

WEST CONTRA COSTA UNIFIED SCHOOL DISTRICT

**MEASURE D (2002), MEASURE J (2005)
and MEASURE D (2010)**

MIDYEAR REVIEW

**Key Findings and Observations
From the 2011-12 Annual Performance Audit**



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INTRODUCTION

On March 5, 2002, the West Contra Costa Unified School District submitted for voter approval Measure D, a bond measure to authorize the sale of \$300 million in bonds to improve school facilities.

On November 8, 2005, the West Contra Costa Unified School District submitted for voter approval another bond measure, Measure J, to authorize the sale of \$400 million in bonds to improve school facilities.

On June 8, 2010, the West Contra Costa Unified School District submitted for voter approval another bond measure, Measure D, to authorize the sale of \$380 million in bonds to improve school facilities.

Article XIII of the California State Constitution requires an annual independent performance audit of Proposition 39 bond funds. The District engaged the firm Total School Solutions (TSS) to conduct this independent performance audit on the Measure D (2002), Measure J and Measure D (2010) to report its findings to the Board of Education and to the independent Citizens' Bond Oversight Committee.

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 2011-12 annual report covered the Measure D (2002), Measure J and Measure D (2010) funded facilities program and related activities for the period of July 1, 2011, through June 30, 2012. The annual performance audit documented the performance of the bond program and reported on improvements instituted by the District to address any audit findings from prior reports.

In addition to the annual report, the District has authorized Total School Solutions to prepare a midyear review for each year of this current engagement. This midyear review follows up on key findings, observations and recommendations from the annual audit that TSS identified as significant issues for review and/or action. This will offer the Board of Education and the Independent Citizens' Bond Oversight Committee an opportunity to review and monitor the progress in addressing any reported weaknesses in the bond program.

EXECUTIVE SUMMARY

The 2011-12 performance audit included an examination of the following aspects of the District's facilities program as outlined in Exhibit A of the December 2011 contract between WCCUSD and TSS and the subsequent Amendment 1 of that contract:

- Composite Bond Measures Financial Report
- Compliance with Bond Language
- Compliance with State Law and Regulations
- Compliance with District Policies and Regulations
- District Professional Service Staffing Plan for the Bond Program
- Program Management
- Design and Construction Schedules [Cash Flow only]
- Design and Construction Costs and Budgets
- Bidding and Procurement Procedures
- Change Order Procedures
- Claim Avoidance Procedures
- Measure J Expenditures and Payment Procedures
- Best Practices in Procurement
- Delivered Quality
- Scope, Process and Monitoring of Participation by Local Firms
- Effectiveness of Communication Channels Among All Stakeholders Within the Bond Program
- Citizens' Bond Oversight Committee and Review of Meeting Minutes

During the development of the annual audit, through the examination of numerous documents, interviews with personnel involved in the facilities program and the evaluation of related facilities documentation, assessments were made and conclusions were reached. These assessments and conclusions were summarized in the annual report.

Subsequently, in accordance with the scope of its assignment as outlined in the December 2011 contract and amendment, Total School Solutions conducted a follow up of some findings, observations and recommendations from the prior annual report to prepare a midyear review on the status of those items.

The scope of the performance audit was defined by the management of the District. Total School Solutions performed the annual audit and prepared this midyear review of Measure D, J and D funded projects within the District's defined scope.

The midyear review provides the opportunity for the District board, its management and its independent Citizen's Bond Oversight Committee to assess corrective actions and improvements needed in processes and procedures. The midyear review also serves as a mechanism for management to ensure that the annual audit report's suggestions and recommendations are implemented in a timely manner to reap the benefits of those recommendations and related District actions in the current year.

This midyear review mainly serves as a follow-up on some of the issues identified in the previous fiscal year's annual audit and focuses on issues identified through the assessment and examination of data from that audit. The midyear review provides an update of the District's effort in improving systems and controls related to the overall facilities program.

