

**BHUSD - ANNUAL REPORT OF THE
CITIZENS' BOND OVERSIGHT COMMITTEE (CBOC)
MEASURE E & BH BOND BUILDING FUNDS
YEAR ENDED JUNE 30, 2022**

The Citizens' Bond Oversight Committee (CBOC) is pleased to provide its annual report on the \$334 million General Obligation Measure E bond initiative passed in November 2008 (Measure E) and the \$385 million General Obligation Measure BH bond initiative passed on June 5, 2018 (Measure BH). This report covers the 2021-2022 fiscal year, i.e., the period from July 1, 2021 through June 30, 2022.

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BACKGROUND

The principal duties of the CBOC are to: (1) Ensure that bond proceeds have been expended for the purposes set forth in the Measure E and Measure BH ballot language, (2) Report on the progress annually to the public, and (3) Provide a compliance statement. Education Code Section 15278(b) sets the responsibilities for the oversight committee:

- *The purpose of the Citizens' Bond Oversight Committee shall be to inform the public concerning the expenditure of bond revenues.*
- *The Citizens' Bond 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 prioritizing the scope of building projects and managing spending levels. The CBOC has no authority over how and when monies are spent. By reporting the proper expenditure of funds and holding the district and its agents accountable for their decisions, the CBOC may have an impact on future spending decisions and timing. The current CBOC members are Les Bronte (chair), Nathan Kruger (vice-chair), Marc Carrel, Harry Kraushaar, Bill Bymel, Paris Elias-Benjamin, Don Wyse, Jasmine Yadgari, and Raymond Zolekhian.

This report highlights the policy and programmatic issues addressed by the CBOC. During the 2021-2022 fiscal year the CBOC met six times. The CBOC's Audit Committee reviewed the District's program bond fund expenditure reports and reported its findings at those meetings. Minutes of each of the CBOC meetings are available at the District's website (www.bhusd.org).

During the past year, the District completed the following required efforts:

- Annual Financial Audit –Christy White, Inc
- Annual Performance Audit – Completed by Moss Adams, LLP

Both of these audits were performed under the guidelines of Proposition 39, as well as generally accepted accounting practices (GAAP).

SUMMARY OF FINANCIAL AUDIT

Christy White, Inc issued its Fiscal Year 2021-2022 financial audit report of both Measure E and Measure BH on March 10, 2023. 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 of the financial statements for both Measure E and Measure BH:

In our opinion, the financial statements referred to above present fairly, in all material respects, the respective financial position of the Measure E and BH Bond Building Fund of Beverly Hills Unified School District, as of June 30, 2022, and the respective changes in financial position thereof for the year then ended in accordance with accounting principles generally accepted in the United States of America.

During the 2021-2022 fiscal year the **Measure E Building Fund expenditures were \$37,740,577** and the fund balance as of June 30, 2022, was \$8,971,364. For the same period, the **Measure BH Building Fund expenditures were \$49,712,558** and the fund balance as of June 30, 2022, was \$240,504,495.

The Financial Audit also considered the District's cash disbursements internal controls.. During the test of disbursements, it was noted that **7 out of 75 disbursements were not paid timely**. The District is not in compliance with its procedures for invoice processing. The cause is insufficient controls over purchasing and budgeting cycles. This is a repeat finding. The District has taken steps to address this finding from prior years by implementing procedures to date-stamp invoices upon receipt and paying invoices in a timely manner.

SUMMARY OF PERFORMANCE AUDIT

On March 21, 2023 Moss Adams LLP issued its Measure E and Measure BH Construction Bond Fund Performance Audit Report for the fiscal year ending June 30, 2022. The CBOC believes the following findings are material and should be disclosed to the public:

1. Auditor unable to validate whether billing to District was compliant FY 2019-2022

- **Observation:** Contractor lien releases were available; however, subcontractor lien releases were not immediately available from the District. Absent detailed job cost documentation and subcontractor lien release documentation, we were not able to validate whether billing to the District was compliant with the contract terms.
- **Recommendation:** As provided by the lease-leaseback agreements, the District should continue to conduct construction audits or review procedures to ensure any potential non-compliant charges are not billed to the District and to support transparency of the project. As a best practice, the District's billing controls and policies should be evaluated to prevent potential excessive and non-compliant charges to the District, as required by the contract. Additionally, the District should consider requiring subcontractors to submit conditional and unconditional lien waivers, in addition to the contractor, with their payment applications to ensure timely payment and mitigate potential project risk exposures.
- **Management Response:** As recommended by the contract between the District and ProWest, the District commenced a **construction audit** of the BHHS B1/B2 project in May 2021, which concluded in November 2021. The District also commenced construction audits of the B3/B4

project, El Rodeo project, and the South Site Oil Wells project in June 2022. The completed construction audit indicated that **TCDS and the contractor did not include actual cost incurred documentation** within monthly payment applications to support that contractor charges complied with the open-book accounting requirements specified within contract documents for the Beverly Hills High School Building and El Rodeo Modernization Projects.

The District will continue to conduct construction audits and review procedures to ensure any non-compliant charges are not billed to the District. The District is currently resolving this issue and has taken steps to request subcontractor information.

2. The District has not taken steps to address the “District’s Professional Service Staffing Plan for the Bond Program” recommendation provided in prior reports FY 2016-2022

- **Observation:** During the prior year’s audit, the District approved the 2021–2022 TCDS staffing plan in alignment with the contract on June 22, 2021. While the staffing plan submitted included some itemized details, it lacked clear alignment with staffing needs based on metrics such as number of planned projects, key activities, and anticipated construction activity. The staffing plan and supporting documentation used in FY 2022 was **unable to be located** due to a transition in District Bond Program management and oversight; therefore, we **cannot verify the appropriateness of labor types and quantities for TCDS.**

On June 28, 2022 (2 days before the fiscal year end), **the BOE approved the awarding of Bond Program Construction Management Services to Fonder-Salari, Inc.**

- **Recommendations:**
 - a. As a best practice, annual staffing plan policies and procedures should be available and include considerations of key metrics such as number of planned projects and dollar values of planned projects to help support consistent review and approval of organizational structure alignment with the Bond Program needs.
 - b. The District staffing plan should include details on hourly and salary type personnel within staffing plan documentation and clarify the allowability and application of vacation, sick, overtime, and holiday time within contract and/or policy documents to ensure appropriateness of such labor charges.
 - c. Billing controls should continue to evaluate the appropriateness of labor charges and prevent potentially non-allowable labor charges from being charged to the Bond Program.
- **Management Response:** After our audit period, the District and Fonder-Salari team indicated that a detailed staffing plan and associated budgets for each component of the bond program was developed, reviewed, and approved by the Board and has been presented to our auditors.

3. Budget Reporting Is Not Comprehensive FY 2016-2022

- **Observation:** Budget reporting to the CBOC does not include essential information on master plan budgets, forecasts, schedule information, and cash flows. **Reporting is not in line with best practices and lacks information that key stakeholders need to make proper assessments.**
- **Recommendation:** Both the SDCTA and GFOA recommend periodic reporting of budget-to-actual comparisons of revenues, expenditures, schedule, and fund balances. BOE-approved master plan budgets with current forecasts at the program and project level should be available with consideration of the amounts available in one consolidated report. Detailed budget- level information for current bond issuances allows the District to monitor budgetary performance

against committed contract values and can serve as an early warning indicator for potential problems. This information provides decision-makers time to consider actions that may be needed if major deviations in budget-to-actual results become evident. The SDCTA and GFOA contend that this information is essential input for demonstrating accountability and transparency. This documentation will also serve as a useful tool for District management and stakeholders to understand the timing of project schedules.

- **Management Response:** After our audit period, in an update to the CBOC on February 16, 2023, Fonder-Salari presented the 'Monthly Comprehensive Report No. 006 – January 2023', 'Bond Program Budget – Ongoing Projects, and 'Bond Program Budget – Future Projects'. Our current bond program management team provides monthly and quarterly budget updates, available funds, and budget to completion projections to the district and board. In addition, monthly program update reports are provided to the District, and uploaded to the website for public review.

