

**(C) Recommendations for the District to Consider Implementing Based on the Results of FI Testing**

**What FI Recommendations Are and What They Mean**

VLS has made specific recommendations based on the results of work performed and conclusions reached for the eleven FIs. These recommendations are for the District to consider implementing as they are designed for the purpose of:

- Improving the overall efficiencies and effectiveness in the management and operation of the District Bond Program, and
- Lowering the New Risk Score, where applicable.<sup>474</sup>

Additionally, as a result of the work performed, conclusions were reached for certain FI sections [FI (1), FI (3) and FI (10)]. VLS has made a recommendation for the Board to consider referring this report to law enforcement authorities for appropriate action. VLS also recommends that the Board consider consulting with legal counsel for further course of action.

FI recommendations are noted at the end of each FI section. In addition, VLS has listed these recommendations in Table 67 beginning on page 365.

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<sup>474</sup> The following three FI recommendations were included in the “Recommendation” column in the final Risk Assessment Matrix Phase II: FI6-1, FI6-2, and FI6-3.

**Table 67: FI Recommendations**

Number	Recommendation
FI1-1	<p>Draft a “District Business Ethics Expectations” policy which articulates business ethics requirements for vendors, contractors and others doing business with the District Bond Program. Require all vendors, contractors, and subcontractors who will be doing business with the District Bond Program to implement a program requiring their employees sign acknowledgements that they have read and understand the “District’s Business Ethics Expectations” policy and the related obligations. This policy can be incorporated within the existing Board policy 9270.</p> <ol style="list-style-type: none"> <li>a. Include language in this “District’s Business Ethics Expectations” policy which requires vendors, contractors and subcontractors, who will be doing business with the District Bond Program, to disclose in writing to the District when they make any contribution or donation to any organizations or nonprofit charitable organizations in any way related or connected to the District or District Board member and any contributions to campaigns for District Board members and Bond campaigns.</li> <li>b. This “District’s Business Ethics Expectations” policy should also address: <ol style="list-style-type: none"> <li>i. District expectations that vendors, contractors, and subcontractors, while performing contract work, maintain business ethics standards aimed at avoiding any impropriety or conflict of interest which could be construed to have an adverse impact on the District’s best interests.</li> <li>ii. Vendors, contractors, and subcontractors shall permit interviews of employees, reviews and audits of accounting or other records by District representatives to evaluate compliance with the spirit of these business ethics expectations.</li> </ol> </li> <li>c. Require Board members and District staff to fully disclose to the Board in writing any solicitation of contributions from vendors, contractors, subcontractors doing business with the District organizations related to campaigns and other organizations with some connection to the District and/or the District Bond Program. Encouragement of full disclosure will discourage the potential for any improper influences and encourage the consideration of possible recusal by a Board member.</li> </ol>
FI1-2	<p>Review any agreement(s), or policies with the ILC to ensure they are current, relevant and in compliance with all appropriate legal, administrative, and best business and ethical practices. Establish clear criteria with the ILC concerning eligibility of scholarships by children and family members of Board members or District Executives (including whether children of the same should be allowed to be recipients) and full disclosure to the public of these family recipients of ILC scholarships.</p>
FI1-3	<p>In coordination with the ILC, review and evaluate marketing materials and information brochures about the ILC to ensure these materials fully disclose information about the donors and their vendor relationship with the District Bond Program.</p>

Number	Recommendation
FI1-4	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 appropriate law enforcement agencies for appropriate action.
FI1-5	The District should consult with legal counsel to determine whether further course of action is appropriate. 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. 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.
FI2-1	Ensure that the written budgeting procedures (recommended in TC6-7) include specific guidelines and instructions related to bond project budgets. The written procedures should: <ul style="list-style-type: none"> <li>• Identify all steps in the tracking/updating process for bond project budgets. Include a list of all required documents (such as Board précis, purchase order, narrative, etc.) as supporting documentation to provide an audit trail.</li> <li>• Identify all steps and the required documents in analyzing the bond project budgets to determine that the project budgets are sufficient to cover expenditures. Maintain a worksheet and attach appropriate reports to document that the analysis has been performed. Incorporate TC6-8 recommendation when a bond project budget is deemed insufficient.</li> <li>• Identify who is responsible for tracking/updating, analyzing, reviewing, reporting and approving the bond project budgets and the timing for when these processes will be performed.</li> </ul>
FI2-2	Ensure that the written budgeting procedures (recommended in TC6-1) include specific guidelines and instructions related to budget data entry in Munis. Written procedures should: <ul style="list-style-type: none"> <li>• Identify the timeline of budget entries for each accounting period.</li> <li>• Require a reconciliation process be performed at the beginning of each fiscal year (July 1) to verify that the adopted budget per the SACS report matches with the budget entered into Munis. This practice will ensure that the budget in Munis reflects the Board approved budget. The District's adopted budget is the starting point in preparing the First and Second Interim Reports.</li> </ul>
FI2-3	Work with Tyler Technologies, the company that licenses the Munis software, to modify the budgeting function in Munis so that backdating of data entry is limited only to the prior accounting period.

Number	Recommendation
FI2-4	Ensure that the written procedures (recommended in TC5-2 and TC6-2) related to the development of detailed, multi-year, line-item budgets for the approved bond projects (e.g. 21 priority schools) and the budget verification in Munis are implemented to prevent deficit spending.
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.
FI3-4	<p>Revise the current right to audit clause included in vendor contracts to include the following:</p> <ul style="list-style-type: none"> <li>• 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</li> <li>• 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</li> <li>• 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</li> <li>• 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</li> <li>• 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.</li> </ul>
FI3-5	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.