MID-YEAR AUDIT REVIEW (2011-12)

1. Program Management

Finding:

Although numerous requests were made for a current copy of the Agreement for Program, Project and Construction Management Services, the District and the Program Manager were only able to produce agreements that are no longer in effect and were not able to produce an agreement that is in effect for the two most recent bond programs, Measures J and D (2010).

District response:

Subsequent services are captured in fee proposals and contract amendments. These services extend into Measure J projects, and through current activities which include some Measure 2010 D projects.

The District has solicited proposals for project management/construction management services for the bond program.

Request for information:

Has the District received proposals for the services indicated in its response above? If so, has the District executed a current Agreement for Program, Project and Construction Management Services that includes Measures J and D (2010)? If such an Agreement exists, please provide TSS with a copy of that Agreement. If such an Agreement does not exist, please explain the status of executing an Agreement.

Mid-year review:

The District responded to the above request for information as follows:

“A new contract for Measure D – 2010 and Measure E – 2012 is in process. It is scheduled to be approved by the Board of Education on July 24, 2013.”

TSS confirmed that a new contract for Program, Project and Construction Management Services between West Contra Costa Unified School District and SGI Construction Management was on the July 24, 2013 Board agenda. Minutes from this meeting were not yet available for review.

2. Bidding and Procurement Procedures

Findings:

Staff awarded contracts for two construction projects but did not submit staff action to the Board of Education for approval or ratification. This is not in compliance with Education Code 17604 which allows the Board of Education to delegate to the superintendent or his designee the power to contract provided, however, that no contract awarded to contractors pursuant to the delegation shall be valid unless and until the same shall have been approved or ratified by the Board of Education.

Staff rejected the bids in five construction projects but did not submit staff action to the Board of Education for approval or ratification. According to staff, notification to the Board regarding the rejection of bids was not required since the projects were never presented to the Board for award. Public Contract Code Section 2011 places the authority to award contracts to the lowest bidder **or** to reject all bids solely on the Board of Education. Staff action on these projects is not in compliance with the requirements of Public Contract Code.

District response:

The projects in question were originally bid in October 2011. A place holder Precis was created, in anticipation of the next Board meeting. The bids were received and rejected because the scope was changed. The project was rebid in November 2011. The project was awarded and contracted, however the Precis was not taken to the Board for award or ratification.

As context, the value of the two projects combined was \$235,000. The total amount of projects bid in 2012 was 43; the total value of the projects was \$59,900,000.

All contracts awarded by the Board's designees shall be submitted to the Board for approval.

Request for information:

What action has the District taken to ensure that all bids, accepted or rejected, will be taken to the Board for action?

Mid-year review:

The District responded to the above request for information as follows:

“A bid award log has been incorporated into the Board approval process, and is coordinated with scheduled Board meetings.”

TSS was not provided with a copy of the bid award log that has been developed, but will include a review of this new process and log during the 2012-13 audit.

3. Change Order Procedures

Observation:

During the review, it was observed that the Ford Elementary School New Campus Construction project generated change orders for the payment of \$280,836 to the Contractor for 160 compensable delay days. According to the contract, the Contractor is entitled to compensation for delays caused by the District or its consultants. The contractor's justification stated that these delays were caused by RFI and RFI resolution, and the disposition/implementation of splay wires for classroom pendant lighting systems. During the previous year, 2010-11, similar change orders were issued for the payment of \$152,645 to the Contractor for 89 compensable delay days due to the need to reestablish survey control points and for the resolution of plan dimensional conflicts and the adverse weather impacts on work resulting from that conflict. As of the end of fiscal year 2011-12, the project's contract duration has been extended by 256 days (including 7 days non-compensable delays) from its original contract duration of 600 days. These delays cost the District \$433,831. It appears, however, that the justifications presented as causes of the compensable delays can be minimized, if not prevented, from occurring in future projects if the District more diligently followed the established design review and constructability review processes already in place.

