

**Performance Audit of  
The Beverly Hills Unified School District  
Measure E Program**

**Prepared for:**

**Beverly Hills Unified School District**

**Harvey M. Rose Associates, LLC**

**<http://www.harveyrose.com>**

**March 31, 2016**



March 31, 2016

LaTanya Kirk-Carter  
Chief Administrative Officer  
Beverly Hills Unified School District  
255 S. Lasky Drive  
Beverly Hills, CA 90212

Dear Ms. Kirk-Carter:

Harvey M. Rose Associates, LLC is pleased to present this *Performance Audit of the Beverly Hills Unified School District Measure E Program*. This report was prepared in compliance with the State of California requirement for an annual independent performance audit of bond-funded school facility improvement programs adopted by 55 percent or more of the voters (Proposition 39 requirement). This performance audit report contains 15 recommendations for improvements to the District's Measure E program.

This audit was conducted in compliance with Generally Accepted Government Auditing Standards for performance audits promulgated by the U.S. Government Accountability Office.

Thank you for providing our firm with the opportunity to conduct this performance audit for the Beverly Hills Unified School District.

Sincerely,

A handwritten signature in black ink that reads 'Daniel Goncher'. The signature is fluid and cursive, with a long horizontal flourish extending to the right.

Daniel Goncher  
Project Manager

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# Executive Summary

The Beverly Hills Unified School District retained Harvey M. Rose Associates, LLC to conduct an annual performance audit for Fiscal Year 2014-15 of the District's Measure E school facilities program. The objectives of the performance audit were:

- To ensure that Measure E funds are expended on specific projects only and not on school operating expenses such as teacher and administrator salaries in accordance with Proposition 39.
- Assess policies, procedures and communication effectiveness.
- Evaluate master planning and facility programming activities, including the use of green technology.
- Review Measure E staffing and costs, scheduling, budget management, and expenditure control processes.
- Evaluate District cash flow requirements and compare with the adequacy and timing of bond sales.
- Review contract solicitation and award processes as well as contract administration, including change order management.
- Evaluate the management of contractor claims and liens.

The performance audit was conducted in compliance with Generally Accepted Government Auditing Standards (GAGAS) promulgated by the U.S. Government Accountability Office, as required by the District. Those standards cover procedures for performance audit planning and execution, including requirements for evidence, audit independence, auditor competence, and reporting requirements.

## Performance Audit Findings and Recommendations

A summary of the detailed findings and recommendations contained in this report is presented below.

### Section 1: Program Management and Master Planning

#### *Summary of Findings:*

- The District successfully recruited an experienced full-time in-house Chief Facilities Officer in January 2016 (following the scope period of this audit). The previous absence of a full-time in-house Chief Facilities Officer, including during the scope period of this audit, was a continuing concern of several previous Measure E performance audits. The Chief Facilities Officer should play a central role in helping the District effectively manage the Measure E program, especially as the amount and complexity of construction activity continues to increase.
- In August 2014 (at the beginning of the audit scope period of FY 2014-15), the District commenced its largest Measure E funded project yet with the construction of the Horace Mann "Building B" classroom facility. The commencement of this project is a significant step forward for the District's Measure E program.

- The Board of Education, the new Chief Facilities Officer, and the District’s construction management firm have taken constructive steps to address the inability of the Measure E Bond Fund to meet all of the District’s critical capital needs. These efforts include developing proposed updates to the Capital Facilities Plan, seeking outside State funds, and considering splitting projects into two phases (the first phase includes only projects that can be completed within the bond authority of Measure E and a second phase with projects that would require additional voter-approved bonds). The District should continue with these strategies to ensure that project budgets remain within the District’s bonding authority.
- In September 2013, the Board gave District staff authorization to pursue State bond funds for seismic repair, reconstruction, or replacement of school facilities under the Seismic Mitigation Program. Application for these funds could result in several million dollars of additional revenue to the District for critical seismic safety repairs at several school sites. Although the District’s construction management firm tracks most costs associated with Seismic Mitigation Program applications, such reporting should track and report *all* new costs associated with this program to the Board and Citizens’ Oversight Committee, including costs associated with the District’s geotechnical consultant, to ensure funds are pursued in the most efficient, effective, and transparent method possible.
- Under SB 581 the Board is required to provide the Citizens’ Oversight Committee (COC) with responses to any and all findings, recommendations and concerns addressed in the annual performance audit. Consistent with audit recommendations from the FY 2013-14 performance audit, the Board delegated the response for that audit to the contract interim Facilities Director. The Board should direct the Chief Facilities Officer to provide a written response to the COC regarding any and all findings, recommendations, and concerns within three months of receiving this audit to ensure continued compliance with State law.

*Based on the above findings, the following is recommended.*

The Board of Education should:

- 1.1 Direct the Chief Administrative Officer to provide the construction management firm with all invoices from the District’s primary geotechnical engineer and (b) direct the District’s construction management firm to include such costs in its tracking of efforts to obtain SSMP funds.
- 1.2 Direct the newly hired Chief Facilities Officer to provide a written response to the COC regarding any and all findings, recommendations, and concerns of this audit within three months of receiving this audit report to ensure continued compliance with State law.

## **Section 2: Measure E Budgeting and Communication Effectiveness**

*Summary of Findings:*

- As of June 30, 2015, the District had spent approximately \$69.8 million, or 60 percent of the \$117 million issued, and 21 percent of the \$334 million total authorized by Measure E. The District spent \$32,518,725 in Measure E funds in FY 2014-15, or more than three times more than in the prior fiscal year.

- The majority of FY 2014-15 Measure E expenditures was for capital outlay, including architectural services, building improvement and construction, construction management, and geotechnical/seismic investigation and testing. Nearly two-thirds of this spending was for construction work on the new classroom building at Horace Mann. Spending on architectural services, mostly related to design work at the High School, was also a large expenditure accounting for approximately 20 percent of overall FY 2014-15 Measure E spending.
- Actual District Measure E expenditures in FY 2014-15 were only seven percent less than the revised budget adopted by the Board of Education in September 2014. Spending on capital outlay (construction, architectural, construction management) was about \$5.0 million, or 15 percent, less than the revised budget while spending on services and other operating expenditures was about four times the revised budget. Capital outlay expenditures were below budget because of delays to some architectural designs. Spending on services and other operating expenses were higher than budget due to higher spending than anticipated on legal services related to the proposed MTA west side subway expansion.
- Through February 23, 2016, the Horace Mann new classroom building project has utilized \$549,712, or about 17 percent, of the \$3,210,100 set aside as project contingency.
- The Measure E progress reports posted on a monthly basis by the District's construction management firm beginning in FY 2014-15 are consistently produced, provide relevant progress updates on each school site, and include helpful high level budgetary information. The District should consider simplifying its Measure E webpages to remove outdated information and provide a clear path to the current plans and recent Measure E updates.
- Our review of change orders processed in FY 2014-15 found that the Facilities Manual was not consistently followed and should be revised to reflect current and best practices. Further, the District should consider researching and potentially procuring construction project management software that would enable tracking of all project tasks electronically.
- The Board should consider revising the threshold for delegated authority to approve change orders for construction contracts to provide delegated authority to the Chief Facilities Officer and to increase the delegated authority from the currently authorized \$15,000. For example, if the Board raised the delegated authority to an aggregate amount of \$100,000, the delegated authority would still represent only 3/10<sup>th</sup> of one percent of the original construction contract for the Horace Mann new classroom facility project. The Board should continue to monitor the delegated authority to ensure that it is high enough to avoid unnecessary project delays, but low enough to avoid unnecessary risk.

*Based on the above findings, the following is recommended.*

The Board of Education should:

- 2.1 Direct the Chief Facilities Officer and Chief Administrative Officer to revise the District's Measure E webpages to simplify navigation to the Measure E Updates and remove information that is out of date.
- 2.2 Direct the Chief Facilities Officer to revise the Measure E Facilities Manual section pertaining to the change order process to reflect current and best practices.

- 2.3 Direct the Chief Facilities Officer to research options for, and costs and benefits of, procuring a new construction project management software, which would enable tracking of all project tasks electronically. Further, direct the Chief Facilities Officer to provide recommendations on whether to procure a new construction project management system within three months of acceptance of this audit report.
- 2.4 Consider revising the Board's delegated authority for construction change orders to include the Chief Facilities Officer and to increase the delegated authority for such change orders to a level deemed appropriate after conferring with the Chief Facilities Officer, Superintendent, and Chief Administrative Officer.
- 2.5 Direct the Chief Facilities Officer and Chief Administrative Officer to write procedures for the routine reconciliation of Measure E expenditures during the fiscal year and at year-end.

### **Section 3: Contract Award**

#### *Summary of Findings:*

- The District does not have well-defined procedures for awarding professional services contracts through a competitive process. State law requires competitive bid for construction contracts and recommends, but does not require, competitive selection of professional services. While the District has drafted revised procedures, incorporating procedures to competitively solicit professional services, the Board of Education has not formally adopted the new procedures.
- The District does not have specific procedures for amending or extending contracts for professional services that were originally awarded through a competitive Request for Qualifications (RFQ) process. For example, two architectural contracts underwent a competitive RFQ process in 2011 and have had five and three amendments each by the end of FY 2014-15 (with five and two more amendments each post-dating the end of FY 2014-15). These amendments have increased the contract amounts and scopes significantly. Capital projects commonly extend existing professional service contracts (e.g., architectural, geotechnical, and engineering) through the completion of the project to maintain continuity of services. While the District's practice of amending its contracts is not necessarily problematic, the District should clarify its policies on extending contracts following an RFQ process and selecting contractors for new projects or phases of a project through a competitive solicitation. Given that the District's capital projects differ among school sites and the Board has considered dividing the capital program into distinct phases, the District should consider competitively selecting new professional service contractors that were originally selected through an RFQ process for each school project or project phase as deemed appropriate by criteria established by the Chief Facilities Officer and the Board.
- The three previous performance audits found that the District did not have written policies and procedures regarding standard contract language to be included for all contracts paid for with Measure E bond funds or for certain standard contract procedures. The Measure E Program construction management firm has prepared draft procedures that incorporate the language for insurance requirements, contract approval procedures, and other standard contract provision. These draft procedures have not yet been adopted by the Board. In the FY 2013-14 performance audit, District staff reported that the new Measure E Program procedures would not be adopted until a full-time Chief Facilities Officer is hired. A Chief Facilities Officer was hired in January

2016 and the District should adopt the Measure E Program procedures, with appropriate inclusions as recommended in Section 3.

*Based on the above findings, the following is recommended.*

The Board of Education should:

- 3.1 Direct the Chief Administrative Officer and the Chief Facilities Officer to streamline the policies and procedures found in the District Purchasing Manual and the Measure E Procedures Manual regarding competitive bid and submit for approval by the Board within one year of acceptance of the FY 2014-15 performance audit.
- 3.2 Direct the Chief Facilities Officer to revise the Measure E Program procedures clarify its policies on extending contracts following an RFQ process as well as selecting contractors for new projects or phases of a project through a competitive solicitation, and submit for approval by the Board within one year of acceptance of the FY 2014-15 performance audit.
- 3.3 Review and adopt the draft Measure E Program procedures prepared by the construction management firm in May 2015 regarding insurance, future claims, and standard provisions in contracts.

#### **Section 4: Contract Administration and Expenditure Controls**

*Summary of Findings:*

- Some of the District's contracts for legal and professional services lack maximum amounts. Public agencies typically set maximum (or not-to-exceed) contract amounts to control contract costs, which usually require contractors to bear the cost of contract expenditures that exceed the maximum amount unless the scope of contract services increases.
- The District's contract with its construction management firm can be improved by requiring prior approval by the Chief Facilities Officer for the addition of staff.
- Also, the District does not include services provided by sub-consultants, sub-consultant hourly rates, or total sub-consultant fees in the Measure E Program's legal services contracts. Legal services firms pass through all sub-consultant costs to the District. One legal services firm passed through \$997,993.23 in sub-consultant charges for geotechnical and other work even though the contract did not specify sub-consultant services. The lack of controls on sub-consultant rates places the District at risk of paying higher than necessary rates for sub-consultants. For example, one vendor provided services to the Measure E Program as both a contractor and as a sub-consultant to the legal service firm. The vendor charged the District a rate of \$295 per hour for one employee on its direct contract with the District, but charged \$440 per hour, or nearly 50 percent more on the direct contract, as a sub-consultant with a legal firm.
- As noted in prior performance audits, the District does not always ensure that purchase orders for goods and services are approved prior to the expenditure being incurred. 44 of 164, or 27 percent of sampled transactions, had invoices dated before purchase orders, by up to 298 days, in FY 2014-15. The inconsistency in the expenditure authorizations is largely due to staff turnover, which has placed challenges on the District's ability to budget and forecast expenditures.



- The District should improve its controls on supporting documentation for expenditures. Of the sampled transactions, two invoices and the copies of five checks were missing in District supporting files and thus unable to be reviewed. The District cannot validate payments if invoices cannot be identified, and the District should improve its tracking of supporting documentation of payments to reduce risk of fraudulent activity.

