

Sweetwater Union High School District Proposition O Citizens' Bond Oversight Committee Comments on the 2011-12 Performance Audit

Nigro & Nigro was contracted to conduct a performance audit of the Districts Proposition O Bond Program for the Fiscal Year ending June 30, 2012. The Bond Oversight Committee was extensively involved in providing guidance on the Audit Scope and commented extensively on its content.

Nigro & Nigro conducted an in depth review of three projects: Montgomery High School, Hilltop High School and National City Middle School. They reviewed a sample of bond expenditures to ensure compliance with applicable laws and regulations and to ensure bond program expenditures aligned with the ballot initiatives as passed by the voters. Nigro & Nigro conducted interviews with District staff, Bond Oversight Committee members, and Board of Trustees.

The most significant findings in the Audit related to areas of non-compliance during the Audit. The consultant noted several instances of non-compliance with the Education Code, Public Contract Code, and contract terms during the Audit. As the Performance Audit and our comments were quite extensive and provide guidance for the coming Fiscal Year conduct, they are included in this Annual Report. In short, this Performance Audit is considered a major tool used by our CBOC.

The Finding Recommendations, Discussion and Comments provided below were approved by the Bond Oversight Committee at their April 10, 2013 meeting.

Findings and Recommendations: We recommend that the District continue to closely monitor projects on a site-wide basis, as well as a project by project basis, and evaluate significant changes in cost budgets as soon as the information is available. Additionally, we recommend that the District break-out monthly project revisions to provide more clarity to the Board on project budgets that are being modified, rather than presenting all revisions to date in a single column.

CBOC Comment/Recommendation: There is a need for more input and guidance from the CBOC regarding project changes in scope, breadth, and budget. It is the norm rather than the exception that the District shares any significant project changes until after the Board has seen the information and in most cases decisions have already been made. It is recognized pursuant to the Education Code that the CBOC has no authority unless granted by the District to approve expenditures. Our role is to report to the public on the proper use of expenditures. However consistent with the Audit's findings stating greater transparency is needed, we recommend that on significant project changes, that District staff report pending changes to the CBOC before it is formally presented to the Board. This will help build greater trust between District staff and CBOC and possibly flush out issues before changes or new projects are made final.

Objective 1. D-Design and Construction Timelines

Findings and Recommendations: *We recommend that the District continue to work collaboratively with the DSA to ensure efficient delivery of Proposition O projects. We further recommend that the Citizens' Bond Oversight Committee and District personnel continue to evaluate design and construction timelines on an ongoing basis to identify any variances. Lastly, we recommend that the District continue to evaluate, on a project-by-project basis, the best delivery method based on price, perspective, timelines, District personnel capacity, and other qualitative and quantitative measures.*

CBOC Comment/Recommendation: The District is to be commended for their Memorandum of Understanding with the Department of State Architect to expedite the review of designs for construction projects with construction cost budgets exceeding \$5 million. The recommended review, in a timely basis, project design and construction timelines is consistent with our recommendation above to have the CBOC flush out project issues before it goes to the Board of Trustees on a significant issue. This would help further toward District transparency and build trust between the CBOC, public and the District.

Objective 1.E. Use of Best Practices and Technology Regarding the Planning & Construction of School Facilities

Findings and Recommendations: *We recommend that the District investigate the potential for the two systems to operate in conjunction with each other to reduce the time spent duplicating accounting and financial entries into the systems. This will also help reduce the potential for errors and increase bond program efficiency to assist management in its ability to analyze project progress in a timely manner.*

CBOC Comment/Recommendation: The District utilizes project management software, Prolog, to monitor the progress of Proposition O project budgets, timelines, as well as planning and construction documents during all project phases. The District financial system, TrueCourse, is completely isolated from the Prolog system. This requires the District to duplicate the data entry for contractor payments and billings in both systems. The CBOC concurs with this Audit recommendation.

The Chair reviewed some of the internal filing systems and nomenclature (labeling of folders and subfolders and naming consistency) and was appalled at the sloppiness and inconsistency under SGI supervision. In many cases it was impossible to have even a clue of what was contained in a file by the name or folder absent opening it up and reviewing.

In addition to this finding, there is the question of omission of the Ipad acquisition process in the detailed Audit review specified in the contract with Nigro and Nigro. Rather than choose iPads as one of the three projects for detailed review the consultant chose Montgomery High School, Hilltop High School, and National City Middle School.

Given the past controversies and CBOC concerns over the planning process that went into Ipad acquisition and our specific recommendation that this issue be reviewed, it is baffling why it was not studied further. The CBOC should demand a further explanation from the Consultant and District staff of why the Ipad acquisition was not chosen for further analysis.

