

**BEVERLY HILLS UNIFIED SCHOOL DISTRICT
ANNUAL REPORT OF THE CITIZENS' BOND OVERSIGHT COMMITTEE
MEASURE E BOND BUILDING FUND
YEAR ENDED JUNE 30, 2019**

The Citizens' Bond Oversight Committee (CBOC) is pleased to provide its eleventh annual report on the \$334 million general obligation Measure E bond initiative passed in November 2008 ("Measure E Bond"). This report covers the 2018-2019 fiscal year, i.e., the period from July 1, 2018 through June 30, 2019.

Principal duties of the CBOC 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 following guidance:

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

The District's Board of Education is responsible for monitoring, prioritization of projects commenced and spending levels of individual projects. The CBOC 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 CBOC may have an impact on future spending decisions.

This report highlights many of policy and programmatic issues addressed by the CBOC. During the 2018-2019 fiscal year, the CBOC met seven times. The CBOC'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

Moss Adams LLP issued its Measure E construction bond fund performance audit report for the fiscal year ended June 30, 2019 on March 25, 2020. Moss Adams reviewed the prior year's performance findings and confirmed of the 15 observations from the prior year, seven observations have been closed. The remaining FY19 open findings are the following:

- 1. Compliance with the Ballot Language.** The District should continue to require itemization of legal expenditures related to the MTA Subway Extension and ensure that the District's position is defensible.

2. **Expenditure and Payment Procedures.** The District should continue to time/date-stamp all invoices when received and evaluate invoice payment processing procedures to ensure compliance with District policies and procedures and contractual obligations.
3. **District and Professional Services Staffing Plan for the Bond Program.** The District should continue to develop and implement the Staffing Plan and associated policies and procedures for both the District and consultants to correlate Bond Program projects to Bond Program staffing needs. The Staffing Plan and associated budget amounts should be submitted to District Management and or the Board and be evaluated for reasonableness and appropriateness and alignment with contract terms. The District should continue developing District staff in various Bond Program positions to support processes for project reporting, communication, program resolution, decision support, scope of control and segregation of duties.
4. **Design and Construction Costs Budget Management.** Both the SDCTA and GFOA recommend periodic reporting of budget-to-actual comparisons of revenues, expenditures, cash flow, and fund balances. BOE-approved Master Plan budgets and current forecasts at the program and project level should be available, with consideration of the amounts available. 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 comment that this information is essential input for demonstrating accountability and transparency. Cash flow reporting should also include revenues, cash, and expenditures by timeframe in order to document that sufficient funding is available to meet financial requirements for Measure E. This documentation will also serve as a useful tool for District management and stakeholders to understand the timing of project schedules. Change order reporting should include information such as itemized change amounts, percentages, descriptions, change responsibilities, dates of approval, subtotals, and totals for easy end user reference. Change order documentation should be available at the project and program level and should include both detailed and summary-level information. Summary and detailed change reporting is necessary for understanding change order cause, responsibility, pricing, and compliance and identifying potential duplicated work scopes and/or redundancies caused by unclear scope objectives and/or expectations within the Master Plan.
5. **Bidding and Procurement Procedures.** The District should ensure that all professional services provided to the District are either BOE authorized to forgo competitive procedures or procured competitively and executed by the District as required by District policy. Additionally, as specified in Objective 10 as a best practice, the District should maintain a consolidated bid and procurement checklist and activity report that allows District Senior Management to identify, prevent, or detect non-compliance with District policies and procedures, State laws, and regulations. Supporting documentation to this consolidated report should be readily available in a central location, either physically or electronically. A checklist or equivalent mechanism, with appropriate signoffs on procurement requirements can serve as a good tool for all relevant parties (Accounting, as well as Planning, Construction, and Procurement) to validate compliance with policy and procedure requirements and adequate segregation of duties and controls.