*Based on the above findings, the following is recommended.*

The Board of Education should:

- 4.1 Direct the Chief Administrative Officer within one year of the acceptance of the performance audit to develop a written policy for the Measure E Program and to amend existing construction and professional services contracts as necessary to require: (a) not-to-exceed amounts, (b) limits on reimbursable expenses, and (c) all authorized subcontractor services, hourly rates and total fees.
- 4.2 Direct the Director of Fiscal Services, under the direction of the Chief Administrative Officer, and the Chief Facilities Officer to develop a written policy, within one year of the acceptance of the FY 2014-15 performance audit, that requires the appropriate District staff to review and compare all invoices from contractors operating under multiple contracts for the District to ensure that services provided are:
  - a. Within the contract amount and term;
  - b. Within the contract scope of services; and,
  - c. Without duplication of services being provided through other contracts.
- 4.3 Instruct the Director of Fiscal Services, under the direction of the Chief Administrative Officer, and the Chief Facilities Officer within one year of the acceptance of the FY 2014-15 performance audit to develop a written policy for the Measure E Program to require one purchase order per project in its entirety or per year, based on District staff budgeting and forecasting, in order to increase clarity in reconciliation and review of invoices and authorizations.
- 4.4 Instruct the Chief Facilities Officer within six months of the acceptance of the FY 2014-15 performance audit to amend the construction management contract to require prior approval from the Chief Facilities Officer for staffing additions.
- 4.5 Instruct the Director of Fiscal Services, under the direction of the Chief Administrative Officer, within six months of the acceptance of the FY 2014-15 performance audit to work with the financial management system vendor to allow for the tracking of supporting documentation of expenditures by including details such as the vendor invoice number and date.

# Introduction

Harvey M. Rose Associates, LLC (HMR) was retained by the Beverly Hills Unified School District to conduct the *2014-15 Annual Proposition 39 Performance Audit of the Beverly Hills Unified School District Measure E Program*. This performance audit was conducted for the Beverly Hills Unified School District in accordance with Generally Accepted Government Auditing Standards (GAGAS).

## Project Purpose and Scope

The 2014-15 Annual Proposition 39 Performance Audit of the Beverly Hills Unified School District Measure E School Facilities Program was designed by the District to accomplish the following objectives:

- To ensure that Measure E funds are expended on specific projects only and not on school operating expenses such as teacher and administrator salaries in accordance with Proposition 39.
- Assess policies, procedures and communication effectiveness.
- Evaluate master planning and facility programming activities, including the use of green technology.
- Review Measure E staffing and costs, scheduling, budget management, and expenditure control processes.
- Evaluate District cash flow requirements and compare with the adequacy and timing of bond sales.
- Review contract solicitation and award processes as well as contract administration, including change order management.
- Evaluate the management of contractor claims and liens.

## Methodology

This performance audit was conducted in accordance with Generally Accepted Government Auditing Standards for performance audits, issued by the United States Comptroller General and promulgated by the United States Government Accountability Office (USGAO). Also known as generally accepted government auditing standards or GAGAS, these standards provide a framework for performing high-quality audit work with competence, integrity, objectivity, and independence.

This performance audit was conducted in two phases. Phase 1 involved an initial assessment and profile of the state of the Beverly Hills Unified School District Measure E program to identify areas of high risk. Phase 2 consisted of detailed field work to evaluate policies and procedures; master planning; staffing and costs, scheduling, budget management, and expenditure control; cash flow requirements compared to the adequacy and timing of bond sales; contract solicitation and award; contract administration; management of contractor claims and liens; and, compliance with applicable laws, regulations, and policy. Specific field work activities included:

- Entrance conference with representatives from the Beverly Hills Unified School District and the Citizens' Oversight Committee.

- Compilation of key documents to profile the District finances and organization.
- Interviews with members of the Board of Education, the Citizens' Oversight Committee, and other stakeholders, as well as District managers and staff.
- Site visits to all Measure E project sites with the Director of Construction Management to gain an understanding of the scope, progress, and complexity of planned improvements at each site.
- Assessment of the status of prior year audit exceptions.
- Assessment of policies, procedures, and communication effectiveness.
- Transaction testing and file review for change orders, purchase orders, payments, contracts, bidding processes, and claims and liens.
- Evaluation of master planning efforts and facility programming activities, including the use of green technology.
- Review of Measure E staffing and costs, scheduling, budget management, and expenditure control processes.
- Evaluation of District cash flow requirements with a comparison with the adequacy and timing of bond sales.
- Evaluation of agendas, minutes, and reports for Board of Education meetings.

A draft version of this report was provided to the Beverly Hills Unified School District for review, factual clarifications, and comments. The audit team conducted a formal exit conference with District Facilities management and staff on the draft report on March 29, 2016 to discuss factual clarifications and comments. The audit team revised the report based on new information provided by the District, and submitted the final document jointly to the Beverly Hills Unified School District Board of Education and Citizens' Oversight Committee.

## **Overview of the Beverly Hills Unified School District**

The Beverly Hills Unified School District consists of four K-8 elementary schools and one 9-12 high school. The K-12 enrollment is approximately 4,200. The District's K-12 schools include:

- **Beverly Hills High School**, which was built in 1927 and partially rebuilt in 1936. Its Swim Gym was constructed in 1940 followed by several more moderate to large scale renovations and addition projects in the 1950s, 1960s, and 1970s including extensive additional alterations completed in early 1970. The last major change to the High School campus was the 2007 completion of the Science and Technology Center, a four story building housing 18 math classrooms, 12 science labs, a lecture hall, faculty work areas, and a multi-purpose Educational Development Center. The District is currently in the construction document phase for modernization of several buildings including buildings B1 (Athletics and Media), B2 (Administration and Library), B3 (Peters Auditorium), B4 (Salter Theater), A (Academics and Food Services), and F (Swim Gym). The District is also considering demolishing Building E and Building H and constructing a new outdoor swimming pool, a new athletics building, and a new underground parking structure.

- **Beverly Vista Elementary School**, which was initially constructed in the 1920's, renovated and partially rebuilt in 1933, and rebuilt again from 2002 to 2006 following damage due to the 1994 Northridge earthquake.
- **El Rodeo Elementary School**, which was built in 1927 and renovated for earthquake safety in 1934. A two story addition was completed in 1963, which included a gymnasium, a new shop, and music rooms. There were a series of additions in the late 1960s, which included a three story structure and additional classrooms. The District is currently in the construction document phase for modernization of the campus.
- **Hawthorne School**, which was originally constructed around 1913. An auditorium was added in 1921 followed by the addition of several structures between 1922 and 1929 and again after the 1933 earthquake. Further renovations and additions were completed in 1953, 1961, and undertaken again in the late 1960s and early 1970s. The District is currently in the design phase for modernization of Building A and the potential construction of four new buildings.
- **Horace Mann Elementary School**, which was initially constructed in 1929 and was renovated and expanded several times in the 1930s. Later, extensive expansions were undertaken, including a three story tower that was completed in 1968 and a new garage and classroom facility, which were completed in 1976. Smaller scale modernization and renovation projects occurred from 2001 through 2008. A renovation of the auditorium was completed in 2013 and the construction of a new classroom building commenced in 2014. The District is planning on moving forward with modernization of Building A and demolition of buildings D and E once the new classroom building is complete.

## Overview of Measure E

Measure E was passed by a supermajority of District voters on November 4, 2008.<sup>1</sup> The measure allows the District to issue up to \$334 million in bonds. The purpose of the Measure, as stated on the ballot was:

To provide safe and modernized school facilities, make necessary structural seismic safety repairs, upgrade, repair, and reconstruct aging classrooms, infrastructure, multiuse, gyms, libraries, science, technology, & labs; roofing, plumbing, heating, ventilation and electrical systems; renovate Beverly Hills Unified School District schools to better protect student/staff from unauthorized entry, security risks and natural disasters.

The first Measure E bond issuance occurred in 2009, with \$72,044,664 in bonds issued comprised of \$12,460,000 in current interest bonds and \$59,584,664 in capital appreciation bonds. A second issuance of \$45 million (\$33,660,000 in capital appreciation bonds and \$11,340,000 in current interest bonds) took place in December 2013. Finally, a third issuance of \$76 million in current interest bonds took place in August 2015, resulting in issuance of approximately \$193 million of the \$334 million in authorized bonds.

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<sup>1</sup> State Proposition 39 allows 55 percent voter approval of bonds for school districts and community college districts, rather than two-thirds approval required for other general obligation bonds.

## **Measure E Accomplishments**

Since the first Measure E bond issuance in 2009, the District established policies and procedures for selecting architects for each school site, solicited qualifications and proposals from qualified firms and retained a lead architectural firm for each school site. The District also retained a contractor to oversee administration of the program during calendar year 2015.

The District's former Chief Facilities Official, who retired from the District in January 2013, developed written procurement policies, procedures and systems for Measure E contractors retained by the District. He also developed a project monitoring and reporting system for each project.

The District conducted an extensive review of the mechanical, electrical, plumbing and civil equipment, systems and utilities at all school sites to identify and prioritize work needing to be done to meet the goals of Measure E. Numerous proposals and summaries of possible renovations and upgrades have been prepared for review by District staff and the Board of Education.

A Facilities Master Plan update was completed in 2012 and adopted by the Board of Education.

The renovation of the Horace Mann Elementary School auditorium commenced in 2012 and was completed in 2013. The construction of a new classroom building at Horace Mann commenced in August 2014.

Numerous alternative project proposals and plans have been developed, analyzed and presented to the Board of Education for review. Budgets have been developed for potential projects to assist in decision-making about which projects to approve, including a recent proposal to split campus priorities into two phases. The first phase includes higher priority projects that could be completed within the bond authority of Measure E. The second phase includes projects that would require additional bonding authority from District voters.

Consistent with State law, a Measure E Citizens' Oversight Committee has been established that, along with its subcommittees, meets regularly to review Measure E activity and summarize those results in annual reports.

Financial and performance audits of the Measure E program have been conducted each year, pursuant to State law.

## **Acknowledgements**

Harvey M. Rose Associates, LLC would like to thank the Chief Administrative Officer and her staff as well as management, staff, and construction managers in the Facilities Office for their time and assistance in conducting this performance audit.

# 1. Program Management and Master Planning

- The District successfully recruited an experienced full-time in-house Chief Facilities Officer in January 2016 (following the scope period of this audit). The previous absence of a full-time in-house Chief Facilities Officer, including during the scope period of this audit, was a continuing concern of several previous Measure E performance audits. The Chief Facilities Officer should play a central role in helping the District effectively manage the Measure E program, especially as the amount and complexity of construction activity continues to increase.
- In August 2014 (at the beginning of the audit scope period of FY 2014-15), the District commenced its largest Measure E funded project yet with the construction of the Horace Mann “Building B” classroom facility. The commencement of this project is a significant step forward for the District’s Measure E program.
- The Board of Education, the new Chief Facilities Officer, and the District’s construction management firm have taken constructive steps to address the inability of the Measure E Bond Fund to meet all of the District’s critical capital needs. These efforts include developing proposed updates to the Capital Facilities Plan, seeking outside State funds, and considering splitting projects into two phases (the first phase includes only projects that can be completed within the bond authority of Measure E and a second phase with projects that would require additional voter-approved bonds). The District should continue with these strategies to ensure that project budgets remain within the District’s bonding authority.
- In September 2013, the Board gave District staff authorization to pursue State bond funds for seismic repair, reconstruction, or replacement of school facilities under the Seismic Mitigation Program. Application for these funds could result in several million dollars of additional revenue to the District for critical seismic safety repairs at several school sites. Although the District’s construction management firm tracks most costs associated with Seismic Mitigation Program applications, such reporting should track and report *all* new costs associated with this program to the Board and Citizens’ Oversight Committee, including costs associated with the District’s geotechnical consultant, to ensure funds are pursued in the most efficient, effective, and transparent method possible.
- Under SB 581 the Board is required to provide the Citizens’ Oversight Committee (COC) with responses to any and all findings, recommendations and concerns addressed in the annual performance audit. Consistent with audit recommendations from the FY 2013-14 performance audit, the Board delegated the response for that audit to the contract interim Facilities Director. The Board should direct the Chief Facilities Officer to provide a written response to the COC regarding any and all findings, recommendations, and concerns within three months of receiving this audit to ensure continued compliance with State law.

## **Newly Hired Chief Facilities Officer to Play Key Role in Management of Measure E Program**

The District successfully recruited a full-time in-house Chief Facilities Officer in January 2016 (following the scope period for this audit, which is FY 2014-15). The District has had considerable turnover and extended vacancies for the Chief Facilities Officer position and the Director of Facilities and Planning position since the middle of FY 2012-13. The position was filled briefly in FY 2013-14 and then filled temporarily with a contractor until the end of 2015.

## **1. Program Management and Master Planning**

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The Chief Facilities Officer should be expected to play a key role in ensuring that the District has sufficient in-house resources to manage the Measure E program on a day to day basis. This is especially important as the level and complexity of construction activity continues to increase. The Measure E program is a \$334 million, multi-year endeavor that has and will continue to require significant and consistent capital programming expertise and institutional knowledge to minimize inefficiencies and risk to the District.

### **District Commenced Construction of New Horace Mann Classroom Facility in August 2014**

In August 2014, the District commenced its largest Measure E funded project to date with the construction of the Horace Mann “Building B” classroom facility. The commencement of this project, although delayed a few months by challenges in the bidding process, is a significant step forward for the District’s Measure E program.