4. Unclear Protocols to Prevent Procurement Fraud FY 2016-2022

- **Observation:** Defined reporting protocols, training policy, and escalation procedures were not available for testing to validate that adequate controls were in place to identify, prevent, and detect procurement **fraud**.
- **Recommendation:** The District should continue to implement & document policies and procedures to help identify, prevent, and detect procurement fraud including the following:
 - a. Formally approve and widely distribute and **publicize an ethics policy** that can serve as a practical basis for identifying potential instances of fraud or abuse and questionable accounting practices.
 - b. Establish practical mechanisms (e.g., a hotline) that permit the confidential, **anonymous reporting** of concerns about fraud or abuse and questionable accounting practices to the appropriate responsible parties.
 - c. **Make internal auditors responsible** for the mechanisms used to report instances of potential fraud or abuse and questionable accounting practices. Emphasize that internal auditors should take whatever steps are necessary to satisfy themselves that a given complaint is without merit before disposing of it.
 - d. Have appropriate District oversight personnel **examine how complaints were handled** to satisfy itself that mechanisms for reporting potential fraud or abuse are in place and working satisfactorily.
- **Management Response:** The District will ensure to provide proper training to the District staff and Bond Program Management team periodically. Training will be coordinated and conducted prior to the end of 22/23 fiscal year.

5. Need Procedures for Prioritizing Project Scope FY 2020-2022

- **Observation:** As noted in the prior year's audit, the District issued a BHUSD Strategic and Long-Range Facilities Master Plan dated October 21, 2021, and provided an update to the financial sections dated April 26, 2022. However, based on the Master Plan Financial Recap included in the updated Master Plan dated October 21, 2021, the Bond Program has a **potential shortfall of \$129,580,398**. Based on the updated financial section, the program had an **updated potential shortfall of \$86,948,179**, but no details were provided to document drivers for decreases from the prior projections (e.g. market conditions, scope reduction, additional funding, etc.). While

the Master Plan appears to have been updated for new financial information through April 26, 2022, it does not appear that the financial updates were applied throughout the Master Plan for the projects within the program.

- **Recommendation:** As a best practice, project reporting with key project information including forecast and commitment amounts should be consistently reported to District management and key stakeholders. Any forecasted shortfalls should be addressed by the BOE, District, and Key Stakeholders with **detailed plans to secure additional sources of funding** and identification of alternative options that reduce projected costs while still meeting the District's objectives and needs. The master plan should **include information surrounding project scope prioritization** for the funding available to promote transparency to key stakeholders, ultimately enabling the BOE to make critical decisions on potential alternatives.
- **Management Response:** We are currently in the process of a facilities needs assessment district wide. Upon completion, the District will utilize the services of an architectural firm to update the Master Plan. In addition, our current bond program management team maintains the master budget for the program which is being presented to the District and the Board on a continuous and transparent basis. Needs assessment in progress. RFPQ process for Architectural services is currently underway. Master Planning services will be considered after completion of Needs Assessment, prior to the end of this fiscal year.

CBOC COMMENTS

In addition to the observations and recommendations from the financial audit and the performance audit, the CBOC has its own observations and recommendations:

1. District Has Made Monumental Strides in Improving its Management & Tightening its Oversight of the Bond Program

The CBOC's prior annual reports called out that there had been insufficient oversight of the previous bond manager and project expenditures submitted by ProWest. During the fiscal year 2021-2022, the School Board and District made significant improvements in its management and oversight of the bond program which will continue to improve spending & timing efficiency moving forward. This includes:

- a. **Hiring new legal independent counsel** to help with the support of reorganization and formation of the new construction program team, by assisting in obtaining RFPs and RFQs, reviewing contracts, and requiring proper licensure from bond manager.
- b. Deciding not to renew the contract with the previous bond manager. The Board put the **bond manager contract up for RFP** (request for proposals) and hired **Fonder-Salari** as the new bond manager.
- c. **Changing the reporting structure** so that the new bond manager reports to District staff rather than the School Board, creating more robust oversight and tighter approvals of expenditures at the **standard market rate**.
- d. **Strengthening the District staff overseeing the bond program** by (a) Creating the position of Construction Services Executive Director, which is dedicated to Bond Program management and filling it with Will Karrat, and (b) Hiring a seasoned Assistant Superintendent of Business Services, Raphael Guzman, to effectively implement these improvements.