Number	Recommendation
FI3-6	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.
FI4-1	Ensure that a comprehensive analysis is performed, which includes a review by legal counsel prior to entering into contract negotiations to ensure that the terms of the contract are competitive and reflective of industry standards, includes the necessary contract language, and is in the best interest of the District. Additionally, any RFP process should include a review of costs, rates, and qualifications. Additionally, the District should perform a cost analysis prior to allowing vendors to add certain office support staff to evaluate if these positions can be filled directly by the District at a lower cost.
FI4-2	Ensure that all contracts contain a clause specifying the duration of the contract, which includes a specific start and end date as well as a not-to-exceed contract amount. Under no circumstance should the District enter into a contract that does not clearly state an end date and a contract amount. If a contract includes hourly labor rates, ensure that these rates are clearly specified in the contract and never stated simply as a total amount over a period of time. In addition, prior to paying an invoice, review the invoice to ensure that the hourly billing rates included in the invoice are reflective of the terms stated in the contract, which may include escalation rates.
FI6-1	The District and CBOC should evaluate the value (frequency and type) of proposed monthly reporting against the ongoing cost of development and maintenance of the reports as this is not required under the Education Code enumerated duties of a CBOC and runs counter to the existing statement of Board policy.

Number	Recommendation
FI6-2	The District should consider merging the two statements currently in board policy on use of District resources in support of CBOC into one clear statement. The District should also consider removing the statement “without limit” from the policy to eliminate ambiguity about which District resources are committed to support the CBOC. Having a “without limit” statement in this policy can result in less than optimum use of District resources.
FI6-3	As required by Education Code Section 15280 (a) (1), Bond Program resources should not be used to support the CBOC. The CBOC in conjunction with the District should establish a visible separate budget under a District official and charge District time and cost incurred by District staff to support the CBOC in order to provide a transparent and accountable picture to the CBOC members, the District Board, and the public.
FI7-1	When issuing Requests for Proposals (RFP) related to design services, require architects to submit their proposals using the OPSC fee schedule as a basis for their fees. For specialty services that may not fit within the OPSC fee schedule, require that architect proposals include the basis for their fee structure so that it can be analyzed along with qualifications of the architect. Ensure that the RFP process allows for competition with pricing.
FI7-2	If the District wishes to continue using a pool of pre-qualified architects, require that multiple architects submit fee proposals for evaluation by the District. This will help ensure that the District is obtaining competitive prices for the services performed.
FI7-3	If the District performs professional services, including, but not limited to, geotechnical, hazardous materials studies, and traffic mitigation, ensure that any reports or drawings related to those services are included in the project prior to going out to bid. If architect design services are required for the project, ensure these reports or drawings are provided to the architect early in the design process. This will help prevent claims from architects related to delays caused by unknown site or other conditions..
FI7-4	Enforce the contract language that requires an architect to design a school (or other project) to a pre-established construction cost budget. If the architect delivers design plans that result in a higher construction cost budget, require that the architect revise the plans to meet the established budget. Should the District decide to continue with the plans that have a higher construction budget, document in writing with the architect that their fee will not increase as a result of the increased construction costs.
FI7-5	Request that District legal counsel perform a thorough review of the architect contract template to ensure it contains provisions that are in the best interest of the District and designed to save on architect fees. Update the architect contract template as necessary and incorporate the following: <ul style="list-style-type: none"> <li>a. Revise provisions that include the terminology “reasonable,” “unreasonable,” or “significant” and provide specific time periods and/or definitions so that the contract is not subject to interpretation by the parties.</li> <li>b. Revise provisions that allow the District and architect to communicate instructions verbally. All communications and instructions related to the architect’s performance of work should be done in writing.</li> <li>c. When titles are included in certain contract provisions, ensure that the person(s) holding those titles are identified.</li> </ul>
FI7-6	Implement a competitive process for obtaining proposals related to master planning services to ensure that the District is obtaining reasonable fees.

Number	Recommendation
FI8-1	Ensure that contractors for projects requiring bid procedures are always approved by the Board only when the bid process, including conclusion of the bid protest period, has been completed. Ensure that information regarding bids received and selection of the lowest, responsive, responsible bidder is appropriately documented in Board meeting minutes and that the selection of the contractor is identified in the Board minutes.
FI10-1	The District should consult with legal counsel to determine whether further investigation is appropriate regarding the claims that change orders on the Gompers/Greenwood project were related to contractor/subcontractor mistakes and coordination problems or were inappropriate.
FI10-2	The District should consult with legal counsel to determine whether further investigation is appropriate regarding the claims that the District entertained change orders to assist the General Contractor with cash flow and the costs related to failed subcontractors.
FI11-1	Enforce the guidelines included in “specification section 0070” of the General Conditions section of general contractor agreements, which requires that general contractors submit Proposed Change Orders within five days of the knowledge of the circumstances resulting in the Proposed Change Order. This will ensure that the District is made aware of contractor requests in a timely manner and will result in more accurate reporting of potential project costs.
FI11-2	VLS acknowledges that the system the District was using when multiple purchase orders were issued for a single contract was BiTech, the District’s former financial software, which is different from the current financial system. The District is currently using the purchase requisition/order and contract module in Munis. VLS recommends that the District continue the use of the current numbering system in the Munis financial software for the bond related contracts to prevent the occurrence of issuing multiple purchase orders for a single bond related contract.