6. **Bidding and Procurement Procedures.** As a best practice, the District should define budgets for all of their professional service providers to ensure adequate oversight and control over Bond Program expenditures. Program reporting should be updated accordingly to promote accountability and transparency. Furthermore, the District should consider requiring an annual staffing plan for vendors such as these, to be utilized as the basis for annual budgets (see Objective No. 7).
7. **Bidding and Procurement Procedures.** The District should ensure RFP performed is consistent with best practices and per Education Code 17406 (2)(B) for lease-lease back construction agreements with price considerations.
8. **Expenditure and Payment Procedures.** The District's billing controls should continue to be evaluated to prevent potential excessive and non-compliant charges to the District as required by the Contract. The District's Accounting Department should ensure that evidence of the Contractor's conditional and unconditional lien waivers are included within payment applications to ensure that evidence of the Contractor's conditional and unconditional lien waivers are included with payment applications to ensure timely payment and mitigate potential project exposures. Additionally, the District should consider requiring the Contractor to provide subcontractor lien releases as well.
9. **Bidding and Procurement Procedures.** The District should continue to consult with legal to ensure that bid, procurement and contract administrative processes and procedures are allowable. The District should update their policies and procedures to clearly identify the criteria and documentation needed to determine if the District can forgo a competitive bid process the Contractor level and practices for competitive subcontractor selection. The District should continue its plan to utilize the Right to Audit close stated with Article 7.3 of the Contract Terms to ensure that charges to the District are compliant and not excessive.
10. **Claim Avoidance Procedures.** The Construction and Facilities Department should consider implementing a claims avoidance log, or equivalent, to report in detail any potential differences with the Contractor, such as the responsibility for performing specific work on a periodic basis, claims avoided, and documented risk mitigation efforts.
11. **Maintenance and Warranty of Measure E Assets.** As a best practice, the District should continue efforts to ensure compliance with all warranty conditions to sustain a level of protection against breach of warranty and proper maintenance of District facilities in accordance with warranty conditions. For all school sites, a consolidated summary project closeout report should be maintained and should include warranty and preventive maintenance log details such as major assets, applicable items under warranty, dates of installation, required periodic maintenance, and actual maintenance conducted. The contents of this report should be reported to stakeholders on a regular basis.

Moss Adams identified the following two new findings based on its performance audit report for the year ended June 30, 2019:

1. **Expenditure and Payment Procedures.** The District's billing controls should continue to be evaluated to prevent potential excessive and non-compliant charges to the District as required by the payment and mitigate potential Contract. The District's Accounting Department should ensure that evidence of the Contractor's conditional and unconditional lien waivers are included within payment applications to ensure timely

project risk exposures. Additionally, the District should consider requiring the Contractor to provide subcontractor lien releases as well.

2. **Bidding and Procurement Procedures.** The District should continue to consult with legal counsel to ensure that bid, procurement and contract administrative processes and procedures are allowable. The District should update their policies and procedures to clearly identify the criteria and documentation needed to determine if the District can forgo a competitive bid process the Contractor level and practices for competitive subcontractor selection. The District should continue its plan to utilize the Right to Audit close stated with Article 7.3 of the Contract Terms to ensure that charges to the District are compliant and not excessive.

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

Financial Audit Results and Comments

Moss, Levy & Hartzheim LLP issued its financial audit report on December 13, 2019. 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, 2019, 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 2018-2019 fiscal year the Measure E Building Fund expenditures were \$34,636,000, net of a \$6,891,000 reimbursement from the State of California Facilities Bond. The fund balance at June 30, 2019 was \$125,214,000.

The Financial Auditors also considered the District's internal control over financial reporting. During the test of disbursements, it was noted that 31 out of 50 invoices and 5 out of 53 invoices were not paid timely in 2018 and 2019, respectively. The District agreed with this finding.

The Financial Auditors also noted that the CBOC membership is required to include a member representing the Beverly Hills Taxpayers Association as required by the California Education Code Section 15282(a). The CBOC is actively seeking a member of this organization to join the CBOC.

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

CBOC 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, \$18,326,000, representing 8.14% of the total expenditures of \$225,075,000. The District filed a Federal lawsuit on January

29, 2018 asserting that adjustments to the proposed subway tunnel should be made. On May 18, 2020, a District Court judge ruled in Metro's favor which ends nearly eight years of litigation.

The CBOC is encouraged that Team Concept Development Services (TCDS) has stabilized the District's construction program. The modernization of buildings B1, B2, B3 and B4 at Beverly Hills High School and the first phase of construction at El Rodeo School are proceeding. The utilization of the lease- leaseback and guaranteed maximum contracts recommended by TCDS will allow better cost control and BOE oversight.

The CBOC recognizes that many of the significant findings from past performance audits have been resolved or partially addressed. The District is encouraged to continue addressing issues related to management and controls.

Citizens' Bond Oversight Committee
Beverly Hills Unified School District
June 25, 2020