Further in the cover memo to the Audit relative to the three projects analyzed it is stated: "Our audit of compliance made for the purpose set forth in the preceding paragraph would not necessarily disclose all instances of noncompliance." The auditor should provide the reasons for not being able to provide 100% assurance that the district is in compliance.

Findings and Recommendations: *We recommend that the District investigate the potential for the two systems (referring to Prolog Project Management system and TrueCourse Financial System) to operate in conjunction with each other to reduce the time spent duplicating accounting and financial entries into the systems. This will also help reduce the potential for errors and increase bond program efficiency to assist management in its ability to analyze project progress in a timely manner.*

CBOC Discussion/Recommendation: It is absolutely essential that the potential for inconsistency and duplication between the two systems be eliminated. This is consistent with our charge reporting on expenditures to the public. The District should explain what software implementation will take place to ensure that district can track reasons for variances between entries.

Objective 1.F. - Payment Procedures and Processing Time

Findings and Recommendations: *Of the expenditures selected for testing, 38 were missing at least one signature from the vendor invoice approval form. We recommend that the District ensure that all required and necessary signatures be acquired prior to the processing of payment for invoices. This will help ensure that all internal review of payments is authorized and has been reviewed by the necessary individuals.*

CBOC Comment/Recommendation: This identified problem could be a very serious deficiency that should be corrected immediately. It points to the lack of internal controls and a possible disconnect between the Project Planning and Construction Section and District Finance.

There are a number of very serious questions among others that arise: 1) Why are there missing signatures at all? 2) Why did those signing checks not ensure that all approving signatures had been obtained? 3) Why did SGI have more instances of missing signatures? 4) Is there any risk that there were misappropriations of assets? 5) Nigro and Nigro reviewed 42 invoices for signature approvals...how many were in the total population? Should more be reviewed?

Objective 1. G-Program and Construction Management Structure

Finding and Recommendations: *Due to the limited practical application of the current organizational structure, we recommend that the District conduct an analysis of the cost-benefit of providing an in-house program and construction management program versus the cost of procuring these services through a third-party provider. This analysis should include both quantitative and qualitative measures. The District should also, on a continuous basis, conduct an analysis of the utilization of project managers based on current and future project projections to determine whether or not the District has the optimal utilization of department personnel.*

CBOC Comment/Recommendations: The CBOC agrees with eventually conducting such an analysis but not at this time. The changeover to District staff appears to have saved substantial funds. This changeover needs further time to review. District staff should not have their time diverted in documenting their cost effectiveness during this transition period. In particular the CBOC commends District staff for their vast improvement in the Proposition O web site.

Objective 1.I-Construction of Project Delivery Methods and Performance Analysis

Finding and Recommendations: *Design-Bid-Build dominated the delivery method for contracts completed during the 2011-12 fiscal year, accounting for approximately 75% of the total dollar value of completed projects. The project mix in our sample contained a limited number of Lease-Leaseback projects; however, due to the size of the project, the contract accounted for 25% of our total sample. The disparity in sample diversity is caused by the nature and scope of the projects. For all projects in our sample, the District worked with SGI to determine the best delivery method for each project. With the shift of the management of the bond program, District personnel should continue this trend of evaluating the best delivery method on a project by project basis. This will allow the District to run an efficient bond program and strike a balance of high-quality and cost-effective projects, while continuing to meet deadlines and avoiding cost overruns.*

CBOC Comment/Recommendation: During the current fiscal year the CBOC should

form a Subcommittee to deal with project delivery methods and review particularly the procurement process for selection of lease leaseback firms. Given the size of lease leaseback projects, its partial use of the more subjective quality based selection, and distinct difference from the more traditional design bid build approach, this is an important issue that deserves further study.

Objective 2.A-B-Expenditures.

Findings and Recommendations: *We did not find any payments for activities that did not comply with the approved ballot language in our sample. However we did note that five of the expenditures selected for testing were payments to SGI, the District's former construction management company. Upon review of the contractual agreement and the payments, it was noted that SGI was allowed reimbursements. Reimbursements for single items costing over \$500 required written pre-approval by the District. During the review of the five expenditures selected for testing, it was noted that all five payments to SGI included reimbursements for multiple items exceeding the \$500 mark.*

The documentation did not demonstrate any written pre-approval by the District for the purchases. Upon inquiry, it was noted that only verbal approval was provided for the purchase of the goods. Though the District no longer has SGI as their construction management company, we recommend that all contracts be thoroughly reviewed prior to payment processing, to ensure that all expenditures have been processed according to what has been outlined in the contract. This will help ensure that the funds are only being spent on authorized work and equipment. In the contract, it is specified that any reimbursements over \$500 without written pre-approval must be paid back to the District by the construction management company. We recommend that the District follow all procedures and requirements outlined in the contract with SGI.