Other Measure E construction activity that took place during FY 2014-15 (the audit scope period), included: (1) the replacement of an electrical distribution panel at Hawthorne; (2) work on emergency lighting and an underground storage tank at El Rodeo; and, (3) the replacement of the Swim Gym scoreboard and an air conditioning chiller at the High School.

### **District is Taking Constructive Steps to Address Measure E Funding Shortfall**

As noted in previous performance audits, the Measure E Bond Fund, as currently structured, is unlikely to meet all of the District’s critical capital needs. The costs of the projects identified in the 2012 Facilities Master Plan, which serves as a general approximation of the District’s capital needs, ranged from approximately \$494 million to approximately \$581 million<sup>1</sup>, which is about \$160 to \$248 million more than the \$334 million that the District has assumed would be available from all Measure E bond issuances. Even with the potential addition of several million in State Seismic Mitigation Program funding,<sup>2</sup> Measure E will still fall well short of the District’s needs.

The Board of Education, the new Chief Facilities Officer, and the District’s construction management firm have taken constructive steps to address the inability of the Measure E Bond Fund to meet all of the District’s critical capital needs. These efforts include developing proposed updates to the Capital Facilities Plan, seeking outside State funds, and considering splitting projects into two phases. The two phase approach would enable the District to pursue higher priority projects that could be completed within the limits of Measure E bonding authority while also planning other necessary projects, which would require additional bonding authority from the District’s voters. The District should continue to pursue these strategies to ensure that project budgets remain within the District’s bonding authority.

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<sup>1</sup> This figure includes the least and most expensive options at each school site, all recommended improvements from the mechanical, electrical, plumbing, and civil equipment, systems and utilities study (MEPC study), and estimated costs from the educational adequacy study.

<sup>2</sup> State Allocation Board staff note that several school districts have overestimated the amount of Seismic Mitigation Program funding that they are eligible for and that program awards are strictly limited to the minimum amount necessary to mitigate the identified seismic issues.

**Facilities Should Track and Report All State Seismic Upgrade Matching Funds**

In September 2013, the Board gave District staff authorization to pursue State bond funds for seismic repair, reconstruction, or replacement of school facilities under the State’s Seismic Mitigation Program (SSMP). State Proposition 1D, passed by voters in November 2006, provided \$199.5 million of state matching funds for seismic mitigation projects. Of this amount, \$83.1 million, or about 42 percent of the total anticipated bond authority was remaining as of February 2016.<sup>3</sup> This amount has decreased by \$5.4 million, or six percent, from \$88.5 million in February 2015.

As of February 23, 2016, the District had 14 project applications for SSMP funds in various stages of the multi-phase application process. For these applications, Facilities staff estimated that the District could receive between \$72.1 million and \$88.8 million in state seismic funds if all applications were approved by the State.

State Allocation Board staff has noted to the audit team that funding awards are strictly limited to the minimum amount necessary to mitigate identified seismic issues and that continued funding for the program is not guaranteed. Further, State Allocation Board staff has noted that the average award has been approximately \$750,000 for rehabilitation projects and approximately \$5 million for replacement projects. Given that four of the 14 applications submitted by the District would be for building replacement and the remaining 10 applications would be for rehabilitation work, the District could expect to receive about \$27.5 million if the State were to award an amount equivalent to the averages provided to other districts across the State.

Currently, the District’s construction management firm tracks SSMP costs, but these costs do not include services of the District’s primary geotechnical engineer because the Facilities Department, including the construction management firm, are not provided with such cost information by the Business Office. The District should track all costs incurred directly as a result of its pursuit of Seismic Mitigation Program funding and report this amount and milestones met monthly to the Board and the Citizens’ Oversight Committee to ensure that Measure E bond funds are used efficiently, effectively, and transparently.

**District Responded to FY 2013-14 Performance Audit as Required by State Law**

The Board is required by SB 581 to provide the Citizens’ Oversight Committee (COC) with responses to any and all findings, recommendations, and concerns addressed in the annual performance audit within three months of receiving the audit report. Consistent with that requirement, the Board delegated authority for the response to the contract interim Facilities Director who provided a response to the COC in June 2015. The Board should direct the newly hired Chief Facilities Officer to provide a written response to the COC regarding any and all findings, recommendations, and concerns of this audit within three months of receiving the audit to ensure continued compliance with State law.

**BHUSD Followed Established Measure E Sustainability Standards for Horace Mann Modernization Project**

As reported in the previous performance audit, BHUSD architects adhered to two sustainability programs as required by the District’s Design and Construction Standards for the Horace Mann

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<sup>3</sup> This amount accounts for projects whose applications have been completed, the State’s administrative costs, and projects that have received State Allocation Board conceptual approval and require final submittal from the applicants before award of funds.



Modernization Project. The District's Design and Construction Standards require that all capital improvement projects adhere to: (1) the statewide High Performance Incentive (HPI) program<sup>4</sup> and (2) the Savings by Design (SBD) program<sup>5</sup>. The architects adhered to these programs, which require builders to exceed California's Title 24 Energy Code standards, by reaching or exceeding the program's minimum criteria. For example, the District exceeded the HPI program minimum score of 20 points (out of a total of 84 points) by achieving 34 points with some extra points coming from energy efficiency and water efficiency efforts. Further, the District utilized the results of a June 2012 Feasibility Energy Analysis to design several changes that will improve the sustainability of the new and modernized buildings at Horace Mann. The District anticipates long term energy and cost savings from participation in these programs.

### Conclusions

The District successfully recruited a full-time in-house Chief Facilities Officer in January 2016 (following the scope period for this audit, which is FY 2014-15). This position has had been vacant since mid FY 2012-13. The Chief Facilities Officer should be expected to play a key role in ensuring that the District has sufficient in-house resources to manage the Measure E program on a day to day basis.

As noted in previous performance audits, the Measure E Bond Fund, as currently structured, is unlikely to meet all of the District's critical capital needs. The Board of Education, the new Chief Facilities Officer, and the District's construction management firm have taken constructive steps to address the inability of the Measure E Bond Fund to meet all of the District's critical capital needs. These efforts include developing proposed updates to the Capital Facilities Plan, seeking outside State funds, and considering splitting projects into two phases.

In September 2013, the Board gave District staff authorization to pursue State bond funds for seismic repair, reconstruction, or replacement of school facilities under the Seismic Mitigation Program. The District should track all costs incurred directly as a result of its pursuit of Seismic Mitigation Program funding, including services provided by the District's geotechnical engineer, and report this amount and milestones met monthly to the Board and the Citizens' Oversight Committee to ensure that Measure E bond funds are used efficiently, effectively, and transparently.

### Recommendations

The Board of Education should:

- 1.1 (a) Direct the Chief Administrative Officer to provide the construction management firm with all invoices from the District's primary geotechnical engineer and (b) direct the District's construction management firm to include such costs in its tracking of efforts to obtain SSMP funds.

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<sup>4</sup> HPI is a state-run program that promotes the use of sustainable elements in new construction and modernization projects for K-12 schools. These elements include using design and materials that promote energy and water efficiency, minimize and treat runoff after construction, maximize the use of natural lighting, minimize parking lots, improve indoor air quality, use recycled materials and materials that emit a minimum of toxic substances, and employ acoustics that aid in teaching and learning.

<sup>5</sup> SBD, administered in Beverly Hills by Southern California Edison, encourages energy efficiency in the design and construction of non-residential buildings.

- 1.2 Direct the newly hired Chief Facilities Officer to provide a written response to the COC regarding any and all findings, recommendations, and concerns of this audit within three months of receiving this audit report to ensure continued compliance with State law.

### **Costs and Benefits**

The costs of these recommendations include additional staff time to formally respond to the findings and recommendations to this report. The benefits of these recommendations include compliance with State law regarding a formal response to the annual performance audit.

## 2. Budgeting and Communication Effectiveness

- As of June 30, 2015, the District had spent approximately \$69.8 million, or 60 percent of the \$117 million issued, and 21 percent of the \$334 million total authorized by Measure E. The District spent \$32,518,725 in Measure E funds in FY 2014-15, or more than three times more than in the prior fiscal year.
- The majority of FY 2014-15 Measure E expenditures was for capital outlay, including architectural services, building improvement and construction, construction management, and geotechnical/seismic investigation and testing. Nearly two-thirds of this spending was for construction work on the new classroom building at Horace Mann. Spending on architectural services, mostly related to design work at the High School, was also a large expenditure accounting for approximately 20 percent of overall FY 2014-15 Measure E spending.
- Actual District Measure E expenditures in FY 2014-15 were only seven percent less than the revised budget adopted by the Board of Education in September 2014. Spending on capital outlay (construction, architectural, construction management) was about \$5.0 million, or 15 percent, less than the revised budget while spending on services and other operating expenditures was about four times the revised budget. Capital outlay expenditures were below budget because of delays to some architectural designs. Spending on services and other operating expenses were higher than budget due to higher spending than anticipated on legal services related to the proposed MTA west side subway expansion.
- Through February 23, 2016, the Horace Mann new classroom building project has utilized \$549,712, or about 17 percent, of the \$3,210,100 set aside as project contingency.
- The Measure E progress reports posted on a monthly basis by the District's construction management firm beginning in FY 2014-15 are consistently produced, provide relevant progress updates on each school site, and include helpful high level budgetary information. The District should consider simplifying its Measure E webpages to remove outdated information and provide a clear path to the current plans and recent Measure E updates.
- Our review of change orders processed in FY 2014-15 found that the Facilities Manual was not consistently followed and should be revised to reflect current and best practices. Further, the District should consider researching and potentially procuring construction project management software that would enable tracking of all project tasks electronically.
- The Board should consider revising the threshold for delegated authority to approve change orders for construction contracts to provide delegated authority to the Chief Facilities Officer and to increase the delegated authority from the currently authorized \$15,000. For example, if the Board raised the delegated authority to an aggregate amount of \$100,000, the delegated authority would still represent only 3/10<sup>th</sup> of one percent of the original construction contract for the Horace Mann new classroom facility project. The Board should continue to monitor the delegated authority to ensure that it is high enough to avoid unnecessary project delays, but low enough to avoid unnecessary risk.

**Measure E Spending Increased in FY 2014-15, Primarily Due to Commencement of Horace Mann Classroom Building Construction and Activity at High School, El Rodeo, & Hawthorne**

The Beverly Hills Unified School District (District) spent \$32,518,725 of Measure E bond funds in FY 2014-15, which was \$24,577,554, or more than three times, more than the amount spent in FY 2013-14. Overall, the District spent approximately \$69.8 million, or nearly 60 percent, of the \$117 million of Measure E bond issuances and 21 percent of the \$334 million authorized by Measure E as of June 30, 2015 (not including earned interest and other miscellaneous deposits, which has increased available funds by a moderate amount). Subsequent to FY 2014-15, in August 2015, the District sold a third issuance of Measure E bonds with an estimated principal amount of \$76 million.

Nearly all major categories of spending increased in FY 2014-15 from FY 2013-14 as seen in Exhibit 2.1 below. The largest categorical increase in Measure E bond fund spending was for capital outlay. This increase was primarily due to commencement of the new classroom building at Horace Mann. Additional architectural and seismic work at the High School, El Rodeo, and Hawthorne also contributed to the increase in spending on capital outlay.

The District also increased spending on services and other operating expenditures. These expenditures were primarily for legal fees related to the MTA Westside subway expansion proposal and independent consultant services (contracted facilities management).

<b>Exhibit 2.1: Measure E Expenditures by Major Object, FY 2013-14 vs. FY 2014-15</b>					
<b>Budgetary Category</b>	<b>FY 2013-14 Actual</b>	<b>FY 2014-15 Actual</b>	<b>Percent of Total FY 2014-15</b>	<b>Change from FY 2013-14</b>	<b>Percent Change from FY 2013-14</b>
Capital Outlay (architectural, building construction, construction mgmt., etc.)	\$5,210,649	\$28,611,132	88.0%	\$23,400,483	449.1%
Services & Other Operating Expenditures (legal and other professional services)	2,573,174	\$3,747,560	11.5%	\$1,174,386	45.6%
Classified Salaries	111,340	\$114,484	0.4%	\$3,144	2.8%
Employee Benefits	34,340	\$35,512	0.1%	\$1,172	3.4%
Books and Supplies	11,668	\$10,037	0.0%	(\$1,631)	(14.0)%
<b>Total</b>	<b>\$7,941,171</b>	<b>\$32,518,725</b>	<b>100.0%</b>	<b>\$24,577,554</b>	<b>309.5%</b>

Sources: FY 2014-15 and FY 2013-14 Measure E expenditure data provided by District Fiscal staff.

As shown in Exhibit 2.2, the largest subcategory (budgetary sub-object) of Measure E spending in FY 2014-15 was approximately \$14.9 million, or 45 percent of total expenditures, on building construction and improvements for District school sites. Most of these funds, approximately \$14.5 million, were related to construction of the new classroom building. Approximately \$259,000 related to building

## 2. Budgeting and Communication Effectiveness

construction and improvements was spent on architectural services at Hawthorne with significantly smaller amounts spent at El Rodeo and the High School.

