

CHINO VALLEY UNIFIED SCHOOL DISTRICT

MEASURE M

PERFORMANCE AUDIT

PERIOD ENDED JUNE 30, 2005



TOTAL SCHOOL SOLUTIONS
2969 VISTA GRANDE
FAIRFIELD, CA 94534

Chino Valley Unified School District

BOARD OF EDUCATION

June 30, 2005

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INTRODUCTION

On March 5, 2002, the Chino Valley Unified School District submitted for voter approval a bond measure to authorize the sale of \$150 million in bonds to improve school facilities. Because the bond required only 55 percent of the vote in accordance with Proposition 39 (Article XIII of the California State Constitution), the District was required to establish a citizens' bond oversight committee and to conduct two independent audits. The first audit is a financial audit similar to a district's annual financial audit; the second is a performance audit, which measures the effectiveness, economy and efficiency of a bond facilities program. The report contained herein represents the third annual performance audit of the Chino Valley Unified School District's Proposition 39 facilities program. This report covers the bond program and activities from July 1, 2004, through June 30, 2005.

The District engaged the firm Total School Solutions (TSS) to conduct the annual independent performance audits for facilities beginning with the fiscal year 2004-05 and report its findings to the Board of Education and to the Independent Citizens' Bond Oversight Committee.

Besides ensuring that the District uses bond funds in conformance with the provisions listed in the Measure M ballot, the scope of this examination includes a review of design and construction schedules and cost budgets; change orders and claim procedures; compliance with law, District policies and guidelines regarding facilities and procurement; and compliance with funding formulas.

In accordance with the state constitution, the District intends to have a performance audit completed annually until all Measure M funds have been expended. These reports are designed to meet the requirement of Article XIII of the California State Constitution and to inform the community of the appropriate use of funds generated through the sale of bonds authorized by Measure M. The scope of this audit has been defined by the district staff who has also taken responsibility as to the adequacy of the defined scope.

EXECUTIVE SUMMARY

The performance audit, conducted during the period of June 2006 through November 2006, includes an examination of the following components:

- Design and construction schedules and cost budgets
- Change order and claims procedures and results
- Current programmatic goals to ensure compliance with state law, guidelines, and funding formulas
- District guidelines for bidding and procurement
- Compliance with program provisions, restrictions in the bond initiative, and legal requirements such as prevailing wages.
- Payment procedures

Total School Solutions (TSS) reviewed all Measure M projects in the course of this examination and selected several modernization and growth projects for more detailed examination.

Through the examination of numerous documents, interviews with personnel involved in this process and an evaluation of related documentation, assessments were made and conclusions were reached, which are summarized in this report.

Data produced by District staff and representations made by the District administration were used, where appropriate, to perform this audit work and to formalize conclusions. Each audit component was evaluated separately and collectively based on the materiality of each activity and its impact on the total bond program.

It should be noted that this work has been performed to meet the requirements of a performance audit in accordance with Article XIII of the Constitution of the State of California. Any known significant weaknesses and substantial noncompliance items have been reported to the District's management. This performance audit is not a fraud audit, which would be much wider in scope and more significant in nature than this examination.

The readers of this report are encouraged to review the report of the independent financial auditors in conjunction with this report before forming opinions and drawing conclusions about the overall operations of the bond program.

Also, during the audit period for this report, July 1, 2004 through June 30, 2005, the County of San Bernardino, Office of Auditor/Controller-Recorder, issued a report titled "Agreed upon Procedures for Chino Valley School District's Facilities Program" dated September 2, 2004 (Appendix B). That report covered the review period February 2000 to February 2004, which is prior to the time period of the current performance audit, but

because it addresses many issues that normally fall within the purview of a performance audit, it has been included by reference, without analysis or comment, to better establish a historical perspective.

The scope of this audit has been defined by the District administration, reportedly in collaboration with the Independent Citizens' Bond Oversight Committee which by law is responsible to determine the scope of the performance audit. The scope of this audit varies from that included in our initial proposal. The changes have been discussed with the District administration and the report presented herein is deemed complete by the district management.

INDEPENDENT PERFORMANCE AUDITOR'S REPORT

Board of Education
Chino Valley Unified School District
Chino, CA 91710

We have conducted a performance audit of the Measure M funded bond program of the Chino Valley Unified School District (the "District") as of and for the year ended June 30, 2005. The information provided herein is the responsibility of the District's management. Total School Solutions' responsibility is to express an opinion on the pertinent issues included in the scope of this audit work.

In our opinion, the Measure M funds are being expensed in accordance with Resolution No. 2001-39, inclusive of Appendix A, passed by the Board of Education on December 6, 2001. It is also our opinion, for the period ending June 30, 2005, the expenditures of the funds raised through Measure M bonds were only for the projects listed in the District's Facilities Assessment Report adopted by the Board on December 6, 2001 (which was included in Resolution No. 2001-39 by reference, establishing the scope of work to be completed with Measure M funds). We have also determined that the representations made to the public regarding the availability of state funds for new construction and modernization projects were true and reasonable. Furthermore, we have determined that management's estimates were reasonable and complied with the commonly accepted best practices in modernization and new construction of school facilities.

This performance audit was conducted in accordance with the district defined scope of performance audit of the bond program. The District, however, is required to request and obtain an independent financial audit of Measure M bond funds. The financial auditor is responsible for evaluating conformance with generally accepted auditing principles and auditing standards pertinent to the financial statement. The financial auditor also evaluates and expresses an opinion on such matters as the District's internal controls, controls over financial reporting and its compliance with laws and regulations. Our opinion and accompanying report should be read in conjunction with the independent financial auditor's report when considering the results of our performance audit and forming opinions about the District's bond program.

This report is intended solely for the use of the management, the Board of Education and the Independent Citizens' Bond Oversight Committee of the Chino Valley Unified School District, which have taken responsibility in regard to the sufficiency of the scope of work deemed appropriate for this audit.



Total School Solutions

December 7, 2006

DISTRICT FACILITIES PROGRAM

The Superintendent and the Chair of the Citizens' Oversight Committee have requested that Total School Solutions provide "transparency" in conducting the annual performance audit; therefore, while the scope of the performance audit is limited to Measure M, and, by reference, State funds, it is useful to review the District's entire facilities program and other sources of funds to place Measure M into its proper context. The text of Measure M included the intent to "...obtain eligibility for state funding...", and the County School Facilities Fund is therefore, incorporated by reference.

In addition to Measure M and State funds, the District receives funds from the state, local developer fees, and local community facilities districts (Mello-Roos). Certificates of Participation, which are loans and not a source of funding, have also been used to obtain up-front cash, to be repaid over time from a designated revenue stream. Local funds such as Developer Fees and CFD Funds are not included in the scope of this audit as defined by the District.

The tables below present the financial status of the District's facilities program for the past four (4) years as documented in the fiscal year 2001-02 through 2004-05 audit reports.

As of June 30, 2005, \$75,000,000 of Measure M bonds had been issued. The June 30, 2005, Measure M ending balance was \$18.9 million, and 37.4 percent of the total voter approved bond had been expended or transferred to other funds as of that date.

Over the past four (4) fiscal years, the following facilities expenditures have been made:

Measure M Bond Fund	\$58,805,307	(41%)
Other Capital Outlay Funds	85,849,007	(59%)
Total	<u>\$144,654,314</u>	<u>(100%)</u>

From the above, it can be seen that funds from sources other than Measure M have represented over half of the total expenditures on capital outlay projects.

Commendation

- The District is commended for its continuing efforts to aggressively pursue all sources of revenues to enhance the District's ability to meet its facilities needs.

Revenues and Expenditures for Facilities Program, FY 2001-02 – FY 2004-05

	Fiscal Year Ending June 30, 2002	Fiscal Year Ending June 30, 2003	Fiscal Year Ending June 30, 2004	Fiscal Year Ending June 30, 2005
Measure M Building Fund¹ (21)				
Beginning Balance	\$0	\$40,000,000	\$25,617,691	\$40,984,877
Revenues	0	1,018,660	973,911	756,379
Expenditures	0	15,400,969	20,606,725	22,797,613
Transfers (Net)	40,000,000	0	35,000,000	0
Net Change	40,000,000	(14,382,309)	15,367,186	(22,041,234)
Ending Balance	\$40,000,000	\$25,617,691	\$40,984,877	\$18,943,643
Other Capital Outlay Funds²				
Beginning Balance	\$63,7013,176	\$47,150,632	\$47,864,441	\$39,754,676
Revenues	14,129,439	32,158,770	8,949,580	19,583,210
Expenditures	27,145,601	27,117,674	14,852,849	16,732,883
Transfers (Net)	(3,536,382)	(4,327,287)	(2,206,496)	(2,267,664)
Net Change	(16,552,544)	713,809	(8,109,765)	582,663
Ending Balance	\$47,150,632	\$47,864,441	\$39,754,676	\$40,337,339
Measure M & Other Capital Outlay Funds				
Beginning Balance	\$63,703,176	\$87,150,632	\$73,482,132	\$80,739,553
Revenues	14,129,439	33,177,430	9,923,491	20,339,589
Expenditures	27,145,601	42,518,643	35,459,574	39,530,496
Transfers (Net)	36,463,618	(4,327,287)	32,793,504	(2,267,664)
Net Change	\$23,447,456	(\$13,668,500)	\$ 7,257,421	(\$21,458,571)
Ending Balance	\$87,150,632	73,482,132	\$80,739,553	\$59,280,982
Outstanding Capital Outlay Debt				
Measure M Bonds	\$40,000,000	\$40,015,000	\$73,365,000	\$72,790,000
CFD Bonds	660,000	555,000	440,000	260,000
COP - 1995	33,350,000	32,710,000	32,040,000	31,335,000
COP - 2001	29,800,000	28,925,000	28,025,000	27,100,000
Capital Leases	1,248,707	862,761	0	0
Total Debt	\$105,058,707	\$103,067,761	\$133,870,000	\$131,485,000

¹ Measure M bonds issued against the \$150 million authorized include the following:

Series A: June 2002	\$ 40,000,000
Series B: February 2004	<u>35,000,000</u>
Total bonds issued	\$75,000,000

² Other capital outlay funds include the Capital Facilities Fund (developer fees), the Capital School Facilities Fund (state monies) and the Deferred Maintenance Fund. See the "Other Capital Outlay Funds" table for detail.

OTHER CAPITAL OUTLAY FUNDS¹
FISCAL YEARS 2001-02 THROUGH 2004-5 (AUDITED)

Fiscal Year Ending June 30, 2002	Capital Facilities Fund²	County School Facilities Fund³	Deferred Maintenance Fund⁴	Totals
Beginning Balance	\$16,338,620	\$ 44,984,691	\$ 2,379,865	\$ 63,703,176
Revenues	7,245,758	5,983,056	900,625	14,129,439
Expenditures	1,696,859	23,778,383	1,670,359	27,145,601
Transfers (Net)	(4,621,325)	0	1,084,943	(3,536,382)
Net Change	927,574	(17,795,327)	315,209	(16,552,544)
Ending Balance	\$17,266,194	\$27,189,364	\$2,695,074	\$47,150,632

Fiscal Year Ending June 30, 2003	Capital Facilities Fund²	County School Facilities Fund³	Deferred Maintenance Fund⁴	Totals
Beginning Balance	\$17,266,194	\$ 27,189,364	\$ 2,695,074	\$ 47,150,632
Revenues	5,096,115	26,373,400	689,255	32,158,770
Expenditures	3,209,344	23,272,979	635,351	27,117,674
Transfers (Net)	(4,539,626)	212,339	0	(4,327,287)
Net Change	(2,652,855)	3,312,760	53,904	713,809
Ending Balance	\$14,613,339	\$30,502,124	\$2,748,978	\$47,864,441

Fiscal Year Ending June 30, 2004	Capital Facilities Fund²	County School Facilities Fund³	Deferred Maintenance Fund⁴	Totals
Beginning Balance	\$14,613,339	\$ 30,502,124	\$2,748,978	\$47,864,441
Revenues	7,014,027	1,929,771	5,782	8,949,580
Expenditures	10,689	13,872,546	969,614	14,852,849
Transfers (Net)	(2,990,977)	(523,755)	1,308,236	(2,206,496)
Net Change	4,012,361	(12,466,530)	344,404	(8,109,765)
Ending Balance	\$18,625,700	\$18,035,594	\$3,093,382	\$39,754,676

Fiscal Year Ending June 30, 2005	Capital Facilities Fund²	County School Facilities Fund³	Deferred Maintenance Fund⁴	Totals
Beginning Balance	\$18,625,700	\$18,035,594	\$3,093,382	\$39,754,676
Revenues	5,458,799	12,833,340	1,291,071	19,583,210
Expenditures	526,745	15,080,199	1,125,939	16,732,883
Transfers (Net)	(3,113,023)	841,883	3,476	(2,267,664)
Net Change	1,819,031	(1,404,976)	168,608	582,663
Ending Balance	\$20,444,731	\$16,630,618	\$3,261,990	\$40,337,339

¹ The Other Capital Outlay funds do not include three (3) debt-service funds: Bond Interest and Redemption Fund, Blended Component Unit, and Certificates of Participation. The District issued Certificates of Participation (COP), to be used for various capital project needs. In fiscal year 2004-05, funds for CFD #1, CFD #2 and CFD #3 were combined into a Blended Component Unit. (A certificate of participation is a loan, not a source of revenue, repaid over time from other District revenues, usually from a designated revenue stream such as developer fees.) Community Facilities Districts No. 1 and No. 2 (CFD) (Fund 91) issued bonds to fund site acquisition and building construction projects.

² The Capital Facilities Fund (Fund 25) is used for developer fees.

³ The County School Facilities Fund (Fund 35) is used for State Allocation Board (SAB) funds received for modernization, site acquisition and new construction projects for which the District is eligible.

⁴ The Deferred Maintenance Fund (Fund 14) is used for major repair or replacement of District property. It is included in the table of "Other Capital Outlay Funds" because the Bond Oversight Committee role includes oversight of deferred maintenance (See Appendix B).

COMPLIANCE WITH BALLOT LANGUAGE

Processes Utilized

In this examination, Total School Solutions (TSS) reviewed files and conducted interviews with various staff members. TSS also referenced files from various outside agencies to obtain information from independent sources.

Examination

TSS reviewed all current District projects and selected several modernization projects and proposed new schools for more extensive examination.

Background

The Board of Education of the Chino Valley Unified School District unanimously approved placing a \$150 million bond measure (Measure M) on the ballot with the adoption of Resolution No. 2001-39 on December 6, 2001. The bond measure was placed on the ballot for voter approval on March 5, 2002. Article XIII of the California State Constitution, amended through Proposition 39, states "that every district that passes a 'Proposition 39' bond measure must obtain an annual independent performance audit."

In accordance with this article of the state constitution, Section 2(4)(iii) of Resolution 2001-39 states that "the Board shall conduct annual, independent financial and performance audits until all Bond proceeds have been spent to ensure that the proceeds of the Bonds shall have been used only for the projects listed in the Bond Measure."

The District's Facilities Assessment Report, included in Resolution No. 2001-39 (Appendix A) by reference, (Appendix A-1) establishes the scope of work to be completed with Measure M bond funds. That report provides a comprehensive list of improvements to be completed at the existing schools. The report also specifies that new school construction would occur at five (5) elementary schools and three (3) junior high schools.

District voters approved Measure M with a 61.8 percent vote on March 5, 2002. A 55 percent vote was required for the passage of this measure.

The scope defined by Resolution No. 2001-39 provides the range of projects subject to this performance audit, as authorized by the state constitution. The District is in compliance with all provisions in Resolution No. 2001-39, which authorized the \$150 million Measure M bond issue.

CITIZENS' BOND OVERSIGHT COMMITTEE

Statutes governing a Citizens' Oversight Committee (Education Code Sections 15278-15282) were included in Assembly Bill 1908 (2000), and took effect upon passage of Proposition 39 on November 7, 2000. (See Appendix C).

In compliance with statute, the District created a Citizens' Bond Oversight Committee (CBOC) consisting of thirteen (13) members of the District, as follows:

Statutory Requirements (Seven [7] Members Minimum)

- Business Community
- Senior Citizens' Organization
- Taxpayers' Organization
- Parent or Guardian of child enrolled in the district
- Parent of Guardian of child enrolled in the district, plus Active in a Parent-Teacher Organization

Other Members of Citizens' Bond Oversight Committee

- City of Chino Representative
- City of Chino Hill Representative
- City of Ontario Representative
- Chino Chamber of Commerce Representative
- Members at Large (four)

The Citizens' Bond Oversight Committee meets regularly, makes regular oral reports to the Board, prepares at least annually a report to the community, and regularly posts its meeting notices, agendas and minutes on an internet website.

The District and its Citizens' Bond Oversight Committee are in compliance with the law.

STATE SCHOOL FACILITIES PROGRAM

Background

The text of Measure M stated:

“To relieve severe overcrowding, improve safety for children, repair/renovate local schools, shall Chino Valley Unified School District acquire, construct, and improve school sites and facilities, obtain eligibility for state funding, add classrooms, build schools, repair roofs, eliminate asbestos/other safety hazards, upgrade electrical, plumbing, heating/cooling systems, improve security and provide for technology, issue \$150 million of bonds, at legal interest rates, with independent Citizens Oversight and annual audit of expenditures, with no money for administrators’ salaries?”

