

**MEETING AGENDA
Board Audit Committee**

6:00 PM

March 12, 2014

Superintendent's Conference Room
East Side Union High School District Education Center
830 North Capitol Avenue
San Jose, CA 95133-1398

In compliance with the Americans with Disabilities Act, if you need special assistance, disability-related modifications or accommodations, including auxiliary aids or services, in order to participate in the public meeting of the Audit Committee, please contact the office of the District Superintendent at (408) 347-5011. Notification 72 hours prior to the Special Meeting will enable the District to make reasonable arrangements to ensure accommodation and accessibility to this meeting. Upon request, the District shall also make available this agenda and all other public records associated with this meeting in appropriate alternative formats for persons with a disability.

1. Call to Order/Roll Call

2. Introductions

A welcome is extended to the current, reappointed and newly appointed members of the Audit Committee.

- Board Member Magdalena Carrasco - Previously served as Vice Chair and is the newly appointed Chair
- Board Member Frank Biehl - Newly appointed Vice Chair
- Bruce Berg - Reappointed Member
- Jon Reinke - Reappointed Member
- Anthony Phan - Newly appointed Alternate Member
- Dan Juchau - Continuing Member

3. Adopt Agenda

4. Special Order of Business

Individuals may be permitted to present an item out of order on the agenda to accommodate their schedules.

5. Public Comments

Members of the public may address the Audit Committee on any subject not on the agenda; however, provisions of the Brown Act (Government Code 54954.2(a) and 54954.3) preclude any action. As an unagendized item, no response is required from the Audit Committee or district staff and no action can be taken; however, the Committee may instruct the Chair to agendize the item for a future meeting.

6. Approval of Minutes

Action: Minutes from the December 11, 2013, meeting will be presented for approval.

Chair / Vice Chair

7. Discussion/Action: Updates

Magdalena Carrasco, Chair, and Frank Biehl, Vice Chair

Senior Manager of Internal Controls

8. Discussion/Action: Status of Senior Manager of Internal Controls' Work Plan and Findings

Kelly Kwong, Senior Manager of Internal Controls, will discuss a status on the Work Plan and findings.

9. **Discussion/Action: Cash Handling and ASB Debit Balances**
Kelly Kwong, Senior Manager of Internal Controls, will provide an update on cash handling and ASB debit balances at school sites including the trainings hosted to date.
10. **Discussion/Action: Fraud, Waste and Abuse Hotline**
Kelly Kwong, Senior Manager of Internal Controls, will report on the status and accessibility of the Fraud, Waste and Abuse Hotline.
11. **Discussion/Action: School Connected Organizations**
Kelly Kwong, Senior Manager of Internal Controls, will present an update in regards to School Connected Organizations annual application in accordance with Administrative Bulletin No. 3.

External Auditor

12. **Discussion/Action: Update by External Auditor regarding the Annual Audit 2013-2014**
Joyce Peters, Partner at Vavrinek, Trine, Day & Co., LLP, will present the 2013-2014 engagement letter and the scope of work to be performed for the annual audit with key dates. Results from the recent school site testing will be provided.
13. **Discussion/Action: LCAP (Local Control Accountability Plan)**
Joyce Peters, Partner at Vavrinek, Trine, Day & Co., LLP, will present an update regarding proposed State LCAP audit guidelines and compliance review.

Superintendent / Associate Superintendent of Business Services

14. **Discussion/Action: Bond Performance Audit**
Marcus Battle, Associate Superintendent of Business Services, and Andre Bell, Assistant Director of Capital Accounting, will present a status update on action items and responses to the recommendations from the Bond Performance Audit by Total School Solutions issued September 2013.
15. **Discussion/Action: Change Order**
Marcus Battle, Associate Superintendent of Business Services, and Linda da Silva, Director of Construction, Maintenance and Facilities, will present an update on the proposed revised board policy and administrative regulation as it relates to the delegation of authority and change order process and guidelines.
16. **Discussion/Action: Guidelines on Alcohol**
Marcus Battle, Associate Superintendent of Business Services, will present policies pertaining to alcohol.

Audit Committee Business

17. **Discussion/Action: Audit Committee Self-Assessment**
Audit Committee Charter requires an annual self-assessment. Audit Committee will discuss format and timeline of process.
18. **Discussion/Action: Future Meetings**
Audit Committee will schedule the future meeting dates and times for the remainder of the calendar year.
19. **Superintendent Communications/Comments**
 - Chris D. Funk, Superintendent
 - Marcus Battle, Associate Superintendent of Business Services

20. Audit Committee Member Comments

Individual Audit Committee members may report on programs, conferences, meetings attended and/or items of interest to the public. An Audit Committee member may wish to express a concern or observation about a topic not appearing on the agenda, or request items to be scheduled on a future agenda.

21. Future Agenda Items

22. Adjournment

EAST SIDE UNION HIGH SCHOOL DISTRICT

Minutes of Meeting

Unapproved Board Audit Committee

Item #6

December 11, 2013

6:00 PM

East Side Union High School District
Education Center
Superintendent's Conference Room
830 Capitol Avenue San Jose, CA 95133-1398

1. Call to Order /Roll Call

The meeting was called to order at 6 PM by Chair Nguyen. Present were: Chair Nguyen, Vice Chair Carrasco, Member Berg and Member Juchau. Member Reinke was absent (excused).

Staff members in attendance were:

- *Marcus Battle*
- *Karen Poon*
- *Kelly Kwong*
- *Linda da Silva*
- *Andre Bell*

Presenter:

- *Leonard Danna, External Auditor - VTD*

2. Introductions

Persons present at the meeting introduced themselves.

3. Adopt Agenda

There were no changes to the agenda.

4. Special Order of Business

Individuals may be permitted to present an item out of order on the agenda to accommodate their schedules.

There were no items under this section.

5. Public Comments

Members of the public may address the Audit Committee on any subject not on the agenda; however, provisions of the Brown Act (Government Code 54954.2(a) and 54954.3) preclude any action. As a unagendized item, no response is required from the Audit Committee or district staff and no action can be taken; however, the Board may instruct the Chair to agendize the item for a future meeting.

There were no public comments.

6. Approval of Minutes

Action: Minutes from the September 5, 2013, meeting will be presented for approval.

Motion by Vice Chair Carrasco, second by Member Juchau.

Vote: 4/0, Member Reinke absent

Chair / Vice Chair

7. Discussion/Action: Updates - Chair Nguyen and Vice Chair Carrasco

No updates were made under this item.

Senior Manager of Internal Controls

8. Discussion/Action: Status on Senior Manager of Internal Controls' Work Plan and Findings

Kelly Kwong, Senior Manager of Internal Controls, provided the Committee an update on the items on her Work Plan:

ASB training and development (key focus)

FCMAT is being used as the guide. Meetings with School Finance Clerks continue on a bi-monthly basis. The next meeting will be held in February. The location of the meetings are rotated, with the next meeting to be held at Santa Teresa High School. As recommended by the Audit Committee, training sessions have been expanded to include Principals, APAs, APEDs, Activities Directors, Athletic Directors and Finance Clerks. It is mandatory that persons in these positions attend the training.

Four ASB training sessions were hosted at four different sites in order to provide all participants the ability to attend the training at a location that was near their place of work. There were a total of 73 attendees at the training, 56 employees and 17 students. Senior Manager of Internal Controls Kelly Kwong provided the training, along with the assistance of representatives from the Business Office. Make up sessions are being held in order to train staff that were unable to attend the sessions.

Bond Programs

Kelly Kwong continues to support management on all bond-related matters.

Assistance was provided with the reorganization cost analysis that will be discussed at the Board Meeting of December 12, 2013.

Lease/Use of Facilities

Preliminary reviews have been made and a discussion has been held with three sites. Meetings with other sites are in the process of being scheduled in order to obtain a wider representation. District oversight continues in this area. Information is currently in preliminary stages and a complete report will be provided at a future meeting.

Expenditure (Expense) Reports

Kelly will present the report as a fiscal year end report at the end of the fiscal year.

Purchase/Credit Cards

Kelly will present the report as a fiscal year end report at the end of the fiscal year.

Other

Support to management is being provided as requested.

9. Discussion/Action: Cash Handling and ASB Debit Balances

Kelly Kwong, Senior Manager of Internal Controls, may present findings and recommendations for action related to cash handling and ASB debit balances at school sites. In addition, the Committee will be discussing best practices for cash handling and ASB debit balances

With the trainings, there is more awareness and staff are calling and asking questions. The debit balances are old and historical; each school site currently has a positive cash balance. The balances are between \$100,000 and \$400,000.

The FCMAT guide is a zero-budget balance, which is being encouraged with the sites by Karen Poon, Director of Finance. Any carry over balance at the end of the year would need to be made in writing to the Business Office.

Karen Poon indicated that there are a few debit balances left, but that the sites are gradually eliminating them. The Business Office is monitoring this item.

