

**BEVERLY HILLS UNIFIED SCHOOL DISTRICT  
ANNUAL REPORT OF THE CITIZENS' OVERSIGHT COMMITTEE  
YEAR ENDED JUNE 30, 2017**

The Citizens Oversight Committee (COC) is pleased to provide its ninth annual report on the \$334 million general obligation Measure E bond initiative passed in November 2008 ("Measure E Bond"). This report covers the 2016-2017 fiscal year for the period of July 1, 2016 through June 30, 2017.

Principal duties of the COC are to ensure that proceeds have been expended for the purposes set forth in Measure E ballot language, report on the progress annually to the public and provide a compliance statement. Education Code Section 15278 (b) provides the specific role of the COC:

- *The purpose of the citizen's oversight committee shall be to inform the public concerning the expenditure of bond revenues.*
- *The Citizens' oversight committee shall actively review and report on the proper expenditure of taxpayers' money for school construction.*

The District's Board of Education is responsible for monitoring, prioritization of projects commenced and spending levels of individual projects. The COC has no authority over how money is spent. However, by reporting on the proper expenditure of funds and holding the District accountable for their decisions, the COC may have an impact on future spending decisions.

This report highlights many of policy and programmatic issues addressed by the COC. During the 2016-2017 fiscal year, the COC met six times. The COC's Audit Committee reviewed the District's program bond fund expenditure reports and reported its findings at the bimonthly meetings. The District completed the following required efforts:

- Financial Audit – Annual, performed by Moss, Levy & Hartzheim LLP
- Performance Audit – Annual, completed by Moss Adams LLP

All audits were performed under the guidelines of Proposition 39, as well as generally accepted auditing standards.

### **Performance Audit Results and Comments**

A summary of the key issues and findings of the Moss Adams Performance Audit that were reported at June 30, 2016 and remain outstanding at June 30, 2017 are the following:

#### **1. Compliance with the Ballot Language**

- The District should consult with its legal counsel to determine if costs incurred for severance pay are allowable under the terms of Opinion 04-110 and the Bond measure language. Results of this consultation should be reported to the appropriate personnel (i.e., relevant District management, the Board, and the CBOC) to ensure transparency and remediation, as necessary.
- Certain labor charges totaling \$96,770 were allocated between the Bond program and other District activities without direct cost identification to the Bond Program.

- We identified legal fees charged to the Bond Program where it is unclear whether the scope of work performed was allowable per ballot language.
- 2. Expenditure and Payment Procedures**
    - Of 52 sampled invoices, the District payment procedures lack adequate documentation to validate compliance with District policies and contractual agreements regarding payment terms on sampled expenditures.
    - The District approved a construction pay application without sign-off from the architect.
  - 3. Compliance with State Laws, District Policies, and Other Regulations**
    - Policies and procedures were not consolidated and the means for updating the manuals were not documented.
  - 4. District and Professional Services Staffing Plan for the Bond Program**
    - The District does not have well-defined policies and procedures surrounding in-house and consulting staffing for the Bond Program.
  - 5. Design and Construction Costs Budget Management**
    - Monthly District reporting lacked adequate details to allow end users to analyze available bond issue budgets at the program and project level to actual committed contract values and associated timing or revenues, expenditures, cash flow, and fund balances as recommended by the GFOA.
  - 6. Bidding and Procurement Procedures**
    - The District did not have competitive solicitation documentation available for professional service contractors.
    - The District was unable to validate a bid summary with adequate proposal documentation for one IT public works project.
    - The District entered into multiple vendor agreements utilizing JPA through the use of CMAS and “piggyback” contracts without approved policy and procedures identifying acceptable procurement processes.
    - The District did not select the lowest responsible bidder for a formally bid public works project. The District advertised for installation of a new artificial turf field at Beverly Vista School.
    - The District was unable to substantiate compliance with the Informal Bidding Requirements Policy for procurement of Public Work projects between \$45,000 and \$175,000 in contract value.
    - The District was unable to demonstrate prior Board approval for a \$33,228 amendment with professional service provider Knowland Construction resulting in noncompliance with policies and procedures.
    - The District contracted with two separate contractors for the same scope of work.
    - The District’s policies and procedures for change order work do not address California PCC limitations.
    - The District has written policies and procedures that conflict with Board resolution authority.
  - 7. Procurement Fraud Prevention and Detection Controls**
    - Formal policies and procedures and monitoring controls to prevent fraud and detect procurement fraud not available.
  - 8. Claim Avoidance Procedures**
    - The District has a claims avoidance policy; however, it does not have regular reporting or documentation available to identify actions taken to identify or limit claims exposure.