The District has filed facilities applications under the following programs:

50 - New Construction
57 - Modernization

As of June 30, 2005, the District has received the state grant amounts under the State School Facility Program (SFP) summarized in the following table. (Note: The table does not include any projects filed under the previous State Lease-Purchase Program (LLP) or prior funds received. All District LLP projects were closed out prior to any SFP funding.)

All of the following financial data came from the OPSC/SAB internet site which maintains current project status for all school districts.

State Program	SAB#	State Grant Amounts	District Match
New Construction	50/001 ¹	\$70,073,328	\$388,694
New Construction	50/002-50/008 ²	36,676,398	36,162,041
Modernization	57/002-57/004 ³	7,681,889	192,938
Modernization	57/001 ⁴	4,565,679	2,770,936
Total State Grant Amount		\$118,997,294	\$39,514,609

¹ Chino Hills High School was funded by the state in 2000 as a financial hardship project, prior to the passage of Measure M, and therefore received 100 percent state funding. The State match was paid to the District in two (2) installments: \$3,402,786 on March 3, 2000, and \$66,882,542 on October 27, 2000. The District subsequently rescinded a portion of the site acquisition funding for site not acquired (\$212,000).

² Rhodes, Chaparral, Woodcrest Jr. High, Liberty and Wickman were originally approved as financial hardship projects in 2000, but after passage of Measure M on March 5, 2002, they were converted to 50/50 projects.

³ These three (3) projects were approved and were funded by the state under financial hardship, prior to the passage of Measure M, and therefore received 100 percent state funding. According to OPSC/SAB

records, the Walnut Elementary School modernization project (57/002) was approved for funding by the SAB on April 26, 2000, as follows: State \$2,749,326 (93.4%) and District \$192,938 (6.6%). The District received the State match of \$2,749,326 in two (2) installments: \$388,661 on May 16, 2000, and \$2,360,665 on July 7, 2004. However, according to the District, the project was not considered a financial hardship by OPSC, and was converted back to 80/20 at the time of the last funding. Updated OPSC records are not available on its website.

⁴ Don Lugo High School was converted to a 50/50 project after the passage of Measure M.

By utilizing the various State programs available to the District, State grant amounts received to date under the SFP total \$118,997,294, not including any previous funding received under the prior LLP.

STATE NEW CONSTRUCTION STATUS

New construction eligibility was submitted to the Office of Public School Construction/State Allocation Board (OPSC/SAB) on April 26, 1999, based on CBEDS enrollment data for the 1995-96 to 1998-99 school years (SAB 50-01, 50-02 and 50-03). Based on those data, eligibility for new construction as presented in the table below was approved by the SAB on September 22, 1999. Subsequent to the establishment of new construction eligibility, six (6) new schools were approved and funded, thereby reducing the eligibility accordingly.

New Construction Baseline Eligibility: (1998-99 CBEDS)

District	Eligibility				
	K-6	7-8	9-12	Non-Severe	Severe
Total	3,830	1,507	3,844	103	0

Six (6) school projects have completed Forms SAB 50-04 and SAB 50-05 processes to date, for which the District has received \$106,961,726. Chino Hills High School was approved and funded under financial hardship regulations prior to the passage of Measure M, and therefore received 100 percent state funding. Five (5) additional projections had applications (Form SAB 50-04) approved under financial hardship regulations prior to the passage of Measure M, but were converted to 50/50 applications when the District no longer qualified for financial hardship.

Subsequent to the establishment of baseline new construction eligibility based on CBEDS data for 1995-96 through 1998-99, the District updated its eligibility with 1999-00 CBEDS enrollments (SAB 50-01) and again with 2002-03 CBEDS enrollments (SAB 50-01).

Recommendation

- It is recommended that the District update its construction eligibility documents annually after CBEDS enrollment data are available. (Note: Updated eligibility documents need not be submitted until a new construction application (SAB 50-04) is filed, but annual updates to ascertain eligibility enable plans and funding sources to be clarified.)

District Response

- The District's baseline eligibility is only required to be updated when a new application is submitted to the State. The District consistently keeps track of its eligibility internally until a formal application is submitted. It is not always advantageous for a school district to update its eligibility each year when CBEDS are updated due to the rapid changing factors. As an example, leased portables after the baseline eligibility are required to be reported, however, once they're reported, they become part of the baseline. If these leased portables are removed prior to the district's filing of an application, then the eligibility will not be lost. The District can maximize its eligibility at the State by timing its applications to the State adequately.

New Schools. Updated June 30, 2005.

New School	Grade	SAB# ¹ (50/)	SAB Eligibility Approval (50-03) ²	Eligibility Enrollment (50-04)	SAB Project Approval (50-04)	SAB Fund Release (50-05)	SAB Grant Amount (%) ³
<u>Elementary Schools</u>							
Chaparral Elementary	K-6	004	09/22/99	900	04/26/00	05/16/00 07/07/04	\$986,400 (54%) \$6,120,901
Edwin Rhodes Elementary	K-6	002	09/22/99	900	04/26/00	05/16/00 01/31/03	\$986,400 (53%) \$6,685,340
Liberty Elementary	K-6	006	09/22/99	1,050	04/26/00	05/16/00 01/31/03	\$515,463 (48%) \$6,046,038
Michael G. Wickman Elementary	K-6	007	09/22/99	900	04/26/00	05/16/00 01/31/03	\$548,484 \$5,247,515 (49%)
Richland Elementary Site	K-6	003	09/22/99	Withdrawn	07/23/03	10/02/03	\$1,436,954 (50%)
Preserve K-8 ⁴	N/A	009	09/22/99				
<u>Junior High Schools</u>							
Woodcrest Junior High	7-8	005	09/22/99	1,200	04/26/00	05/16/00 04/02/03	\$617,898 (48%) \$7,485,005
<u>High Schools</u>							
Chino Hills High	9-12	001	09/22/99	3,000	01/26/00	03/03/00 10/27/00	\$3,402,786 (99%) \$66,882,542
Total (Seven schools)							\$106,961,726

- ¹ A project number is assigned when form SAB 50-04 is filed, which requires DSA-stamped plans and California Department of Education (CDE) approval
- ² SAB eligibility is based on Forms SAB 50-01 (Enrollment Certification/Projection), SAB 50-02 (Classroom Inventory) and SAB 50-03 (Eligibility Determination). Updated forms SAB 50-01 with current CBEDS enrollments are to be submitted when SAB 50-04 project applications are filed.
- ³ The State grant amount is 50 percent of the total state new construction budget, unless facility or financial hardship applications have been filed and approved. Chapparral Elementary (50/004), Chino Hills High (50/001), Edwin Rhodes Elementary (50/002), Liberty Elementary (50/006), Wickman Elementary (50/007) and Woodcrest Junior High (50/005) all included financial hardship requests with their applications.
- ⁴ According to the OPSC website, a Form SAB 50-04 was filed based on thirty-nine (39) classrooms and the acquisition of a 12.85 acres site based on site acquisition costs of \$9,360,000 and service/off-site/utilities costs of \$1,479,273. The project was not given an SAB apportionment at the time of the original filing, and according to the District, a new funding application was filed in April 2006. The Preserve project is a partnership involving the District, County, City and developer. The developer will build the school; the County will support the construction of a larger library and the City will support the construction of a larger gym.

NEW CONSTRUCTION PROJECTS

School	Board 12/06/01 Original Estimate		Application Approved (SAB 50-04)	SAB#	SAB Approved Budget	
	District/State				District	State
Wickman Elementary	\$12.2		04/26/2000	007	\$6,123,347	\$5,795,999
	2.0		07/23/03	008	1,436,954	1,436,954
Rhodes Elementary	12.4		04/26/2000	002	6,685,340	7,671,740
Woodcrest Elementary (Liberty)	14.5		4/26/2000	006	6,987,912	6,561,501
Woodcrest Jr. High	17.2		04/26/2000	005	8,876,045	8,102,903
Bird Farm Elementary (Chaparral)	12.0		04/26/2000	004	6,052,443	7,107,301
Bird Farm Jr. High	5.0					
Richland Elementary/Junior. High	16.0-20.0		Withdrawn	003		
Chino Hills High			01/26/2000	001	388,694	70,073,328
Total	\$91.3 - \$95.3	Million			\$36,550,735	\$106,537,726

STATE MODERNIZATION STATUS

Eligibility for a modernization project is established when Form SAB 50-03 is filed with the state, and the State Allocation Board (SAB) approves it. A school district designs and submits a project to the Division of State Architect (DSA) and the California Department of Education (CDE). The district awaits both agencies' approvals before filing an application (Form SAB 50-04), which establishes funding for a project. If beneficial, a district may file a revised SAB 50-03 to reflect recent enrollment data. After a project has been bid, the district files Form SAB 50-05 to request a release of state funds for the project.

Four (4) school projects have completed the SAB 50-03, SAB 50-04, and SAB 50-05 processes to date, for which the District has received \$12,247,568. Two (2) of the funded projects were approved and funded under financial hardship regulations prior to the passage of Measure M, and therefore received 100 percent state funding.

The original list of modernization projects that were included in the Board approved Facilities Assessment Report on December 6, 2001, and the status of modernization projects as of June 30, 2005, are presented in the Modernization Projects table. From that table, it can be seen that two (2) schools not on the list (Glenmeade Elementary and Magnolia Jr. High) have completed the state process and were funded. There are six (6) schools on the original list that have not yet had applications (Form SAB 50-04) filed.

When the District files additional modernization documents with OPSC/SAB, additional state funding could be received by the District, assuming that state modernization funding is available. The amount and timing of any potential future state modernization funding cannot be determined until the District files actual project applications for funding (Form SAB 50-04).

Commendation

The District is commended for its successful efforts to enhance its eligibility for state matching funds by utilizing hardship provisions as permitted by the State Allocation Board regulations.

Existing Schools. Updated June 30, 2005.

Existing School	Grade	SAB# ¹ (571)	SAB Eligibility Approval (50-03)	Eligibility Enrollment	SAB Project Approval (50-04)	SAB Fund Release (50-05)	SAB Grant Amount (%) ²
<u>Elementary Schools</u>							
Borba (Anna A.) Fundamental Elementary	K-6	000	07/02/03	319			
Cortez Elementary	K-6	006	07/02/03	966	04/28/04		
Dickson Elementary	K-6	005	07/02/03	775	04/28/04		
El Rancho Elementary	K-6	000	07/02/03	237			
Gird (Richard) Elementary	K-6	000	07/02/03	350			
Glenmeade Elementary ³	K-6	003	04/26/00	646	04/26/00	05/16/00 01/08/02	\$305,816 (100%) \$1,818,448
Los Serranos Elementary	K-6	000	07/02/03	293			
Marshall (E.J.) Elementary	K-6	000	07/02/03	250			
Newman Elementary	K-6	000	07/02/03	275			
Walnut Avenue Elementary ³	K-6	002 009	04/26/00 04/26/00	811	04/26/00	05/16/00 07/07/04	\$388,661 \$2,360,665 (93%)
<u>Junior High Schools</u>							
Magnolia Junior High ³	7-8	004	04/26/00	864	04/26/00	05/16/00 01/08/02	\$432,691 (100%) \$2,375,608
Ramona Junior High	7-8	000	07/02/03	512			
<u>High Schools</u>							
Buena Vista Continuation High	9-12	007	07/02/03	310	05/26/04		
Don Antonio Lugo High ³	9-12	001	04/26/00	1026	04/26/00	05/16/00 08/13/04	\$725,749 (62%) \$3,839,930
		008 010	04/26/00 04/26/00	162 756			
Total (Fourteen schools)							\$12,247,568

¹ A "000" indicates that the District filed form SAB 50-03 to establish eligibility. A project number is assigned when form SAB 50-04 is filed, which requires DSA-stamped plans and CDE approval.

² The state grant amount is 60 percent of the total state modernization budget for project applications (SAB 50-04) filed after April 29, 2002 unless facility or financial hardship applications have been filed. (Applications filed before April 29, 2002, receive 80 percent in state matching funds.) State funding is released to the District after the project has gone to bid, a construction contract has been awarded, and form SAB 50-05 has been filed. The District must provide its matching share of the project budget. All modernization projects funded as of June 30, 2005, (57/001 through 57/004) included financial hardship requests with their applications.

³ Glenmeade Elementary (003), Walnut Avenue Elementary (002) and Magnolia Junior High (004) were originally approved as Financial Hardship applications before the March 5, 2002, passage of Measure M; however, Walnut Avenue Elementary was later converted to an 80/20 match project. Don Antonio Lugo High (001) was originally approved as a Financial Hardship application, but was converted to a 60/40 match project before funding.

MODERNIZATION PROJECTS

School	Board 12/06/01 Original Estimate		Application Approved (SAB 50-04)	SAB#	SAB Approved Budgets	
	District	State			District	State
Cortez Elementary	\$1,400,000	\$2,000,000	04/28/2004	006	\$2,211,710	\$3,317,566
Dickson Elementary	1,100,000	1,600,000	04/28/2004	005	1,517,614	2,276,422
El Rancho Elementary	400,000	700,000				
Gird Elementary	500,000	700,000				
Glenmeade Elementary	-	-	04/26/2000	003	0	2,124,264
Los Seranos Elementary	400,000	600,000				
Marshall Elementary	300,000	600,000				
Newman Elementary	300,000	500,000				
Walnut Elementary	1,200,000	1,700,000	04/26/2000	002	192,938	2,749,326
Magnolia Jr. High	-	-	04/26/2000	004	0	2,808,299
Ramona Jr. High	700,000	1,000,000				
Buena Vista Continuation High	500,000	900,000	05/26/2004	007	812,469	1,218,703
Don Lugo High	1,900,000	2,900,000	04/26/2000	001	2,770,936	4,565,679
				008	508,097	762,146
Total	\$8,700,000	\$13,200,000			\$8,013,764	\$19,822,405

DESIGN AND CONSTRUCTION BUDGETS

Process Utilized

In this examination, Total School Solutions (TSS) reviewed files and conducted interviews with various staff members. TSS also referenced files from various outside agencies to obtain information from independent sources.

Background

The District's original program estimate document, the Facilities Assessment Report, adopted by the Board of Education on 12/6/01, is summarized in the following table and presented in its entirety in Appendix A-1. In that document, there were eight (8) new construction projects, eleven (11) modernization projects and thirty (30) school improvement projects listed with an amount shown for each. The total of the eight (8) new construction projects is listed as \$91,300,000/\$95,300,000, the eleven (11) modernization projects total \$21,900,000 (\$13,200,000 state funds and \$8,700,000 in District share) and the thirty (30) school improvement projects total \$89,695,151.

Subsequent to the original Facilities Assessment Report, the District's program manager produced updated facilities costs in a report submitted to the District on April 21, 2005. That document was presented to and approved by the Board of Education on April 21, 2005, and was subsequently presented to the Citizens' Oversight Committee on May 16, 2005.

A summary of the facilities project costs is presented in the following table. The total projects cost identified include the following:

State Funds	\$138,007,465
Measure M Funds	150,000,000
Total Projects Cost	<u>\$288,007,465</u>

In addition to the above discussed reports, the District program manager issues a Construction Program Monthly Report. This report provides an update of each project, month by month, as well as construction cost updates. In addition, the District administration and Citizens' Bond Oversight Committee have made regular oral reports to the Board of Education. (Note: The District has indicated that although handouts are provided to the Board, they are not included in the Board packets or minutes.)

Discussion

Proposed work in the Facilities Assessment Report, both new construction and modernization, is prioritized and a "Total Cost" is organized by site. While it could be an adequate document for initial planning purposes, it lacks sufficient detail to provide guidance in ongoing decision-making. Furthermore, being written in Fall of 2001, it was already almost 3 years old at the beginning of the 2004-05 year.

The project costs list presented in the April 21, 2005, report provides a good budget update, but lacks sufficient detail to serve as an appropriate decision-making tool.

Findings

- The District does not have a Comprehensive Facilities Master Plan, either as an internal document or Board adopted, to direct the overall facilities program.
- The District does not have a detailed budget document for Measure M projects, either as an internal document or Board adopted, to direct the Measure M bond program.

Recommendations

- District should develop a Comprehensive Facilities Master Plan with an overall program budget that includes the total cost (construction and soft costs) for the entire facilities program. This budget should provide a simple and easily understood plan of project scope (all planned projects, program management costs, etc.), budgeted total project costs (construction and soft costs), and a schedule presented on a fiscal year basis. This program budget should, in addition to presenting an expenditure plan, include all reasonably anticipated revenues. Once developed, this document should be presented to the Board of Education for approval. It should be updated and approved by the Board of Education annually.
- District staff should develop individual project budgets for each project listed in the facilities program budget. These project budgets should be presented for Board approval as projects develop. This process should include updates at these key points in project development:
 - Conceptual.
 - Preliminary Plan.
 - Working Drawing (at bid time).
 - As awarded (actual amounts).
 - Regular updates as change orders are approved.
 - Final close out total costs.