The second largest subcategory of Measure E spending in FY 2014-15 was for architectural services at approximately \$6.5 million, or 20 percent of total expenditures, as shown in Exhibit 2.2. The vast majority of these expenditures (about 77 percent) were for work at the High School with smaller amounts spent on designs at El Rodeo, Hawthorne, and Horace Mann. The third largest subcategory of Measure E spending in FY 2014-15 was on legal fees. These legal fees were almost entirely (at least 90 percent) related to the MTA Westside subway expansion proposal. Further details of the top Measure E expenditures in FY 2014-15 are shown in Exhibit 2.2 below.

<b>Exhibit 2.2: Top Measure E Expenditures by Sub-object, FY 2014-15</b>			
<b>Budgetary Category (Sub-object)</b>	<b>FY 2014-15 Actual</b>	<b>Percent of FY 2014-15</b>	<b>Amount Change from FY 2013-14</b>
Building Construction/Improvements	\$14,869,942	45.7%	\$13,890,086
Architectural Services	6,544,957	20.1%	3,549,022
Legal Fees	3,219,561	9.9%	930,994
Construction Management	2,649,403	8.1%	1,949,708
Geotechnical Investigations and Soils Testing	1,030,734	3.2%	857,561
SEW-UP Education Construction Insurance	1,060,768	3.3%	1,038,164
DSA Fees & Project Inspector <sup>a</sup>	996,138	3.1%	962,214
Materials Testing; Certification Inspection	940,295	3.1%	931,974
Consultants & Independent Contractors	368,553	1.1%	111,288
All Other Sub-object Categories	838,373	2.6%	N/A <sup>b</sup>
<b>Total</b>	<b>\$32,518,725</b>	<b>100%</b>	<b>\$24,221,011</b>

Sources: FY 2014-15 and FY 2013-14 Measure E expenditure data provided by District Fiscal and Facilities staff.

<sup>a</sup> DSA Fees and DSA Project costs are tracked separately, but are included jointly here as they are very closely related.

<sup>b</sup> The sum of all other sub-object categories can't be compared year to year as the top expenditure categories have changed from FY 2013-14 to FY 2014-15.

### **Most FY 2014-15 Measure E Expenditures were for Construction Activities at Horace Mann and Architectural Services at the High School**

The highest amount of Measure E expenditures by location in FY 2014-15 was for construction of the new classroom building at Horace Mann, as shown in Exhibits 2.3 and 2.4 below. Approximately \$17.7 million, or about 55 percent of total FY 2014-15 Measure E expenditures, was spent on projects at the Horace Mann campus, primarily related to the new classroom building, as detailed in Exhibit 2.4 below.

The location with the second highest amount of expenditures in FY 2014-15 was the High School as detailed in Exhibit 2.4 below. Approximately \$6.7 million, or about 20 percent of total FY 2014-15

## 2. Budgeting and Communication Effectiveness

Measure E expenditures, was spent at the High School, primarily for architectural services and seismic work.

The District spent the remaining expenditures, approximately \$8.1 million, or 25 percent of overall FY 2014-15 spending, on districtwide projects and at the other school sites as shown in Exhibit 2.3 below. Spending across the district increased significantly at all campuses except Beverly Vista, which saw a significant drop in spending after the completion of two small projects (a new shade structure and replacement of a chiller pump). Increased spending at El Rodeo was due to additional architectural work related to the modernization project, work related to the District's efforts to acquire State seismic mitigation funds, and materials testing (quality assurance). Increased spending at Hawthorne was due to additional architectural work for the modernization project, costs related to the replacement of an electrical distribution panel, and work related to the District's efforts to acquire State seismic mitigation funds.

<b>Exhibit 2.3: Measure E Expenditures by School Site/Location</b>						
<b>School Site/Location</b>	<b>FY 2013-14 Actual Expenditures</b>	<b>Percent of FY 2013-14</b>	<b>FY 2014-15 Actual Expenditures</b>	<b>Percent of FY 2014-15</b>	<b>Change from FY 2013-14 Expenditures</b>	<b>Percent Change from FY 2013-14 Expenditures</b>
Horace Mann	\$909,523	11.5%	\$17,752,287	54.6%	\$ 16,842,102	1851.8%
High School	2,780,477	35.0%	\$6,673,275	20.5%	\$3,892,798	140.0%
District/Facilities Administration & Related	3,016,709	38.0%	\$5,103,749	15.7%	\$2,087,040	69.2%
El Rodeo	994,318	12.5%	\$1,887,988	5.8%	\$893,669	89.9%
Hawthorne	117,422	1.5%	\$1,091,392	3.4%	\$973,970	829.5%
Beverly Vista	122,722	1.5%	\$10,035	0.0%	(\$112,686)	-91.8%
<b>Grand Total</b>	<b>\$7,941,171</b>	<b>100.0%</b>	<b>\$32,518,725</b>	<b>100.0%</b>	<b>\$ 24,577,554</b>	<b>309.5%</b>

Sources: FY 2014-15 and FY 2013-14 Measure E expenditure data provided by District Fiscal and Facilities staff.

Exhibit 2.4 below provides greater detail on the largest project expenditures at each location around the District. The largest project by far was construction of the new classroom building at Horace Mann (approximately \$17.5 million) followed by architectural and design work at the High School (approximately \$5.8 million). Spending on legal fees related to the proposed MTA west side subway expansion under the High School campus was also a major project expenditure (approximately \$3.2 million).

## 2. Budgeting and Communication Effectiveness

Exhibit 2.4: Measure E Expenditures by Project and School Site/Location						
Location	Location Expenditures by Project	FY 2013-14 Actual Expenditures	FY 2014-15 Actual Expenditures	Percent of FY 2014-15 Expenditures at Location	Change from FY 2013-14 Expenditures	Percent Change from FY 2013-14 Expenditures
District/ Facilities Administration	MTA	\$2,282,945	\$3,193,828	62.6%	\$910,883	39.9%
	Facilities & Planning	\$692,564	\$1,909,921	37.4%	\$1,217,357	175.8%
	Horace Mann- New Construction	\$41,200	\$0	0.0%	(\$41,200)	-100.0%
	<b>District/ Facilities Administration Total</b>	<b>\$3,016,709</b>	<b>\$5,103,749</b>	<b>100.0%</b>	<b>\$2,087,040</b>	<b>69.2%</b>
High School	High School Modernization	\$2,605,720	\$5,815,119	87.1%	\$3,209,399	123.2%
	Seismic Work	\$0	\$794,110	11.9%	\$794,110	N/A
	Facility Hardship Program <sup>a</sup>	\$0	\$43,058	0.6%	\$43,058	N/A
	New Kitchen Hood in Culinary Classroom	\$177,789	\$20,988	0.3%	(\$156,800)	-88.2%
	MTA	-\$3,032	\$0	0.0%	\$3,032	-100.0%
	<b>High School Total</b>	<b>\$2,780,477</b>	<b>\$6,673,275</b>	<b>100.0%</b>	<b>\$3,892,798</b>	<b>140.0%</b>
El Rodeo	El Rodeo Modernization/New Construction	\$173,094	\$1,659,127	87.9%	\$1,486,033	858.5%
	Emergency Lighting Replacement/ Underground Storage Tank Project	\$806,503	\$120,088	6.4%	(\$686,415)	-85.1%
	Seismic Work	\$0	\$104,555	5.5%	\$104,555	N/A
	Auditorium Ceiling Upgrades	\$13,981	\$4,218	0.2%	(\$9,763)	-69.8%
	Division of the State Architect Closeout	\$740	\$0	0.0%	(\$740)	-100.0%
	<b>El Rodeo Total</b>	<b>\$994,318</b>	<b>\$1,887,988</b>	<b>100.0%</b>	<b>\$893,670</b>	<b>89.9%</b>
Horace Mann	New Construction (Classroom Facility)	\$663,061	\$17,451,598	98.3%	\$16,788,537	2532.0%
	Seismic Work	\$0	\$138,421	0.8%	\$138,421	N/A
	HM Modernization (Building A Renovation)	\$141,456	\$162,139	0.9%	\$20,683	14.6%
	Interim Classrooms <sup>b</sup>	\$63,033	\$129	0.0%	(\$62,904)	-99.8%
	Auditorium Ceiling Upgrades	\$41,972	\$0	0.0%	(\$41,972)	-100.0%
	<b>Horace Mann Total</b>	<b>\$909,522</b>	<b>\$17,752,287</b>	<b>100.0%</b>	<b>\$16,842,765</b>	<b>1851.8%</b>
Beverly Vista	Chiller Pump Replacement	\$57,784	\$5,050	50.3%	(\$52,734)	-91.3%
	Beverly Vista Modernization	\$915	\$4,985	49.7%	\$4,070	444.8%
	Shade Structure	\$64,022	\$0	0.0%	(\$64,022)	-100.0%
	<b>Beverly Vista Total</b>	<b>\$122,721</b>	<b>\$10,035</b>	<b>100.0%</b>	<b>(\$112,686)</b>	<b>-91.8%</b>
Hawthorne	Hawthorne Modernization	\$19,028	\$469,075	43.0%	\$450,047	2365.2%
	Seismic Work	\$0	\$349,042	32.0%	\$349,042	N/A
	Electrical Distribution	\$98,395	\$273,274	25.0%	\$174,879	177.7%
	<b>Hawthorne Total</b>	<b>\$117,423</b>	<b>\$1,091,391</b>	<b>100.0%</b>	<b>\$973,968</b>	<b>829.5%</b>
<b>TOTAL</b>		<b>\$7,941,170</b>	<b>\$32,518,725</b>	<b>N/A</b>	<b>\$24,577,555</b>	<b>309.5%</b>

Sources: FY 2014-15 and FY 2013-14 Measure E expenditure data provided by District Fiscal staff.

<sup>a</sup> According to the State's Office of Public School Construction, the Facility Hardship Program is a project in which 50% of the costs are to mitigate health and safety threats.

<sup>b</sup> The subject code for interim classrooms was merged with the broader Modernization category in FY 2014-15

## 2. Budgeting and Communication Effectiveness

As shown in Exhibit 2.5 below, the District spent most Measure E funds on construction work (primarily at Horace Mann), architectural services, and legal fees. Construction spending in FY 2014-15 took place at:

- **Horace Mann** for construction of the new classroom building;
- **Hawthorne** for replacement of an electrical distribution panel;
- **El Rodeo** for work on emergency lighting and an underground storage tank; and,
- **The High School** for replace the Swim Gym scoreboard and a chiller for air conditioning.

<b>Exhibit 2.5: Top Measure E Expenditures by Location</b>			
<b>Location</b>	<b>Location Expenditures by Project</b>	<b>FY 2014-15 Actual Expenditures</b>	<b>Percent of FY 2014-15 Expenditures at Location</b>
Horace Mann	Building Construction/Improvements	\$14,491,917	81.6%
	SEW-UP Construction Insurance	\$1,060,489	6.0%
	Construction Management	\$831,404	4.7%
	All Other Expenditure Categories	\$1,368,287	7.7%
	<b>Horace Mann Total</b>	<b>\$17,752,287</b>	<b>100%</b>
High School	Architectural Services	\$5,126,355	76.8%
	DSA Fees	\$753,523	11.3%
	Construction Management	\$343,321	5.1%
	All Other Expenditure Categories	\$450,076	6.7%
	<b>High School Total</b>	<b>\$6,673,275</b>	<b>100.0%</b>
District/Facilities Administration	Legal Fees <sup>a</sup>	\$3,206,968	62.8%
	Construction Management	\$1,274,729	25.0%
	Consultants/Independent Contractors	\$368,553	7.2%
	All Other Expenditure Categories	\$253,499	5.0%
	<b>District/Facilities Administration Total</b>	<b>\$5,103,749</b>	<b>100.0%</b>
El Rodeo	Architectural Services	\$780,280	41.3%
	Geotechnical Investigations/Soils Testing	\$600,545	31.8%
	Materials Testing (Quality Assurance)	\$182,673	9.7%
	All Other Expenditure Categories	\$324,490	17.2%
	<b>El Rodeo Total</b>	<b>\$1,887,988</b>	<b>100.0%</b>
Hawthorne	Architectural Services	\$444,855	40.8%
	Building Construction/Improvements	\$258,824	23.7%
	Geotechnical Investigations/Soils Testing	\$203,354	18.6%
	All Other Expenditure Categories	\$184,358	16.9%
	<b>Hawthorne Total</b>	<b>\$1,091,391</b>	<b>100.0%</b>
Beverly Vista	<b>Beverly Vista Total</b>	<b>\$10,035</b>	<b>100.0%</b>
<b>Grand Total</b>		<b>\$32,518,726</b>	

Sources: FY 2014-15 Measure E expenditure data provided by District Fiscal and Facilities staff.

<sup>a</sup> Most (approximately 90 percent) of these legal fees were related to the MTA Westside subway extension.



## FY 2014-15 Spending was Close to Board's Adopted Revised Budget

The District's actual Measure E spending was relatively close to the revised FY 2014-15 budget, which was adopted by the Board in September 2014 after the District's construction management firm was able to closely review the list of Measure E projects, project budgets, and incorporate the award of the Horace Mann new classroom building project. Overall, the District's expenditures were only seven percent less than the September adopted revised budget. The District spent \$32,518,725 of Measure E funds in FY 2014-15, which is \$2,367,240 less than the \$34,885,965 revised budget that was adopted by the Board in September 2014. As seen in Exhibit 2.6 below, capital outlay spending was about \$5.1 million less than the revised budget while spending on services and other operating expenditures was \$2.8 million more than the revised budget.