- e. Calling for an RFQ (Request for Qualifications) for Inspector of Records Services and shortly thereafter the fiscal year end, awarding a contract to the new **Inspector of Records, Sandy Pringle Associates, Inc.** Sandy Pringle Associates directly reports to the District rather than the construction manager (as done with the previous construction management team), ultimately providing **more transparency and accountability for the District.**
- f. Creating a new position for **District Director of School Safety.** Previously, the construction manager was responsible for both the construction program and security program with bond dollars. Creating a new position for Director of School Safety allows for **segregation of duties, transparency, and accountability moving forward.** The Board ultimately hired Mark Mead to fill the position of Executive Director of School Safety.

The CBOC is pleased with the District's actions in identifying issues and ultimately taking dramatic and challenging steps to reorganize and restructure the bond program team through the RFP and RFQ process, and paying for services at standard market rate.

2. **District Did Not Have a Fraud Detection Program in Place For Fiscal Years 2016-2022 and Forensic Audit Recommended**

The CBOC recognizes and supports the June 2022 Board approval to audit the construction of all projects overseen by TCDS, including the management programs, construction programs, and security programs, in response to the findings of the Moss Adams BHHS B1/B2 Construction Audit.

As reported in the current performance audit, there were no fraud reporting protocols, fraud training policies, or fraud escalation procedures in place to identify, prevent, and detect procurement fraud. **The CBOC recommends a forensic audit to be conducted on past expenditures from fiscal years 2016-2022 managed by the previous bond manager and previous construction management team.**

3. **Still No Transparency For the Estimated \$10 Million Security Program Overseen by TCDS**

Despite multiple requests over the last 2 years by the CBOC, the District has not reported details of the estimated \$10 million security program overseen by the former bond manager, TCDS. The CBOC has several concerns about this project. First, since there is little transparency about the security project, the CBOC is unclear exactly what the security contract included. Therefore, **we are concerned that this project may not have been an appropriate use of bond funds.** In addition, work was given to TCDS without going through the typical RFP process, and qualifications were unknown. Without going through a typical RFP process, the District did not know whether it was getting the most competitive price. **The CBOC recommends that the Board of Education review the security program, provide greater transparency to the CBOC and the community and reconsider whether this project should have been paid for with Bond funds.**

4. **The District Has Begun to Improve Its Community Outreach & Public Education**

The CBOC commends the School Board for hosting its Town Hall meeting in 2022. In addition, the new Bond Management Team has begun to provide detailed construction updates during the bi-monthly school board meetings. These school board meetings are open to the public and available to watch on YouTube live, or at later dates at ones leisure. The CBOC also recognizes

that construction updates are provided during the Finance Committee meetings, which are open to the public. The CBOC also appreciates the Monthly Comprehensive Report, available on the school website, provided by the new bond management team, which includes updates on information such as the program budget, committee/board meetings, bid/requests for proposal, and progress at sites.

The CBOC would like the District to be more proactive in its outreach and go to the parents. This could include the following:

- a. Bi-annual (twice per year) **in-person updates** by District staff at PTA Council and school site **PTA meetings**.
- b. Construction update **e-newsletter** distributed to all BHUSD parents & students via ParentSquare
- c. BHHS and El Rodeo **site tours for PTA presidents** (or other key influencers) who can disseminate updates informally through their networks
- d. Periodic **press releases** to Beverly Hills Courier and BH Weekly

CBOC RECOMMENDATIONS

The below is a summary of the CBOC's recommendations:

1. **Conduct a forensic audit on FY 2016-2022 Bond Program expenditures managed by previous bond management team**
2. **Implement fraud controls as recommended by the Moss Adams audit**
3. **Evaluate if the comprehensive security program implemented by TCDS was appropriate use of bond funds**
4. **Conduct more proactive community outreach to update parents and community members on progress of the construction program**

Citizens' Bond Oversight Committee
Beverly Hills Unified School District