short description of the work performed.

**Figure 7: Example of a Summary of Work Hours**<sup>215</sup>

		<b>Gompers HS</b>						
		<i>Details</i>						
<b>Costa Unified School District</b>		<b>Invoice Work Hours By Project Manager</b>						
<i>struction Management Fees</i>		<i>For Period Covering June 1, 2015 to June 30, 2015</i>						
	<b>2015 Billing Rates</b>	<b>1 June</b>	<b>2 June</b>	<b>3 June</b>	<b>4 June</b>	<b>5 June</b>	<b>Total Hours</b>	<b>Total Invoiced</b>
	\$129.00	40	40	40	40	16	176	
near	Hours	40.0	32.0	40.0	24.0		136.0	
	Invoiced	\$5,160	\$4,128	\$5,160	\$3,096	\$0	\$17,544	\$17,544
	Non Billable	0.0	8.0	0.0	16.0	16.0	40.0	
	<b>Total Hours</b>	40.0	40.0	40.0	40.0	16.0	176.0	

- Time entry detail should include the location of the work performed or description of the task performed, the date when work was performed, the hours worked, and a short description of the work performed. This supports the summary of work hours mentioned above.

**Figure 8: Example of Time Entry Detail**<sup>216</sup>

Name	Task Name	Entry Date	Hrs	Comments
a	Gompers	Jun 1, 2015	8.00	Prepare PCO review with CM for District PM approval. COR Minute update PCO/COR to Excel log. Estimate for PCO/COR. Write up rejection letter.
	Gompers	Jun 2, 2015	8.00	Received approval PCO. Prepare Change Order. Coordination equipment meeting.
	Gompers	Jun 3, 2015	8.00	Collect Approved in to CO. Prepare Change Order package/collect signatures. Updated approved PCO/COR to excel log. write up rejection letter to GC. Send back-up Approved Change Order No.72 to Architect for DSA Close-out.

Analysis

Of the 145 invoices tested, 98 invoices failed to include sufficient supporting documentation.<sup>217</sup> The following table provides additional details related the type of support that was not included in these invoices and that according to best practices, should have been included. When an invoice failed to include sufficient supporting documentation, as required by best practices, this invoice was deemed deficient.

<sup>215</sup> The employee name has been cropped out of this image.

<sup>216</sup> The employee name has been cropped out of this image.

<sup>217</sup> One of these 98 invoices also appeared to reflect hourly rates for some individuals that were in excess of what the 10/1/2013 contract allowed. This issue is discussed in FI (4).

**Table 26: Insufficient Supporting Documentation**

Count	Description of Deficiency
70	The only support provided with the invoice was the summary of work hours by Project Manager. No time sheet, or other type of time entry detail, was provided. <b>Exhibit F13-18</b> includes an example of these invoices.
21	The only support provided with the invoice was a summary of work hours and time entry detail. However, the time entry detail did not list the work performed or the location where the work was performed. <b>Exhibit F13-19</b> includes an example of these invoices.
3	The support provided did not include a list of employee names or the number of hours worked by employee; only a grand total of fees for hours worked was provided. <b>Exhibit F13-20</b> includes an example of these invoices.
1	This invoice was for SGI labor only. The time entry summary is included as support. The time entry detail, which includes a description of location and work performed, was present for only one of three individuals billed within this invoice. <b>Exhibit F13-21</b> includes a copy of this invoice.
1	This invoice was for SGI labor only. There was no support attached to the invoice. <b>Exhibit F13-22</b> includes a copy of this invoice.
2	These invoices were for general conditions reimbursements, which should include invoices from subcontractors included in the SGI invoice. Both invoices were missing one subcontractor invoice that was part of the general conditions reimbursement invoice total. One SGI invoice of \$49,650 was missing subcontractor Parsons Brinkerhoff's invoice for \$13,200. The other SGI invoice was for \$243,017 and was missing subcontractor Silva Consulting's invoice for \$10,125.

98 Total Count

Based on the review of this sample of SGI invoices for GCR labor, most invoices contained the time entry detail. The invoices for program management and for construction management, generally, did not contain the time entry detail. It was not until late in the 2014/15 fiscal year that time entry detail was more consistently provided to the District with SGI invoices for program management and construction management services.

### **Conclusion**

Ninety-eight of the 145 invoices tested (68%) showed exceptions for failure to include sufficient supporting documentation as follows:<sup>218</sup> 96 of the exceptions were due to failure to include time entry detail, a description of the work performed, or the location of the work performed; and two of the exceptions were related to SGI not providing a subcontractor invoice to justify a billing included in the GCR invoice. The failure on SGI's part to provide what is considered by best practices to be sufficient supporting documentation does not indicate that SGI billings were incorrect or inappropriate. However, it does indicate that according to best practices, additional documentation should have been provided with SGI invoices for those 98 invoices identified as exceptions in this section. Furthermore, had SGI provided VLS with the time cards and payroll records for a sample of employee billings, VLS would have been in a better position to establish whether these billings were correct and appropriate.

<sup>218</sup> Of these 98 invoices showing exceptions for not providing sufficient supporting documentation, one also contained exceptions due SGI employees' labor time billed in excess of the appropriate hourly rate. This issue is discussed in FI (4).