Recommendation:

It is recommended that the District exert more effort in ensuring that compensable delays in projects are kept to a minimum by conducting effective constructability reviews and ensuring that District architects and engineering consultants exercise due diligence in coordinating their drawings to minimize if not eliminate conflicts in elevations, dimensions and locations. The RFI's generated by these conflicts, the time spent to resolve RFI's and the time spent to implement corrective actions to resolve conflicts all add-up to compensable delays and result in increased costs for the projects. Staff should rigidly implement and adhere to the design review and constructability review processes already in place to allow the system of checks and balances to identify and correct conflicts among different components of the construction documents prior to construction.

Request for information:

What action has the District and its consultants taken to ensure that compensable days be kept to a minimum?

Mid-year review:

The District responded to the above request for information as follows:

“Staff training is scheduled for September 2013.”

TSS will request a copy of the training materials and list of staff present for the training during the 2012-13 audit.

4. Claim Avoidance Procedures

Observation:

In interviews with District staff for this year's audit, it was reported that the Change Order Committee no longer meets to review change orders for validity and cost. According to staff, change orders with cost impacts of up to \$50,000 are reviewed and evaluated in-house then authorized by the Deputy Program Manager for Construction (SGI). Change orders with cost impacts in excess of \$50,000 are reviewed and evaluated by the District estimators and schedulers for verification prior to approval by the Engineering Officer. Staff authorized change orders are then submitted to the Associate Superintendent for Operations for approval and submittal to the Board of Education for ratification or approval.

Recommendation:

TSS recommends that the District continue to maintain an active Change Order Committee to review and validate requested changes to projects based on the currently established cost thresholds. It is anticipated that the benefits of the process include not only the shortening of the time required to approve change orders and the reduction or prevention of delay claims but also in controlling and keeping District or owner generated changes to a minimum.

Request for information:

Has the District reinstated the Change Order Committee as recommended by TSS? If not, please explain the District's position in regard to the Committee.

Mid-year review:

The District responded to the above request for information by answering in the affirmative, that the Change Order Committee has been reinstated.

TSS will verify that the Change Order Committee is meeting on a regular basis to review and validate requested changes during the 2012-13 audit.

5. Measure J Expenditures and Payment Procedures

Findings:

In the TSS sample of 49 checks reviewed, three of these checks did not include all of the required authorized signatures in accordance with the District's bond payment approval policy. The District's bond payment approval policy requires SGI staff to obtain signatures from the SGI bond control signer, SGI Program Manager, SGI Bond Program Manager, and the District Engineer and the District staff to obtain signatures from the District's Principal Accountant for Bond Finance or Executive Director for Bond Finance and the Associate Superintendent for Operations. In two instances of non-compliance with the District's bond payment approval policy for authorized signers, the Associate Superintendent for Operations signature (for invoices > \$100,000) was missing on the payment approval form. In one instance of non-compliance, the Executive Director for Bond Finance's signature was missing on the payment approval form.

In the TSS sample of 49 checks reviewed, twelve of these checks did not include the date of signature approval in accordance with the District's bond payment approval policy. The District's bond payment approval policy requires a signature and date of approval. In all twelve instances of non-compliance with the District's bond payment approval policy for authorized signers, the Associate Superintendent for Operations approval date (for invoices > \$100,000) was missing on the payment approval form.

Observation:

In the 2010-11 annual audit, TSS recommended that the District adopt a formal written desk manual and policy for its staff related to processing, approving, and paying all bond-funded expenditures. To date, the District has not adopted a formal written desk manual.

Recommendation:

The District should adopt a formal written desk manual and policy for its staff related to processing, approving, and paying all bond-funded expenditures.