Content of these project budgets should include all reasonably anticipated expenditures. Although the list may vary from project to project, a typical list of budgeted expense items would include:

- Site Acquisition.
- Construction.
- Architecture and Engineering.
- Plan Approval Fees.
- Construction Management
- Lab and Testing.
- Inspection.
- Labor Compliance.
- Furniture and Equipment.
- Move-in.
- Contingency

District Response

- District's response to the second bullet under the Findings and Recommendations: The District maintains an updated budget and expenditure report for every state funded and Measure M funded project. This report is created in addition to the reports produced by the County office. Because the County reports are more fiscal year driven and most construction projects run multi-year, the District customized its reports to accurately capture multi-year transactions and activities. These reports display a complete picture of the project's funding and spending, thus, enabling staff to plan ahead accordingly.

FACILITIES ASSESSMENT REPORT¹

NEW CONSTRUCTION COST ESTIMATES

School

Wickman Elementary	\$12.2
Rhodes Elementary	12.4
Woodcrest Elementary	14.5
Woodcrest Jr. High	17.2
Bird Farm Elementary	12.0
Sub-Total	\$68.3

Super-Wickman Elementary	\$2.0
Bird Farm Jr. High	5.0
Richland Elementary/Jr. High	16.0 - 20.0
Total	\$91.3 - \$95.3

MODERNIZATION/RENOVATION COST ESTIMATES

School	Priorities Estimate	Modernization Est. - District	Modernization Est. - State
Borba Fundamental	\$2,179,726		
Briggs Fundamental	1,414,025		
Butterfield Ranch Elementary	946,998		
Cattle Elementary	1,236,125		
Cortez Elementary	1,760,587	\$1,400,000	\$2,000,000
Country Springs Elementary	1,927,884		
Dickey Elementary	2,023,655		
Dickson Elementary	1,464,875	1,100,000	1,600,000
Eagle Canyon Elementary	1,151,450		
El Rancho Elementary	2,485,974	400,000	700,000
Gird Elementary	1,509,084	500,000	700,000
Glenmeade Elementary	600,533		
Hidden Trails	194,900		
Litel Elementary	685,937		
Los Seranos Elementary	1,289,896	400,000	600,000
Marshall Elementary	5,297,450	300,000	600,000
Newman Elementary	2,055,455	300,000	500,000
Oak Ridge Elementary	1,398,046		
Rolling Ridge Elementary	1,736,100		
Walnut Elementary	6,367,503	1,200,000	1,700,000
Canyon Hills Jr. High	3,990,600		
Magnolia Jr. High	3,298,958		
Ramona Jr. High	7,885,431	700,000	1,000,000
Townsend Jr. High	1,509,041		
Woodcrest Jr. High	1,334,950		
Ayala High	8,380,361		
Buena Vista Continuation High	1,385,280	500,000	900,000

Chino High	6,438,165		
Chino Hills High	2,205,000		
Don Lugo High	15,541,162	1,900,000	2,900,000
Total	\$89,695,151	\$8,700,000	\$13,200,000

<u>Summary</u>	<u>District</u>	<u>State</u>
New Construction	\$91.3 - \$95.3	
Modernization	8.7	\$13.2
School Priorities	89.7	
Total	\$189.7 - \$193.7	\$13.2
	Million	Million

¹ This document was adopted by the Board on December 5, 2001, concurrently with the adoption of Resolution No. 2001-39 calling for the Measure M election on March 5, 2002. It is assumed that all estimated costs include "soft" costs (planning, inspection, tests, etc.) and "hard" costs (construction, contingency, furniture and equipment).

FACILITIES PROJECT COSTS¹

New Construction Projects

School	State Funds	Measure M Funds	Measure M Funds (Additional)	Total
Chino Hills High	\$70,808,355			\$70,808,355
Woodcrest Jr. High	11,288,752	\$8,876,045	\$4,623,955	24,788,752
Liberty Elementary	9,079,722	6,987,912	2,345,866	18,413,500
Wickman Elementary	9,044,415	6,123,347		15,167,762
Rhodes Elementary	7,671,740	6,685,340		14,357,080
Chaparral Elementary	7,107,301	6,052,443		13,159,744
Wickman Addition	1,436,954	1,436,954		2,873,900
Total	\$116,437,239	\$36,162,041	\$6,969,821	\$159,569,101

Modernization Projects

School	State Funds	Measure M Funds	Measure M Funds (Additional)	Total
<u>First Series</u>				
Glenmeade Elementary	\$2,124,264			\$2,124,264
Magnolia Jr. High	2,808,299			2,808,299
Walnut Elementary	2,749,326	\$192,938	\$207,062	3,149,326
Don Lugo High	4,565,679	2,770,936	229,064	7,565,679
Sub-Total	\$12,247,568	\$2,963,874	\$436,126	\$15,647,568
<u>Second Series</u>				
Cortez Elementary	\$3,293,108	\$2,195,405		\$5,488,513
Dickson Elementary	2,255,039	1,517,614		3,772,653
Buena Vista Elementary	1,199,511	799,674		1,999,185
El Rancho Elementary	600,000	537,992		1,137,992
Gird Elementary	1,000,000	678,439		1,678,439
Los Serranos Elementary	375,000	515,453		890,453
Newman Elementary	600,000	389,804		939,804
Marshall Elementary		396,167		397,167
Ramona Elementary		986,714		986,714
Sub-Total	\$9,322,658	\$8,017,262	\$0	\$17,339,920
Total	\$21,570,226	\$10,981,136	\$436,126	\$32,987,488
School Projects	\$0	\$90,000,000	\$0	\$90,000,000
Remaining Funds	0	5,454,876	0	5,454,876
Total Funding	\$138,007,465	\$142,598,053	\$7,401,947	\$288,007,465

¹ Facilities project costs were extracted from a document entitled "Implementation Presentation Overview, Volume 1 of 5," prepared by PCM3, which was submitted to the District on April 21, 2005. It is assumed that all project costs include "soft" costs (planning, inspection, tests, etc.) and "hard" costs (construction, contingency, furniture and equipment). (Note: This document was presented to and unanimously approved by the Board on April 21, 2005 (II.A.2). It was subsequently presented to the CBOC on May 16, 2005, as reflected in the minutes of that meeting.)

CHANGE ORDER AND CLAIM PROCEDURES

Process Utilized

In the process of this examination, relevant documents were analyzed. Interviews were also conducted with the Facilities and Construction Management Team.

Background

During the course of construction work, some additional work may be required to mitigate unforeseen conditions or conflicts in plans and specifications. Typically, change orders for modernization cannot be avoided because of the age of the buildings. Also, records often conflict with the present condition. The average industry-wide percentage for change orders in modernization is six to eight percent of the original contract amount. (The change order industry standard for new construction is three to four percent.).

Due to the urgent nature of school construction work, issues are sometimes resolved verbally at weekly construction meetings where the architect, construction manager, inspector and contractor's superintendent are present. These decisions are then formalized in the meeting minutes and followed up with a change directive, when needed, to authorize the work and eventual payment. The District is not liable for the cost of extra work or substitutions, changes, additions, omissions or deviations from the drawings and specifications unless it authorizes the work.

To initiate a change due to unclear or conflicting drawings, unforeseen conditions or other reasons, the contractor writes a Request for Information (RFI). The Architect of Record (AOR) reviews the RFI and submits an answer to the contractor. In this way, the determination as to the need for a simple "no change" clarification or extra work is made. Typically, if the RFI process results in a change that produces additional cost, credit, or change in schedule, the contractor generates a Proposed Change Order "PCO". The PCO is submitted to the construction manager and architect, reviewed, and forwarded with a recommendation to the District for consideration.

An important part of the change order process is price negotiation. The contractor submits a Proposed Change Order (PCO) to the architect and construction manager. They review the proposal with the inspector, architect of record and the District's project manager. If accepted, the architect issues a change directive or a change order. The increase or decrease in the contract price caused by a change order may be determined at the District's discretion by the acceptance of a PCO, utilizing unit prices from the original bid or by utilizing a time and materials method as agreed upon by the District and the contractor. Due to a potential discord over price, the process may go through several cycles before the parties reach an agreement.

When a contractor makes a claim for a contract price increase or time extension, he or she notifies the District but continues to execute the work even if the adjustment has not been agreed upon. By having this language in the general conditions of the contract, the District is protected from work stoppage due to a disagreement over the price of a change order.

As part of the payment process, contractors are asked to submit a schedule of values to determine the appropriate progress payment for their performance of work. The schedule of values may be used as a tool in determining credits when work is no longer necessary. It can also serve as a measure of compensation for the additional work needed.

Commendations

- It is commendable that the Director of Facilities and Construction meets with the Construction firms and the prime trades contractors weekly to review the status of the projects and troubleshoot issues that come up. This regular and weekly communication makes for better response before issues start affecting other areas.
- The Notice of Completion procedure was examined and found to be in compliance. Proper authorization and sign off was received from the contractor, inspector of record, and the director of construction prior to filing of such notices. The prompt filing of such notice ensures that final payment is released in a timely manner preventing claims from contractor and the subcontractors. It is however important to note that while timely filing of the Notice of Completion is recommended, work must be completed to the satisfaction of all stakeholders before such filing.

Observation

- Rhodes Elementary, Woodcrest Junior High, Liberty Elementary and Wickman Elementary construction contracts were found to be in litigation. Staff informed TSS that the Rhodes Elementary litigation was attributed to additional offsite work such as drainage and grading as required by the City which was not specified in the original bid. Other litigation in question involved B.E. McMurray.

Finding

- According to staff interviewed, the change orders can be attributed three percent to the additional scope, fifty percent to unforeseen conditions and forty seven percent to architects' error and omission. Some of the errors and omissions are due to outdated District records. These records were not updated despite the ongoing work performed through the years by District staff through deferred maintenance or routine maintenance processes. The discrepancies are not discovered until the construction occurred.

Recommendations

- Staff should continually update record drawings as changes or repairs are made through deferred maintenance or routine maintenance. Site verification by architect is important prior to designing bid documents to uncover some of the as-built discrepancies. Adequate time must be invested in planning and designing phase to minimize future change orders.
- The architect-construction manager relationship is important because each can help the other in moving projects along. A few contractors have a tendency to use the Request for Information vehicle to inundate the architects with issues so as to provide validity to their claims for delay. Construction managers should use their experience and expertise in identifying and clearing out the frivolous questions and claims.

District Response

- No response provided.

**COMPLIANCE WITH DISTRICT POLICIES
AND ADMINISTRATIVE REGULATIONS**

The District has adopted the following Board Policies (BP) and Administrative Regulations (AR) for its facilities program, New Construction – Series 7000.

BP	AR	Description	Date of Adoption	Date of Revision
7000		Concepts and Roles	11/2/95	
7010		Goals and Objectives – Facility Expansion Program	11/2/95	
7100		Facilities Master Plan	11/2/95	
7110	7110	Determining Needs	11/2/95	6/3/99
7111		Evaluating Existing Buildings	11/2/95	
7120		Participation in Planning	11/2/95	
7140		Relations with the Public	11/2/95	
7150		Relations with other Governmental Units	11/2/95	
7151		Relations with the City/County Regarding Land Development	11/2/95	
7200		Designing		
7210	7210	Architectural and Engineering Services	11/2/95	
7220	7220	Site Selection and Development	11/2/95	4/19/01
	7220.1	Site Acquisition Procedures	11/2/95	
7300		Financing	11/2/95	
7310		Methods of Financing	11/2/95	
7310.1	7310.1	Use of Mello-Roos Community Facilities Districts	11/2/95	
7310.2	7310.2	Collection of School Facility Special Taxes and Fees	11/2/95	
7310.3	7310.3	Allocation of Capital Facilities Funds	11/2/95	
7310.4		Facilities Financing	6/3/99	
7310.5	7310.5	Issuance of Debt	6/3/99	
7500		Acceptance/Dedication of Project		
7511	7511	Naming of Facility	11/2/95	9/18/03

Most of the board policies and administrative regulations listed were first adopted in 1995, with some revisions within the past seven (7) years. These policies and regulations have not kept pace with rapidly changing state statutes and State Allocation Board (SAB) regulations. For example, SB 50, which was enacted in 1999, made major modifications to the state's School Facilities Program, imposed developer fees (Level 1 and 2) and eliminated Mira fees. In 2000, Proposition 39 enabled school districts to pass facility bonds with 55 percent approval. The state also created the Department of Toxic Substances Control (DTSC) to regulate environmental issues related to new school sites. The board policies and regulations are too outdated to account for these changes.

Locally, the District provides project/construction management services to oversee its projects through the construction phase. The District has a number of school construction projects under a "multiple-prime" approach rather than the traditional "general contractor" approach.

The alternative methods of implementing a facilities construction program should be referenced in local policies and regulations.

Finding

- There are no findings in this section.

Observation

- The District is in the process of utilizing the model policy and regulation documents developed by the California School Board Association (CSBA) and other school districts to develop and update facilities program policies and regulations. In developing District policies and regulations, emphasis should be placed on local District conditions and needs.

PAYMENT PROCEDURES

Process Utilized

The appropriate District staff was interviewed; documentation was reviewed; and processes were observed. Follow-up interviews were held to address additional questions.

Background

The District's policy for Payment for Goods and Services (BP 3314) requires the invoices to be paid on time to allow the District to take advantage of available discounts and avoid finance charges. Legal References cited include Public Contract Code 20104.50 which implies construction progress payments shall be made within 30 days after receipt of an undisputed and properly submitted payment request. A sample of payments (as described below) was reviewed to determine if payments are being made in accordance with the board policy.

Construction invoices/payment applications are first sent to the Architect and the Inspector of Record for verification and approval as to the percentage of work completed. They are then forwarded to the Construction Manager for review and approval.

The Invoices/payment applications are then sent directly to the Facilities Planning Division. Upon receipt, the Facilities Administrative Assistant date stamps the invoices and forwards them to the Facilities Accountant II or Accounting Clerk III for processing. Both positions are located in the Facilities Office. The Accountant II or Accounting Clerk III verifies that the amount of the invoice/payment application is correct and all of the proper approvals are in place. If the invoice or payment application reflects a change order, staff verifies that the change order has been approved by the Board of Education. If the change order has not yet been approved by the Board, the invoice is not processed until the change order is approved. The staff prepares the summary of projects form; the form accompanies the invoice. The form contains the following information: project name, vendor name(s) and number(s), category, contract award amount(s), board approval date(s), purchase order number(s), invoice number, invoice date, description, invoice amount, all of the previous payment history, total billed and the amount available on the contract/purchase order. The project summary form and invoice are forwarded to the Director of Facilities and Construction and/or Assistant Superintendent of Facilities and Planning for final approval. Once approved, the invoice is processed for payment.

Accounts Payable batches are processed daily. The normal processing time for a check to be released from the County Office of Education (COE) is five days.

For the first payment on a payment application, the County Office of Education requires the following documentation to accompany the invoice:

Vendor Name and Number

District Contract/Project Number

Original Bid/Contract Amount

Purchase Order/Contract/Agreement signed by Board Authorized Agent (including the purpose the of contract/obligation, time period, amount of contract and payment conditions and the indemnification-Hold Harmless)

Payment Bond (Public work in excess of \$25,000)

Performance Bond (if required by contract)

Certification of Board of Trustees (action awarding the bid to the lowest responsible bidder)
Opening Bid Summary
Proof of Bid Publication
Division of State Architect (DSA) Approval

The payment request is audited to make sure all of the legal documentation is in order; this process takes approximately two weeks. Following that, the COE releases the warrant.

When a change to the original contract occurs, the COE requires the following documentation or information to accompany the payment request as applicable: Escrow in Lieu of Retention P.C.S. code (reduction of retention or change of escrow agent), Change Order Number (DSA approval letter when applicable, letter from architect if nature is non-Field Act), Board Acceptance of Change Order, Stop Notice, Release of Stop Notice, Pending Change order and Board Approval Date.

All final payments on construction contracts are audited by the COE prior to the release of the warrant. For the final payment request the COE requires that the Notice of Completion and/or Board Acceptance and the Release of Retention documentation accompany the payment request. Throughout the year, progress payments may be selected at random for audit by the COE.

Sample

The following school sites which had projects funded through bond proceeds during the period of this audit were selected to examine payment procedures: Chaparral Elementary School, Don Lugo High School and Woodcrest Junior High School. From that selection, a sample of fifteen invoices was reviewed. The review consisted of verification of approvals (i.e. Owner, Architect, Inspector of Record, Construction Manager, Director of Facilities and Construction, and/or Assistant Superintendent of Facilities and Planning), verification of the amount of the invoice, the actual amount paid and amount of time it took for vendors to be paid.

Commendation

- It appears the District has good controls in place for the approval of payments and is abiding by the policy of making payments to vendors within thirty (30) business days.

Finding

- There are no findings in this section.

Observation

- First application payments could be delayed due to the amount of time it takes the district to process the payment and for the COE to audit. Vendors should be made aware of the process utilized and the District should make every effort to expedite first payment applications.

BIDDING AND PROCUREMENT PROCEDURES

Process Utilized

In the process of this examination, numerous purchasing documents and payment documentation pertaining to new construction and modernization projects were reviewed and analyzed. Interviews with various staff members were held.