Underspensing on capital outlay is due to delays to some architectural designs. Overspending on services and other operating expenditures is due to more legal activity related to the MTA west side subway expansion proposal than anticipated.

<b>Exhibit 2.6: Measure E Budget vs. Actual Expenditures, FY 2014-15 by Major Object</b>					
<b>Major Budget Object Category</b>	<b>Original Budget Adopted by Board 6/12/14</b>	<b>Revised Budget Adopted by Board 9/23/14</b>	<b>FY 2014-15 Actual Expenditures</b>	<b>Over/ (Under) Adopted Revised Budget</b>	<b>% Over/ (Under) Adopted Revised Budget</b>
Capital Outlay (construction, architectural, construction mgmt., etc.)	\$9,393,110	\$33,694,576	\$28,611,132	(\$5,083,444)	(15)%
Services and Other Operating Expenditures	903,797	903,797	3,747,560	2,843,763	315%
Classified Salaries	200,000	200,000	114,484	(85,516)	(43)%
Employee Benefits	67,742	67,592	35,512	(32,080)	(47)%
Books and Supplies	23,515	20,000	10,037	(9,963)	(50)%
<b>Grand Total</b>	<b>\$10,588,164</b>	<b>\$34,885,965</b>	<b>\$32,518,725</b>	<b>(\$2,367,240)</b>	<b>(7)%</b>

Sources: FY 2014-15 Measure E expenditure data provided by District Fiscal and Facilities staff.

## Horace Mann Change Orders Well Below Contingency Amount as of February 2016

Our review of the Horace Mann new classroom building project found that project change orders in FY 2014-15 as well as total change orders through February 23, 2016 are well below the budgeted contingency amount of 10 percent of the original contract amount. The Board approved 21 change orders to the Horace Mann new classroom building project in FY 2014-15 totaling \$177,303.95 or about 5.5 percent of the \$3,210,100 contingency. The Board has approved an additional eight change orders in FY 2015-16 through February 23, 2016 totaling \$372,408.05. Together, all change orders approved through February 23, 2016 total \$549,712 or about 17.1 percent of the \$3,210,100 contingency.

## **Monthly Status Reports to Citizens' Oversight Committee and Business Office Appear to be Clear and Consistent**

In FY 2014-15 the District's construction management firm staff began reporting more detailed Measure E budget information to the Business Office and the COC. These monthly reports are broken down by location and include clear graphics showing the site's current budget, current contract amount, and amount paid to date. The reports also include a detailed table that breaks down the projects at the site with approved and revised budgets as well as expenditure data. Finally, the status reports include a brief narrative describing major project activities from that month. The District should continue to expect this level of reporting from its construction management firm.

## **Measure E Progress Reports are Helpful, Information on Website Could be Better Organized**

Measure E progress reports posted on the District's website are a helpful tool for keeping the public and the Citizens' Oversight Committee informed on the advancement of the Measure E program, but could be enhanced to include more detailed information. Further, the District's web pages devoted to Measure E could be better organized to allow visitors to find relevant information quicker and easier.

The District's website has two main sections devoted to project updates: (1) a page for District-wide updates and master calendars; and (2) pages devoted to each school site. However, to access the District-wide updates, which are posted on a monthly basis and cover activity at every school site, a user must navigate a series of pages with an illogical route. Specifically, from the Measure E page the user must click on the "Facilities Department" page, then on the "Measure E Update/Master Calendar/Finance" page, then on the "Measure E Update" folder. The District should consider simplifying this path by providing access to Measure E updates on the Measure E homepage or providing a clear link on the Measure E homepage to the updates.

The districtwide Measure E updates themselves are well organized and are posted consistently on a monthly basis. Each update includes a program overview update, including an update of previous year expenditures and year to date expenditures, interest income and other transfers into the Measure E fund, and the remaining balance of funds. The program overview also includes a summary of the current master schedule. Site specific updates with descriptions of project progress and photos and/or design renderings follow the program overview section.

The site-specific pages of the update reports include short narratives, and, to a varying degree, attached EIR documents, minutes of meetings with consultants, and previous progress updates, but not budgetary information. Further, as of the writing of this report, the site-specific pages had not been consistently updated in FY 2014-15. While there have been no site-specific Measure E updates since July 2012 (some school site pages had not been updated since October 2011), the District has posted other, more recent, information for Horace Mann and the High School. Specifically, the District has posted weekly photos of the Horace Mann construction site and power point slides with updated building designs, but not other information previously included in site-specific updates. The District should consider including budgetary information in its site specific updates, regularly update its website to keep the public informed about the progress made under Measure E, and consider simplifying the Measure E website pages to make it easier for the public to find relevant information about the program.

## Change Order Policies Should be Revised and Followed Consistently

Our review of change orders processed in FY 2014-15 found that the Facilities Manual<sup>1</sup> was not consistently followed and should be revised to reflect current and best practices. Specifically, the inconsistencies we found included the following:

- Both versions of the Facilities Manual in effect in FY 2014-15 prescribe the use of specific forms, including a “Change Order Request” (“Form K”), “Proposal Request” (“Form I”), and “Change Order” (“Form K”). However, of the 21 Measure E change orders in FY 2014-15 that we reviewed, 12, or 57 percent, did not have either the prescribed Proposal Request<sup>2</sup> or Change Order Request<sup>3</sup> forms. According to the Facilities Manual, all change orders that change the contract amount or contract time should have either a Proposal Request or a Change Order Request. However, 10 of the 21 change orders reviewed, or 48 percent, included the vendor’s version of the Change Order form instead of the District’s prescribed form. According to construction management staff, the prime contractor for the Horace Mann classroom building was not required to use the District’s change order forms as prescribed by the Facilities Manual. The District should consider requiring all future contractors to use the District’s prescribed forms or revising the Facilities Manual to allow for vendor change order forms if they include specific fields that are deemed necessary by the Chief Facilities Officer.
- Both versions of the Facilities Manual in effect in FY 2014-15 prescribe that Change Directive forms, which are required for all changes to the Contractor’s scope of work from the contract specifications and project drawings with a cost involved, must be signed by the District as well as the construction manager, architect, and contractor. However, of the 12 change orders that we reviewed with change directives, only two (17 percent) were signed by a District official. Further, none of the 12 change directive forms reviewed included which party initiated the change. The District should ensure that all future change directives are signed by the Chief Facilities Officer or other appropriate District official and are marked to indicate the party that initiated the change.
- Several of the change orders we reviewed included forms created by the District’s construction management firm, but that aren’t included in the Facilities Manual. These include a “Justification for Contract Modification” form and a “Record of Negotiation” form. We found both forms to be used consistently once implemented and appear to strengthen the District’s controls for documenting the justification and amount for change orders. The District should consider revising the Facilities Manual to include the use of these forms and the elimination of other prescribed forms if they are deemed duplicative by the Chief Facilities Officer.

Our review of change order documentation also found that Prolog, the District’s construction project management software, lacks the ability to track all aspects of projects electronically, including change

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<sup>1</sup> We reviewed the version of the Facilities Manual that was in effect for most of FY 2014-15 as well as the version updated on May 11, 2015.

<sup>2</sup> Per the Facilities Manual, Proposal Requests are to be used when the District requests an estimate for proposed changes to the work that may change the contract sum or contract amount.

<sup>3</sup> Per the Facilities Manual, Change Order Request forms are to be used when the contractor asserts that an occurrence results in additional cost or time.

orders. This gap requires District staff and contractors to utilize paper forms for many tasks, which can contribute to delays and more complex documentation. The District should consider researching and potentially acquiring construction project management software that would enable the tracking of all project tasks, including change orders, electronically.

### **District Should Consider Revising Threshold for Board Approval of Change Orders**

The District's threshold for change order delegated authority appears to be low and does not provide authority to the newly hired Chief Facilities Officer. Specifically, the District's Facilities Manual (per Board Resolution 2012-2013-016) stipulates that the Superintendent and the Chief Administrative Officer have delegated authority to approve amended contracts based on change in scope and/or change orders (not to exceed 10 percent of contract) up to the amount not to exceed \$15,000 with ratification approval by the Board of Education to follow at the next regular Board meeting.

The Board should consider revising its delegation of authority to shift the authority to the Chief Facilities Officer and raise the authority to a higher amount as deemed appropriate after conferring with the Chief Facilities Officer, Superintendent, and Chief Administrative Officer. For example, if the Board raised the delegated authority to an aggregate amount of \$100,000<sup>4</sup>, the delegated authority would represent only 3/10<sup>th</sup> of one percent of the original construction contract for the Horace Mann new classroom facility project. The Board should continue to monitor the delegated authority to ensure that it is high enough to avoid unnecessary project delays, but low enough to avoid unnecessary risk.

### **District Staff Need to Reconcile Measure E Expenditures in a More Timely Manner**

In order to more accurately track and report Measure E expenditures, District staff should routinely reconcile expenditure data. In reviewing expenditure data for this audit, we had to reconcile nearly \$325,000 in expenditures reported by the District with expenditures reported by the construction management company. The construction management company had adjusted (subtracted) some duplicate expenditures that were not adjusted in the District's expenditure report.

## **Conclusions**

The Beverly Hills Unified School District (District) spent \$32,518,725 of Measure E bond funds in FY 2014-15, primarily for construction work (mostly at Horace Mann), architectural services (mostly at the High School, El Rodeo, and Hawthorne), and legal services (mostly related to the MTA Westside subway proposal). This amount is more than three times what was spent in FY 2013-14 and very close to what was anticipated when the Board of Education adopted the revised Measure E budget in September 2014.

The District's construction management firm has continued to improve reporting on Measure E budget and project status with consistent, relevant information provided on a monthly basis. However, the District's Measure E website is difficult to navigate and has a large amount of outdated information.

Our review of change orders in FY 2014-15 found that the Facilities Manual was not consistently followed and should be revised to reflect current and best practices. Further, the District should

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<sup>4</sup> The Board should consider that this limit be restored to the full delegated authority each time change orders are given final approval.

consider researching and potentially procuring construction project management software, which could enable tracking of all project tasks electronically and potentially resulting in significant efficiency gains.

The District's delegated authority to approve construction change orders is not extended to the Chief Facilities Officer and, at \$15,000, appears to be too low to be useful. The Board should consider revising the delegated authority to include the Chief Facilities Officer and to raise it to an amount deemed appropriate after conferring with the Chief Facilities Officer, Superintendent and Chief Administrative Officer.

## **Recommendations**

The Board of Education should:

- 2.1 Direct the Chief Facilities Officer and Chief Administrative Officer to revise the District's Measure E webpages to simplify navigation to the Measure E Updates and remove information that is out of date.
- 2.2 Direct the Chief Facilities Officer to revise the Measure E Facilities Manual section pertaining to the change order process to reflect current and best practices.
- 2.3 Direct the Chief Facilities Officer to research options for, and costs and benefits of, procuring a new construction project management software, which would enable tracking of all project tasks electronically. Further, direct the Chief Facilities Officer to provide recommendations on whether to procure a new construction project management system within three months of acceptance of this audit report.
- 2.4 Consider revising the Board's delegated authority for construction change orders to include the Chief Facilities Officer and to increase the delegated authority for such change orders to a level deemed appropriate after conferring with the Chief Facilities Officer, Superintendent, and Chief Administrative Officer.
- 2.5 Direct the Chief Facilities Officer and Chief Administrative Officer to write procedures for the routine reconciliation of Measure E expenditures during the fiscal year and at year-end.

## **Costs and Benefits**

The costs of these recommendations include additional staff time to draft and present revised policies and to comply with them. Additional staff time would also be required to revise the District's website. The benefits of these recommendations include greater efficiency and transparency of the Measure E program, including the processing of change orders.

### 3. Contract Award

- The District does not have well-defined procedures for awarding professional services contracts through a competitive process. State law requires competitive bid for construction contracts and recommends, but does not require, competitive selection of professional services. While the District has drafted revised procedures, incorporating procedures to competitively solicit professional services, the Board of Education has not formally adopted the new procedures.
- The District does not have specific procedures for amending or extending contracts for professional services that were originally awarded through a competitive Request for Qualifications (RFQ) process. For example, two architectural contracts underwent a competitive RFQ process in 2011 and have had five and three amendments each by the end of FY 2014-15 (with five and two more amendments each post-dating the end of FY 2014-15). These amendments have increased the contract amounts and scopes significantly. Capital projects commonly extend existing professional service contracts (e.g., architectural, geotechnical, and engineering) through the completion of the project to maintain continuity of services. While the District's practice of amending its contracts is not necessarily problematic, the District should clarify its policies on extending contracts following an RFQ process and selecting contractors for new projects or phases of a project through a competitive solicitation. Given that the District's capital projects differ among school sites and the Board has considered dividing the capital program into distinct phases, the District should consider competitively selecting new professional service contractors that were originally selected through an RFQ process for each school project or project phase as deemed appropriate by criteria established by the Chief Facilities Officer and the Board.
- The three previous performance audits found that the District did not have written policies and procedures regarding standard contract language to be included for all contracts paid for with Measure E bond funds or for certain standard contract procedures. The Measure E Program construction management firm has prepared draft procedures that incorporate the language for insurance requirements, contract approval procedures, and other standard contract provision. These draft procedures have not yet been adopted by the Board. In the FY 2013-14 performance audit, District staff reported that the new Measure E Program procedures would not be adopted until a full-time Chief Facilities Officer is hired. A Chief Facilities Officer was hired in January 2016 and the District should adopt the Measure E Program procedures, with appropriate inclusions as recommended below.