10. Discussion/Action: Fraud, Waste and Abuse Hotline

Kelly Kwong, Senior Manager of Internal Controls, will report on the status of the Fraud, Waste and Abuse Hotline, which was approved at the August 30, 2011, Board meeting.

Report #19 was filed on September 22, 2013. Fact finding was conducted and Legal Counsel assisted in the investigation. On September 23, a response was posted in the system to the reporter. As of today, the reporter has not checked back into the system to receive the response report. Report #19 is now closed.

In October, 2013, the Business Office published the availability of the Fraud, Waste and Abuse Hotline in their Newsletter that was sent to staff -- a reminder that this is a tool available for anonymous reporting.

11. Discussion/Action: School Connected Organizations

Kelly Kwong, Senior Manager of Internal Controls, will present a draft of best practices/guidelines associated for School Connected Organizations, including current policies.

School Connected Organizations (SCOs) are not part of the East Side Union High School District's financial obligations. They are a separate entity, such as athletics boosters or PTA. They are required to obtain their own tax identification number, separate from the District's number, and require their own Bylaws. The Administrative Bulletin (presented as attachment #11), issued in October, 2012, is a tool to provide guidance to SCOs. Noted in the bulletin is that SCOs are requested to provide the District SCO information on an annual basis (application

and renewal form). This will help to keep the district informed on the status of SCOs. The form is due annually on September 30 to the District. Kelly Kwong has attended some SCO meetings and has provided training on the form.

Not all SCOs are in compliance with all required forms and some SCOs have not submitted any documentation. Kelly has been following up with the site Principal(s) to inform them of the missing forms and to assist in the follow-up.

The SCO policy update will be discussed at a future meeting.

Discussion was held regarding facility use by SCOs and adhering to current Board Policy on facilities usage. This item will be further discussed at a future meeting.

External Auditor

- 12. Discussion/Action: Student Records Retention** - Joyce Peters, External Auditor, will provide an audit update to the Committee.

Leonard Danna, External Auditor for VTD, presented an external audit update on the District on behalf of Joyce Peters who was unable to attend due to a calendar conflict.

The final reviews have been completed. VTD is waiting to hear back from Director of Finance Karen Poon on the corrective action plan to be proposed by the District in response to a finding. The finding is a State compliance issue in the area of School Accountability Report Card (SARC) reporting, which deals with the inspection of facilities. The information on the SARCs did not match what was listed in the Facilities Inspection Tool (FIT) Forms. It was noted that there may be a time lag on when the SARCs are published and when the FIT forms are submitted; the information did not make it from the FITs to the SARCs. In order to comply with law, this will be a fairly easy fix.

A Federal single audit was conducted. There is an unqualified report on the financial statements and an unqualified report on the Federal audit procedures. What this means is that certain Federal Programs are tested as required by the Federal Single Audit Act. The general idea is that money is spent for the intended purpose. There were no issues with respect to the Federal compliance issues. The School Accountability Report Cards was one of the items tested. There were no financial audit adjustments made. Once Karen Poon's corrective action plan on the SARCs is received, the report will be finalized and mailed to the State for compliance with the December 5 deadline.

The Facilities Department has modified their internal controls to ensure that the information on the FITs is included in the SARCs.

Superintendent / Associate Superintendent of Business Services

13. **Bond Performance Audit** - Associate Superintendent Battle will present information on the Bond performance audit.

On June 27, 2013, the Board of Trustees awarded a contract to Total School Solutions to perform a Prop 39 audit of the Measure G and Measure E Bond Programs. This audit was more intensive than the standard audit that is performed by VTD.

The highlights on the positive aspects of the audit were:

- *The District showed great Bond revenue management*
- *Diligence in taxpayer obligations to debt restructuring activities*
- *Ability to leverage Bond funds through aggressive pursuit of State grant funds under the School Facilities Program*
- *Response to issues raised in the 2010 FCMAT Extraordinary Audit have been addressed*
- *Development of Bond Program project scopes, budgets, and schedules*
- *Faithful execution by the CBOC in terms of their duties and responsibilities to the Bond Program*

Some of the weaknesses observed in the Programs are:

- *Excess staffing attributable to some duplication of work effort*
- *Financial management discrepancies*
- *District's approach to change orders*

There were 33 recommendations in the Audit Report. The Board recommended that the Board Audit Committee assume responsibility for review of follow up actions. To summarize what has occurred to-date, the District organized an internal workgroup comprised of the SGI Program management staff, Senior Manager of Internal Controls, Associate Superintendent of Business Services, Director of Finance, Director of Facilities, and Capital Purchasing Manager to determine functional responsibilities for recommendations. Each responsible party was asked to develop specific action steps to address the recommendations and to determine due dates for implementation. All recommendations were vetted and agreed upon by the workgroup in collaboration with the District's Senior Manager of Internal Controls to ensure transparency, responsiveness, and accountability. To-date, 12 of those

recommendations have been implemented. Eighteen of the recommendations are still in process and three of the recommendations were reviewed with no action required. The workgroup was provided with a matrix of the 33 recommendations. A copy of the report/matrix was provided to the Audit Committee.

The matrix identifies the responsible party for each recommendation. Many of the responsibilities fall under the Capital Accounting Department. The matrix also lists the due date for the implementation of each item and status of each item. Page three on the matrix has an item noted in red. This item is in reference to change orders that the Board asked administration to present and obtain direct input from the Audit Committee. Most of the recommendations are operational.

On the financial discrepancy, there were two different accounting systems used, the District's QCC system and the Bond Program system used by SGI, Primavera. There was a time lag of information between QCC and Primavera. When the auditors pulled the information on a particular date, the information did not match between the two systems. It was approximately a 3-4 week lag in information. The data had to be directly input into Primavera. The District is in the process of providing a system that has real-time information where data that is directly uploaded into QCC is also uploaded to a system that can provide financial reports to CBOC that will reflect the information that is in the District's financial management system that does not require any duplicate data entry which create any opportunities for error. There are reports that cannot be generated in QCC for the Bond Program, whereas, Primavera allowed the ability to generate customized reports, but there is a lot of data entry required in Primavera in order to generate these reports. That is one of the recommendations that the District is working to correct.

Linda da Silva, Director of Facilities, made a presentation to the Committee regarding a preliminary plan in terms of changes that the District is planning to recommend to change order approval process.

The Bond Performance Auditor recommended that the District discontinue using the practice of including an allowance in the construction contract and to, instead, delegate authority to administration. By doing so, the District would eliminate the misconceptions and challenges associated with the process, expedite the authorization of change orders, minimize time spent in obtaining District and Board approval on change orders prior to the execution of work, reduce the turnaround time for review, approval, and authorization of execution and payment of those construction change orders, demonstrate that the Board recognizes the urgent nature of school construction work, and that the expeditious handling of construction change orders plays an important role on the success of cost effective construction contracts. Further, the delegation and authorization should be done in compliance with California Education Code

sections 17604-17606, which basically states, "...the delegation and power may be limited as to time, money, or subject matter and no contracts may pursuant to delegation and authorization shall be valid or constitute an enforceable obligation, unless, and until, those have been approved or ratified by the Board..." Lastly, determine the amounts of change orders to be approved by designees.

The Bond Performance Auditor recommended that the designees could include the Superintendent, Associate Superintendent, Director of Facilities, Assistant Director of Facilities, District Architect, and Senior Contract Manager. The delegations should be renewed annually to ensure that timely adjustments to details are made according to the changing needs of the Bond Programs.

Reasons why delegation of authority over contracts, change orders and notices of completion should be granted:

- It has become routine in recurring business matters*
- Leads to efficiency of operations*
- Timeliness on these matters is in the District's best interest*

The proposal includes:

- Delegation of authority for the Superintendent and/or designee to enter into contracts for equipment, materials, supplies, and non-construction services not exceeding the limit set in Public Contract Code 20111.*

In February, 2013, the Board adopted CUPCCAA, which changes a little of the nuance in Public Contract Code 20111. Instead of limiting public works construction award to \$15,000, it allows the Associate Superintendent to award contracts up to \$175,000.

- Delegate authority to the Superintendent and/or designee to execute change orders to contracts not exceeding 10% of the original contract value.*
- Delegate authority to the Superintendent and/or designee to execute final Notices of Completion for public works contracts.*

Clarifications to the delegations would be per the Education Code. None of those transactions under those delegations of authority would be valid until ratified by the Board of Trustees. Authorizing language would be included in Board Policy and Administrative

Regulation that specify that these delegated approvals would be within the Board approved budget and pursuant to Education Code and Public Contract Code.

Next steps to considering the delegation of authority would be to have legal review of Board Policy #3312 Contracts, which will be completed in approximately January 2014. There will also be a review by Superintendent's Council and Cabinet. Then, a return to the Audit Committee and then take all questions and recommended revisions on the policy for refinement and present to the Board for first reading in the Spring with a second reading and adoption to follow at a subsequent Board Meeting. The Administrative Regulation will be developed and submitted during the same time for review and approval by Superintendent's Council and Cabinet.