Background

Bids for projects are verified for compliance and completeness. In addition, licenses, bonds, insurance and fingerprinting are verified before a recommendation for Board approval is processed. After bid opening, bidders are allowed to submit data and documentation for final approval of substitution of materials. Contingent approval is granted during the bid process but with no guaranty that final approval will be provided for the substitution.

The District utilizes pre-qualification process for bidders. The prequalification questionnaire and certified financial statements must be received at least five days prior to the bid opening. A recommendation for approval of bidder pre-qualification is taken to the Board of Education for concurrent approval along-with the award of bid. The construction contract is executed after the bid award.

Commendations

- The District is reusing plan for Rhodes Elementary, Wickman Elementary and Chaparral Elementary Schools, primarily to take advantage of economies of scale. District's Technology, Maintenance & Operations, and the Educational Services Departments provided input into the development of the basic design. Standardizing designs also promotes equity among schools.
- District is in compliance with Education Code 45125.1 and 45125.2 requiring contractors to certify that they have not been convicted of a serious or violent felony. This certification requirement is part of the bid package.

Observations

- Although District's standard bid boilerplate was used for construction bids, it was noted that an addendum was issued for the Cortez Elementary, Dickson Elementary and the Buena Vista High Schools Modernization Bid to change language and instruction in the Information to Bidders, Project Manual and the Prequalification of Bidders. This event may indicate that the standard bid boilerplate is out of date and the District may benefit from a review by legal counsel for the future bids.
- Several problems were encountered with the Chaparral Elementary School New Construction bid as follows:

Category 3-Concrete – Bidder failed to fill in a page of the bid and was rejected.

Category 12–Ceramic Tile – Bidder omitted Disabled Veterans Business Enterprise Certification, another failed to sign an attachment and both bids were rejected.

Category 16 – Specialties - Bidder failed to provide their corporate seal and was rejected.

Category 18 – Plumbing – Bidder was not prequalified and was rejected.

Category 20 – Fire Sprinkler – Bidder failed to sign attachment and was rejected

Category 21 – Door and Hardware – Bidder failed to acknowledge addendum and was rejected

Findings

- The Division of State Architect reviews construction documents from school districts to ensure their designs include structural safety, fire and life safety and access for the disabled. The Chaparral Elementary School new construction project was bid prior to receiving Division of State Architect's approval. Thus, changes required by DSA were not part of the bid. This necessitated incorporating DSA corrections as a change order. Change order cost is typically significantly higher than bid cost.¹

¹Although not applicable in this audit period, it should be noted that subsequent OPSC regulations require DSA approval prior to bidding as a condition of State School Facilities Program funding.

- From bids sampled, several addenda were identified which revised scope of work. Such was the case for electrical portion of the Cortez Elementary, Dickson Elementary and Buena Vista High Schools modernization. The entire fire alarm system for Don Lugo High School was another scope of work revised by the addendum. An addendum should be used by the architect to clarify bidder's questions, adjust the bid date, and make other minor adjustments. It should not be used as an opportunity to re-write boilerplate language or make significant adjustments to the scope of the project.
- The bid recapitulation sheet varies for various construction managers. Information is not consistently tracked.

Recommendations

- Division of State Architect (DSA) approval for construction plans must be received before bidding the project. Often DSA requires changes in the plans. It is prudent to incorporate these changes into the drawings and make them a part of the base bid. If bid is awarded prior to receiving approval from DSA, DSA changes have to be added by a change order. Work performed as change order typically costs more.
- Adequate time, planning and constructability review are key factors in avoiding significant change in scope of work through addenda. The District staff currently does not conduct constructability review since this function is performed by the construction manager. It is recommended that staff receive an overview of the constructability review prior to bidding. Bidders often perceive the number of addenda to be an indicator of how accurate the plans are. If they perceive the plans to be flawed, the contractors bid accordingly to allow an allowance for errors.
- Standardize the bid recapitulation sheet. A consistent, high quality form aids in accurate bid analysis.

District Response

- No response provided.

**EFFECTIVENESS OF THE PUBLIC OUTREACH PROGRAM AND
COMMUNICATION CHANNELS AMONG ALL STAKEHOLDERS WITHIN
THE BOND PROGRAM**

Process Utilized

Total School Solutions (TSS) conducted interviews with key personnel in the facilities, purchasing and other departments; with consultants; and other individuals related to, or involved with, the facilities program.

The District has adopted three (3) Board policies related to its public outreach program:

BP 7140	Relations with the Public
BP 7150	Relations with other Government
BP 7151	Relation units with the City/County regarding land development

In addition to Board policies, the District has developed and maintains an internet website that provides detailed information about the Measure M bond program and the entire facilities program.

As a part of the District's effort to keep the community informed on its facilities program and other issues, the Superintendent prepares a quarterly newsletter, reports are published in the local newspaper, and the local Channel 17 is utilized.

Discussion

Key personnel interviewed expressed the prevailing opinion that in spite of previous problems encountered, the Measure M bond program is now proceeding in a well-coordinated manner with the current team (District Facilities Department, program manager, architects and construction managers).

No major issues were raised, but interviewees expressed the need for on-going effort to keep the community informed about Measure M, concerns over past decisions to reorder facilities priorities, the need for the facilities program to be "transparent", the need to study the multiple-prime vs. general contractor approach and the implication to the future construction contracts, and the need to maintain continuity in management of the facilities program.

Findings

- There are no findings in this section.

Commendation

- The District is commended for maintaining an informative and current website regarding the Measure M bond program.

APPENDIX A

BOND PROPOSITION

RESOLUTION NO. 2001-39

**A RESOLUTION OF THE BOARD OF EDUCATION OF THE
CHINO VALLEY UNIFIED SCHOOL DISTRICT
REGARDING AN ORDER OF BOND ELECTION UNDER
SECTIONS 15100 AND 15120 OF THE EDUCATION CODE AND
SPECIFICATIONS OF THE ELECTION ORDER**

SECTION 1. WHEREAS:

1. Educational program demands upon the Chino Valley Unified School District (the "District") have caused its existing facilities to become inadequate and obsolete;

2. The District currently needs to increase the capacity of and otherwise improve its existing facilities in order to accommodate students and to provide for certain other educational program and safety needs;

3. Section 1(b) of Article XIII A of the California Constitution excepts from the general one percent (1%) of full cash value limitation those *ad valorem* taxes used to pay for debt service of any bonded indebtedness for the acquisition or improvement of real property approved on or after July 1, 1978, by two-thirds (2/3) of the votes cast by voters on the proposition, or as an alternate, in accordance with Proposition 39 ("Proposition 39"), passed at the election held on November 7, 2000, to pursue authorization of such bonds by a 55% vote of the electorate in accordance with the requirements of Proposition 39;

4. The Board of Trustees of the District (the "Board") requests the San Bernardino County Superintendent of Schools to call an election in the County of San Bernardino (the "County") on March 5, 2002, on the question whether bonds shall be issued and sold for purposes set forth below; and

5. A Notice of Bond Election, containing specification of the order for such bond election, is attached hereto as Exhibit "A," and by this reference incorporated herein and with all the contents thereof by this reference made a part hereof as if fully set forth in this Resolution.

SECTION 2. NOW, THEREFORE, IT IS HEREBY RESOLVED AND ORDERED BY THE BOARD OF TRUSTEES OF CHINO VALLEY UNIFIED SCHOOL DISTRICT OF SAN BERNARDINO COUNTY, STATE OF CALIFORNIA, AS FOLLOWS:

1. All of the foregoing recitals are true.

2. This Board of Trustees does hereby order and request that the Superintendent of Schools (herein called the "County Superintendent") of the County (in the performance of his duties and in the exercise of his power, alone, or by and through contract with the Clerk of the County Board of Supervisors (the "County Clerk") on the question of whether bonds of the District shall be issued and sold for the purpose of raising money in the amount and for the purposes specified in the attached and incorporated formal Notice of School Bond Election. The County Superintendent shall call said election for the District pursuant to and in accordance with this Resolution and the specification of the election order in said Exhibit "A," the authority for which Resolution and specifications is found in Education Code Sections 5322, 5324, 15100 15120 and 15266 and Article XIII A of the Constitution.

3. The purpose of said Bond Election shall be for the voters of the District to vote on the following proposition (the "Bond Measure") which is to appear on the card notice of election and upon the ballot as follows:

"To relieve severe overcrowding, improve safety for children, repair/renovate local schools, shall Chino Valley Unified School District acquire, construct, and improve school sites and facilities, obtain eligibility for state funding, add classrooms, build schools, repair roofs, eliminate asbestos/other safety hazards, upgrade electrical, plumbing, heating/cooling systems, improve security and provide for technology, issue \$150 million of bonds, at legal interest rates, with independent Citizens Oversight and annual audit of expenditures, with no money for administrators' salaries?"

4. In accordance with Proposition 39, which is hereby determined to cover this order for a March 5, 2002, Bond Election, the Bond Measure is subject to the following requirements and determinations:

(i) proceeds of the general obligation bonds to be issued by the District under the Bond Measure (the "Bonds") shall be used only for construction, rehabilitation, and equipping of District facilities, or the acquisition or lease of real property for District facilities;

(ii) a specific list of District projects to be funded by the Bonds under the Bond Measure shall be prepared by District officials prior to the Bond Election and shall be approved by this Board, and the Board shall evaluate safety, class size reduction and information technology needs in developing the list;

(iii) the Board shall conduct annual, independent financial and performance audits until all Bond proceeds have been spent to ensure that the proceeds of the Bonds shall have been used only for the projects listed in the Bond Measure;

(iv) the tax rate levied as the result of the approval of the Bond Measure at the Bond Election shall be no more than \$60 per \$100,000 of taxable property value within the District; and

(v) the Board shall appoint a citizens' oversight committee to inform the public concerning the spending of the proceeds of the Bonds.

5. Pursuant to Section 1258 of the Education Code, the Superintendent of the District is hereby authorized to contract with the County Clerk for the performance of any or all duties incident to the holding or conducting of said Bond Election. The County Clerk is hereby requested and authorized to perform such duties as may be required by law, necessary or useful, or customary and appropriate in the conduct of said Bond Election.

6. The precincts, polling places for said precincts in the County, and persons appointed and designated to serve as election officers for said Bond Election will be those determined, designated, and appointed pursuant to state law by the County Clerk.

7. The County Superintendent, the County Clerk and the Board of Supervisors of the County are requested and hereby authorized to consent to and order the consolidation of said Bond Election with such other elections as may be held on March 5, 2002, under state law within the territory of the District.

8. The County Counsel for the County is requested to prepare an analysis of the measures and to supply it to the County Clerk for use in the sample ballot.

9. Pursuant to Section 22003 of the California Elections Code (the "Elections Code"), the Board of Supervisors is requested to permit the County Clerk to render all services relating to the election, for which services the District agrees to reimburse the County, such services to include the publication of the Formal Notice and a Tax Rate Statement containing the information required in Section 5300-5304 of the Elections Code.

10. This Board finds and determines that the action herein taken is categorically exempt from the provisions in the California Environmental Quality Act ("CEQA") pursuant to Sections 15061(b)(3) and 15378(b)(4) of Title 14 of the

California Administrative Code. The District Superintendent shall cause the Notice of Exemption attached as Exhibit "B" to be filed with the County Clerk, pursuant to CEQA and said Title 14.

11. The Superintendent of the District shall, not later than 88 days prior to the date of the Bond Election, cause a certified copy of this Resolution to be mailed or delivered to the following officers in the County:

- (1) Registrar-Recorder, Elections Division
- (2) County Counsel
- (3) County Superintendent of Schools

12. The District hereby confirms the hiring of consultants to provide for special services in connection with the proposed issue(s) of Bonds which may be authorized at the Election, to wit, the firm of Sutro & Co. Incorporated as Underwriter for the District (the "Underwriter") and the law firm of Fulbright & Jaworski L.L.P, as Bond Counsel to the District, upon conditions as may be set forth in fee agreements heretofore negotiated and executed on behalf of the District by the Superintendent. Payments of the fees and expenses of the Underwriter and Bond Counsel shall be paid from the proceeds of the Bonds of the District which may be authorized following a successful Bond Election, and not otherwise, unless this Board shall take further action.

PASSED AND ADOPTED by the Chino Valley Unified School District Board of Education on December 6, 2001, by the following vote:

AYES: 5
NOES: 0
ABSENT:

I, George H. Bloch, Ed.D., Secretary of the Board of Education of the Chino Valley Unified School District of San Bernardino County, California, do hereby certify that the foregoing Resolution was duly and regularly adopted by the said Board at the regular meeting hereof held on the 6th day of December, 2001 and passed by a 5 - 0 vote of said Board.



Secretary of the Board of Education

EXHIBIT "A"

NOTICE OF SCHOOL BOND ELECTION

NOTICE IS HEREBY GIVEN to the qualified electors of Chino Valley Unified School District of San Bernardino County, State of California, that in accordance with law, an election will be held on Tuesday, the 5th day of March, 2002, in said District, between the hours of 7:00 a.m. and 8:00 p.m., during which period and between hours the polls shall remain open, at which election there will be submitted the question of:

Issuing and selling bonds of said District in the principal amount of not to exceed \$150 Million Dollars. The need for the issuance of such bonds and the purposes for which it is intended that the proceeds of the bond issue will be expended are: listed in the Facilities Assessment Report.

Said bonds proposed to be issued and sold shall bear interest at a rate or rates not exceeding the maximum interest rate per annum set by law for such bonds, with interest payable annually for the first year the bonds are outstanding, and semiannually thereafter. The maturity of the bonds shall not exceed the maximum established by law for general obligation bonds of a California school district under the Government Code of the State.

All of the foregoing purposes and provision enumerated herein shall be voted upon as one proposition to appear on the ballot as follows:

"To relieve severe overcrowding, improve safety for children, repair/renovate local schools, shall Chino Valley Unified School District acquire, construct, and improve school sites and facilities, obtain eligibility for state funding, add classrooms, build schools, repair roofs, eliminate asbestos/other safety hazards, upgrade electrical, plumbing, heating/cooling systems, improve security and provide for technology, issue \$150 million of bonds, at legal interest rates, with independent Citizens Oversight and annual audit of expenditures, with no money for administrators' salaries?"

The polls for this election shall open at 7:00 a.m. and close at 8:00 p.m. The precincts, places for holding the election, and officers appointed to conduct the election shall be those determined, specified or appointed by the County Clerk pursuant to state law.

Dated this ____ day of _____, 2001.

SUPERINTENDENT OF SCHOOLS OF THE
COUNTY OF SAN BERNARDINO, STATE OF
CALIFORNIA

NOTICE OF EXEMPTION

TO: / Secretary for Resources
District

FROM: Chino Valley Unified School

 / County Clerk
County of San Bernardino

Project Title:

Bond Election (Education Code Sections 15100 and 15120)

Project Location--Specific:

Chino Valley Unified School District

Project Location

City: Chino

County: San Bernardino

Description of Nature, Purpose, and Beneficiaries of Project:

To repair and rehabilitate school facilities, provide seismic upgrades, renovate classrooms and other facilities, construct business and computer technology classrooms and laboratories and renovate plumbing, heating and electrical facilities within the Chino Valley Unified School District.

Name of Public Agency Approving Project:

Chino Valley Unified School District

Name of Person or Agency Carrying Out Project:

Chino Valley Unified School District

RES.2001-

1

Exempt Status:(Check One)

- ☐ Ministerial (Sec. 15073)
☐ Declared Emergency (Sec. 15071(a))
☐ Emergency Project (Sec. 15071(b) and (c))
☒ X Categorical Exemption. State type and section number:

Title 14. Cal. Admin. Code 15378 (b)(4) CEQA Form 3

Reasons why project is exempt:

- a. Bond elections have categorical exemption

Contact Person: Area Code: Telephone:

Maureen Saul, Ph.D. (909) 628-1201 xt.1215

If filed by applicant:

1. Attach certified document of exemption finding.
2. Has a notice of exemption been filed by the public agency approving the project?

Yes _____ No _____

Date Received for Filing: _____
Signature

Title

EXHIBIT A-1

FACILITIES ASSESSMENT REPORT

Chino Valley Unified School District



FACILITIES ASSESSMENT REPORT

Board Adopted 12/6/01

CHINO VALLEY UNIFIED SCHOOL DISTRICT PROPOSITION 39 PROJECT LIST

Funds from the Chino Valley Unified School District's Bond Measure shall be used to improve educational opportunities, raise student achievement, improve health and safety conditions of educational facilities, replace aging classrooms, provide permanent classrooms, laboratories, improve libraries, provide new schools, provide for structural integrity, acquire furniture and equipment for instruction, construct athletic/physical education facilities, provide program enhancements, improve energy conservation, and reduce overcrowding by implementing the following list of projects:

- Renovate and remodel buildings and classrooms, provide additional classrooms to relieve overcrowding, remodel and renovate student service areas, improve safety systems, buildings systems, building surfaces, upgrade wiring for electrical systems and technology, improve plumbing and heating/cooling/ventilation systems and improve access for disabled persons; and
- Acquire sites, as necessary, and plan and construct buildings at various sites for instruction and support services including science and computer laboratories; and
- Acquire sites, as necessary, and plan and construct new school facilities to accommodate enrollment growth throughout the District, including a stadium at Ayala High School, stadium support facilities at Chino High School, expansion of parking and student drop-off zones to reduce safety hazards, installation of monitored security systems, installation of exterior lighting for safety and security, repair roof systems, installation of lunch shelters, replacement of unsafe playground equipment; and
- Improve fire security and emergency communication systems, install covered walkways, renovate restrooms, paint interior and exterior surfaces, install security fencing, replant lost vegetation and improve landscaping, repair sewer systems and plumbing, remove asbestos and dry rot, repair uneven and unsafe ground surfaces, replace drinking fountains; and
- Furnish and equip all facilities constructed or improved with bond proceeds.