District response:

The District processed 2,707 bond invoices during the 2011-12 school year which required a minimum of 13,535 signatures. There were 3 missing signatures out of 13,535 signatures. The percentage of processed invoices missing a signature was 0.11 percent. The District will ensure that the date of signature is included on all invoices. The District will provide additional training by April 13, 2013 to ensure compliance with the bond payment approval policy for authorized signers.

The District has a formal written desk manual and policy for its staff related to processing, approving and paying all bond funded expenditures.

Request for information:

The District indicated in its response above that a formal written desk manual exists. Please provide TSS with a copy of that manual.

Has the District provided the additional training of staff as indicated in its response above? Does that training, if given, include a review of the formal written desk manual? If such training has not been given, please explain why not.

Midyear review:

TSS has noted that, to clarify the percentage of missing signatures, the three missing signatures were on the sample of 49 payments reviewed, which is 6.12 percent not 0.11 percent.

The District provided the following responses to the above request for information:

“The District has a formal written policy related to processing, approving, and paying all bond funded expenditures. A copy of these procedures will be provided.”

“A new budget clerk has been hired and is being trained for the position. The bond finance office has audited a sample of 100 invoices in April, May, and July. The principal accountant selects a sample of 100 invoices and the budget clerk pulls the sample from files. The principal accountant reviews the invoices to ensure that the authorized signatures and the date of signature approval are on each invoice. There was one error in the April sample and no error in the May and July sample. We will continue to audit 100 invoices a month until we have zero errors for three consecutive months.”

Bonds/finance process: (provided by the District)

As part of the bond program’s financial controls, the following processes and procedures are in place and followed:

- Requisitions are entered into the requisition workflow system and routed for approval based on accounting code & pre-assigned workflow approval process created by Business Service Center:
 - Bond Requester (SGI or District Staff)
 - District Engineering Officer
 - District Executive Director for Bond Finance
(And/or M&O Executive Director or IT Executive Director)
 - District Associate Superintendent for Operations
 - Purchasing Buyer.
- All bond related invoices are mailed directly to the District’s facilities office. SGI staff collects all invoices that are submitted directly to the District daily to ensure timely processing of vendor invoices.

- Once invoices are received for approved requisitions, SGI staff logs information into the invoice tracking/monitoring system.
- A payment history and payment approval form are prepared and routed for authorization signatures to designated individuals, which includes program controls (SGI), the Bond Program Manager (SGI), District Engineering Officer, District Executive Director for Bond Finance and the District Associate Superintendent for Operations (if applicable). Each signer is responsible for verifying that the work has been performed; goods have been received; the invoice and/or payment application is accurate; the expenditure is for an authorized bond project; the coding is correct; and to determine that sufficient funding remain in the purchase order.
- SGI staff is responsible for obtaining SGI signatures and the District engineer's signature, and forwards the payment request form to the District's bond finance senior budget clerk.

Senior budget clerk:

The District's bond finance senior budget clerk enters the payment information into the District's financial system and is responsible for obtaining the District's Principal Accountant for Bond Finance (invoices < \$50,000) or Executive Director for Bond Finance (invoices < \$100,000), and/or the District's Associate Superintendent for Operations (invoices > \$100,000) signatures.

- The District's accounts payable staff initiates and processes the actual warrants. The time elapsed between payment entry to warrant issuance is approximately one week.
 - * Interested community members may check online to see the names of contractors and/or vendors that have been paid for the week for bond-funded projects. This information can be viewed by going to the Bond Program link on the District's homepage. Payment information can be found under the Bond Projects Status menu under Paid Contractor Invoices. In addition, information on the status of a purchase order may also be obtained under the Bond Projects Status menu under Purchase Order Status. This information is updated weekly on Wednesdays.
 - ** Sub-Contractor Questions: Refer them back to MAIN CONTRACTOR. Legally you cannot divulge any information except if a payment has been made to the MAIN CONTRACTOR and when it was paid.

The District provided TSS with the actual samples of 100 invoices for April, May and July as stated above, confirming the reported results.