Audit Committee Business

14. Discussion/Action Future Meetings

Under this item the Audit Committee may schedule future meeting dates and times.

The next meeting will be held on March 12, 2014, at 6 PM in Superintendent's/Board's Conference Room of the East Side Union High School District.

15. Superintendent Communications/Comments

- Superintendent Chris D. Funk
- Associate Superintendent of Business Services Marcus Battle

No item(s) to report under this section

16. Audit Committee Member Comments

Individual Audit Committee members may report on programs, conferences, meetings attended and/or items of interest to the public. An Audit Committee member may wish to express a concern or observation about a topic not appearing on the agenda, or request items to be scheduled on a future agenda.

No items reported under this section

17. Future Agenda Items

Items for future discussion:

Bruce Berg, Member

A request was made for a preliminary report on the District's progress towards putting together an LCAP plan before the end of the school year. It was indicated by Associate Superintendent Battle and Director of Finance Poon that a report may not be available by the next meeting, but the District would be able to provide an update.

Lan Nguyen, Chair

All standing items will remain on the agenda as recurring items.

Kelly Kwong, Senior Manager of Internal Controls and Marcus Battle, Associate Superintendent of Business Services

School-Connected Organizations with relation to the use of facilities will be on the next meeting agenda for discussion.

18. Adjournment

Chair Nguyen adjourned the meeting at 7:42 p.m.

Respectfully submitted,

Magdalena Carrasco, Board Audit Committee Chair

East Side Union High School District
 ASB Finance Training District Wide FY 2013-2014
 Attendance as of Audit Committee Meeting 12.11.13

Item 9

POSITION / TITLE	TOTAL	1	2	3	4	5	6	7	8	9	10	11	Calero	Foothill	Adult Ed
		AH	EV	IHS	JL	MP	OG	PH	SC	ST	WCO	YB			
Principal	7														
Assoc Principal APA	7														
Assoc Prin APED/Asst Prin	7														
Bank Finance Clerk	12														
Activities Director	10														
Athletic Director Boys	6	N/A		N/A											
Athletic Director Girls	4	N/A	N/A		N/A										
Other Employees	3														
TOTAL EMPLOYEES	56	3	5	8	2	2	7	6	7	5	6	3	2		
ASB Treasurer	5														
ASB President	1														
ASB Exec VP	2														
Class Secretary	1														
Class Treasurer 2014	2														
Class Treasurer 2015	1														
Class Treasurer 2017	1														
ASB ICC Commissioner	1														
ASB Cultural Liason PR	1														
ASB Special Project	1														
ASB Rally Commission	1														
TOTAL STUDENTS	17	0	2	3	1	1	0	2	1	4	0	3	0	0	0
TOTAL ATTENDEES	73	3	7	11	3	3	7	8	8	9	6	6	2	0	0

Training Sessions, Date, Time, Place	Business Office Reps in Attendance		Employees	Students	Total
	Reps	Count	Count	Count	Count
Session #1 Mon 11.4.13 430pm-530pm EVHS	Cathy Nguyen	1	7	2	9
Session #2 Tue 11.5.13 330pm-430pm OGHS	Cathy Nguyen	1	14	8	22
Session #3 Thu 11.7.13 11am-12pm WCOHS	Cathy Nguyen, Marisol Esparaza	2	11	0	11
Session #4 Mon 11.18.13 130pm-230pm IHS	Cathy Nguyen	1	19	7	26
Mon 10.7.13 11am-12pm PHHS	Karen Poon, Cathy Nguyen	2	5	0	5
			56	17	73
			77%	23%	

Item 9

East Side Union High School District
 ASB Finance Training District Wide 2013-2014
 As of Audit Committee Meeting 3.12.14

	1	2	3	4	5	6	7	8	9	10	11			
TOTAL	AH	EV	IHS	JL	MP	OG	PH	SC	ST	WCO	YB	Calero	Foothill	Adult Ed
Principal														
Assoc Principal APA				open										
Assoc Prin APED/Asst Prin														
Bank Finance Clerk (see Note A')														
Activities Director														
Athletic Director Boys	N/A		N/A		N/A									
Athletic Director Girls		N/A		N/A		N/A								
Principal's Secretary														
Other Employee														
TOTAL EMPLOYEES	6	6	8	4	5	7	6	7	7	7	7	2	2	0
Students	17	2	3	1	1	2	1	4	3					
TOTAL ATTENDEES	6	8	11	5	6	7	8	8	11	7	10	2	0	0

Note A': Bank Finance Clerks at EV and IHS were trained in the fall 2013. But replacements hired recently and will be trained 3.14.14

Session#	Training Sessions Date, Time, Place	Business Office Reps in Attendance	Employees	Students	Total
1	Mon 10.7.13 11am-12pm PHHS	Karen Poon, Cathy Nguyen	5	0	5
2	Mon 11.4.13 430pm-530pm EVHS	Cathy Nguyen	7	2	9
3	Tue 11.5.13 330pm-430pm OGHS	Cathy Nguyen	14	8	22
4	Thu 11.7.13 11am-12pm WCOHS	Cathy Nguyen, Marisol Esparaza	11	0	11
5	Mon 11.18.13 130pm-230pm IHS	Cathy Nguyen	19	7	26
6	Wed 12.18.13 3pm-345pm MP	Tina Flores	8	0	8
7	Fri 12.20.13 9am-1015am	Tina Flores	5	0	5
8	Mon 1.13.14 515pm-545pm	none	2	0	2
9	Wed 1.15.14 1230pm-1pm	none	1	0	1
			72	17	89
			81%	19%	

Item 14

FY2009-12 Bond Program Performance Audit: Recommendations Matrix

Item #	Section Title	Report Page Number	Recommendations	Responsibility	Actions	Due Date	Comments	In Process	Implemented	Not Implemented	Under Review	Reviewed, No Action	Date Completed
1	Compliance with Bond Language	20	<ul style="list-style-type: none"> It is recommended that the District and Program Manager correct variances in financial data to enable complete and accurate expenditures to be accounted for by site and by project at each site for specific time periods, such as a fiscal year. It is recommended that the cash flow requirements of the facilities program be carefully monitored to ensure that adequate funds are available to meet project commitments and obligations. It is recommended that the Board of Trustees consider conducting comprehensive annual performance audits of all bond measures to identify possible areas of non-compliance and other concerns as well as potential improvements and efficiencies in the bond program. It is recommended, in response to the FCMAT Report and the SCCOE's stated concerns, that staff continue to thoroughly review existing and proposed business and facilities policies and procedures to ensure that both conditions are adequately addressed and legal requirements are met. 	<p>Capacitor: Andre Bell</p> <p>Facilities: Linda da Silva Reporting: Anne Bell SGI: PA Ron Welch</p> <p>CBO Marcus Battie</p>	<p>Capital Accounting, together with CBO and Director of Finance, are exploring financial reporting options.</p> <p>SGI to report on updated cash flow projection (monthly meetings) and provide variance report at monthly meetings.</p> <p>Capacitor to recommend adjustment of bond sales or investments accordingly.</p>	3/31/14 1/31/14		X					
2													
3													
4	Compliance with District Policies and Regulations	31	<ul style="list-style-type: none"> It is recommended that new businesses assigned to perform business functions receive training from District BPs, ARs, and AEs to ensure compliance with all applicable laws and regulations. It is further recommended that all business staff meet periodically to self-examine their compliance to the Districts BPs and ARs. 	<p>Supervisor's Office: Mary Gullen Internal Controls: Kelly Kwong Business Division: Betty Bandejas</p> <p>CBO Marcus Battie Internal Controls: Kelly Kwong</p>	<p>Post BPs, ARs, and AEs on BoardDocs</p> <p>Annual training for new staff in August. CBO to assist in training. As needed specialized training for managers, coordinated by CBO Office. Monthly training on topics every August. Monthly training on topics every August. Internal audits throughout the year. Internal audits periodically.</p>	6/30/14		X					
5													
6	Citizens' Bond Oversight Committee	41	<ul style="list-style-type: none"> It is recommended that the CBOC work with the District to provide more "user friendly" links to the CBOC and various bond and facilities activities, to ensure that website content is thorough and timely posted, and to ensure that vacant positions are timely filled. 	<p>SGT. Lorraine Guerin Business Division: Elicia Gaika</p>	<p>The references to information on meetings after 2009 were removed because all the information was removed from the meeting statement was added in reference to the meetings. Meeting notices, agendas and materials distributed for the CBOC meetings are available on the website. The link to the program website www.mesausa.com where all documents are available.</p> <p>For the Audits, the statement was revised to say: "Proposition 39 requires an annual audit of the bond proceeds from the sale of school facilities bonds, until all of the proceeds have been expended. Audit reports are available on the website. The link takes them to the Measure E tab, where all the audits are available.)</p> <p>In addition, a section was created on the bond website to allow people interested in serving on the CBOC to send an interest card. These cards will be notified when openings occur. http://bit.ly/cbointerestcard.</p>	12/31/13	There was a one-month period during which there was a vacancy. Committee member terms are staggered, which prevents concurrent vacancies. This prevents disruptive vacancies of the minimum requirement of 3. This prevents disruptive vacancies.		X				Annual Budget, Learning Occurred 8/6/2013