With respect to these projects, the District has evaluated facility needs to continue to provide for safety, class size reduction and information technology; and the District shall appoint an independent citizen's oversight committee to oversee the implementation of this Project List.

The allocation of bond proceeds and the timely completion of projects could be affected by the District's ability to receive matching funds as well as the final costs of each project. The estimated costs for each project may be affected by outside factors beyond the District's control. The timing of projects will be established and shall be subject to revision by the Board of Education and will be subject to review by the citizen's oversight committee.

New Construction Cost Estimates

- | | |
|-----------------------------|-----------------------|
| ▪ <i>Wickman Elementary</i> | <i>\$12.2 Million</i> |
| ▪ <i>Rhodes Elementary</i> | <i>\$12.4 Million</i> |

- Woodcrest Elementary \$14.5 Million
- Woodcrest Junior High \$17.2 Million
- Bird Farm Elementary \$12.0 Million

Sub-Total: \$68.3 Million

- Super-Wickman Elementary \$2 Million
- Bird Farm Junior High \$5 Million
- Richland Elementary/Junior High \$16 Million/\$20 Million

TOTAL: \$91.3 Million/\$95.3 Million

Modernization Needs

▪ **Eligible Schools**

Major Work	Total Cost	District Share
Walnut Elementary	\$2.9 Million	\$1.2 Million
Don Lugo High	\$4.8 Million	\$1.9 Million
Cortez Elementary	\$3.4 Million	\$1.4 Million
Dickson Elementary	\$2.7 Million	\$1.1 Million
Buena Vista High	\$1.4 Million	\$.5 Million
<u>TOTAL</u>	\$15.2 Million	\$6.1 Million

Partial Work	Total Cost	District Share
El Rancho Elementary	\$1.1 Million	\$.4 Million
Marshall Elementary	\$.9 Million	\$.3 Million
Gird Elementary	\$1.2 Million	\$.5 Million
Los Serranos Elementary	\$1.0 Million	\$.4 Million
Newman Elementary	\$.8 Million	\$.3 Million
Ramona Junior High	\$1.7 Million	\$.7 Million
<u>TOTAL</u>	\$6.7 Million	\$2.6 Million

The Facilities Advisory Committee for the Chino Valley Unified School District has developed the following priority listing for projects proposed for funding from the successful passage of a local General Obligation Bond on March 5, 2002.

Priority Recommendations

1. **New Construction for Growth Needs**
2. **Health & Safety Issues**
3. **Infrastructure Repair/Structural Integrity/Energy Conservation**
4. **Upgrade/Renovate Classrooms**
5. **Site Improvements/Program Enhancements**
6. **Furniture/Equipment for Instruction**

Borba Fundamental

	RANK	PRIORITY
A	2	Revise and expand parking and student drop-off zones to reduce safety hazards.
B	2	Install monitored security system/phones in classrooms.
C	2	Add exterior lighting for safety and security.
D	3	Repair dry rot/moisture damage – Kindergarten.
E	3	Repair rusted plumbing pipes and fixtures.
F	4	Renovate aging classrooms and multipurpose room.
G	5	Expand student service areas (school office and nurse's office).
		TOTAL COST: \$2,179,726

Briggs Fundamental

	RANK	PRIORITY
A	2	Update exterior lighting for safety.
B	3	Updated electrical wiring and plumbing in all of the classrooms.
C	3	Replace or repair leaky roofs.
D	3	Repair covered walkways throughout the school.
E	5	Extra classroom for a computer lab and future student growth.
F	5	Five specialized classrooms for labs and elective classes.
G	5	Extra sidewalks, planters, and cement work.
H	5	Larger workspace for staff.
		TOTAL COST: \$1,414,025

Butterfield Ranch Elementary

	RANK	PRIORITY
A	2	Install covered shade area.
B	5	Upgrade electrical service in classrooms for access to technology.
C	5	Create specialized instructional space.
D	5	Install covered walkways throughout the school.
E	5	Expand and upgrade hard space area for safety.
F	6	Replace playground equipment for safety.
		TOTAL: \$946,998

Cattle Elementary

	RANK	PRIORITY
A	2	Revise parking zones/bus zones for safety and security reasons.
B	4	Replace seven older portable classrooms.
C	5	Construct multi-use room with computer lab capabilities.
D	5	Remodel/expand teacher preparation work area to provide more counter and storage space due to the increase in the number of teaching staff.
E	6	Additional equipment for outside play areas.
		TOTAL COST: \$1,236,125

Cortez Elementary

	RANK	PRIORITY
A	2	Update/repair public address, emergency, and fire communication systems.
B	2	Install telephones in each classroom.
C	4	Install additional relocatable classrooms.
D	4	Install/repair adequate electrical wiring and outlets in classrooms.
E	5	Build storage space to house supplies and off-track materials and cabinets.
F	5	Build enclosed eating area (cafeteria) for students.
G	5	Purchase and install portable to house library/computer lab.
H	5	Construct/enlarge additional student and adult restrooms.
		TOTAL COST: \$1,760,587

Country Springs Elementary

	RANK	PRIORITY
A	2	Change sand to wood chips in playground equipment area.
B	2	Revise student drop-off zones to reduce safety hazards.
C	3	Renovate air conditioning and ventilation systems for energy efficiency.
D	3	Replace deteriorated ceiling tiles.
E	4	Upgrade telephone and communication systems.
F	5	Renovate and expand library.
G	5	Construct access ramps and walkways to main buildings. Add stairs on the north and south of campus for ease of access.
H	5	Raise kindergarten fence.
I	5	Cabinets with counter tops built into permanent portable classrooms.
J	5	Provide permanent outdoor covered eating area.
K	5	Enlarge parking lot.
		TOTAL COST: \$1,927,884

Dickey Elementary

	RANK	PRIORITY
A	2	Remodel all restrooms.
B	4	Install telephones in all classrooms.
C	5	New staff lounge to accommodate a staff of 50+.
D	5	Enlarge and expand parking lot.
E	5	Install new playground equipment in kindergarten playground.
F	5	Remove existing computer area partitions between classrooms and media center and replace with walls to reduce noise.
G	5	Remodel and enlarge cafeteria and kitchen with new tables and benches to accommodate 1000.
H	5	New staff workroom.
I	6	Replace existing curtains.
		TOTAL COST: \$2,023,655

Dickson Elementary

	RANK	PRIORITY
A	3	Repair roof leaks.
B	3	Repair water damaged ceilings, floors and walls.
C	3	Replace wooden foundations, building frames, etc.
D	3	Paint outside buildings.
E	4	Install adequate electrical service and outlets in classrooms.
F	5	Covered/enclosed eating area.
G	5	Install covered walkways from portables located a distance from main building.
H	5	Additional space for parent workshops, counseling, school programs, etc.
		TOTAL COST: \$1,464,875

Eagle Canyon Elementary

	RANK	PRIORITY
A	2	Replace sand under playground equipment with compliant material.
B	3	Repair roof leaks.
C	3	Replace old lunch tables and playground benches.
D	3	Repair load-carrying beam in Multipurpose Room so that the folding wall becomes functional again.
E	4	Replace intercom system and old telephone system.
F	4	Replace public address system in the Multipurpose Room.
G	5	Widen front gates for additional traffic exit lane.
H	5	Increase blacktop play area to recover area lost to portable classrooms.
I	5	Walk-through gate and entry stairs from Eagle Canyon Drive.
J	5	Create staff parking area for 8 to 10 cars behind rooms 28 and 29.
K	5	Expand teacher's workroom area using adjacent unused patio.
L	5	Extend walkway covering to include new portables.
M	5	Extend overhead cover in student outside eating area.
N	6	Replace outdated classroom computers.
O	6	Replace worn classroom/office furniture.
		TOTAL COST: \$1,151,450

El Rancho Elementary

	RANK	PRIORITY
A	2	Provide permanent covered eating area outside.
B	2	Remove and replace playground equipment for safety.
C	2	Add exterior lighting to meet safety standards.
D	2	Revise student drop-off zone in front of school to reduce safety hazards.
E	3	Replace clogged pipes and plumbing system.
F	4	Install adequate electrical service and outlets in classrooms.
G	4	Remodel interiors of bathrooms, including fixtures.
H	4	Renovate Multipurpose room; redo stage, food service area, lighting and lowered ceiling.
I	4	Renovate kindergarten classrooms (two permanent structures).
J	5	Install covered walkway.
		TOTAL COST: \$2,485,974

Gird Elementary

	RANK	PRIORITY
A	2	Remodel interiors of restrooms, including fixtures.
B	2	Repair uneven/eroded surfaces on playgrounds for safety.
C	2	Add exterior lighting to meet safety standards.
D	3	Paint exterior and interior of site.
E	4	Reconfigure and renovate cafeteria and kitchen area.
F	5	Improve drainage and re-landscape.
G	5	Increase office space and student service areas.
H	5	Create specialized instructional space.
I	6	Computers for classrooms/computer lab, laptops for Power Point presentations and programs.
		TOTAL COST: \$1,509,084

Glenmeade Elementary

	RANK	PRIORITY
A	2	Security alarm system.
B	2	Enclose fence to secure campus.
C	5	Enclose covered eating area.
D	5	Re-landscape grounds and renovate irrigation system to improve drainage.
E	5	Remodel/expand teacher preparation area to provide counter and storage space.
F	5	Replace movable walls.
G	5	Replace old Plexiglas with glass.
H	5	Concrete walkway on top playground at bus pick-up and drop-off.
I	6	Replace old desks and chairs (classrooms).
		TOTAL COST: \$600,533

Hidden Trails

	RANK	PRIORITY
A	1	Portable kindergarten room.
B	2	Security fences.
C	5	Expand parking lot.
D	6	Replace all chalkboards with dry erase boards.
		TOTAL COST: \$194,900

Litel Elementary

	RANK	PRIORITY
A	2	Revise parking and student drop-off zones to reduce safety hazards.
B	2	Add exterior lighting.
C	5	Install water to seven portables.
D	5	Install wiring for telephone service for all classrooms.
E	5	Additional portable for computer lab.
F	5	Increase size of eating area overhand and install weatherproof, drop-down vinyl enclosure.
G	5	Add covered walkways to portables.
H	6	Replacement of chalkboards with white boards.
I	6	New computers with CD Rom for the classrooms.
		TOTAL COST: \$685,937

Los Serranos Elementary

	RANK	PRIORITY
A	2	Security alarm system for selected buildings.
B	2	Remove and replace all cracked concrete walkways – safety concern.
C	2	Improve drop-off/pick-up zone in parking lot.
D	3	Remove/replace damaged and broken bathroom stalls and doors.
E	3	Repair and/or replace leaking hallway awnings and extend awnings to include uncovered walkway to upper ramps.
F	4	Install additional electrical outlets in classrooms for technology.
G	4	Enlarge and reconfigure office area for safety and security of entire population. Need better positioning for security of school entrance.
H	5	Install phones in all classrooms for teacher/student safety.
I	5	Install awnings/overhead covering for portables and rooms 24, 30 and 31.
		TOTAL COST: \$1,289,896

Marshall Elementary

	RANK	PRIORITY
A	2	Extend parking area to alleviate safety hazards.
B	2	Renovate restrooms.
C	3	Upgrade electrical systems in classrooms.
D	4	Modernize 20's wing, rooms 30 – 32.
E	4	Upgrade fire, public address, security, and communications systems.
F	5	Remodel/expand teacher preparation area to provide counter and storage area.
G	5	Increase office space and student service areas.
H	5	Expand library.
I	5	Construct permanent classrooms (10).
		TOTAL COST: \$5,297,450

Newman Elementary

	RANK	PRIORITY
A	2	Upgrade restrooms.
B	3	Repaint entire school.
C	4	Upgrade public address system.
D	4	Modernize Rooms 25 – 33.
E	5	Upgrade water line system.
F	5	Upgrade main asphalt areas.
G	5	Install outside covered eating area.
		TOTAL COST: \$2,055,455

Oak Ridge Elementary

	RANK	PRIORITY
A	2	Additional security fencing/gates.
B	3	Repair cracks in existing foundation.
C	3	Repair/replace water damaged ceiling tiles.
D	4	Upgrade communications systems for school-wide use.
E	4	Replace existing carpeting.
F	5	Increase capacity of Media center.
G	5	Replace existing skylights.
H	5	Re-landscape grounds to improve drainage/erosion areas and provide shade.
I	5	Install covered walkways.
		TOTAL COST: \$1,398,046

Rolling Ridge Elementary

	RANK	PRIORITY
A	2	Sidewalk in parking lot area from stairs to entrance (safe exit to north).
B	3	Replace/repair tile and carpet in Media Center.
C	4	Install phones in every classroom.
D	5	Extend perimeter chain link fences from 6 feet to 10 feet separating the field/slope and playground.
E	5	Additional classrooms to accommodate classroom, music and library.
F	5	Develop empty field area on the south end of playground.
G	5	Renovate air conditioning/heating.
H	5	Add trees to playground for shade.
		TOTAL COST: \$1,736,100

Walnut Elementary

	RANK	PRIORITY
A	1	Additional portables to allow school to return to standard track.
B	2	Install covered outdoor eating area.
C	2	Revise parking and student and bus drop-off zones to reduce safety

		hazards.
D	3	Repair covered walkways.
E	4	Renovate aging buildings, 38 classrooms, MPR, 8 restrooms + 4 kindergarten, 7 small specialty rooms.
F	5	Provide computer lab.
G	5	Build additional student restrooms.
H	5	Remodel/enlarge office and student service areas.
I	5	Provide coverings for Rooms 35-41 for protection from inclement weather.
		TOTAL COST: \$6,367,503

Canyon Hills Junior High

	RANK	PRIORITY
A	1	Construct 3+ permanent classrooms.
B	3	Install new ceiling tiles.
C	4	Remodel science classrooms installing two lab stations.
D	5	New lockers in locker rooms.
E	5	Create specialized instructional and meeting space.
F	5	Add adult restrooms in English channel.
G	5	Reconfigure library and computer lab for large group instruction.
		TOTAL COST: \$3,990,600

Magnolia Junior High

	RANK	PRIORITY
A	2	Update security (\$2.39/Sq.Ft.), communication (\$2.18/Sq.Ft.), and bell systems.
B	2	Repair exterior lighting, motion detectors, accessible by site administrator.
C	3	Replace portable classrooms.
D	5	Provide covered eating area.
E	5	Install covered walkways throughout the school.
F	5	Increase office space and student service areas.
G	5	Remodel library.
H	5	Remodel/expand teacher preparation area to provide counter and storage space.
		TOTAL COST: \$3,298,958

Ramona Junior High

	RANK	PRIORITY
A	2	Update emergency/public address/communication system throughout school.
B	2	Add exterior lighting for safety.
C	3	Construct permanent classrooms.
D	3	Repair antiquated plumbing and sewer system.
E	3	Renovate air conditioning system.
F	3	Remove asbestos and dry rot.
G	5	Renovate and expand existing locker room facilities.
H	5	Upgrade electrical wiring and outlets.
I	5	Install covered walkways throughout the school.
		TOTAL COST: \$7,885,431

Townsend Junior High

	RANK	PRIORITY
A	2	Repair uneven and unsafe ground surfaces.
B	3	Repair leaky roofs and deteriorated ceiling tiles.
C	3	Repair covered walkways throughout the school.
D	4	Update telephone and communication systems for safety.
E	5	Create specialized instructional space.
F	5	Install wiring for access to technology.
G	5	Add computer/technology lab for students.
H	5	Provide shelving for library books.
		TOTAL COST: \$1,509,041

Woodcrest Junior High

	RANK	PRIORITY
A	2	Add exterior lighting for safety and security.
B	2	Peepholes for security.
C	2	Renovate student restrooms, including fixtures.
D	3	Repair worn-out and unsafe flooring.
E	5	Add storage space.
F	5	Resurface the site.
G	5	Expand PE locker rooms.
H	5	Replace drinking fountains.
I	5	Expand library to accommodate increasing student population.
		TOTAL COST: \$1,334,950

Ayala High

	RANK	PRIORITY
A	2	Revise parking zones to reduce safety hazards.
B	3	Repair leaky roofs.
C	3	Renovate heating and air conditioning systems.
D	5	Stadium with seating for 5,000 people.
E	5	Provide covered eating area and outside shelter.
		TOTAL COST: \$8,380,361

Buena Vista Continuation High

	RANK	PRIORITY
A	3	Paint and weatherproof entire school.
B	3	Replace drinking fountains.
C	5	Patio cover for quad/eating area.
D	5	Reconfigure Children's Center playground and install equipment.
E	5	Add a portable science classroom with lab station.
F	5	Upgrade and expand athletic facilities.
G	5	Remodel and expand library
H	5	Install marquee.
		TOTAL COST: \$1,385,280

