From: Butt, Tom
Subject: FW: WCCUSD Forensic Audit
Date: Wednesday, September 21, 2016 1:15:40 PM
Attachments: image001.png

Mary, that is good information to add. I think it reinforces my contention that the forensic auditors were in over their heads when they tried to dissect the school construction process beyond accounting practice issues.

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Interactive Resources, Inc.
Architects & Engineers

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From: Mary Morris [mailto:Mary.Morris@hmcarchitects.com]
Sent: Wednesday, September 21, 2016 11:54 AM
To: Marcus Hibser <mhibser@HY-arch.com>
Cc: Charles Ramsey <charamsey@comcast.net>; Steve Kwok <SteveK@qka.com>; Andy Dale <AndyD@qka.com>; andrew.butt@intres.com
Subject: Re: WCCUSD Forensic Audit

And let's not forget that the contract associated with the old OPSC fee schedule came along with a 3-page contract. Current architectural contracts now run to 60 pages or more, representing increasing -- and increasingly specific -- deliverables and increased liability on the part of the architects.

Mary E. Morris AIA, REFP, LEED BD+C

On Sep 21, 2016, at 11:43 AM, Marcus Hibser <mhibser@HY-arch.com> wrote:

> I would add:
>
> **OPSC Schedule:**
> When this was first established, fire alarms and fire sprinklers were all design-built,

there was no landscaping (typically done by parents groups) and civil engineering was contracted directly by the owner. Also, the schedule assumed that we would be given specific programmatic data. So the programming and planning phases were completely separate from this effort.

Cost Estimates:
While I would suggest that architects do need to hold to a budget, this does not eliminate the District's ability to *revise* that budget when it is to the advantage of the project and, subsequently, the students, teachers and community. When a site committee requests a community room (such as at Dover) or a Dental Clinic (such as at Peres) or the District wants to provide quality standards or program a standard community benefit (such as health clinics at all sites) then this is reflected in increased costs. The District can ultimately accept these additional costs (to accommodate all those listed above) or ask the architects to reduce the scope and therefore the cost (such as when we reduced the building size at Dover). For each subsequent submittal where costs increased for whatever reason, the District usually saw benefit in spending the additional money for safety, educational program or community benefit.

Marcus Hibser, AIA, LEED AP
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Subject: FW: WCCUSD Forensic Audit

From: Butt, Tom [mailto:tom.butt@intres.com]
Sent: Wednesday, September 21, 2016 10:04 AM
To: Bobby Dowling <bohs@earthlink.net>; matthew.duffy@wccusd.net; Valerie.Cuevas@wccusd.net; Groves, Todd <toddagroves@gmail.com>; MKRONEN <MKRONEN@aol.com>; LizBlock@comcast.net; REnos@wccusd.net; Gosney, Don <dongosney@comcast.net>; jtsai@bayareanewsgroup.com; mariandavidson@berkeley.edu; SGamba@wccusd.net; lisa.leblanc@wccusd.net; Scott Saddlemire <scottsaddlemire@gmail.com>; Ernie Cooper <ecooper@vlsllp.com>
Subject: WCCUSD Forensic Audit

I have some comments on the Forensic Audit that I hope you will consider before producing the final version.

Architectural Fees

One section of the audit dealt with architectural fees and included Interactive Resources and Wilson School as a case study. There was no effort to determine if any of the fees in the case studies were fair or appropriate on their own merits. Instead, the audit totally focuses on comparing fees with an OPSC (Office of Public School Construction - California's Department of General Services. As staff to the State Allocation Board – SAB - the OPSC implements and administers a $35 billion voter-approved school facilities construction program) fee schedule that has not been used by OPSC for nearly 20 years (1998). Had VLS contacted OPSC to discuss the reason the fee schedule was adopted and the reason it was abandoned, they would have learned that it was not a reliable tool to evaluate fees used in the WCCUSD Bond Program or for any other school construction project in California.

The OPSC fee schedule was crafted by OPSC not as a tool to set, evaluate or suggest architectural fees. It was solely a tool to determine and provide some uniformity in the reimbursement amount for cost -sharing grants to local school districts participating in a lease-purchase program. In 1998, the grant program changed, and total control was given to local districts to determine both construction costs and design fees.