Item #	Section Title	Report Page Number	Recommendations	Responsibility	Actions	Due Date	Comments	In Process	Implemented	Not Implemented	Under Review	Reviewed, No Action	Date Completed		
7	Bond Program Management Structure	44	<ul style="list-style-type: none"> It is recommended that the District and the Program Manager implement processes for backing up financial data for the bond program, to ensure valuable historical information is always maintained. It is recommended that the District enforce a practice to require District and program management staff to review and reconcile financial documents prior to the creation of subsequent documentation and/or the submit of financial reports. Information submitted to the Board of Trustees must coincide with the actual transactions and the official record of the District. It is recommended that, while a contractor is on a time and materials contract basis with the District, the District review the qualifications of individuals assigned to the program to ensure that the positions are commensurate with the qualifications of the individuals assigned. The District should review the number of staff and consultants necessary to run the bond program by analyzing the roles and responsibilities of District staff in conjunction with each of the consultants managing the bond program to clarify tasks, minimize duplication of effort and ensure that the program is being managed efficiently. Roles and responsibilities should be made between the responsibilities of the District staff, the Program Manager, the Construction Managers and the Architects. Overlap and redundancies should be minimized. The District should review the practice of charging the cost of staff benefits to the bond program with legal counsel to determine the appropriateness of the practice and, if so allowed, develop procedures to ensure that only the costs applicable to the bond program are paid with bond funds. It is recommended that the District require program management staff to acquire and utilize the District's financial accounting system that has the capability to import financial data directly from fiscal year, etc.). This would allow the District to reduce the man-hour expended in the preparation of project expenditure reports, resulting program savings. It is recommended that the District enforce a practice to require District and program management staff to review and reconcile financial documents prior to the creation of subsequent documentation and/or the submit of financial reports. The Cash Flow documents and reports generated by the District and/or program manager could trigger erroneous decisions by the administrators of the program. 	<p>Facilities: Linda da Silva IT: Randy Phelps Capacity: Andre Bell</p> <p>Capacity: Andre Bell</p> <p>Facilities: Linda da Silva SGT: PM Ken Kerch</p> <p>Reorganization, CBO Marcus Battle Updated PM and CM Manuals: CBO Marcus Battle Facilities: SPM Carlos Salazar</p> <p>CBO Marcus Battle</p> <p>Capacity: Andre Bell</p> <p>Capacity: Andre Bell</p> <p>SGT: PM Ken Kerch Facilities: Julo Lucio Superintendent's Council</p>	<p>Information is saved on District servers. - Servers are backed up daily. Capital Accounting, together with CBO and Director of Finance, are exploring financial reporting options. Capital Accounting, together with CBO and Director of Finance, are exploring financial reporting options. Program Manager to provide candidate resumes and proposed fee structure prior to restructuring plan approved by BOT 10/17/2013 Update PM and CM manuals to ensure clarity of responsibilities. CBO reviewed with Legal Counsel. No action required. Capital Accounting, together with CBO and Director of Finance, are exploring financial reporting options. Capital Accounting, together with CBO and Director of Finance, are exploring financial reporting options.</p>	<p>3/31/14</p> <p>3/31/14</p> <p>draft, updated PM and CM Manuals due 1/31/2014</p> <p>3/31/14</p> <p>3/31/14</p>		X	X						9/16/13
8															
9															
10															
11	Bond and Construction Management Plan/Program	53													
12															
13	Design and Construction Costs and Budgets	68													
14															
15	Design and Construction Schedules	80	<ul style="list-style-type: none"> Although the performance audit does not address the Measure 1 bond program, it is recommended that the District update the master plan for the development of master schedule, a source and use document, and a cash flow document for the Measure 1 Bond program and the use of Measure G and E bond funds. To ensure that Measure 1 program projects implementation is a necessity. Changes to the master plan should be allowed only at limited and defined opportunities. 		School site council recommendations The updated master schedule should be approved by Superintendent's Council review and approval by 12/31/2013. BOT approval anticipated by 2/28/2014.			X							

Item #	Section Title	Report Page Number	Recommendations	Responsibility	Actions	Due Date	Comments	In Process	Implemented	Not Implemented	Under Review	Rewired/No Action	Date Completed	
16	Change Order Procedures and Results and Claims Avoidance Procedures	98	<p>To ensure that discrepancies and their financial impacts on the bond programs are revealed promptly application documents prior to the processing of payments to contractors. The TSS strongly recommends that staff conduct thorough review of contracts and change orders occurring in the remainder of projects should be considered a possibility. The District should decide on the merits of conducting further reviews based on these findings.</p> <p>TSS strongly recommends that the District discontinue the practice of including an Allowance in the contractor's Base Bid and the construction contract amount. This should eliminate the argument for including allowances in the contract amount to expedite the authorization of change orders and minimize time spent in obtaining District and Board of Trustees approval on change orders prior to the execution of work. However, the same results can be achieved if the Allowance is included in the contractor's bid and the project staff.</p> <p>This arrangement will effectively reduce the turnaround time for review, approval, authorization, execution and payment of construction change orders. It should also eliminate the current practice of the District's Construction Services staff reviewing change orders, and that the responsible handling of construction site issues such as change orders play an important role in the success and cost effectiveness of construction contracts.</p> <p>TSS strongly recommends that the Board of Trustees pass a resolution that will officially authorize District staff to approve construction change orders at the field level as they occur. Delegation and authorization should be done in compliance with Education Code 17094 thru 17098. The resolution should include the following: (a) that no contracts made pursuant to the delegation and authorization shall be void or constitute an enforceable obligation against the District until the amount and type of change orders to be approved by the Board of Trustees are approved by the Board of Trustees; (b) that the Board of Trustees should determine the amount and type of change orders to be approved by the Board of Trustees; and (c) that all transactions approved by virtue of the delegation be submitted to the Board for approval or ratification during the next scheduled Board meeting.</p> <p>TSS recommends that the District request additional staff to be added to the Construction Services, Director of Facilities, Assistant Director of Facilities, District Architect and the Senior Project Manager. Furthermore, these delegations of the authority to approve change orders to be renewed annually to ensure that timely adjustments to details are made according to the needs of the District.</p> <p>TSS recommends that District staff identify and implement policies aimed at preventing and minimizing claims against the District over extra work, change orders and other claims. Some of the proven methods and policies aimed at achieving these goals include: (a) implementing a thorough and highly comprehensive constructability study to ensure that the design details are complete and clearly defined by the District and clearly communicated to the design professionals to minimize District requested additions to the scope during the construction process; (b) ensuring that the District's design professionals and design staff are well versed in requested scope additions and design changes, valuable, justifications and recommended approvals based on cost impacts and added value to the educational programs of the facility under construction.</p> <p>Once in place, the District should encourage and motivate Program Management, Architect/Engineers and Construction Management staff to exert their best efforts in reducing the number of change orders. The District should also encourage and motivate the design professionals commonly observed in most school districts and to remove the economic efficiency of the program. It should be noted that contract professionals' fees are based on a percentage of the construction costs. In general, the higher the construction costs, the higher the fee. The District should consider a change order incentive program that would result in a change order approval, calculated as a percentage of the amount of the cost of the change order. Therefore, the current process creates a financial incentive for contract professionals to encourage approval of change orders that result in additional costs. The District should consider a change order incentive program that would result in a change order approval, calculated as a percentage of the amount of the cost of the change order. Because legal counsel is in other Districts have interpreted Public Contract Code Section 20118 (a) and (b), differently, TSS recommends that staff obtain the District's legal counsel opinion on the matter and the District's legal counsel should be consulted to ensure that the District's change orders do not violate the Public Contract Code.</p> <p>TSS recommends that District staff submit all construction change orders to the Board of Trustees for approval. The Board of Trustees should be notified of all construction change orders include the approval of construction contracts, professional services contracts and other contracts and construction change orders should be presented to the Board under the authority of the Board of Trustees. The District should also ensure that all construction projects and contracts are in compliance with the Public Contracting Code which specifies different solicitation and approval processes.</p>	<p>Capital Purchasing, Cap/Purch/Mgr, Janice Unger</p> <p>Director Linda da Silva</p> <p>Superintendent's Council</p> <p>Legal Counsel</p> <p>Internal Audit/Crime</p> <p>Board of Trustees</p>	<p>Due diligence on Contract payment applications, PCO Ogs, final change order documentation by CMs, Facilities, CM, Capital Purchasing, Cap/Purch/Mgr, Janice Unger, Carlos Salazar, propose process for inclusion in updated CM manual.</p> <p>Capital Purchasing and Facilities: develop proposed delegation of authority</p> <p>GBO: present to Internal Audit/Crime, GBO: review with Legal Counsel, GBO: recommend to Bot</p>	2/28/14	The discrepancies identified by the Auditor in reference several transactions from years ago. Since that time, processes have been implemented that have put in place enhanced diligence and controls.	X						
17						5/30/14		X						
18						5/30/14								
19									X					
20						5/30/14								
21						2/28/14						X		