Chino High

	RANK	PRIORITY
A	2	Revise parking zone to reduce safety hazards.
B	2	Reconfigure office area for safety and security.
C	3	Replace portable classrooms due to dry rot damage.
D	5	Complete stadium facilities.
E	5	Add science classrooms with lab stations.
F	5	Provide covered eating area outside.
G	5	Provide covered walkways through the school.
H	5	Build additional classroom and storage space for music program.
		TOTAL COST: \$6,438,165

Chino Hills High

	RANK	PRIORITY
A	2	Security system.
B	5	Library books.
C	5	Complete athletic/physical education classroom facilities.
		TOTAL COST: \$2,205,000

Don Lugo High

	RANK	PRIORITY
A	2	Renovate existing restrooms and locker rooms, including flooring, toilets, stalls, and fixtures.
B	2	Add exterior lighting for security and safety.
C	3	Upgrade electrical wiring and outlets.
D	3	Renovate drainage system to alleviate flooding.
E	3	Paint school uniform colors.
F	4	Construct permanent classrooms (30 portable buildings).
G	5	Add science classrooms with adequate lab workstations.
H	5	Increase office space and student service areas.
I	5	Install covered shade area.
J	5	Upgrade and expand athletic facilities, including gym foyer and football facility.
		TOTAL COST: \$15,541,162

SCHOOL	AMOUNT
Borba	\$2,179,726
Briggs	\$1,414,025
Butterfield Ranch	\$946,998
Cattle	\$1,236,125
Cortez	\$1,760,587
Country Springs	\$1,927,884
Dickey	\$2,023,655
Dickson	\$1,464,875
Eagle Canyon	\$1,151,450
El Rancho	\$2,485,974
Gird	\$1,509,084
Glenmeade	\$600,533
Hidden Trails	\$194,900
Litel	\$685,937
Los Serranos	\$1,289,896
Marshall	\$5,297,450
Newman	\$2,055,455
Oak Ridge	\$1,398,046
Rolling Ridge	\$1,736,100
Walnut	\$6,367,503
Canyon Hills	\$3,990,600
Magnolia	\$3,298,958
Ramona	\$7,885,431
Townsend	\$1,509,041
Woodcrest	\$1,334,950
Ayala	\$8,380,361
Buena Vista	\$1,385,280
Chino High	\$6,438,165
Chino Hills High	\$2,205,000
Don Lugo	\$15,541,162
TOTAL:	\$89,695,151

APPENDIX B

OFFICE OF AUDITOR/CONTROLLER-RECORDER REPORT



**AGREED-UPON PROCEDURES FOR
CHINO VALLEY SCHOOL DISTRICT'S
FACILITIES PROGRAM**

**Office of
AUDITOR/CONTROLLER-RECORDER**

September 2, 2004

Herbert R. Fischer, Ph.D., County Superintendent
County Superintendent of Schools
601 E Street
San Bernardino, CA 92410-3093

SUBJECT: AGREED-UPON PROCEDURES FOR CHINO VALLEY SCHOOL DISTRICT'S FACILITIES PROGRAM

We have performed the procedures enumerated below, which were agreed to by the San Bernardino County Superintendent of Schools, and the Auditor-Controller, to determine whether the Chino Valley Unified School District's (District) facilities program is in compliance with applicable laws and to determine whether the District's internal controls are in place and ensure compliance with the applicable procedures and standards also noted below. The internal controls are the responsibility of the school district's management. This agreed-upon procedures engagement was conducted using attestation standards established by the American Institute of Certified Public Accountants. The sufficiency of these procedures is solely the responsibility of those parties specified in this report. Consequently we make no representation regarding the sufficiency of the procedures described below either for the purpose of which this report has been requested or for any other purpose.

The procedures performed and conclusions reached as a result of these procedures are identified below and in the Schedule of Findings and Recommendation section respectively.

Engagement Objectives

1. Determine that the District used proper business standards in selecting construction and architectural firms.
2. Determine that the District followed the limits prescribed in Public Contract Code Section 20118.4 regarding change orders.

3. Determine that the District complied with the legal requirements of Public Contract Code Section 20111 by issuing formal bids for those projects exceeding certain dollar limits.
4. Determine that the District's facilities staff maintains complete and appropriate oversight of all District construction projects.
5. Determine that the construction management firm fulfilled all of its contractual responsibilities with wage/labor hours and acted within the scope of its contract.
6. Determine that the District obtained approval from the Division of State Architect when required by the provisions of Title 24 of the California Administrative Code, Sections 4-330.
7. Determine that the District and their contractors have taken all the steps necessary to ensure the safety and security of equipment and construction projects.
8. Determine that the District has an efficient and organized payment system for processing construction projects.
9. Determine that the District had signed contracts in place before beginning construction.
10. Determine that the internal controls in place will ensure compliance with the District's sound business practices and the provisions of the Standards and Procedures for Audits of California K-12 School District, Section 300.
11. Determine whether agreements for construction and construction management contracts exist for the same project where there is duplication and whether the management firm is paid to review its own work.

Scope and Methodology

Procedures were performed to obtain information covering the time period from February 2000 to February 2004 and were limited to the review of the:

- District's policies, procedures, and practices;
- District policies and administrative regulations;
- external laws, regulations, and guidelines;
- bid packages for a selected sample - logs, proposals, proposal evaluator notes, and staff's recommendations;

Agreed-upon procedures
H.R. Fischer
September 2, 2004
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- organization charts and job descriptions;
- agendas, internal and external communications, video tapes, and contracts;
- matrix prepared for a sample of bids; and
- selected sample of payment documentation and information and payment documentation provided by the San Bernardino County Superintendent of Schools, School Claims (School Claims) processing office.

The District's internal controls were also evaluated through interviews and reviews of information communicated via reports, memoranda, video tapes, emails and District personnel's meeting notes. These procedures were developed to review the related objectives stated above, and to identify internal control weaknesses.

As a result of our procedures that include the samples listed above, we have identified several instances of non-compliance with District policies and several weaknesses in internal controls, which are detailed in the Schedule of Findings and Recommendations section.

We were not engaged to, and did not conduct, an examination, the objective of which would be to express an opinion on the internal controls or compliance. Accordingly, we do not express such an opinion. Had we performed additional procedures, other matters might have come to our attention that would have been reported to you.

This report is intended solely for the information and use of the San Bernardino County Superintendent of Schools, and the School Claims Office, and is not intended to be, and should not be, used by anyone other than these specified parties.

Respectfully submitted,

Larry Walker
Auditor/Controller-Recorder

By: _____
Mark Cousineau
Internal Audit Section Supervisor

Quarterly – Copies to:
County Administrative Office
Board of Supervisors
Grand Jury (2)

Audit File (3)

LDW:BKR:MC:dip3

EXECUTIVE SUMMARY

1. In reviewing proper business procedures for the selection of construction management firms, it was noted that competitive evaluation procedures were not consistently followed. In one instance the District's Board of Education (Board) disregarded the policies and procedures that were put into place to ensure a competitive evaluation process.
2. In determining whether the District followed the change order limits prescribed in Public Contract Code section 20118.4, cost overruns were noted from the period of February 2001 to February 2004, for 13 projects that exceeded 10% of the original contract amounts by a combined total of \$841,751. It was also noted that there was often a time lag of several months between the date of a change order and the date the change order was submitted to the Board for approval, and several instances where the work had been completed and invoiced before being submitted to the Board for approval.
3. In reviewing projects for compliance with the legal requirements of Public Contract Code 20111 for issuing formal bids for those projects exceeding certain dollar limits, it was noted that the District's construction manager hired firms to complete construction projects without going through the required bid process or giving notice to the District. There were seven construction firms that submitted invoices to the District for payment that did not have contracts in place.
4. In determining whether the District's facilities staff maintained complete and appropriate oversight of all District construction projects, it was noted that appropriate oversight was not maintained. Of the construction contracts that were reviewed, work was consistently performed before obtaining bids, executing contracts, or obtaining the Division of State Architect's approval. District Facilities' staff did not always receive required reports or notices from its construction management firm and when the District did, the reports were often materially incorrect. In addition, there appears to be duplicate billings for constructability activities from December 2002 to November 2003.
5. In determining whether the construction management firm fulfilled all of its contractual responsibilities with wage/labor hours and acted within the scope of its contract, it was noted that the construction management firm did not provide the level of staffing to manage the District's construction projects and acted outside of the scope of its contract by hiring firms to construct projects without the required bid process and by issuing *Notice to Proceed* letters to contractors when it did not have the authority to do so.

EXECUTIVE SUMMARY Continued

6. In reviewing the District's projects, it was determined that the District did not consistently obtain approval from the Division of State Architects (DSA) per the California Building Standards and Administrative Code, Title 24. Three instances were found where the District let a construction contract prior to receiving written DSA approval.
7. In reviewing the District's safety and security procedures, it was noted that contract language assigning responsibility for safety precautions and programs for project contractors did not always clearly define who is responsible.
8. In reviewing the District's construction payment process, it was noted that the District did not comply with Public Contract Code 20104.5, or School Claims' requirements for processing construction payments. There were no written policies or procedures in place and the District regularly submitted incomplete initial payment requests.
9. In reviewing contracts and *Notices to Proceed* to determine that the District had signed contracts in place before beginning construction, fifty-one instances on eighteen invoices were noted where construction related activities were started before a fully executed contract was in place.
10. In determining whether internal controls were in place to ensure compliance with the District's sound business practices and the provisions of the "Standards and Procedures for Audits of California K-12 School District", Section 300, it was noted that the District's internal controls were either not adequately designed or not operating as designed.
11. In determining whether agreements for the construction and modernization of District facilities and construction management services contracts existed for the same project where there is duplication and whether the management firm is paid to review its own construction work, no instances were noted where the construction management firm was paid to review its own construction work. However, it was noted that duplicate billings for constructability study activities exist as discussed in Item 4 of the Executive Summary.

SCHEDULE OF FINDINGS AND RECOMMENDATIONS

Finding 1: Competitive evaluation procedures were not consistently followed.

The Board disregarded the District's Administrative Regulation AR 3311.1, which requires the District to apply a uniform system of rating pre-qualified bidders, on the

basis of standard questionnaires and financial statements, and disregarded the direction provided by Public Contract Code Sections 4527 and 4528. Staff recommendations and ratings established pursuant to AR 3311.1 were discounted or ignored. Instead the Board relied on a Board member to personally contact a limited number of the proposers in addition to this Board member's personal knowledge of the firms that submitted proposals.

At the March 9, 2000 Board meeting, agenda item III.D.1 Approval of Construction Management Companies for Use on New Construction and Modernization Projects was pulled from the consent calendar by Board member Truett. In the previous Board meeting, staff had recommended five of the eleven responsive firms based on competitive evaluation criteria. In the period between Board meetings, Board member Truett said that he "argued" to have four of his selections brought forward as the recommended firms. The four firms recommended by Board member Truett were not the highest rated firms on the list. The Board ignored staff's original recommendation of the five ranked firms and relied on Board member Truett's recommendation, which was based on phone calls to two firms and personal knowledge of the firms. The Board unanimously approved the list of four firms identified by Board member Truett.

Subsequently, B. E. McMurray Construction Inc. challenged the Board's decision in a faxed draft of a protest letter dated March 20, 2000 addressed to the District, each Board member, and the Superintendent. It states in part:

"I would like to take this time to strongly protest and express my concerns about the selection process for construction management services.

As we understand it, the District conducted a competitive process and recommended 4 or 5 firms to the Board for selection. The Board ignored the work of staff and proceeded to select from the firms who submitted but were not even on the short list of being competitively priced, experienced and or most responsive to the RFP requirements."

On April 20, 2000, the March 9, 2000 agenda item was brought back for approval of the addition of B. E. McMurray Construction Inc. for construction management services. The Board voted unanimously to add B. E. McMurray Construction Inc. to the approved list of construction management firms.

The selection of professional services should be impartial and follow regulations. However, B. E. McMurray, the District's construction manager, for three of its eight school construction projects, was originally pre-qualified through a proposal process that did not meet Public Contract Code and School Facility Program Guidelines.

Finally, not following the proper procedures to ensure that a competitive process is used may place up to \$80,252,000 of State School Facility Program funds in jeopardy. State

law specifically mandates that the State Allocation Board not apportion funds to a district unless the competitive process for professional services is being followed.

Recommendation:

The District should follow State laws and regulations, and its policies and regulations for evaluating, rating, and pre-qualifying bidders. The Board should accept, reject, or modify staff's recommendations based on the uniform system of competitive evaluation for rating proposals. Furthermore, all Board members should review the District's policies, administrative regulations, statutes, and guidelines pertaining to public works projects and when appropriate, receive training.

Finding 2: Change orders were not monitored for either overages or approval.

Public Contract Code 20118.4 states that a governing board may only authorize a contractor to proceed with the performance of a change or alteration without the formality of securing bids, if the cost does not exceed 10% of the original contract price. Administrative Regulation AR 3311.2 (a) allows for changes that are a result of requirements of another governmental agency, utility company, or are considered to be caused by "an act of God." The policy further dictates that change orders shall be closely monitored by the District, its architects and consultants in order to minimize change orders for reasons other than listed above.

The following cost overruns, occurring over a three-year period between February 2001 and February 2004 were identified. They are listed by project; construction company; change order number and amount; (amount expressed as a cumulative percentage of the original contract amount).

1. Wickman Elementary School; Rosetti Construction Co., Inc.; Change Order No. 8 for \$52,034.06; 112.17% of contract.
2. Wickman Elementary School; Rosetti Construction Co., Inc.; Change Order No. 9 for \$35,165.85; 113.71% of contract.
3. Wickman Elementary School; Rosetti Construction Co., Inc.; Change Order No. 10 for \$5,599.27; 113.96% of contract.
4. Rhodes Elementary School; Sialic Construction Corporation dba Shawnan Construction; Change Order No. 1, \$438,456.39; 229.05% of contract.
5. Rhodes Elementary School; Daniel's Electrical Construction; Change Order No. 4 for \$125,834.49; 112.39% of contract.

6. Liberty Elementary School; Duray/JF Duncan Industries; Change Order No. 1 for \$15,097.00; 114.22% of contract.
7. Ayala Relocatables; Alexander Associates; Change Order No. 1 for \$26,294.98; 111.19% of contract.
8. Five sites modular; MOD Craft Inc; Change Order No. 3 for \$16,165.05; 112.36% of contract.
9. Five sites modular; MOD Craft Inc; Change Order No. 4 for \$11,631.16; 115.74% of contract.
10. Magnolia Modernization; KAR Construction; Change Order No. 3 for \$97,239.00; 114.35% of contract.
11. Magnolia Modernization; KAR Construction; Change Order No. 4 for \$10,760.00; 115.64% of contract.
12. Magnolia Modernization; KAR Construction; Change Order No. 5 for \$878.00; 115.74% of contract.
13. Magnolia & Glenmeade Modernizations; Simmons & Wood, Inc.; Change Order No. 2 for \$6,598.00; 122.94% of contract.

Furthermore, the District received both external and internal warnings that change orders were not being monitored appropriately:

- ♦ Magnolia and Glenmeade Modernizations; letter from legal counsel with concerns that the Construction Manager directed change order work to be done without District approval and to advise that change orders must be approved by the Board prior to submittal for school claims processing.
- ♦ Magnolia and Glenmeade Modernizations; internal memorandum advising the Board of the excessive number of change orders in excess of the 10% limit per contract.

There were occurrences where the work was already completed and invoiced before the item went before the Board for approval. This lack of timely information and communication did not allow the Board, Superintendent and staff to effectively carry out their responsibilities.

Without close monitoring of change orders, newly constructed schools and modernization of existing schools may be completed with excessive cost overruns, which would result in a loss of public confidence in the Board and management. Finally,

not following the proper bid procedures may result in delay or loss of future funding from the State School Facility Program.

Recommendation:

The Board must set the tone for the organization by demanding strict adherence by all parties to their Administrative Regulation 3311.2 (a), which also incorporates Public Contract Code 20118.4. The Board and Superintendent must also support staff in requiring that the construction manager abide by the contract provisions by providing timely information and communication in the form of progress reports and billings. The District should strengthen their internal controls by increasing staff and by following their regulations requiring monitoring change orders closely.

Finding 3: The District's construction manager hired firms for construction projects without the required bid process or notice to the District.

Public Contract Code 20111 states that a governing board shall let any contract for a public project involving an expenditure of fifteen thousand dollars (\$15,000) or more to the lowest responsible bidder. Administrative Regulation AR3311 (a) requires that the District shall seek competitive bids through advertisement for contracts involving an expenditure of \$15,000 or more for a public project. This section specifies that no work or project shall be split or separated into smaller work orders or projects for the purpose of evading the legal requirements of Public Contract Code 20111-20118.4 for contracting competitive bidding. (Public Contract Code 20116).

We identified the following invoices which were submitted to the District for payment for work done without a contract in place. They are listed by project; construction company; invoice date, and amount.