The following additional key issue and finding was reported in the June 30, 2017 performance audit report:

**1. Maintenance and Warranty of Measure E Assets**

- The District did not maintain a consolidated warranty and preventative maintenance log for all assets incorporated into school site construction and was unable to provide complete and accurate reporting for items under warranty.

The COC was pleased with the overall work of Moss Adams.

**Financial Audit Results and Comments**

Moss Levy & Hartheim LLP issued its financial audit report on March 15, 2017. The Financial Audit focused on the accuracy and fairness of the Financial Statements prepared by the District on the Measure E building fund. The following is the firm's opinion on the financial statements:

“In our opinion, the financial statements referred to above present fairly, in all material respects, the respective financial position of the Measure E Bond Building Fund of the Beverly Hills Unified School District, as of and for the fiscal year ended June 30, 2017, and the respective changes in financial position for the fiscal year then ended in accordance with accounting principles generally accepted in the United States of America.”

During the 2015-2016 fiscal year the Measure E Building Fund expenditures were \$45,469,000.

The Financial Auditors also considered the District's internal control over financial reporting. The following findings were reported at June 30, 2016 and remain outstanding at June 30, 2017:

- 1. Invoices were not paid timely.** During the test of disbursements, it was noted that 8 out of 50 invoices and 31 out of 95 invoices were not paid timely in 2016 and 2017, respectively.
- 2. Project Scope.** During testing of procurement, it was noted that projects expanded significantly in scope of work and the additional amounts are in excess of reasonable allowable increases to original plans and projections.

The following additional key issues and findings were reported in the June 30, 2017 financial audit report:

- 1. Insufficient supporting documentation for CUPCCAA informal bidding process.** During test of disbursements, it was noted that there were insufficient supporting documents for 2 out of 4 CUPCCAA projects awarded.
- 2. Vendors invoiced through third party.** During test of disbursements, it was noted that some vendors are invoiced through a third party.

The COC was pleased with the overall work of Moss, Levy & Hartzheim.

**COC Comments**

Measure E funds have been paid to fund the cost of litigation opposing the proposed Metropolitan Transportation Authority subway tunnel under Beverly Hills High School. The total amount spent from the inception of the bond measure relating to MTA litigation was \$14,227,000, representing 8.84% of the total expenditures of \$160,999,000.

The Committee has requested redacted legal invoices, and also has attempted to obtain a legal opinion addressing whether Measure E funds can be used for the litigation. The Board of Education has not facilitated the requests basing its refusal on attorney-client privilege. The Committee has also expressed concern about certain hourly rates charged for legal consulting services. The Committee encourages the Board to engage in full transparency regarding the expenditure of all public bond funds.

The COC is concerned about the ongoing turnover of district personnel assigned to the bond program and the reliance on outside consultants. The COC believes the lack of project management oversight continues to result in a construction program that is not efficiently administered and has not effectively delivered the projects originally envisioned when Measure E passed in 2008.

The District's MTA litigation was unsuccessful on appeal. As a result, the District filed a Federal law suit in January 29, 2018 asserting that adjustments to the proposed subway tunnel should be made. The District does not have a budget for this litigation. Legal expenditures reduce bond funds available for construction.

Citizens' Oversight Committee  
Beverly Hills Unified School District  
May 17, 2018