Item #	Section Title	Report Page Number	Recommendations	Responsibility	Actions	Due Date	Comments	In Process	Implemented	Not Implemented	Under Review	Reviewed, No Action	Date Completed	
22	Measure G and E Expenditures and Payment Procedures	107	<ul style="list-style-type: none"> An accounting system should not allow for the duplicate payment of any invoice. District staff was made aware of the finding and was asked to determine how the system allowed for an invoice to be paid twice. It is recommended that District administration follow-up to assess the system to ensure that duplicate payments are not made and ensure that appropriate systems are in place to keep this from happening in the future. The District should adopt a formal written disk manual and policy for its staff related to processing, approving, and paying all bond-related expenditures and provide appropriate training to staff. TSS recommends that the District have their internal auditor or their external financial auditor review the reliability of the District's Purchases Order Registration system. The District should have a formal process in place to ensure that all bond-related transactions performed. The District and SGO staff should revisit the payment procedures and construction processes to determine whether proper oversight of construction management is being performed. The District should develop an approval form that lists for authorized signers with appropriate signatures and dates to mitigate any potential redundancies and increase the accountability of the specific parties. The District should develop an approval form that lists for authorized signers with appropriate signatures and dates to mitigate any potential redundancies and increase the accountability of the specific parties. Payable personnel can determine that all required signatures are present when issuing warrants. TSS recommends that the District follow the legal opinion of counsel related to the Receipts & Disbursements and ensure bond funds have not been expended on disallowed activities. Maintenance expenditures and review bond accounting records to be consistent with the legal opinion of counsel. By sub-contractors related to the general contractors for non-payment issues. A general contractor that has consistent issues with their sub-contractors could signal cash flow problems or other operational issues. Based on the District's research, they can better understand the issues. The District should review how the Bond Program manager provides specific oversight on construction projects to ensure that they are not surprised by significant cost overruns. 	Finance: Karen Poon	QSS feature that flags duplicate invoices had already been activated prior to the date of this performance audit.								6/30/12	
23				Capital/Op: Andre Bell SGI: Program Manager	Procedure to be reviewed and revised as needed in updated PM and CM Manuals.	4/30/14		X						
24				Capital/Op: Andre Bell SGI: Program Manager Internal Controls: Kelly Kwong	Audit to develop Contractor pay app routing cover sheet.	1/31/14		X						
25				Capital/Op: Andre Bell Internal Controls: Kelly Kwong	Audit to develop Work Flow Procedure. Andre Bell to review.	2/28/14		X						
26				Capital/Op: Andre Bell Internal Controls: Kelly Kwong	Standby to develop recommendation of cover sheet. Capital Budget Mgr Sandy Nguyen as payment authority (Director, SUE, ASUPE).	2/28/14		X						
27				CSO Marcus Battle	CSO has prior legal counsel-guided Board action on the state.		Reviewed by financial auditor, no action required.					X		
28				Capital/Op: James Unger CM: (various)	Reclassification - financial requirements. Conditional and unconditional releases with each monthly pay app.		Reclassification financial already reflect in Urban Exp. 2013. Conditional and unconditional releases from subcontractors and suppliers are a requirement of contractor payment as of August 2013.		X					
29				Facilities: Senior PM Carlos Salazar (construction) SGI: PM Ken Kerch	Preconstruction milestone cost estimates ensure budget conformance. Construction performance reports ensure conformance to budget.			X					9/17/12	
30				CSO: Marcus Battle			CSO advises that design and construction related insurance coverage is not required for the bond program. Coverage may or may not provide reimbursement, contingent upon the specific legal issue. Bond related activities, including legal defense, are covered by the bond program. This advice has been in place to allocate bond related legal fees to the bond program. Favorable judgment related revenues are reimbursed to the bond program.		X					9/16/13
31				CSO Marcus Battle			Two previous legal opinions counseled that this is not required due to District's contractor prequalification practices. Despite this, we are now reviewing contractor prequalification and 7 different bidders' exchanges and join room.		X					7/1/12
32	Best Practices in Bidding and Procurement	125	<ul style="list-style-type: none"> The District should also assess whether they have insurance coverage available that may reimburse them for the sign and settlement costs. The District should track all historical costs for legal fees transferred to the general fund relate to the activities in the bond program. If the District receives a favorable judgment from the courts for lawsuits fund by bond funds, the District should reimburse legal fees paid by the general fund. TSS recommends that the District publicly advertise each project in the local county or city newspaper of general circulation as is required in Public Contract Code Section 10140. 	Capital Purchasing: Janice Unger					X					9/16/13



East Side Union High School District

830 N. Capitol Avenue • San José, California 95133-1316 • (408) 347-5000

Preparing Every Student to Thrive in a Global Society

André Bell, Assistant Director

Item 14

Executive Summary of

FY 2009 - 2012 Bond Program Audit Recommendations

Total School Solutions conducted a Performance Audit of the Bond Program for FY 2009 – 2012. At the completion of the audit, there were 32 recommendations that the auditors recommended for District action. Of the 32 items, the District has taken action and implemented 17. There were two items that were reviewed and determined that no action was needed. The remaining 13 recommendations are still in process and will be fully implemented on or before fiscal year end June 30, 2014.

The following is the status presented to the Audit Committee.

As of	In Process	Under Review	Implemented	Not Implemented	Reviewed, No Action	Total
December 11, 2013	18	1	11	0	2	32
Progress	(5)	(1)	6	0	0	
March 12, 2014	13	0	17	0	2	32

BOARD OF TRUSTEES: Frank Biehl, Magdalena Carrasco, J. Manuel Herrera, Van Le, Lan Nguyen

It is the policy of the East Side Union High School District not to discriminate on the basis of sex, age, religion, race or national origin, sexual orientation, or handicapping condition in its educational programs and activities or in the recruitment and employment of personnel.

Item 15

1

PROPOSED
DELEGATION OF AUTHORITY

Linda da Silva
Director of Construction, Maintenance & Facilities

East Side Union High School District
Internal Audit Committee
December 11, 2013

ESUHSD's Current Approach to Change Orders

2

- An Owner's Allowance is embedded into construction contract award
- Administration draws down from the Owner's Allowance
- If monetary increases to contract scope are projected to exceed the Owner's Allowance, administration requests a contract augmentation by the Board (up to 10% of original contract award for hard bid contracts, per Public Contract Code §20118.4)
- Unused Owner's Allowance is deducted from the contract via a deductive final change order, which is Board approved

Bond Program Performance Audit Recommendations

3

- Discontinue the practice of including an Allowance in the construction contract, and delegate authority to administration (page 97)
 - ▣ eliminate the misconceptions and challenges associated with the process
 - ▣ expedite the authorization of change orders and minimize time spent in obtaining District and Board of Trustees approval on change orders prior to the execution of work
 - ▣ reduce the turnaround time for review, approval, authorization, execution and payment of construction change orders
 - ▣ demonstrate that the Board of Trustees recognizes the urgent nature of school construction work, and that the expeditious handling of construction change orders plays an important role in the success and cost effectiveness of construction contracts

Bond Program Performance Audit Recommendations (cont'd)

4

- Delegation and authorization should be done in compliance with Education Code §17604 thru 17606 (page 97)
 - ▣ the delegation of power may be limited as to time, money or subject matter
 - ▣ no contracts made pursuant to the delegation and authorization shall be valid or constitute an enforceable obligation against the District unless and until the same shall have been approved or ratified by the Board
- Determine the amounts and types of change orders to be approved by the designees (page 97)
 - ▣ designees should include the Superintendent, Associate Superintendent of Business Services, Director of Facilities, Assistant Director of Facilities, District Architect and the Senior Project Manager
 - ▣ delegations of the authority should be renewed annually to ensure that timely adjustments to details are made according to the changing needs of the program

Education Code §17604

5

- Wherever in this code the power to contract is invested in the governing board of the school district or any member thereof, the power may by a majority vote of the board be delegated to its district superintendent, or to any persons that he or she may designate, or if there be no district superintendent then to any other officer or employee of the district that the board may designate. The delegation of power may be limited as to time, money or subject matter or may be a blanket authorization in advance of its exercise, all as the governing board may direct. However, no contract made pursuant to the delegation and authorization shall be valid or constitute an enforceable obligation against the district unless and until the same shall have been approved or ratified by the governing board, the approval or ratification to be evidenced by a motion of the board duly passed and adopted. In the event of malfeasance in office, the school district official invested by the governing board with the power of contract shall be personally liable to the school district employing him or her for any and all moneys of the district paid out as a result of the malfeasance.