- A. Ayala Stadium; Rodriguez Brothers Construction Co., Inc. – Invoices totaling \$26,348.34:
 - 1. July 23, 2003 for \$14,997.15
 - 2. July 24, 2003 for \$4,926.60
 - 3. September 9, 2003 for \$6,424.59
- B. Ayala Stadium; Laird Construction – Invoices totaling \$19,085.85:
 - 1. September 30, 2003 for \$4,167.15.
 - 2. September 30, 2003 for \$14,918.70.

C. Ayala Stadium; Garrett Concrete Coring & Sawing, Inc. – Invoices totaling \$24,093:

1. 14 separate invoices dated between July 15, 2003 and August 12, 2003 totaling \$16,703.50 for which B. E. McMurray submitted as their reimbursable expenses on an invoice dated September 15, 2003 including a 1.1% overhead of \$183.74 for a total of \$16,887.24.
2. 13 separate invoices dated between June 23, 2003 and August 26, 2003 totaling \$7,389.50 for which B. E. McMurray submitted as their reimbursable expenses on an invoice dated October 9, 2003 including a 1.1% overhead of \$81.29 for a total of \$7,470.79.

Questions raised by staff regarding invoices received without a contract in place were often either overridden or disregarded by the District. Unresolved disagreements between the Board and staff about how to deal with the construction manager allowed discrepancies to occur, and to remain unresolved. Failure to resolve this problem resulted in finger-pointing and casting of blame among the Board, Superintendent, staff and construction manager. The lack of communication from the construction manager in the form of required reports did not allow adequate oversight by staff or the Board that was necessary to effectively carry out the District's responsibilities to closely monitor construction progress and to appropriately process requests for payment.

Failure to follow the legal bid requirements by issuing formal bids may result in a loss of savings to the District as the competitive bid process allows the District to choose a company that will offer the greatest savings to the District. These possible increased costs might result in a loss of public confidence in the Board and management. Also, failure to follow the legal bid requirements may result in delay or loss of future funding from the State School Facility Program.

Recommendation:

The District must follow the Public Contract Code and their Administrative Regulations, which require a contract for any project exceeding \$15,000. The Board should address the "tone at the top" and not allow the attitude of "get it done at any cost." District staff should monitor the progress of contractors and report deviations to the Board. A policy should be placed into effect that requires staff to notify the Board about concerns regarding program failures. This will allow necessary communication to flow through to the Board, upon which they may then make informed decisions.

Finding 4: The District did not maintain complete and appropriate oversight of all District construction projects.

A review of a sample of suspended batch payments at the School Claims Office and contracts with change orders revealed that District approval was obtained after the work had been performed. Construction work was consistently performed before obtaining bids, executing contracts, and obtaining Division of State Architect approvals. A partial listing of examples follows:

1. Ayala Stadium; Garrett Concrete Coring & Sawing Inc. for \$24,358; bid not performed; B. E. McMurray submitted as reimbursable expenses.
2. Ayala Stadium; Laird Construction for \$19,086; bid not performed.
3. Ayala Stadium; Rodriguez Brothers Construction for \$26,348; bid not performed.
4. Edwin Rhodes Elementary School; Shawnan Construction for \$438,456; bid not performed.
5. Constructability Studies on Bond Issue Construction Projects Agreement; B. E. McMurray Construction for \$70,185; work performed without a contract September 2002 through November 2002.
6. Constructability Oversight Services on Bond Issue Construction Projects Agreement; B. E. McMurray Construction for \$280,920; work performed without a contract December 2002 through November 2003.
7. Constructability Oversight Services on Bond Issue Construction Projects Agreement; B. E. McMurray Construction; duplication of services from December 2002 through November 2003.
 - a. Liberty Elementary School: the agreement executed on November 7, 2002, requires the construction manager to perform services (Articles 1.3.3, 1.3.4, 1.3.6, 1.3.7, 1.3.10, 1.3.16, and 1.4.1) consistent with those billed by B. E. McMurray for construction oversight activities over a period of fourteen months (Article 1.8.2) beginning August 26, 2002, seventy-two days before the contract was executed.
 - b. Construction Oversight Services contract from November 5, 2002, through November 4, 2003. The contract was executed November 4, 2003 by Board members Klein, Pruitt, and Black. Approved by the Board on December 18, 2003 by unanimous vote.

- c. Ayala Stadium: the agreement executed on June 10, 2003, requires the construction manager to perform constructability reviews (Article 1.1.4) over a period eight months (Article 6.1.1). An additional three months beginning March 1, 2003, predating the executed contract extends the performance period to eleven months.
- d. Woodcrest Junior High School: the agreement executed on June 10, 2003, requires the construction manager to perform constructability reviews (Article 1.1.4) over a period eighteen months (Article 6.1.1). An additional five days beginning June 5, 2003, extends the performance period by predating the executed contract.

Based on the documents reviewed, staff was late in demanding deliverables from B. E. McMurray. Once staff started demanding contractually required reports, it took multiple requests to obtain those reports. Then the received reports were not complete and the process would repeat itself. The level and frequency of demands for contractually required reports decreased dramatically after the Facilities and Planning Department was removed from the Business & Operations Office. Senior staff's concerns that were reported through regular communication channels of the District to the Superintendent's Office were too often not provided to the Board in their original form. Even though the Board received staff concerns in a diluted form from the Superintendent's Office, the Board did not respond aggressively to indications of the construction program not operating in compliance with state law. Among the other indications were:

- ◆ Contractor complaints regarding project management;
- ◆ Change order information within the agenda packages that showed they were being reported months after work had been done;
- ◆ B. E. McMurray Monthly Construction Update reports explicitly stating that many of the change orders had exceeded ten percent;
- ◆ The absence of progress reports from B. E. McMurray that showed project budget, costs-to-date, number of change orders, dollar value of change orders, percentage of budget consumed, and percentage of completion; and
- ◆ Communications from San Bernardino County Counsel.

Notices and reports necessary for the Facilities and Planning Department to budget, manage, and monitor the District's construction and modernization program were either not provided by B. E. McMurray or were incomplete, late, and contained significant errors when provided. These reports, by project, contract, and contractor were the

responsibility of the construction management services firm. The construction management services firm was contractually obligated to provide updated reports that contained the information necessary to monitor construction project progress on weekly, monthly, and as needed basis. The District was unable to provide us with these reports in the chronological sequence and interval required by the construction management services contracts held by B. E. McMurray.

When information on the construction projects was provided by B. E. McMurray Construction Inc. it was often materially incorrect. For example:

1. B. E. McMurray Construction Inc. identified Shawnan Construction cost overruns for grading at Rhodes Elementary School at \$71,115 in the July 21, 2003, Weekly Construction Meeting Minutes. In fact, the cost overruns had exceeded \$102,000 by May 23, 2003. Not only was the amount incorrect, it was eight weeks late.
2. B. E. McMurray Construction Inc. drafted a letter that indicated the cost overruns at Rhodes Elementary School were due to City of Chino project requirements that involved school buildings. The cost overruns appear to be due a change in plans – from installing the storm sewer system in the street to installing it across school and park property. Shawnan Construction was issued a time and materials contract with no stop limits, and because the construction management services firm was not monitoring the contract by tabulating cumulative costs on a daily basis, the overruns occurred.

Besides paying for services never delivered, the District did not provide appropriate construction project oversight because of the lack or absence of accurate, complete, and timely project management reports and the failure of B.E. McMurray to interface an electronic document tracking system as was stipulated in their contracts. The inability to exert oversight in a timely manner could result in violations of law and regulations, substandard construction, project delays, excessive change orders, fewer contractors bidding on its projects, overall increased costs, contractor disputes leading to litigation, and possible reductions in School Facility Program funding. Organizationally, the District could lose the public's confidence, thereby making it more difficult to pass bond measures or make necessary educational changes.

Recommendation:

The District Board and staff are commended for taking several of the following steps to correct the control environment's organizational structure necessary for the District and its Facilities and Planning Department to reassert appropriate oversight of the District's construction program.

- ♦ The hiring of a construction program management firm, independent of the project construction management firms, to monitor all the District's construction projects.
- ♦ The use of multiple project construction management firms to distribute the workload.
- ♦ Creation of the Director of Facilities and Construction position that is responsible for onsite inspections and serving as the liaison between the Assistant Superintendent, Facilities and Planning and the construction program manager.

The District should consider asserting its contractual right to audit B. E. McMurray under contract Article 8.1 to determine the amount paid for any undelivered services. In addition, the District should develop procedures for every professional services contract that 1) identifies the deliverables required by the contract; 2) mandates a periodic review to determine if the deliverables are accurate, complete, and promptly delivered; 3) promptly notifies the provider of any shortcomings; and 4) requires that staff report those notices to providers and the details thereof (as an information item) in the Board meetings. This would enable the District to intervene early in programs that may be having problems.

Finding 5: The construction management firm did not provide the level of staffing required to manage the District's school construction projects as required by their contracts and acted outside of the scope of its contract by hiring firms to construct projects without the required bid process and by issuing *Notice to Proceed* letters to contractors.

For the month of April, 2003, the auditor compared the staffing required per the open contracts to B. E. McMurray's organization chart for their Chino Valley Unified School District construction projects. Overhead personnel were excluded. B. E. McMurray had eight fewer required positions than the contractually required nineteen staff positions.

In addition, *Notice to Proceed* letters were compared to determine if the contractually authorized entity issued the letter. B. E. McMurray issued the following *Notice to Proceed* letters, instead of the District, as required by contract article 1.2.10:

1. Edwin Rhodes Elementary School: B. E. McMurray *Notice to Proceed* letter via facsimile to Shawnan Construction dated May 13, 2003 and from Anker Jacobson, Project Manager authorizing time and material billing for grading.
2. Edwin Rhodes Elementary School: B. E. McMurray *Notice to Proceed* letter via facsimile to Shawnan Construction dated August 6, 2003 and from Anker Jacobson, Project Manager authorizing work on fire laterals.

Besides paying for services never delivered, the lack of construction management personnel could result in substandard construction, project delays, excessive change orders, fewer contractors bidding on projects, and contractor disputes. Organizationally, the District could lose the public's confidence, thereby making it more difficult to pass bond measures or make necessary educational changes.

Recommendation:

The District should require the construction manager to submit summary payroll information for each project. The District should compare the summary payroll information to the staffing level required by the construction management contract for each project. Summary payroll information should include the employee's name, position, and total hours worked by project.

Consider implementing a procedure that requires on site inspections in the event that:

- ♦ Reports required by the construction management contract are late or not received.
- ♦ There are unusually large increases in change orders, or a delay in notification of change orders.
- ♦ Complaints are received about project management.

The District should modify its contract language so that the District is the entity issuing the *Notices to Proceed Letters* to the contractors.

Finding 6: The District did not consistently obtain approval from the Division of State Architects (DSA) when required.

California Building Standard Administrative Code, Section 4-330 states that construction work, whether for a new school building, reconstruction, rehabilitation, alteration or addition, shall not be commenced, and no contract shall be let until the school board has applied for and obtained from DSA written approval of plans and specifications. Three instances were identified where the District let a contract for construction prior to receiving written DSA approval of the project. They are listed by project; type of project; construction company; date of DSA approval; date of first progress billing.

1. Magnolia Jr. High School Modernization; Modernization Construction; KAR Construction; June 13, 2002 – DSA Approval; December 31, 2001 – first progress billing.

2. Dickson and Marshall Elementary, and Canyon Hills Jr. High School; Modular structure installation; KAR Construction; July 18, 2003 – DSA Approval; August 30, 2002 – first progress billing.
3. Dickson, Eagle Canyon, and Gird Elementary Schools; Modular structure installation; APEX Construction; May 7, 2003 – DSA Approval; May 31, 2001 – first progress billing.

The substantial increase in construction projects over the last few years warranted a proportionate increase in staffing to adequately monitor construction projects. Administrative staff had warned the Superintendent about the dangers of rushing into projects without proper certifications. It appears that much of the correspondence may not have reached the Board members.

The District's internal controls were compromised by its over-reliance on the construction management firm, which affected the relationship between the Board and staff. The construction management firm sent plans to construction firms before receiving DSA approval; hired construction firms without following the required bid process; and provided late notifications of construction activities.

Failure to obtain approval from the Division of State Architect when required by the provisions of Title 24 of the California Building Standard Administrative Code, Section 4-330 may result in the loss of program funds and the loss of public confidence in the Board and management.

Recommendation:

Implement procedures that ensure that the provisions of Title 24 of the California Building Standard Administrative Code, Section 4-330 are followed. The Board should examine the tone they set for the District and not allow the attitude of "get it done at any cost." The District should monitor the progress of construction projects and report concerns to the Board.

Finding 7: Contract language that assigns responsibility for safety precautions and programs for project contractors is not clear as to the responsible party in all contracts.

Good business practices require that the District clearly assign safety and security responsibilities to its contractors or assume and manage those responsibilities themselves. School construction sites should have barricades, lighting, and security to restrict those sites to authorized District personnel and contractors. Contract language that does not clearly assign responsibility for safety precautions and programs could result in a situation where both parties assume that the other is responsible for this task when in actuality neither one is. In the event someone is injured or dies on a

construction project or site, the District could subject itself to unnecessary liability and legal expenses. This could occur even if the District and construction manager clearly identified their responsibilities because legal action could be initiated to seek "deep pockets." Finally, additional costs would be thrust upon the District and its taxpayers from increased insurance costs, imposed fines and penalties, and other costs. This would impair the District's mission to meet its students' educational needs.

Two instances were found in which construction management contracts contain language that could be interpreted to mean that the District assumes responsibility for safety precautions and programs for project contractors. Those contracts and assignment of responsibility language were as follows:

1. Stadium at Ayala High School agreement for construction management services between the District and B. E. McMurray Construction, Inc., dated June 10, 2003; and
2. Woodcrest Junior High School agreement for construction management services between the District and B. E. McMurray Construction, Inc., dated June 10, 2003:

Article 1.1.6 Assignment of Responsibility. The Construction Manager shall provide recommendations to the Owner regarding the assignment of responsibilities for safety precautions and programs, temporary project facilities, and equipment, materials and services for common use by the contractors.

Previous agreements for construction management services contained language that clearly assigned the responsibility for safety precautions and programs to the construction manager. The District changed its boilerplate language in several areas in both the Ayala Stadium and Woodcrest Junior High School contracts from language used in previous contracts. All previous contracts assigned the responsibility for safety precautions and programs to the construction manager.

Recommendation:

When modifying contractual language from established boilerplate language, the District should establish a formal review process. A second review should be performed by staff or counsel who was not involved in the negotiations or initial reviews. Second, involve staff from different functional areas in the review of the contract language negotiations because different perspectives often improve the final agreement by identifying conflicting, unclear, or missing language necessary to accomplish District objectives.

Finding 8: The District did not have written policies or procedures in place for processing construction project payments.

Public Contract Code 20104.50 states that a governing board must set a standard of prompt payment that any business in the private sector, which may contract for services, should look toward for guidance. Public Contract Code 20104.50 (b) states that any local agency which fails to make any progress payment within 30 days after receipt of an undisputed and properly submitted payment request from a contractor on a construction contract shall pay interest to the contractor equivalent to the legal rate set forth in subdivision (a) of Section 685.010 of the Code of Civil Procedure. Administrative Regulation 3314 states that the Superintendent or designee shall ensure that requests for progress payments related to construction contracts are processed and paid within 30 days.

Payments must be submitted to the San Bernardino County Superintendent of Schools, School Claims for payment. The County Superintendent's Building Contract Procedures dated April 4, 2002, gives direction on what must be given to school claims in order for payments to be processed. The following is the District's requirements for initial payment set-up that incorporates the Facilities and Planning Department's worksheet into the School Claims' requirements:

- ◆ Construction Contract Awarded
- ◆ School Board Approval
- ◆ Proof of Bid Publication
- ◆ Bid documentation (Bid Matrix)
- ◆ Payment Bond (If contract over \$25,000 or if labor is involved it must be for 100% of original contract price)
- ◆ Performance Bond (100% of original contract)
- ◆ Profile for bond company
- ◆ Division of the State Architect (D.S.A.) Approval
- ◆ Spreadsheet (Facilities and Planning)
 - Contract amount (which will include any change bids)
 - Amount billed for work to date
- ◆ Invoice (*Architect's Certification for Payment* and contractor progress billing)
 - Signed by DSA inspector, architect, construction manager, contractor

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- o Mathematical accuracy is verified by Facilities and Planning staff
- o Asst. Superintendent Facilities and Planning signature authorizing payment

We found two instances, detailed below, that resulted in inefficiencies in the District's construction payment process.

- ◆ The District's Facilities and Planning Department did not have written procedures for processing construction contractor payments, but relies on School Claims initial contract payment submittal checklist.
- ◆ The District submits incomplete initial contract payment requests as defined by School Claims initial contract payment checklist. Based on our review of initial payment requests submitted to School Claims by the District the documents missing from the initial contract payment requests cause multiple requests to clear the exceptions. This decreases efficiency and increases costs for both School Claims and the District.

Failure to formulate a set of written procedures unique to the District's organization may result in delay of payment processing in the event of staff turnover or absence. These possible delays of payments might result in a loss of public confidence in the District. Also, delays in payments may result in a payment of interest to the contractor equivalent to the legal rate, which might result in substantial cost to the District.