I have discussed this at length with a current staff member of OPSC, Michael Watanabe (916/376-1646, michael.watanabe@dgs.ca.gov), and a former staff member of OPSC, Bill Savidge (510) 715-9089), who is also a former WCCUSD Engineering Officer. Both explained to me that not only was the fee schedule never intended to set or suggest fees, but there have been so many changes in the design requirements for schools since 1998 that such a fee schedule would be obsolete even if it was intended to set or suggest fees. In the last 20 years, the requirements for design of schools have become much more complex and time-consuming, including generally, the use of sustainability requirements such as CHPS or LEED, substantial structural building code changes, EPA requirements implemented by local water boards for storm water management, code required energy efficiency requirements and stricter oversight and plan checking by DSA, to name a few.

In addition to these general changes, individual school projects can get very complicated and complex based on phasing issues, temporary housing requirements, vastly improved technology and IT requirements, deferred maintenance issues, substantial delays not the fault of the architect between initiation of planning and actual construction and change in District standards in the middle of the design process, to list a few.

Finally, the construction period is the time that, in our experience, the difference between the negotiated fee and the actual cost of service is most challenging.

Construction typically extends beyond the schedule estimated by the District resulting in substantial additional time required by the design team. Contractors specializing in school construction typically low ball bids with the expectation of recovering losses through change orders, which they have perfected to a science and continually barrage architects with requests for information and demands for additional compensation to set up potential change orders. These have to be researched, defended and processed, taking up huge blocks of time.

Unfortunately, the people hired by the District to manage this process, SGI and inspectors of record (AOR) are typically either incompetent, ineffective or co-opted by the contractor, making the architect's job even more time consuming.

Architects and experienced construction program administrators know that there is no reliable relationship between the construction cost of a project and the fee required to provide design services. If you took all the fees for a number of projects and divided them by the construction costs, you would get an average that might lie somewhere between 5% and 20%, but that doesn't mean a percentage is a reliable way to establish a fee.

You cited the widespread use of the OPSC fee schedule by school districts in California to validate its credibility. I submit that those who are using it are uniformed about its history, incompetent, or lazy, or all three.

The premise that architects are ripping off the District has no basis in fact I shared with you the amount of money that Interactive Resources has lost on the WCCUSD projects we have worked on. I left Wilson out because the project was abandoned before construction began, the phase that we typically lose the most money.

Nystrom	***Labor***
2,632,984.48	Billed
1,060,008.23	Cost
	3.15
3,339,025.92	Breakeven
(706,041.44)	Loss

Washington

Stewart

534,311.50	Billed
238,978.44	Cost
752,782.09	3.15 Breakeven
(218,470.59)	LOSS

576,175.97	Billed
279,532.60	Cost
880,527.69	3.15 Breakeven
(304,351.72)	LOSS

Hercules High	
127,708.75	Billed
48,245.75	Cost
151,974.11	3.15 Breakeven
(24,265.36)	LOSS

Elapsed Time

The audit also criticized architects for straying from the precise schedules defined in their original contracts or for doing design work out off phase without any evidence that this had any adverse impacts on the District or that the deviation from the schedule was the architect's fault. In the case of Interactive Resources, VLS conceded that investigating this further was beyond the scope of their services. So why even bring it up?

Cost Estimates

Despite what any agreements with the District say, the practice of WCCUSD was to control the construction cost estimating process. The agreements do not require the architects to prepare or submit cost estimates, but in a catch-22 provision, the agreements require the architect to "reconcile the Construction Cost Budget" and "not exceed the Construction Cost Budget." As we have all seen, costs have never been substantially within the architects' control. The District sets the program, the number and size of spaces, detailed characteristics of each space such as finishes, equipment and technology and specification requirements for virtually every component of the building. The buildings are also required to meet CHPs standards. The reality is that that there is very little left to the architect's discretion other than space planning and design aesthetics. I am not critical of this because it results in uniform standards of function and quality among schools, a goal the board adopted to respond to public

demands in a transparent public policy process. It is completely disingenuous for VLS to conclude that an architect should “design a school to a budget set by the District.”

<image003.png>

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