□ Note: Underlining provided for emphasis

What Have Other Districts Done?

6

1. Cambrian School District
2. Milpitas Unified School District
3. Alum Rock Unified Elementary School District
4. Cupertino Union School District
5. Fremont Union High School District
6. Oak Grove School District
7. Palo Alto Unified School District
8. San Jose Unified School District
9. Santa Clara Unified School District
10. Los Angeles Unified School District
11. San Mateo County Community College District

Cambrian School District Milpitas School District

7

- Owner's Allowance is embedded in construction contract and used by staff to address change orders

Alum Rock Unified Elementary School District

8

- The CBO approves change orders up to 10 percent of the original contract price

Cupertino Union School District

9

- The Superintendent is authorized to award professional service contracts not exceeding \$25,000

- Owner's Allowance embedded in construction contract

Fremont Union High School District

10

- Owner's Allowance embedded in construction contract

- Alternatively, at the time the Board awards the construction contract, they also delegate authority to administration to issue change orders as necessary

Oak Grove School District

11

- The Board has delegated authority for administration to award contracts for:
 - equipment, materials and supplies and non-construction services not exceeding the limits set in PCC §20111
 - Public works projects not exceeding \$75,000

- The Board has delegated authority for administration to file and record Notices of Completion

Palo Alto Unified School District

12

- At the time the Board awards the construction contract, they also delegate authority to staff to issue change orders as necessary

San Jose Unified School District

13

- The Director of Facilities and Construction is authorized to approve change orders up to 10 percent of the original contract price

Santa Clara Unified School District

14

- The Superintendent or her/his designee is authorized to enter into contracts in accordance with the limits set in PCC §20111

Los Angeles Unified School District

15

- The Chief Facilities Executive, or his or her designee, is authorized to:
 - Apply for State and Federal funds
 - Approve Facilities contract procedures, awards, management and enforcement
 - Approval of Facilities services contracts (professional services including architecture, engineer, inspection, testing, construction, supplies, etc.)
 - Establish, operate and oversee imprest fund accounts
 - Establish trust accounts (for depositing collections and disbursing funds in connection with property management)

Los Angeles Unified School District (cont'd)

16

- Execute contracts, licenses, permits and other instruments necessary for or incidental to school construction activities (including contracts, permits, applications, waiver of damages agreements, encroachment agreements, easement agreements, CEQA compliance documents, etc.)
- Negotiate and execute leases, licenses, permits and other agreements or instruments for the use of real property
- Land acquisition and relocation
- Salvage of items and sale and relocation of buildings
- Solicit proposals and conduct price discovery auctions for electricity/natural gas

San Mateo County Community College District

17

- ▣ Delegation of authority to the Chancellor and Executive Vice Chancellor, or their designees, to enter into contracts for equipment, materials and supplies and non-construction services not exceeding the limits set in PCC §20111
- ▣ Adoption of CUPCAA
- ▣ Delegation of authority to Chancellor and Executive Vice Chancellor to execute change orders
- ▣ Delegation of authority to Chancellor and Executive Vice Chancellor, or their designees, to execute and file Notices of Completion

Why delegate authority over contracts, change orders, Notices of Completion?

18

- ▣ Routine, recurring business matters
- ▣ Efficiency of operations
- ▣ Timeliness on these matters is in the District's best interest

Proposed ESUHSD Delegation of Authority

19

- Delegation of authority to the Superintendent, or his/her designees, to enter into contracts for equipment, materials and supplies and non-construction services not exceeding the limits set in PCC §20111
 - Acknowledging that on February 14, 2013 (Board Item 15.01) the Board adopted Resolution #2012/2013-16 authorizing election under Public Contract Code Section 22030 to become subject to the California Uniform Public Construction Cost Accounting Act (CUPCCAA) Procedures
- Delegation of authority to the Superintendent, or his/her designees, to execute change orders to contracts not exceeding 10% of the original contract value
- Delegation of authority to the Superintendent, or his/her designees, to execute and file Notices of Completion for Public Works contracts

Clarifications

20

- Ratification by Board of Trustees
- Authorizing language in Board Policy and/or Administrative Regulation should specify that approvals are to be within Board-approved budget
- Authorizing language in Board Policy and/or Administrative Regulations should specify that approvals are to be pursuant to Education and Public Contract Code requirements

Next Steps

21

- ▣ Board Policy and Admin Reg 3312 *revision*
 - Legal review January 2014
 - Council review January 2014
 - Cabinet review February 2014
 - Internal Audit Committee March 2014
 - First reading April 2014 Board meeting
 - Second reading May 2014 Board meeting

1

PROPOSED DELEGATION OF AUTHORITY

Linda da Silva
Director of Construction, Maintenance & Facilities

East Side Union High School District
Internal Audit Committee
December 11, 2013

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Bond Program Performance Audit Recommendations

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Bond Program Performance Audit Recommendations (cont'd)

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Los Angeles Unified School District (cont'd)

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- Delegation of authority to the Superintendent, or his/her designees, to execute and file Notices of Completion for Public Works contracts

Clarifications

20

- Ratification by Board of Trustees
- Authorizing language in Board Policy and/or Administrative Regulation should specify that approvals are to be within Board-approved budget
- Authorizing language in Board Policy and/or Administrative Regulations should specify that approvals are to be pursuant to Education and Public Contract Code requirements

Next Steps

21

- ▣ Board Policy and Admin Reg 3312 *revision*
 - Legal review January 2014
 - Council review January 2014
 - Cabinet review February 2014
 - Internal Audit Committee March 2014
 - First reading April 2014 Board meeting
 - Second reading May 2014 Board meeting

PROPOSED

DELEGATION OF CONTRACT AUTHORITY
CONTRACTOR PREQUAL APPEALS PANEL
PRACTICE CHANGE FOR NOTICES OF COMPLETION

Marcus Battle, Associate Superintendent of Business Services
Linda da Silva, Director of Construction, Maintenance & Facilities
Donna Bertrand, Contracts Administration Coordinator
Janice Unger, Capital Projects Purchasing Manager

ESUHSD's Current Approach to Contract Authority

2

- BP 3300 Expenditures and Purchases (May 21, 2009)
 - “The Superintendent or designee may purchase supplies, materials, apparatus, equipment, and services up to the amounts specified in Public Contract Code 20111, beyond which a competitive bidding process is required. The Board shall not recognize obligations incurred contrary to Board policy and administrative regulations.”

- BP 3312 Contracts (May 21, 2009)
 - “Whenever state law invests the Governing Board with the power to enter into contracts on behalf of the district, the Board may, by a majority vote, delegate this power to the Superintendent or designee. To be valid or to constitute an enforceable obligation against the district, all contracts must be approved and/or ratified by the Board. (Education Code 17604)”

- AR3311 Bids (April 12, 2013)
 - All contracts are Board approved

- What's not working about this?
 - Delays for routine business matters
 - Occasional after-the-fact ratification when a matter could not await Board approval
 - Business Division strategic plan goals to improve efficiency and customer service

ESUHSD's Recent Past Approach to Public Works Construction Change Orders

3

- An Owner's Allowance is embedded into construction contract award
 - Note: this practice was terminated effective October 2013
- Administration draws down from the Owner's Allowance
- If monetary increases to contract scope are projected to exceed the Owner's Allowance, administration requests a contract augmentation by the Board (up to 10% of original contract award for hard bid contracts, per Public Contract Code §20118.4)
- Unused Owner's Allowance is deducted from the contract via a deductive final change order, which is Board approved

Bond Program Performance Audit Recommendations

4

- Discontinue the practice of including an Allowance in the construction contract, and delegate authority to administration (page 97)
- Delegation and authorization should be done in compliance with Education Code §17604 thru 17606 (page 97)
- Determine the amounts and types of change orders to be approved by the designees (page 97)

ESUHSD's Current Approach to Recording Notices of Completion

5

for Public Works Construction

- A Notice of Completion (NOC) is ready to be recorded for a construction project
 - Administration prepares for next available Board meeting
 - The Board approves recording of a NOC
 - Administration records the NOC
 - 35-day period begins related to Mechanic's Lien Law
- What's not working about this?
 - Delays for routine business matters
 - 35-day period is delayed, and often becomes in conflict with 60-day retention release, putting the District at risk for retention release penalties

What Have Other Districts Done?

Districts noted in **bold red font** have delegated some degree of authority for contracts, change orders, NOCs

6

- ▣ Cambrian School District
- ▣ **Milpitas Unified School District**
- ▣ Alum Rock Unified Elementary School District
- ▣ **Cupertino Union School District**
- ▣ **Foothill DeAnza Community College District**
- ▣ Fremont Union High School District
- ▣ **Oak Grove School District**
- ▣ Palo Alto Unified School District
- ▣ **San Jose Unified School District**
- ▣ **Santa Clara Unified School District**
- ▣ **Los Angeles Unified School District**
- ▣ **San Mateo County Community College District**
- ▣ **West Valley Mission Community College District**

Why delegate authority over contracts and change orders, and modify NOC practices?