CBOC Comment/Recommendations: The Audit findings indicate that there were significant internal control issues relative to the approval of invoices, pre-approval of reimbursable expenditures and contract documents which allowed what could be considered questionable reimbursable expenses that should perhaps have been considered part of the general overhead for SGI staff.

A number of SGI reimbursements over \$500 did not obtain pre-approval. The Auditor mentions that a verbal approval was made. Evidence should be obtained of the verbal approval including the person who approved. Also, information should be provided regarding inappropriate expenditures or any evidence of misappropriation.

The CBOC should demand a further accounting and description of the process that was used for approval of SGI Contract provisions and persons/positions responsible for the signing off on documents. The CBOC must be assured that there are now internal controls and processes to mitigate the misuse of reimbursable expenditures.

Objective 2.A-B-Expenditures.

Findings and Recommendations: *For a decrease in costs and an increase in efficiencies, we recommend that the District Governing Board approve the District to operate under Uniform Construction Cost Accounting (UCCA) guidelines and regulations. The main advantage to operating under the UCCA regulations is an increase in the bid threshold for construction projects from \$15,000 to \$175,000. This could significantly reduce the total project delivery time and streamline the award process for the District's smaller construction projects.*

CBOC Comment/Recommendation: This may be a prudent method/policy. However given the past controversies and questionable procurement practices of this District, there should be a go slow approach. Prior to requesting Board of Trustee approval, the CBOC should be presented with a report on how this would be implemented. I have directed that these Guidelines be posted on the Proposition O web site.

Objective 2. C.-Change Orders

Findings and Recommendations: *We noted that one of the contracts tested had change order amounts totaling 15.88%, which exceeds the maximum allowable change order percentage. The original contract price was \$12,657,000, and multiple change orders totaling \$2,010,266 were approved. The District did not comply with the requirements of Public Contract Code Section 20118.4 for this contract and should have stopped construction in order to allow the District to collect bids through a competitive process for the additional work required. It is essential that District employees are aware of this requirement, and that change orders exceeding 10% of the contract price are not approved unless the proper procedures have been followed.*

CBOC Comment/Recommendation: The issue of change orders is by its nature a problematic issue. Change orders can be common in projects particularly when there are unforeseen site or building conditions in the case of remodels/refurbishment. The public, our constituency who monitors such issues, has been vocal about the change orders. The District makes matters worse when Board meetings/actions get delayed and yet projects must proceed. This however is not a total excuse for non-compliance with the law i.e. the Public Contract Code.

In the District response to this Audit the specific responsible parties for this violation of the contract code should be held accountable and greater justification for the reasons for the actions should be justified. Much more information on the particulars of this situation must be provided. Any other projects, which exceeded the 10% level, should be provided the CBOC. Issues relative to the violation of the Public Contract Code should be incorporated into the CBOC Annual Report.

The District should not either in actuality or by appearance modify/bifurcate contracts so as to avoid exceeding the 10% threshold approval requirement. It is recommended that the District do a better job up front in informing the CBOC on change orders so that we can understand what is upcoming rather than after the fact. This is consistent with the increased transparency theme in the Audit and this report.

Objective 3.B-Bond Program Transparency

Findings and Recommendations: *The District should continue to strive for increased levels of fiscal transparency. The key is to determine how best the information can and should be shared with the taxpayers and public at-large. The goal should be to shine a light on the true costs of the construction, so that taxpayers and their elected representatives can be held accountable. The District should establish timelines to ensure that the information received and reviewed by the CBOC is the most current information available. Currently, policies by the District only require that the following be posted: minutes of the Oversight Committee meetings, reports issued by the oversight committee and documents formally received by the Oversight Committee.*

CBOC Comment/Recommendation: This had been a constant theme throughout this CBOC or the lack thereof when it comes to transparency. Major project initiatives (eg. increased expenditure on iPads) was told to the entire CBOC only after the Board of Trustees acted. The District knew iPads was a big issue with the CBOC.

Initially the District said that they had no Capital Appreciation Bonds. It was only when the CBOC checked the emma.org web site that we found out that there were CAB's for Proposition **BB**. While there have been some improvements particularly in the web site, there is a long way to go with respect to transparency.