The Board approved 34 Measure E program contracts in FY 2014-15, of which four were construction contracts and 30 were professional services contracts.<sup>1</sup> Exhibit 3.1 below shows the number of contracts by vendor type, Board approval date, contract amount, expenditures to the end of FY 2014-15, and any variance between the contract amount and expenditures.

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<sup>1</sup> The list of 34 contracts was obtained through a review of FY 2014-15 Board minutes.

### 3. Contract Award

Exhibit 3.1: FY 2014-15 Construction and Professional Services Contracts					
	Vendor Type	Board Approval Date	Original Contract Amount	Expenditures at End of FY 14-15	Expenditures Over/(Under) Contract Amount
1	Construction	9/9/2014	\$13,950	\$13,950	\$0
2	Construction	9/23/2014	\$16,000	\$12,368	\$3,633
3	Construction	1/19/2015	\$19,133	\$19,133	\$0
4	Construction	3/31/2015	\$14,890	\$14,890	\$0
5	Architect	2/10/2015	\$157,970	\$40,646	\$117,324
6	Architect	1/27/2015	\$300,500	\$195,606	\$165,494
7	Architect	2/24/2015	\$23,355		
8	Architect	2/24/2015	\$24,770		
9	Architect	5/12/2015	\$12,475		
10	Architect	6/19/2015	\$1,979,430	\$779,129	\$1,200,301
11	Architect	9/23/2014	\$79,000	\$0	\$79,000
12	Construction Management	7/8/2014	\$5,222,233 (\$6,493,460.00 by year's end)	\$2,597,590	\$3,895,870
13	Engineering	1/19/2015	\$3,050	\$3,050	\$0
14	Environmental	4/14/2015	\$15,604	\$15,604	\$0
15	Environmental	2/10/2015	\$19,805	\$0	\$19,805
16	Geotechnical	9/23/2014	\$2,300	\$1,650	\$650
17	Geotechnical	1/13/2015	\$325,000	\$252,924	\$72,076
18	Geotechnical	3/10/2015	\$685,000	\$164,557	\$520,443
19	Geotechnical	3/10/2015	\$35,000	\$1,970	\$33,030
20	Geotechnical	10/14/2014	\$9,000	\$843	\$8,158
21	Geotechnical	2/24/2015	\$3,450	\$2,888	\$562
22	Geotechnical	6/18/2015	\$229,775	\$96,065	\$133,711
23	Geotechnical	4/14/2015	\$32,031	\$293,680	(\$261,649) (District staff stated that there was an error placed on this account number)
24	Geotechnical	9/9/2014	\$3,960	\$20,394	(\$16,434)
25	Geotechnical	4/28/2015	\$890,000	\$5,628	\$884,372
26	Geotechnical	2/24/2015	\$15,200	\$5,628	\$9,572
27	Inspector	6/30/2015	\$71,040	\$0	\$71,040
28	Other Professional Services	4/14/2015	\$90,000	\$43,333	\$46,667
29	Other Professional Services	9/23/2014	\$12,070	\$9,500	\$2,570
30	Other Professional Services	1/19/2015	\$35,000	\$35,000	\$0
31	Other Professional Services	7/22/2014	\$295,650	\$167,549	\$128,101
32	Other Professional Services	2/10/2015	\$181,500	\$82,500	\$99,000
33	Other Professional Services	9/9/2014	\$28,188	\$26,994	\$1,194
34	Other Professional Services	6/18/2015	\$1,700,000	\$0	\$1,700,000
Total			\$13,817,555	\$4,903,067	\$8,914,488

Source: FY 2014-15 Board of Education minutes; Measure E agreements in FY 2014-15; Measure E expenditures in FY 2014-15; District staff; Totum staff

### The District's Policies for Competitive Selection of Services are Not Well-Defined

The California Public Contract Code requires competitive bid and selection of the lowest responsive bidder<sup>2</sup> for public projects<sup>3</sup> involving an expenditure of \$15,000 or more.<sup>4</sup> The California Public Contract

<sup>2</sup> The lowest responsible bidder is the most qualified vendor that meets bid specifications at the lowest cost.



Code does not require competitive selection of professional services.<sup>5</sup> However, the State Allocation Board in its Public School Construction Cost Reduction Guidelines<sup>6</sup> recommends the selection of highly qualified professionals through a formal competitive selection to reduce the costs of professional consultants, without reducing the quality of the completed project.

Procurement of services, materials, and supplies using Measure E funds are governed by two sets of District policies and procedures:

- (1) The District's Purchasing Procedure Manual (District Purchasing Manual) governing districtwide procurement of supplies, materials and services, whether they are funded by the General Fund, Measure E Bond Fund, or any other fund. The District Purchasing Manual is dated August 14, 2012, but adoption by the Board could not be verified through a review of Board agendas and minutes; and
- (2) The Facilities and Planning Procedures Manual for the Measure E Bond Program (Measure E Procedures Manual).

The Measure E Procedures Manual had three versions that staff followed during the scope year of FY 2014-15:

- (3) Measure E Bond Program Facilities and Planning Procedures Manual, dated May 2011, which was adopted by the Board on June 9, 2011 (Measure E Procedures Manual 2011);
- (4) Measure E Bond Program Facilities and Planning Procedures Manual, Revision 1 dated October 31, 2014 (Measure E Procedures Manual 2014); and
- (5) Measure E Bond Program Facilities and Planning Procedures Manual, Revision 2 dated May 11, 2015 (Measure E Procedures Manual 2015).

The Measure E Procedures Manual 2015 was prefaced with a letter by the interim Chief Facilities Officer which stated that "staff will consider the Procedures Manual to be acceptable to the Board and will continue to implement the procedures as written." While the audit team recommends that the Board formally adopt the updated Measure E Procedures Manual, the testing was done for compliance with these revised Facilities Procedures Manual based on the dates of the manual versions as these were the practice of the Facilities staff.

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<sup>3</sup> A public project is defined by Public Contract Code 22002 as construction, reconstruction, erection, alteration, renovation, improvement, painting, repainting, demolition and repair work involving a publicly owned, leased, or operated facility.

<sup>4</sup> Public Contract Code Article 3 Section 20111(b)

<sup>5</sup> California Public Contract Code 20111(c) states that its contract solicitation and awarding processes do not apply to professional services or advice, insurance services, or any other purchase or service otherwise exempt from the competitive bidding requirement, as is, or to any work done by labor or by force account pursuant to Section 20114 of the Public Contract Code.

<sup>6</sup> The State Allocation Board is responsible for determining the apportionment of State bond proceeds and other funding sources for new construction and modernization of public school facilities for school districts across California. As the policy body for the Office of Public School Construction, the Board adopts policies and regulations pertaining to school construction activities. Because of its statewide reach, the Board's policies can be considered best practices for any California school district's construction program, whether or not they receive funds from the State.



The Measure E Procedures Manual 2011 has procedures for selecting contractors for architectural services<sup>7</sup> but not for other professional services, such as engineering, construction management or legal services. The revised versions in 2014 and 2015, however, include the other professional services in the bidding protocols.

The District Purchasing Manual includes broad language regarding the solicitation of “services.” Specifically, the District Purchasing Manual states that competitive bids shall be sought through advertisement for contracts exceeding \$84,100 (effective January 1, 2014 to December 31, 2014) and \$86,000 (effective January 1, 2015), and must be awarded to the lowest responsible bidder. The District Purchasing Manual also states that the District should seek competitive bids for projects, including construction, of \$15,000 or more.

According to the State Allocation Board’s Public School Construction Cost Reduction Guidelines, school districts should seek highly qualified professionals because there is a potential cost impact due to the use of inexperienced professionals that may be “friends” or “readily available,” which may be “masked on the surface by lower fees or other enticements.”

The audit team selected samples by type of contractor to review for solicitation controls. A total of 13 contracts were reviewed. Exhibit 3.2 below shows the four different governing bidding thresholds and discrepancies between requirements as found in the District’s Purchasing Manual and the Measure E Procedures Manual (the contract award was tested against the appropriate version of the Measure E Procedures Manual by date). The highlighted cells in the far right column of Exhibit 3.2 below shows contracts that should have been competitively bid by one of the procedure thresholds but were not. The lack of clarity and consistency in the District’s bidding procedures has resulted in discrepant application of bidding protocols.

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<sup>7</sup> According to the Measure E Procedures Manual, architectural services are selected through a Request for Qualifications (RFQ) process, in which firms submit their qualifications and a committee chaired by the Chief Facilities Officer recommends the best qualified firm to the Board; and construction contracts are awarded to the lowest responsible bidder.

Exhibit 3.2: Contracts Awarded in FY 2014-15 Tested for Competitive Bid by Four Different Bidding Policies								
	Type of Contract	Board Approval Date	Contract Amount	Based on Measure E Procedures Manual, should this have been competitively bid?	Based on the District Purchasing Manual, should this have been competitively bid (CY 2014 - \$84,100; CY 2015 - \$86,000)?	Based on the District Purchasing Manual, should this have been competitively bid (\$15,000 and over)?	Should this have been competitively bid based on one of the procedures?	Was this competitively bid?
1	Construction	9/9/2014	\$13,950	N/A	No	No	No	N/A
2	Construction	9/23/2014	\$16,000	N/A	No	Yes	Yes	No
3	Architect	1/27/2015	\$300,500	Yes	Yes	Yes	Yes	Yes
4	Architect	6/19/2015	\$1,979,430	Yes	Yes	Yes	Yes	Yes
5	Construction Management	7/8/2014	\$5,222,233	N/A	Yes	Yes	Yes	Yes
6	Engineering	1/19/2015	\$3,050	No	No	No	No	N/A
7	Environmental	2/10/2015	\$19,805	No	No	Yes	Yes	No
8	Environmental	4/14/2015	\$15,604	No	No	Yes	Yes	No
9	Geotechnical	1/13/2015	\$325,000	Yes	Yes	Yes	Yes	Yes
10	Geotechnical	6/18/2015	\$229,775	Yes	Yes	Yes	Yes	Yes
11	Inspector	6/30/2015	\$71,040	No	No	Yes	Yes	No
12	Other Professional Services	7/22/2014	\$295,650 (7/1/14 - 12/31/14)	N/A	Yes	Yes	Yes	No
13	Other Professional Services	9/9/2014	\$28,188	N/A	No	Yes	Yes	No

Source: FY 2014-15 Board of Education minutes; Measure E agreements in FY 2014-15; District Office files

### The District Should Clarify When Professional Services Contracts Should be Competitively Solicited

Of the 13 contract awards sampled for FY 2014-15, five were awarded to vendors selected through a competitive request for qualifications (RFQ) process.

- A contract of \$300,500 to an architectural services firm, which was initially selected by a competitive RFQ process in 2011. The District awarded a new contract to this firm in 2015 without a further competitive process.
- A contract of \$1,979,430 to an architectural services firm, which was initially selected by competitive RFQ process in 2011. The District awarded a new contract to this firm in 2015 without a further competitive process.
- A contract of \$229,775 to a geotechnical services firm, which was initially selected through competitive RFQ in 2011. The District awarded a new contract to this firm in 2015 without a further competitive process.
- A contract of \$325,000 to a geotechnical services firm, which was selected through competitive RFQ in 2014.
- A contract of \$5,222,233 to a construction management services firm, which underwent competitive RFQ processes in 2014.

As noted above, three of these vendors were awarded new contracts under a Request for Qualifications (RFQ) process in 2011, or three years prior to award of the new contract. The District's policies do not specify the time frame for awarding contracts through prior years' competitive solicitation processes.

A closer review of District contracts with two of the architectural vendors listed above show a pattern of the District regularly and frequently amending original contracts to increase contract amounts. For example, a contract with one of the architectural service firms was originally awarded in the amount of \$2,098,450 on December 18, 2013, and had the following amendments all within FY 2014-15 provided to the audit team for review:

- First amendment, dated 3/12/14, which resulted in no overall change to the contract amount;
- Second amendment, dated 4/9/14, which increased the contract amount by \$1,765,995;
- Third amendment, dated 9/24/14, which increased the contract amount by \$164,217;
- Fourth amendment, dated 2/17/15, which increased the contract amount by \$8,250;
- Fifth amendment, dated 2/25/15, which increased the contract amount by \$300,500; and
- Addendum to the fifth amendment, dated 2/25/15, which increased the contract amount by \$12,475.<sup>8</sup>

Another contract for architectural services reviewed was originally awarded in the amount of \$2,582,200 on April 18, 2011, and had the following documentation of amendments within the FY 2014-15 scope period:

- A third amendment, dated 4/29/15, which increased the contract amount by \$250,680; and
- An agenda item, dated 6/19/15, which would increase the contract amount by \$1,979,430.<sup>9</sup>

Capital projects commonly extend existing architectural, geotechnical, engineering, and other professional services contracts through the completion of the project to maintain continuity of services. While the District's practice of amending its contracts is not necessarily problematic (the services were originally contracted through a competitive solicitation and staff saw a benefit in many cases to continuity), the District should clarify its policies on extending contracts following an RFQ process, and when it would be appropriate to select contractors for new projects or phases of a project through a competitive solicitation. Given that the District's capital projects differ among school sites and the Board has considered dividing the capital program into distinct phases, the District should consider

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<sup>8</sup> Also in the file were the following amendments beyond our scope period reviewed:

- Eighth amendment, dated 8/26/15, which increased the contract amount by \$251,788;
- Ninth amendment, dated 11/18/15, which increased the contract amount by \$9,420 and \$14,500; and
- Tenth amendment, dated 1/13/16, which increased the contract amount by \$156,026.