Therefore, because pursuant to VLS's request, SGI did not provide VLS with the requested documents and allow interviews of SGI personnel, it is not possible to formulate a conclusion on this allegation. This failure of SGI to provide requested documents and allow interviews of SGI personnel resulted in a scope limitation of the work VLS was able to perform for this work step. This has been stated in the Limitations Section of the report. See FI3-8 recommendation for this area.

**(G) Conduct appropriate investigative steps to determine if SGI communicated an incorrect and lower cost for change orders**

**Related Allegation**

COA (5) - Change orders will be greater than what was communicated by the SGI Construction Manager

**Results of Work Performed**

The results of the work performed for this work step are discussed in the FI (10) Section.

**Conclusion**

The conclusion reached by VLS as a result of the work performed for this work step is discussed in the FI (10) Section.

**Recommendations**

- FI3-1. Establish a procedure that requires that additional information be provided to the Board whenever a subcommittee (such as the Facilities Subcommittee) makes a recommendation to the entire Board that is contrary to the District staff recommended to that subcommittee. The information presented to the full Board should clearly identify the staff's recommendation, the basis for that recommendation, and the reason(s) that the recommendation was rejected. For example, the same presentation packet that is provided to the Subcommittee by the staff in making the recommendation should be provided to the full Board in the agenda package.
- FI3-2. District contracts with vendors that use services of subcontractors should specify that the District vendor is required to pay its subcontractors within a certain number of days and include that these payments are subject to audit by the District or assigned representative.
- FI3-3. When vendors are paid based on actual hours incurred, require that the vendors submit employee time cards along with the billing invoices. This should require that time cards

include the date that work was performed, hours worked, location where work was performed, and a description of the work. This will provide the District with sufficient information to perform a detailed review of the invoices. Ensure that there is a District staff person assigned the responsibility for verifying that all supporting documentation is provided with invoices. Payment should be rejected if invoices do not have sufficient support. These requirements should be included in the vendor contracts.

F13-4. Revise the current right to audit clause included in vendor contracts to include the following:

- At no additional cost to the District, vendor will provide the District, or its authorized representative(s), reasonable access to the vendor's facilities in order to conduct an audit
- At no additional cost to the District, vendor will provide the District, or its authorized representative, payroll files, copies of checks paid to subcontractors and any other type of documentation necessary in order to conduct an audit
- At no additional cost to the District, vendor will provide the District the right to interview all current or former employees to discuss matters pertinent to the performance of the contract
- At no additional cost to the District, vendor will provide the District adequate and appropriate work space, in order to conduct the audit as specified in the audit clause
- Vendor to agree that if an audit inspection or examination in accordance with the audit clause discovers overpricing or overcharging to the District by the vendor in excess of \$100,000 or any other reasonable amount, in addition to making the appropriate adjustment for the overcharges, the reasonable actual cost to the District for this audit shall be reimbursed by the vendor.

F13-5. An appropriate approval process should be established for vendors who are allowed to make purchases of equipment items for which the District would normally keep equipment inventory. A District employee should be responsible for authorizing these purchases. Additionally, the District should tag these pieces of equipment and keep an inventory.

F13-6. As previously stated, the professional standards promulgated by the American Institute of Certified Public Accountants (AICPA) and the Association of Certified Fraud Examiners (ACFE) prohibit VLS from rendering an opinion as to whether there has been any fraud,

- criminal activity, corruption or bribery by anyone associated with this engagement. Therefore, VLS renders no opinion as to whether there has been any fraud, criminal activity, corruption, or bribery by anyone associated with this engagement. However, VLS recommends that legal counsel provide guidance and counsel to the Subcommittee for the Clay Investigation and the Board to determine whether this report should be referred to the appropriate law enforcement agencies for appropriate action.
- FI3-7. The District should consult with legal counsel to determine whether further course of action is appropriate for work steps (C). Specifically, for work step C (Billings for Sick And Vacation Time) it appears that the District paid SGI \$106,150 for sick, vacation, and any other type of paid time off that was expressly not authorized under the contract. District may want to consider appropriate course of action including expanding scope for further testing and appropriate action to recoup any monies paid out to SGI and not authorized under the contract with SGI.
- FI3-8. The District should consult with legal counsel to determine whether further course of action is appropriate for work steps (C), (E), and (F). Specifically, the failure of SGI to provide requested documents and allow interviews of SGI personnel, which resulted in a scope limitation of the work VLS was able to perform for these work steps. Therefore, SGI may have been in breach of the Right to Audit Clause of the contract between the District and SGI by failing to provide VLS access to requested documents after reasonable notice was provided.

#### **Response by District**

- FI3-1. The District agrees with the recommendation.
- FI3-2. The District agrees with the recommendation and will confer with legal counsel regarding implementation.
- FI3-3. The District agrees with the recommendation and will confer with legal counsel regarding implementation.
- FI3-4. The District agrees with the recommendation and will confer with legal counsel regarding implementation.
- FI3-5. The District agrees with the recommendation.
- FI3-6. The District agrees with the recommendation to consult with legal counsel.
- FI3-7. The District agrees with the recommendation to consult with legal counsel.



FI3-8. The District agrees with the recommendation to consult with legal counsel.

**VLS's Assessment of Response by District**

VLS has reviewed the District response to VLS's recommendations and acknowledges the District's agreement with the recommendations provided.