Recommendation:

The District should formulate their own set of written procedures by incorporating the County Superintendent's Building Contract Procedures with procedures and requirements unique to their own organization. These written procedures will streamline the process and will add an effective training tool for any new staff members. This will create a set of policies and procedures that will facilitate timely payments and should prevent increased costs to the District in the form of interest payments.

Finding 9: There were no controls in place to ensure that fully executed contracts were in place before construction was started.

The District received invoices with period ending dates that occurred before an executed contract was signed. The District did not maintain good business practices or control over construction projects by allowing construction to begin before a contract was in place.

We found fifty-one instances on eighteen invoices in which construction or construction related activities were started before a fully executed contract was in place based on the

documents provided. They are listed by task; company; contract status; construction projects; progress billing date or date contract performance started.

1. Constructability Review; B.E. McMurray Construction Inc.; No contracts in place for constructability reviews or tasks; Woodcrest (Liberty) ES, Woodcrest JHS, Birdfarm ES, Don Lugo HS, Ayala HS Stadium for which the following billings were received:
 - o December 31, 2002
 - o January 31, 2003
 - o February 28, 2003
2. Constructability Review; B.E. McMurray Construction Inc.; No contracts in place for constructability reviews or tasks; Woodcrest (Liberty) ES, Woodcrest JHS, Birdfarm ES, and Don Lugo HS for which the following billings were received:
 - o March 31, 2003
 - o April 30, 2003
 - o May 31, 2003
3. Constructability Studies; B.E. McMurray Construction Inc.; No contracts for constructability reviews or tasks; Woodcrest (Liberty) ES, Birdfarm ES, and Don Lugo HS for which the following billings were received:
 - o June 30, 2003
 - o July 31, 2003
 - o August 31, 2003
 - o September 30, 2003
 - o October 30, 2003
 - o November 30, 2003
4. School Modernization; KAR Construction; contract executed January 7, 2002 Magnolia Jr. High School Modernization; December 31, 2001 – first progress billing.
5. Modular Building Installation; MODCRAFT Construction; contract executed September 5, 2002; Dickson and Marshall Elementary, and Canyon Hills Jr. High School; August 30, 2002 – first progress billing.
6. School Construction; Bogh Construction; contract executed October 14, 2002; Liberty Elementary School; September 25, 2002 – first progress billing.
7. Street Improvements; Shawman Construction; contract executed May 19, 2003; Rhodes Elementary School; May 2, 2003 – first progress billing.

8. Modernization; B. E. McMurray Construction; contract executed June 10, 2003; Ayala Stadium; March 1, 2003 – performance of contract started.
9. School Construction; B. E. McMurray Construction; contract executed June 10, 2003; Woodcrest Junior High School; June 5, 2003 – performance of contract started.

The lack of control over construction projects, which allowed construction to commence before contracts were in place, could put the District in a precarious position of paying for services never authorized. The construction management personnel failed to maintain complete control of the construction sites by allowing contractors to perform construction without a contract in place or notice to proceed issued by the District. Organizationally, the District could lose the public's confidence, thereby making it more difficult to pass bond measures or make necessary educational changes.

Recommendation:

Implement procedures to ensure that executed and approved contracts are in place before work is started. The District should reject payment submittals from contractors when supporting billing documents indicate that work has been performed before the contract execution date. Also, consider asserting the District's contractual right to audit B. E. McMurray under contract Article 8.1 to determine the amount paid for any undelivered services.

Finding 10: The District's internal controls were either not adequately designed or were not operating as designed.

The District's control environment, risk assessment, monitoring, information and communication components of the internal controls system were either inadequately designed or not operating as designed to enable the controls to function. The control environment did not establish a framework that supported the exercise of appropriate and complete oversight of the District's construction projects by District Facilities and Planning staff.

The control environment is the foundation of all the other internal control components. It is influenced by leadership at every level, especially by the "tone at the top", in establishing the control consciousness. Factors considered include:

- ◆ Ethical values of its people;
- ◆ Competence of its people;
- ◆ Management's philosophy and operating style;
- ◆ Assignment of authority and responsibility by management;

- ◆ How it organizes its people; and
- ◆ The attention and direction provided by its Board.

The tone at the District's top is a major factor for a well functioning control environment. In the District's case, the mottos that were a consistent theme in interviews, internal documents, emails and notes, external documents and emails, and reviews of video taped Board meetings were "get it done at any cost" and "let dirt fly." Based on those reviews, interviews, and observations, there is indication staff warnings were muted by Board members who were involved in day-to-day construction activities and who publicly and privately sided with the B. E. McMurray construction firm over staff. Another important factor that helped create a less than ideal control environment was that the Superintendent's Office edited the information the Board received regarding staff concerns. The Board in turn expressed dissatisfaction of failures in staff performance.

The District lacked sufficient experienced, construction-qualified staff to manage the rapid ramp-up of construction projects. This was exacerbated when the Superintendent's Office removed the Facilities and Planning Department from the Business & Operations Office in order to speed construction decisions. Unfortunately, it also excised the Facilities and Planning Department from much of the administrative support the Business & Operations Office provided.

The District did not perform a risk assessment to identify the risks relevant to the District's objectives. The District's main objectives were to rapidly build new schools to relieve overcrowding and return the District to a traditional school year. Internal risks that should have been analyzed were the ability of the District to monitor construction managers, project expenditures, construction quality, and contract compliance while performing their existing duties. External risks should have included an analysis of the risk of using a single construction manager to manage and complete the different projects.

The information and control component of internal controls makes it possible to run and control the business of the District. An effectively functioning entity will identify, gather, and communicate important information in a time frame that enables it to carry out its responsibilities. Information that is delayed too long loses its ability to make a difference. Information that is not communicated cannot make a difference. Both conditions existed at the District.

Based on the documents reviewed, staff was late in demanding deliverables from B. E. McMurray. Once staff started demanding contractually required reports, it took multiple requests to obtain those reports. Then, the reports were not complete and the process would repeat itself. The level and frequency of demands for contractually required reports decreased dramatically after the Facilities and Planning Department was removed from the Business & Operations Office. Senior staff's concerns that were

reported through regular communication channels of the District to the Superintendent's Office were too often either not provided to the Board in their original form or not provided at all. Even though the Board received staff concerns in a diluted form from the Superintendent's Office, it did not always respond to indications of a construction program that was not following State laws and regulations, as reported under Finding 4.

There were other areas that were amiss within the control environment that were identified through interviews and reviews of information communicated via reports, memoranda, video tapes, emails, and District personnel's meeting notes.

1. Contracts were executed before approval by the Board:
 - a. Ayala Stadium: the construction management agreement executed on June 10, 2003, requires the project be completed over a period of eight months (Article 6.1.1). An additional three months beginning March 1, 2003, predating the executed contract extends the performance period to eleven months. Internal District emails indicate that construction was well under way three months before the contract execution and award date.
 - b. Woodcrest Junior High School: the construction management agreement executed on June 10, 2003, requires the project be completed over a period of eighteen months (Article 6.1.1). An additional five days beginning June 5, 2003, extends the performance period by predating the executed contract.
 - c. Michael G. Wickman Elementary School: the construction management agreement was executed on September 8, 2000, thirteen days before its unanimous approval by the Board on September 21, 2000.
 - d. Edwin Rhodes Elementary School: the construction management agreement was executed on September 8, 2000, thirteen days before its unanimous approval by the Board on September 21, 2000.
 - e. Construction Oversight Contract was signed on November 4, 2003, before its unanimous approval by the Board on December 18, 2003.
2. Individual members of the Board acted outside their Board roles regarding the District's construction program and issues related to individual projects and staffing.

3. The Board relied on the construction management firm over staff as documented. One example occurred at the September 18, 2003 meeting in which Board member Truett praises B. E. McMurray and then publicly berates staff.
4. The Board disregarded competitive evaluation ratings prepared by staff in the March 9, 2000 and April 20, 2000 Board Meetings regarding the prequalification of construction management services firms.
5. The Superintendent edited information intended for the Board as confirmed by former Superintendent Bloch.
6. The Superintendent attempted to pay contractors without contracts as documented by the San Bernardino County Superintendent of Schools, School Claims Office and the District's Orbach & Huff report.
7. The District's Facilities & Planning Department submitted documentation to pay contractors when payment information required by the School Claims was incomplete.
8. Facilities and Planning Department was removed from the Business & Operations Office without an appropriate oversight or increase in staffing.
9. The District management failed to review the District's organization and failed to assure adequate staffing levels and experience for an exponentially expanding construction program.

The control environment did not establish conditions in which District staff were both enabled and required to perform adequately regarding the District's construction and modernization program.

Recommendation:

The District is commended for already taking several steps to correct the control environment's organizational structure.

- ◆ The hiring of a construction program management firm, independent of the construction management firms, to monitor all the District's construction projects.
- ◆ The use of multiple construction management firms to distribute the workload.
- ◆ Creation of the Director of Facilities and Construction position that is responsible for onsite inspections and serving as the liaison with the Superintendent, Facilities and Planning Department and the construction program manager.

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The District should develop a Policy and Administrative Regulation that addresses the performance of risk assessments for new programs or changes in existing programs. It should require that the District develop objectives for those programs, identify the associated risks, and document a plan to manage those risks. The District should implement a written procedure and use a checklist to make sure contracts are approved before contracts are executed. Overall, for all expenditures, formalize current practice into written procedures, with modifications as necessary.

The District should consider making use of its California School Boards Association membership benefits, such as seminars for board members and staff to help assure good governance and understanding their roles in the District. The District should also consider restoring Facilities and Planning to the purview of the Assistant Superintendent of Business & Operations. Further, the District should develop appropriate methods for Board response when it feels staff is not performing adequately and develop appropriate avenues for staff use when the Board or the Superintendent's Office is perceived to be interfering with appropriate job performance or for the good of the District. We emphasize that this reference is to the Board as a single entity as distinguished from the individual Board members.

Individual Board members should also consider that their interactions with management and staff, both public and private, could have the unintended effect of reducing the candor and willingness of staff to bring important issues to the Superintendent and the Board.

We would like to thank both the County Superintendent of Schools and the Chino Valley Unified School District's Board, management and staff for their professionalism, assistance, patience, and candor during this engagement.

APPENDIX C

CITIZENS' BOND OVERSIGHT COMMITTEE

**CALIFORNIA EDUCATION CODE
SECTION 15278-15282
CITIZENS' OVERSIGHT COMMITTEE**

15278. a. If a bond measure authorized pursuant to paragraph (3) of subdivision (b) of Section 1 of Article XIII A of the California Constitution and subdivision (b) of Section 18 of Article XVI of the California Constitution is approved, the governing board of the school district or community college shall establish and appoint members to an independent citizens' oversight committee, pursuant to Section 15282, within 60 days of the date that the governing board enters the election results on its minutes pursuant to Section 15274.

(b) The purpose of the citizens' oversight committee shall be to inform the public concerning the expenditure of bond revenues. The citizens' oversight committee shall actively review and report on the proper expenditure of taxpayers' money for school construction. The citizens' oversight committee shall advise the public as to whether a school district or community college district is in compliance with the requirements of paragraph (3) of subdivision (b) of Section 1 of Article XIII A of the California Constitution. The citizens' oversight committee shall convene to provide oversight for, but not be limited to, both of the following:

(1) Ensuring that bond revenues are expended only for the purposes described in paragraph (3) of subdivision (b) of Section 1 of Article XIII A of the California Constitution.

(2) Ensuring that, as prohibited by subparagraph (A) of paragraph (3) of subdivision (b) of Section 1 of Article XIII A of the California Constitution, no funds are used for any teacher or administrative salaries or other school operating expenses.

(c) In furtherance of its purpose, the citizens' oversight committee may engage in any of the following activities:

(1) Receiving and reviewing copies of the annual, independent performance audit required by subparagraph (C) of paragraph (3) of subdivision (b) of Section 1 of Article XIII A of the California Constitution.

(2) Receiving and reviewing copies of the annual, independent financial audit required by subparagraph (C) of paragraph (3) of subdivision (b) of Section 1 of Article XIII A of the California Constitution.

(3) Inspecting school facilities and grounds to ensure that bond revenues are expended in compliance with the requirements of paragraph (3) of subdivision (b) of Section 1 of Article XIII A of the California Constitution.

(4) Receiving and reviewing copies of any deferred maintenance proposals or plans developed by a school district or community college district, including any reports required by Section 17534.1.

(5) Reviewing efforts by the school district or community college district to maximize bond revenues by implementing cost-saving measures, including, but not limited to, all of the following:

- (A) Mechanisms designed to reduce the costs of professional fees.
- (B) Mechanisms designed to reduce the costs of site preparation.
- (C) Recommendations regarding the joint use of core facilities.
- (D) Mechanisms designed to reduce costs by incorporating efficiencies in schoolsite design.
- (E) Recommendations regarding the use of cost-effective and efficient reusable facility plans.

15261. a The governing board of the district shall, without expending bond funds, provide the citizens' oversight committee with any necessary technical assistance and shall provide administrative assistance in furtherance of its purpose and sufficient resources to publicize the conclusions of the citizens' oversight committee.

b All committee proceedings shall be open to the public and notice to the public shall be provided in the same manner as the proceedings of the governing board. The citizens' oversight committee shall issue regular reports on the results of its activities. A report shall be issued at least once a year. Minutes of the proceedings of the citizens' oversight committee and all documents received and reports issued shall be a matter of public record and be made available on an Internet website maintained by the governing board.

15262. a The citizens' oversight committee shall consist of at least seven members to serve for a term of two years without compensation and for no more than two consecutive terms. While consisting of a minimum of at least seven members, the citizens' oversight committee shall be comprised, as follows:

(1) One member shall be active in a business organization representing the business community located within the district.

(2) One member shall be active in a senior citizens' organization.

(3) One member shall be active in a bona fide taxpayers' organization.

(4) For a school district, one member shall be the parent or guardian of a child enrolled in the district. For a community college district, one member shall be a student who is both currently enrolled in the district and active in a community college group, such as student government. The community college student member may, at the discretion of the board, serve up to six months after his or her graduation.

(5) For a school district, one member shall be both a parent or guardian of a child enrolled in the district and active in a parent-teacher organization, such as the Parent Teacher Association or schoolsite council. For a community college district, one member shall be active in the support and organization of a community college or the community colleges of the district, such as a member of an advisory council or foundation.

(b) No employee or official of the district shall be appointed to the citizens' oversight committee. No vendor, contractor, or consultant of the district shall be appointed to the citizens' oversight committee. Members of the citizens' oversight committee shall, pursuant to Sections 35233 and 72533, abide by the prohibitions contained in Article 4 (commencing with Section 1090) and Article 4.7 (commencing with Section 1125) of Division 4 of Title 1 of the Government Code.

CALIFORNIA EDUCATION CODE

17584. (a) The State Allocation Board shall apportion, from the State School Deferred Maintenance Fund, to school districts an amount equal to one dollar (\$1) for each one dollar (\$1) of local funds up to a maximum of 1/2 percent of the district's second prior fiscal year revenue limit average daily attendance multiplied by the average, per unit of second prior fiscal year average daily attendance, of the total expenditures and ending fund balances of the total general funds and adult education funds for districts of similar size and type, as defined in subdivision (b) of Section 42238.4, for the second prior fiscal year, exclusive of any amounts expended for capital outlay, debt service, or revenues that are passed through to other local education agencies, to the extent of funds available.

(b) In order to be eligible to receive state aid pursuant to subdivision (a), no district shall be required to budget from local district funds an amount greater than 1/2 percent of the district's second prior fiscal year revenue limit average daily attendance, multiplied by the average, per unit of second prior fiscal year average daily attendance, of the total expenditures and ending fund balances of the total general funds and adult education funds for districts of similar size and type, as defined in subdivision (b) of Section 42238.4 for the second prior fiscal year, exclusive of any amounts expended for capital outlay, debt service, or revenues that are passed through to other local educational agencies.

(c) The apportionment of funds specified in subdivision (a) shall be made by the State Allocation Board after December 1 of each fiscal year.

17584.1. (a) The governing board of a school district shall discuss proposals and plans for expenditure of funds for the deferred maintenance of school district facilities at a regularly scheduled public hearing.

(b) In any year that the school district does not set aside 1/2 of one percent of its current-year revenue limit average daily attendance for deferred maintenance, the governing board of a school district shall submit a report to the Legislature by March 1, with copies to the Superintendent of Public Instruction, the State Board of Education, the Department of Finance, and the State Allocation Board.

(c) The report required pursuant to subdivision (b) shall include all of the following:

(1) A schedule of the complete school facilities deferred maintenance needs of the school district for the current year, including a schedule of costs per schoolsite and total costs.

(2) A detailed description of the school district's spending priorities for the current year, and an explanation of why those priorities, or any other considerations, have prevented the school district from setting aside sufficient local funds so as to permit it to fully fund its deferred maintenance program and, if eligible, to participate in the state deferred maintenance funding program as set forth in Section

17584.

(3) An explanation of how the governing board of a school district plans to meet its current-year facilities deferred maintenance needs without setting aside the funds set forth in Section

17584.

(d) Copies of the report shall be made available at each schoolsite within the school district and shall be provided to the public upon request.

(e) The purposes of this section is to inform the public regarding the local decisionmaking process relating to the deferred maintenance of school facilities, and to provide a foundation for local accountability in that regard.