<sup>9</sup> Also in the file were the following amendments beyond our scope period reviewed:

- First amendment, dated 11/23/11, which resulted in no overall change to the contract amount;
- Fourth amendment, dated 8/10/15, which increased the contract amount by 3,718,750 and \$360,000;
- Fifth amendment, dated 11/18/15, which increased the contract amount by \$82,610.

competitively selecting new professional service contractors for each school project or project phase as deemed appropriate by criteria established by the Chief Facilities Officer and the Board.

### **The District has Not Yet Adopted Written Procedures for Standard Contract Provisions and Practices, Although Draft Procedures Exist**

The three previous performance audits found that the District did not have written policies and procedures regarding standard contract language to be included for all contracts paid for with Measure E bond funds or for certain standard contract procedures. Measure E Program construction management firm has prepared draft procedures that incorporate the language below, but the drafts have not been adopted by the Board.

#### ***Insurance Provisions***

The FY 2012-13 and FY 2013-14 performance audits recommended the following standard contract language, which the District has not yet implemented.

- Standard insurance requirements and payment by the contractor to the District for increased costs caused by (a) project delays not initiated by the District; (b) changes in project scope not initiated by the District; (c) violations of laws and regulations; (d) future claims, disputes or stop notices; and, (e) any other costs related to negligence, recklessness, or willful misconduct of the contractor.
- Inclusion in the Statewide Educational Wrap Up Program (SEWUP) Joint Powers Authority (JPA) and recently implemented practice of purchasing insurance for prime and subcontractors for construction projects to provide additional safeguards and potentially reduce bid costs.<sup>10</sup>

The Measure E Program procedures prepared by the Measure E Program construction management firm in May 2015 state that the District has hired Keenan & Associates as the program administrator for SEWUP. The District should implement these draft procedures.

#### ***Contract Approval Process***

As found in previous years, there was an inconsistency in the signatures on contracts awarded in FY 2014-15. Some contracts only had the Superintendent authorizing the contract, while other contracts had the signatures of the Superintendent, the Chief Administrative Officer, and General Counsel. The inconsistency can be attributed to the absence of District's policies and procedures specifying the appropriate approval signatures required for all services besides architectural services as well as turnover in Facilities staff, particularly the vacancy of the Chief Facilities Officer position starting in January 2014.

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<sup>10</sup> The Board approved the District's inclusion in the Statewide Educational Wrap Up Program Joint Powers Authority in November 2012. As a member of the SEWUP JPA, the District could purchase insurance necessary to cover all contractors and subcontractors for construction projects, eliminating the need for potential contractors to include the cost of insurance and any profit margin associated with those costs in their bids.

The Measure E Program construction management firm drafted procedures for approving construction and professional services contracts in the May 11, 2015 version Measure E Program Manual that have not yet been adopted by the Board. The draft procedures prepared by the Measure E Program construction management firm indicate that the consultant, Chief Facilities Officer and Assistant Superintendent of Business sign the final contract. According to the draft procedures, “Once a (professional services contract) proposal has been accepted by the District, and approved by the Board of Education, a formal contract is prepared and routed for signatures. Then the Consultant, the Chief Facilities Officer, and the Assistant Superintendent of Business Services will execute the contract.”

Also, all versions of the 2015 Measure E Procedures Manuals state that the Chief Facilities Officer must approve the Notice to Proceed for construction contracts, but does not specify who must approve the contract itself. The Measure E Manual should specify that the Chief Facilities Officer and/or Assistant Superintendent of Business Services should sign the construction contract, and the District should implement these draft procedures.

#### ***Future Claims, Liens and Stop Notices***

The draft Measure E Procedures Manual 2015 prepared by the Measure E Program construction management firm addresses the District’s response to future claims, liens, and stop notices, consistent with performance audit recommendations in previous years. These draft procedures outline the dispute resolution process, typical causes for disputes or claims, resolution of issues prior to claim, and senior management review. The District has not yet adopted the Measure E Procedures Manual 2015 procedures.

#### ***Standard Provisions in Construction Contracts***

The two new construction contracts awarded in FY 2014-15 included standard safeguard language, consistent with best practices, including liquidated damages for delays in project completion, a performance bond guaranteeing the quality of work and materials for up to one year after completion of the project such that District is not liable for any loss or damage resulting from any defects or faulty workmanship, and a payment bond in the event the principal or any of its subcontractors fail to pay for any materials, provisions, equipment, labor, or other fees. The draft Measure E Procedures Manual 2015 prepared by the Measure E Program construction management firm reference performance bond and payment bond requirements for construction contracts but do not specify liquidated damages. The District should amend the procedures to include language on liquidated damages and adopt these draft procedures.

## **Conclusions**

The District assigned the Measure E Program construction management firm to draft procedures implementing many of the previous years’ performance audit recommendations but these revised procedures have not yet been adopted by the Board. The draft Measure E Program procedures state that all professional services contracts should be selected through a competitive process and outline construction and professional services contract requirements recommended by prior performance audits.

Capital projects commonly extend existing architectural, engineering, and other professional services contracts through the completion of the project to maintain continuity of services. However, given that

the District's capital projects differ among school sites and the Board has considered dividing the capital program into distinct phases, the District should establish a clear policy on when it is appropriate to competitively select new professional service contractors that were originally selected under an RFQ.

In a memo dated June 18, 2015, from the former contract interim Facilities Director to the Board regarding previous year's performance audit recommendations, the former Facilities Director stated that the revisions have been submitted and accepted by the Board. However, the policies and procedures have not been formally adopted, and the District should move forward with obtaining Board approval of the draft Measure E Program procedures.

## **Recommendations**

The Board of Education should:

- 3.1 Direct the Chief Administrative Officer and the Chief Facilities Officer to streamline the policies and procedures found in the District Purchasing Manual and the Measure E Procedures Manual regarding competitive bid and submit for approval by the Board within one year of acceptance of the FY 2014-15 performance audit.
- 3.2 Direct the Chief Facilities Officer to revise the Measure E Program procedures clarify its policies on extending contracts following an RFQ process as well as selecting contractors for new projects or phases of a project through a competitive solicitation, and submit for approval by the Board within one year of acceptance of the FY 2014-15 performance audit.
- 3.3 Review and adopt the draft Measure E Program procedures prepared by the construction management firm in May 2015 regarding insurance, future claims, and standard provisions in contracts.

## **Costs and Benefits**

Adoption of new Measure E Program procedures, which have largely been drafted, would result in minimal staff time costs to the District. Well-defined requirements for competitive selection of professional services contractors would result in savings to the Measure E Program due to the high rates charged by professional services contractors that are not competitively selected.

## 4. Contract Administration and Expenditure Controls

- Some of the District's contracts for legal and professional services lack maximum amounts. Public agencies typically set maximum (or not-to-exceed) contract amounts to control contract costs, which usually require contractors to bear the cost of contract expenditures that exceed the maximum amount unless the scope of contract services increases.
- The District's contract with its construction management firm can be improved by requiring prior approval by the Chief Facilities Officer for the addition of staff.
- Also, the District does not include services provided by sub-consultants, sub-consultant hourly rates, or total sub-consultant fees in the Measure E Program's legal services contracts. Legal services firms pass through all sub-consultant costs to the District. One legal services firm passed through \$997,993.23 in sub-consultant charges for geotechnical and other work even though the contract did not specify sub-consultant services. The lack of controls on sub-consultant rates places the District at risk of paying higher than necessary rates for sub-consultants. For example, one vendor provided services to the Measure E Program as both a contractor and as a sub-consultant to the legal service firm. The vendor charged the District a rate of \$295 per hour for one employee on its direct contract with the District, but charged \$440 per hour, or nearly 50 percent more on the direct contract, as a sub-consultant with a legal firm.
- As noted in prior performance audits, the District does not always ensure that purchase orders for goods and services are approved prior to the expenditure being incurred. 44 of 164, or 27 percent of sampled transactions, had invoices dated before purchase orders, by up to 298 days, in FY 2014-15. The inconsistency in the expenditure authorizations is largely due to staff turnover, which has placed challenges on the District's ability to budget and forecast expenditures.
- The District should improve its controls on supporting documentation for expenditures. Of the sampled transactions, two invoices and the copies of five checks were missing in District supporting files and thus unable to be reviewed. The District cannot validate payments if invoices cannot be identified, and the District should improve its tracking of supporting documentation of payments to reduce risk of fraudulent activity.

The District spent \$32,518,725 in Measure E funds in FY 2014-15. Of these expenditures, \$149,996, or 0.46 percent, was spent on salaries and benefits and \$10,037 was spent on supplies for Facilities Administration. The remaining \$32,358,692, or 99.5 percent of expenditures, was paid directly to individual vendors.

The audit team reviewed 164 transactions totaling \$14,114,435.67 for 37 contracts<sup>1</sup> equal to 43.5 percent of total expenditures in FY 2014-15. Exhibit 4.1 shows the details on spending by type of vendor.

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<sup>1</sup> Samples were selected from Prolog's list of FY 2014-15 expenditures to test the adequacy of contract administration and expenditure controls. Samples from November 2014, May 2015, and two vendors selected from the audit team's risk assessment were selected and reviewed.

#### 4. Contract Administration and Expenditure Controls

<b>Exhibit 4.1: Samples Reviewed for Expenditure Controls on Payments to Vendors Made in FY 2014-15</b>				
	<b>Vendor</b>	<b>Number of Transactions</b>	<b>Number of Contracts</b>	<b>Total Expenditures</b>
<b>Construction</b>				
1	AMIR DEVELOPMENT CO - MANAGEMENT ACCT.	1	1	\$ 7,349.00
2	EDGAR GARZA	1	1	\$ 35,738.05
3	JR UNIVERSAL CONSTRUCTION INC.	1	1	\$ 15,568.64
4	PROWEST CONSTRUCTORS	12	2	\$ 8,518,049.00
5	PSOMAS	1	1	\$ 450.00
6	WAISMAN CONSTRUCTION	1	1	\$ 7,372.85
	<i>Construction subtotal</i>	<i>17</i>	<i>7</i>	<i>\$ 8,584,527.54</i>
<b>Legal services</b>				
1	KASOWITZ, BENSON, TORRES & FRIEDMAN LLP	1	1	\$ 91,810.03
2	MURPHY & EVERTZ. LLP	12	1	\$ 1,477,152.62
	<i>Legal services subtotal</i>	<i>13</i>	<i>2</i>	<i>\$ 1,568,962.65</i>
<b>Professional services</b>				
1	BANERJEE POCOCK & ASSOCIATES	1	1	\$ 5,050.00
2	C2 REPROGRAPHICS	23	1	\$ 1,301.33
3	CHRISTY WHITE ACCOUNTANCY CORPORATION	1	1	\$ 9,500.00
4	CLARK SEIF CLARK, INC	1	1	\$ 1,650.00
5	COMPUTER 1 PRODUCTS OF AMERICA	1	1	\$ 2,713.50
6	CUMMING CONSTRUCTION MANAGEMENT INC	3	1	\$ 57,000.00
7	DEPARTMENT OF TOXIC SUBSTANCE	1	1	\$ 4,527.03
8	DIVISION OF STATE ARCHITECT	6	1	\$ 698,490.90
9	DLR GROUP	9	2	\$ 1,495,558.95
10	ENVIRONMENTAL AUDIT INC.	3	2	\$ 27,283.42
11	HMC ARCHITECTS	6	2	\$ 98,189.44
12	KNOWLAND CONSTRUCTION SERVICES	4	2	\$ 60,176.00
13	KOURY ENGINEERING & TESTING INC	2	1	\$ 66,038.00
14	LEIGHTON CONSULTING, INC.	6	3	\$ 276,308.25
15	PLANNET CONSULTING LLC	2	1	\$ 19,060.98
16	PRIMESOURCE PM, LLC	13	2	\$ 250,049.00
17	RESOURCE ENVIRONMENTAL, INC.	2	2	\$ 28,840.00
18	ROTECH CONSULTING INC.	1	1	\$ 19,394.00
19	TOTUM CORP.	24	1	\$ 769,278.85
20	WLC ARCHITECTS	4	1	\$ 65,219.13
	<i>Professional services subtotal</i>	<i>113</i>	<i>28</i>	<i>\$ 3,955,628.78</i>
<b>Contracts total</b>		<b>143</b>	<b>37</b>	<b>\$ 14,109,118.97</b>
<b>Purchase orders</b>				
1	BEVERLY HILLS UNIFIED SCHOOL DISTRICT	1		\$ 115.00
2	C2 REPROGRAPHICS	4		\$ 2,039.82
3	HAULAWAY	2		\$ 122.00
4	MOBILE MINI, LLC	3		\$ 271.17
5	OFFICE DEPOT	7		\$ 2,013.74
6	XEROX CORPORATION	4		\$ 754.97
<b>Purchase orders total</b>		<b>21</b>		<b>\$ 5,316.70</b>
<b>TOTAL</b>		<b>164</b>		<b>\$ 14,114,435.67</b>

Source: FY 2014-15 Measure E Expenditures, provided by the District Business Office



### **The District Continues to Lack Controls over Some Contract Amounts**

Public agencies typically set maximum (or not-to-exceed) contract amounts to control contract costs; contractors bear the cost of contract expenditures that exceed the maximum amount.<sup>2</sup> As noted in our audit report of FY 2013-14 Measure E expenditures, the District does not consistently set maximum contract amounts to control contract costs. Four of the contracts in FY 2014-15, two for legal services and two for professional services, continued to lack maximum contract amounts.