7

- ▣ Routine, recurring business matters
- ▣ Timeliness on these matters is in the District's best interest
- ▣ Efficiency of operations
- ▣ Improved customer service

Proposed Delegation of Contract Authority

8

- ▣ Delegation of authority to authorized signatories not exceeding \$25,000 for general procurement and \$50,000 for procurement related to capital construction
 - Public works construction contract authority up to \$175,000 has already been delegated to Associate Superintendent of Business Services when the Board adopted Resolution #2012/2013-16 authorizing election under Public Contract Code Section 22030 to become subject to the California Uniform Public Construction Cost Accounting Act (CUPCCAA) Procedures on February 14, 2013 (Board Item 15.01)

- ▣ *Refer to proposed revised AR3312*

Proposed Delegation of Contract Authority

9

- ▣ Delegation of authority to authorized signatories to execute change orders to contracts not exceeding 10% of original contract value, and only if within budget limits
- ▣ *Refer to proposed new BP3312.1 and AR3312.1*
- ▣ *Refer to proposed revised authorized signatures list*

Proposed ESUHSD Practice Change for Notices of Completion

10

- ▣ Change of practice, allowing the Capital Projects Purchasing Manager to execute and file Notices of Completion for Public Works contracts, with subsequent Board notification through a written report
- ▣ *Refer to proposed revised AR3312*

Next Steps

- Internal Audit Committee December 2013 - *done!*
- Council review March 3, 2014 - *done!*
- Legal review March 2014 - *in process*
- Cabinet review March 11, 2014
- Internal Audit Committee March 12, 2014
- First reading April 2014 Board meeting
- Second reading May 2014 Board meeting

BUSINESS AND NONINSTRUCTIONAL OPERATIONS

SUBJECT: Contract Change Orders

General Procurement

Contract changes orders shall be submitted to the Contracts Administration Coordinator in accordance with Purchasing policies and procedures. The Superintendent, Associate Superintendent of Business Services, and Contracts Administration Coordinator may approve contract change orders up to ten percent (10%) of the original contract value.

Procurement Related to Capital Construction

Contract changes orders shall be processed in accordance with the Construction Management Procedures Manual, and then submitted to the Capital Projects Purchasing Manager. The Superintendent, Associate Superintendent of Business Services, and Director of Construction, Maintenance & Facilities may approve contract change orders related to capital construction up to ten percent (10%) of the original contract value.

Contract change orders in excess ten percent (10%) of the original contract value must be brought to the Board for approval, along with recommendation of the budget source or budget modification necessary for funding these change orders.

Legal Reference:

Public Contract Code

20118.4 change or Alteration in Contract

BUSINESS AND NONINSTRUCTIONAL OPERATIONS

SUBJECT: Contracts Change Orders

The Board authorizes representatives with signatory authority to approve contract change orders up to ten percent (10%) of the original contract value, within the limits and guidelines specified in AR3312.1 and as allowed by law.

Legal Reference:

PUBLIC CONTRACT CODE
20118.4 Change or Alteration in Contract

DRAFT

BUSINESS AND NONINSTRUCTIONAL OPERATIONS

SUBJECT: Bids

Soliciting Pricings For Goods and Services – Non Public Works (Formal Solicitations and Quotations)

Competitive solicitations shall be sought in accordance with the dollar thresholds as stated below: (Public Contract Code 20111)

CATEGORY	3 ORAL QUOTES	3 WRITTEN QUOTES	FORMAL WRITTEN SOLICITATION PROCESS
The purchase, rent or lease of equipment, material or supplies	\$5,000 – \$25,000	\$25,001- \$83,400* <u>\$84,100</u>	\$83,400 <u>84,100*</u> and above
Professional Services	Not Required	\$15,000 - \$83,400 <u>84,100*</u>	\$83,400 <u>84,100*</u> and above

* ~~This~~ This amount is based on 2014 and is adjusted annually in January by the State Superintendent of Public Instruction (PCC 20111)

NOTE: All Contracts, Agreements and Memorandums of Understanding, and all extensions or modifications to Contracts, Agreements and Memorandums of Understanding in excess of \$25,001,000 for general procurement and \$50,001,000 for procurement related to capital construction must be presented to the Board of Trustees for approval and/or ratification.

Contracts, Agreements and Memorandums of Understanding under \$25,000 for ~~genral~~general procurement and \$50,000 for procurement related to capital construction may be approved by district representatives to whom the Board of Trustees has given signatory authority. All such approvals require Board ratification at the next available Board meeting.

Informal Quotations

The District shall seek informal quotations in accordance with Board Policy (see above cf. 3311 and cf. 3312).

- Oral quotes shall be sought from at least three vendors who offer the same equipment, materials, supplies, or service.
 - ~~a~~ Oral quotes shall be obtained, please complete the “Request for Purchase Order - Oral Quotes” form (form number RPO-OQ1). When obtaining oral quotes remember to confirm all other costs affecting the purchase (i.e. freight, special handling, taxes). This will help to minimize change orders and/or disputes in the future. Written quotes can be obtained in lieu of oral quotes and is highly recommended.

- ~~b.a.~~ If the awarded quote is not based on the lowest price, a written explanation shall be included on form RPO-OQ1.
 - ~~e.b.~~ Form RPO-OQ1 shall be submitted to purchasing for processing with the Request for Purchase Order (RPO). The RPO cannot be processed until the form RPO-OQ1 is received by the Purchasing Department.
2. Informal written quotes shall be sought from at least three vendors who offer the same equipment, materials, supplies, or service.
- a. As a minimum, the information documented on the written quotes will include: the name of the District employee who obtained the quote; the company's name and contact information including address, phone number, [email](#), and fax number; the name of the person from the company who quoted the price; expiration date of the quote; detailed description of the item/service being quoted; the price quoted including any service fees, freight charges, special handling costs, ~~etc.~~ [and any other information](#).
 - b. If the awarded quote is not based on the lowest price, a written explanation ~~shall~~ [must](#) be included with the written quotes.
 - c. The written quotes and written explanation (if applicable) shall be submitted to ~~P~~urchasing [Department](#) for processing with the ~~Request for Purchase Order~~ (RPO). The RPO cannot be processed until the written documentation is received by the Purchasing Department.

Advertised/Competitive Solicitations

The District shall seek competitive proposals/bids through advertisement for contracts exceeding the amount specified in law, and as annually adjusted by the [State Superintendent of Public Instruction](#) or by Board Policy ([see above cf. 3311 and cf. 3312](#)) for any of the following: (Public contract Code 20111; Government Code 53060)

1. The purchase of equipment, materials, or supplies to be furnished, sold, or leased to the district.
2. [Professional](#) Services.

The District shall secure proposal pursuant to Public Contract Code 20111 and 20112 for any transportation service expenditure of more than \$10,000 when contemplating that such a contract may be made with a person or corporation other than a common carrier, municipally owned transit system, or a parent/guardian of students who are to be transported. The District may let this contract to other than the lowest proposer/bidder. (Education Code 39802)

"Maintenance" means routine, recurring and usual work for preserving, protecting and keeping a district facility operating in a safe, efficient and continually usable condition for the intended purpose for which it was designed, improved, constructed, altered or repaired. "Maintenance" includes, but is not limited to, carpentry, electrical, plumbing, glazing and other craft work

designed to preserve the facility as well as repairs, cleaning and other operations on machinery and other permanently attached equipment. This definition does not include, among other types of work, janitorial or custodial services and protection provided by security forces, nor does it include painting, repainting or decorating other than touchup. (Public Contract Code 20115)

No work, project, service, or purchase shall be split or separated into smaller work orders or projects for the purpose of evading the legal requirements of Board Policy and/or Public Contract Code 20111-20118.4 for contracting after competitive solicitation/bidding has taken place.

When letting a contract for the procurement and/or maintenance of electronic data processing systems and supporting software, the District may contract with anyone of the three lowest responsible proposers/bidders. (Public Contract Code 20118.1)

Instructions and Procedures for Advertised Formal Proposals/Bids

The Superintendent or designee shall call for proposals/bids by placing a notice at least once a week for two weeks in a local newspaper of general circulation published in the district, or if no such newspaper exists, then in some newspaper of general circulation, circulated in the county, and may post the notice on the district's web site or through an electronic portal. The notice shall state the work to be done or materials or supplies or services to be furnished and the time and place and web site where proposals/bids will be opened. The district may accept a proposal/bid that has been submitted electronically or on paper (Public Contract Code 20112)

The notice shall contain the time, date, and location of any mandatory meetings and/or site visits. The notice shall also detail when and where additional documents, including final plan and specifications, are available. Any such mandatory visit or meeting shall not occur within a minimum of five calendar days of the publication of the initial notice. (Public Contract Code 6610)

Proposals/Bids shall not be accepted after the advertised proposal/bid opening time regardless of whether the proposals/bids are actually opened at that time. (Public contract Code 20112)

When two or more identical lowest or highest proposals/bids are received, the Board may, for contracts subject to Public Contract Code 20117, determine by lot which proposal/bid shall be accepted.