A June 18, 2015 memo from the previous contract Facilities Director to the Board regarding previous year's performance audit recommendations stated that the Measure E Procedures Manual with the Facilities Office has been modified to require that *"construction and professional service contracts require (a) not-to-exceed amounts, (b) limits on reimbursable expenses, and (c) define all authorized subcontractor services, hourly rates, and total fees... Outstanding contracts have been modified in accordance with these requirements."* However, these policies were not found in the May 11, 2015 version of the Measure E Program Manual.

The former Facilities Director further stated in the June 18, 2015 memo that legal service contracts are not covered by the Facilities' Measure E Procedures and that these contracts are instead managed by the District Business Office, whose policies also do not place controls on the legal contract amounts. According to the Chief Administrative Officer at the District, an absence of a not-to-exceed amount on the legal contracts is a usual practice as the District cannot anticipate what the expenditures on litigation matters will be. However, without not-to-exceed amounts, the District lacks the authority to control spending by vendors and risks bearing any unreasonable costs incurred by vendors.

### **The District Should Strengthen Staffing Controls for the Primary Construction Management Contract**

The current primary construction management contract does not place sufficient controls on the addition of staff to the contract. While a staffing plan, which includes staff positions and rates is presented to and approved by the Board, the contract does not specify that additions of staff requires prior approval by the District. The contract states that "It is contemplated that from time to time individuals will be added to the list of Key Personnel." In the previous primary construction management contract the District did not allow such addition of staff without prior District approval. The District should consider removing this clause or amending the contract to require any staffing additions be subject to prior approval by the Chief Facilities Officer.

### **The District Needs Better Controls Over Use of Subcontractors on Prime Contracts**

District contracts do not consistently specify: (a) if subcontractors or sub-consultants will provide services under the contract; (b) qualifications or type of work to be performed by subcontractors or sub-consultants; or, (c) hourly rates and hours for the subcontractors and sub-consultants. Only two of the 37 contracts reviewed specified sub-consultant rates. The lack of controls on these sub-consultant rates continue to put the District at risk of paying significantly higher rates for sub-consultant services. For example, one legal contractor bills the District \$440 per hour for a sub-consultant who also has a direct contract with the District. Under the direct contract with the District, this consultant (who served as a sub-consultant to the legal contract) bills the District at \$295 per hour, or nearly 50 percent less. In the

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<sup>2</sup> Contractors typically bear the costs of excess expenditures for the approved scope of the project. Public agencies can agree to a contract change order if the project scope changes.

#### 4. Contract Administration and Expenditure Controls

June 18, 2015 memo, the former contract Facilities Director stated that “one contractor allowed the District a discounted rate for services provided directly to Facilities; the discount will be removed on future extensions to ensure consistency between contracts.” The District should consider reviewing contracts and sub-consultant rates from the same vendors to ensure consistency and that the District is obtaining the best value for its funds.

The District should also set procedures to avoid duplication of services by vendors who serve both as consultants in direct contracts to the District and sub-consultants to other District contracts. For example, the District paid \$1,248,052 for services in FY 2014-15 to a vendor who served both as a direct contractor and sub-consultant on another contract, as shown in Exhibit 4.5 below.

<b>Exhibit 4.2: District Payments to Vendor through Direct Contract and Subconsultant Billings on Legal Vendor Contract, FY 2014-15</b>		
Direct Contract	\$ 250,059.00	20.0%
Subconsultant Billing on Legal Vendor Contract	\$ 997,993.23	80.0%
<b>Total District Payments to Vendor, FY 2014-15</b>	<b>\$ 1,248,052.23</b>	<b>100.0%</b>

Source: Measure E payments and invoices in District files

Also, as noted in our audit report of FY 2013-14 Measure E expenditures, the District risks being double billed without sufficient controls on sub-consultants. For example, our review of invoices from FY 2014-15 show what appear to be duplicative billings through the legal vendor and through the direct contract for interview preparation on September 15, 2014. Further, invoices for October 14, 2014 show billings through the legal vendor and through a direct contract for “preparation for Board Closed Session.” While the Superintendent reviews and approves both sets of invoices and could verify if duplicate billing exists, such ambiguities could be avoided if the professional consulting services contractor has a single contract with the District for all services paid for with Measure E funds and at the same rate.

In the June 18, 2015, memo from the former Facilities Director to the Board regarding previous year’s performance audit recommendations, the former Facilities Director stated that legal services contracts do not report to Facilities and that:

Facilities has been informed by the General Counsel that the District has established policy and procedures on legal services expenditure controls including establish contract management/administration check list for contract value monitoring/profiling (a) review contract budget and contract amount (b) match contract data & cost to contract terms for project contract compliance reports; (c) review all allowable labor mark-up fee costs; (d) review all allowable indirect cost and services; (e) review all reimbursable expenses for contract compliance; (f) review all the accuracy of contract billing and supporting documentations.

However, the Facilities Office has not received a formal memo or transmittal as described in the former Facilities Director memo and the Business Office, which manages the legal contracts, does not have protocols as described above. The Chief Administrative Officer also stated that no such memo had been provided. Further, the District is not precluded from imposing controls on legal contracts such as a not-to-exceed amount and use of sub-consultants.

**Purchases Did Not Always Have Appropriate Prior Approval; Payment Processes Should be Streamlined**

The Measure E Procedures Manual specifies procedures for creating and approving requisitions and purchase orders, approving invoices submitted by construction and professional services contractors, and approving payments to construction contractors. The District's policies and procedures for procurement require the issuance of a signed purchase order prior to a vendor furnishing services or shipping materials in order to be compliant with California Education Codes 42631 and 42632. The Facilities and Planning Procedures Manual dated May 11, 2015, Section 1.8 includes a timeline for Purchase Requisitions and Purchase Orders being approved within a week of a contract being signed. Furthermore, best purchasing practices require that the District review invoices for accuracy by comparing charges to purchase orders, verifying that goods and services purchased have been received and rendered, and can perform monthly reconciliations of operating ledgers to ensure accuracy and timeliness of expenses.

However, as found in previous years' audits, invoices continue to predate purchase orders. 44 of 164 sampled transactions had invoices dated before purchase orders, by up to 298 days.

The District has also been adding change orders to purchase orders instead of opening purchase orders for the entire project amount. For example, the Board approved an architectural services contract in the amount of \$3,500,000 in April 8, 2011, and the contract had the following invoices and purchase order change orders within FY 2014-15:

- On October 22, 2014, a purchase requisition in the amount of \$20,000 was authorized.
- On October 24, 2014, a purchase order for the amount of \$20,000 was created.
- On November 7, 2014, the District cut a check of \$15,750.13 to pay for services.
- On the same day on November 7, 2014, the District created change order #1 to the purchase order, increasing the amount to \$378,000.
- On April 23, 2015, the District created change order #2 increasing the purchase order amount to \$393,000.
- On May 20, 2015, the District cut a check in the amount of \$30,750.12.

While the change order documentation states that these change orders were authorized and approved by the Board, the management of such payments could be better streamlined to increase clarity in the District's payment processes.

Both the invoices predating purchase orders and use of change orders to purchase orders can be attributed to high turnover in staff, which has presented challenges to the District's ability to budget and forecast spending to authorize expenditures ahead of time. The previous Chief Administrative Officer left the District in October 2014 and the District did not have a permanent in-house Chief Facilities Director throughout FY 2014-15 which could have led staff to place rushed purchase orders to make timely payments to vendors in several instances.

Having purchase orders approved before a service is rendered or supplies are purchased ensures that authorized expenditures are within contract amounts or approved budgets and that funding is available. The District runs the risk of expending funds it is not authorized to expend or obtaining services for which it lacks funds to pay vendors. There is also excess paperwork created and lack of clarity in

documentation. Improper charges may occur if review and reconciliation is not performed or payments for items and services may not be provided.

In a June 18, 2015, memo by the former contract Facilities Director to the Board regarding the FY 2013-14 performance audit recommendations, the former Facilities Director stated that the lag time between procurement approvals by the Board and completion of all requisite paper work is largely due to staff turnover and vacancies in the Finance department. While this is a contributing factor, the District should also focus on higher level spending authorizations such as at the project level for the year, which would reduce the volume of, and lag time due to, paper work for approvals. With the Chief Administrative Officer and Chief Facilities Officer positions now filled, the District can focus on budgeting and forecasting expenditures by project and streamlining payment authorizations to increase clarity in the payment processes and reduce the risk of non-payment or other payment inaccuracies.

### **The District Should Improve its Management of Supporting Documentation for Expenditures**

The Measure E Procedures Manual state that invoices should be copied and placed in the purchase order file by the cost engineer and also include a flow chart that show that checks should be placed in the file in the Facilities office. Of our sampled transactions, two invoices and the copies of five checks could not be found in District supporting files and thus could not be reviewed. Missing invoices place the District at risk of payment for services that cannot be validated, and the District should consider improving its tracking of supporting documentation for payments to reduce risk of fraudulent activity.

Currently, staff writes the purchase number on an invoice to track an expenditure, but this was sometimes missing on invoices reviewed. The District's financial management system Prolog does not allow the District to pull supporting documentation on expenditures or allow staff to locate any unique invoice information for the vendor. Thus, if the paper invoice is not located in the file with the hand written purchase order number, staff faces challenges in identifying the supporting documentation for expenses or in tracing a payment to its authorization and proof of service or goods.

All payments and supporting documentation should be accounted for as the District runs the risk of fraudulent activity as it cannot electronically trace supporting documentation of payment. The District could improve its financial system to allow tracing of payments and also streamline purchase orders and payment authorizations to create stronger controls on its expenditures.

### **Conclusions**

The District does not consistently set maximum contract amounts or adequate controls on subcontractor rates in its Measure E Program professional services contracts, especially in contracts for legal services. This exposes the District to higher than necessary costs. The District should also require prior approval by the Chief Facilities Officer for the addition of staff for its construction management contract.

The District continues to have incidences of invoices for goods or services that are date before the purchase of these goods or services is approved. Also, the District should improve its controls on supporting documentation for expenditures.

## **Recommendations**

The Board of Education should:

- 4.1 Direct the Chief Administrative Officer within one year of the acceptance of the performance audit to develop a written policy for the Measure E Program and to amend existing construction and professional services contracts as necessary to require: (a) not-to-exceed amounts, (b) limits on reimbursable expenses, and (c) all authorized subcontractor services, hourly rates and total fees.
- 4.2 Direct the Director of Fiscal Services, under the direction of the Chief Administrative Officer, and the Chief Facilities Officer to develop a written policy, within one year of the acceptance of the FY 2014-15 performance audit, that requires the appropriate District staff to review and compare all invoices from contractors operating under multiple contracts for the District to ensure that services provided are:
  - a. Within the contract amount and term;
  - b. Within the contract scope of services; and,
  - c. Without duplication of services being provided through other contracts.
- 4.3 Instruct the Director of Fiscal Services, under the direction of the Chief Administrative Officer, and the Chief Facilities Officer within one year of the acceptance of the FY 2014-15 performance audit to develop a written policy for the Measure E Program to require one purchase order per project in its entirety or per year, based on District staff budgeting and forecasting, in order to increase clarity in reconciliation and review of invoices and authorizations.
- 4.4 Instruct the Chief Facilities Officer within six months of the acceptance of the FY 2014-15 performance audit to amend the construction management contract to require prior approval from the Chief Facilities Officer for staffing additions.
- 4.5 Instruct the Director of Fiscal Services, under the direction of the Chief Administrative Officer, within six months of the acceptance of the FY 2014-15 performance audit to work with the financial management system vendor to allow for the tracking of supporting documentation of expenditures by including details such as the vendor invoice number and date.

## **Costs and Benefits**

Additional staff time would be required to draft, present, and implement revised policies and procedures. However, renegotiating contracts and implementing additional internal and expenditure controls for contracts paid for with Measure E bond funds would allow the District to: (a) ensure that sufficient funds are available for approved projects and expenditures in its Measure E Bond program; (b) reduce unnecessary and increased costs to the District; and, (c) ensure that the District is compliant with laws and regulations.