After being opened and awarded, all submitted proposals/bids become public records pursuant to Government Code 6252 and shall be made available for review pursuant to law, Board policy, and administrative regulation.

(cf. 1340 – Access to District Records)

Alternative Bid Procedures for Technological Supplies and Equipment

Upon a finding by the Board that a particular procurement qualifies for the alternative procedure, the district may acquire computers, software, telecommunications equipment, microwave

equipment, and other related electronic equipment and apparatus through competitive negotiation. This procedure shall not apply to contracts for construction or for the procurement of any product that is available in substantial quantities to the general public. (Public Contract Code 20118.2)

The competitive negotiation shall include, but not be limited to, the following requirements: (Public Contract Code 20118.1)

1. The Superintendent or designee shall prepare a [Request for Proposals](#) (RFP) that shall be submitted to an adequate number of qualified sources, as determined by the district, to permit reasonable competition consistent with the nature and requirement of the procurement.
2. Notice of the RFP shall be published at least twice in a newspaper of general circulation, at least 10 days before the date for receipt of the proposals.
3. The district shall make every effort to generate the maximum feasible number of proposals from qualified sources and shall make a finding to that effect before proceeding to negotiate if only a single response to the RFP is received.
4. The RFP shall identify all significant evaluation factors, including price, and their relative importance.
5. The district shall provide reasonable procedures for the technical evaluation of the RFPs received the identifications of qualified sources, and the selection for the award of the contract.
6. An award shall be made to the qualified vendor whose proposal meets the evaluation standards and will be most advantageous to the district with price and all other factors considered.
7. If an award is not made to the vendor whose proposal contains the lowest price, then the district shall make a finding setting forth the basis for the award.
8. The district, at its discretion, may reject all proposals and request new RFPs.
9. Provisions in any contract concerning utilization of small business enterprises that are in accordance with the RFP shall not be subject to negotiation with the successful proposer.

Bids Not Required

Without advertising for bids and upon a determination that it is in the best interest of the district, the Board may authorize, by contract, lease, requisition, or purchase order, another public corporation or agency to lease data-processing equipment or to purchase materials, supplies, equipment, automotive vehicles, tractors, and other personal property for the district in the manner that the other public corporation or agency is authorized to make the leases or purchases from a vendor (“piggyback”). (Public Contract Code 20118)

(cf. 3300 – Expenditures and Purchases)

Alternatively, if there is an existing contract between a public corporation or agency and a vendor for the lease or purchase of personal property, the district may authorize the lease or purchase of personal property directly from the vendor by contract, lease, requisition, or

purchase order and make payment to the vendor under the same terms that are available to the public corporation or agency under the contract (Public Contract Code 20118)

Supplementary textbooks, library books, educational films, audiovisual materials, test materials, workbooks, instructional computer software packages, or periodicals may be purchased in any amount without taking estimates or advertising for bids. (Public Contract Code 20118.3)

Construction Bids

The District has adopted the California Uniform Public Construction Cost Accounting Act procedures under Public Contract Code 22000 et. seq. (the “Act”)

Competitive bids, for “Public projects” as defined in the Act shall be sought in accordance with the dollar thresholds as stated below: (Public Contract Code 22032, et. seq.)

CATEGORY	MINIMUM NUMBER OF WRITTEN QUOTES	CONTRACT AGREEMENT PROCESS	APPROVAL PROCESS
Public Projects involving an expenditure of \$45,000 or less	Less At or less than \$1,000 – (1) quote. Less Greater than <u>\$1,000 and at or less</u> than \$5,000 – (2) quotes. More than \$5,001 – (000 – 3) quotes.	Can be let on Purchase Order or Micro agreement (Payment bond required over \$25,000), Insurance <u>not less than \$1,000,000</u>	Ratified on PO report monthly at Board of Trustees meetings
Public Projects involving expenditure of greater than \$45,001,000 through \$175,000	Solicit RFP informal bids for (10) days, minimum Number of bids: three (3)	Informal Agreement (Field Agreement) Notice of Intent, 100% Bonds, insurance <u>not less than \$1,000,000</u> , certifications	Ratified on PO report monthly reportat Board of Trustees meetings, and Associate Superintendent authorized to approve agreement, <u>Notice to Proceed (NTP)</u>
Public Projects involving an expenditure greater than \$175,001,000	Solicit minimum (3) weeks for Sealed bids from Pre-qualified Bidder’s list	Formal agreement, 100% Bonds, insurance <u>not less than \$1,000,000</u> , certifications	Requires Board Approval, <u>Notice of Award (NOA)</u> , NTP

Informal Bids

Public projects, as defined by the Act and in accordance with the limits listed in Section 22032 of the Public Contract Code, may be let to contract by informal procedures as set forth in Section 22032, et seq., of the Public Contract Code.

The Board of Trustees has delegated the authority to award informal contracts to the Associate Superintendent of Business Services. For this purpose an informal agreement, contract short form and/or Purchase Order will be used.

Contractors List

A list of contractors shall be developed and maintained in accordance with the provisions of Section 22034 of the Public Contract Code and criteria promulgated from time to time by the California Uniform Construction Cost Accounting Commission.

Advertised Bids

The District shall seek competitive bids through advertisement for contracts involving an expenditure of greater than \$175,000 for a public project, ~~informally.~~ Informally bid contracts involving an expenditure of more than \$45,000 and at or less than \$175,000, ~~and seek we solicit the District Pre-Qualified Bidder's list. The District seeks~~ quotes, ~~when feasible~~ required, for projects involving an expenditure of \$45,000 or less.

"Public project" includes construction, reconstruction, erection, alteration, renovation, improvement, painting, repainting, demolition and repair work involving a ~~district~~ District owned, leased or operated facility. (Public Contract Code 22002)

"Public project" does not include maintenance work. For purposes of this section, "maintenance work" includes all of the following:

- a) Routine, recurring, and usual work for the preservation or protection of any publicly owned or publicly operated facility for its intended purposes.
- b) Minor repainting.
- c) Resurfacing of streets and highways at less than one inch.
- d) Landscape maintenance, including mowing, watering, trimming, pruning, planting, replacement of plants, and servicing of irrigation and sprinkler systems.
- e) Work performed to keep, operate, and maintain publicly owned water, power, or waste disposal systems, including, but not limited to, dams, reservoirs, power plants, and electrical transmission lines of 230,000 volts and higher. (Public Contract Code 22002(d))

Unless otherwise authorized by law, contracts shall be let to the lowest responsible bidder who shall give such security as the Governing Board requires, or else all bids shall be rejected. (Public Contract Code 20111)

No work, project, service or purchase shall be split or separated into smaller work orders or projects for the purpose of evading the legal requirements of Public Contract Code 20111-20118.4 or the "Act" for contracting after competitive bidding. (Public Contract Code 20116)

Instructions and Procedures for Advertised Construction Bids

The Superintendent or designee shall call for bids by advertising in a local newspaper of general circulation published in the ~~district~~District, circulated in the county, or if no such paper exists then in some newspaper of general circulation, at least once a week for two weeks. The notice shall state the work to be done or materials or supplies to be furnished and the time and place where bids will be opened. (Public Contract Code 20112)

The notice shall contain the time, date and location of any mandatory pre-bid conference, site visit or meeting. The notice shall also detail when and where project documents, including final plan and specifications, are available. Any such mandatory visit or meeting shall not occur within a minimum of five calendar days of the publication of the initial notice. (Public Contract Code 6610)

Bid instructions and specifications shall include the following requirements and information:

1. Recycled Content and Recycled Products (Public Contract Code 22150 et seq.)
 - a. All bidders, including bidders for printing contracts, shall specify the minimum, if not exact, percentage of recycled product in the paper products offered, and both the postconsumer and secondary waste content.
 - b. Fitness and quality being equal, the District shall purchase recycled products whenever available at no more than the total cost of non-recycled products.
2. All bids for construction work shall be presented under sealed cover and shall be accompanied by one of the following forms of bidder's security: (Public Contract Code 20107, 20111) [The required security amount is stated in the District Bid Bond Document 00 43 13.](#)
 - a. Cash
 - b. A cashier's check made payable to the District
 - c. A certified check made payable to the District
 - d. A bidder's bond executed by an admitted surety insurer and made payable to the District

The security of unsuccessful bidders shall be returned in a reasonable period of time, in no event any later than 60 days after the bid is awarded. (Public Contract Code 20111)

1. Bids shall not be accepted after the advertised bid opening time, regardless of whether the bids are actually opened at that time. (Public Contract Code 20112)

2. When two or more identical lowest or highest bids are received, the Board may determine by lot which bid shall be accepted. (Public Contract Code 20117)
3. If the ~~district~~District requires that the bid include prices for items that may be added to or deducted from the scope of work in the contract, the bid solicitation shall specify which one of the following methods will be used to determine the lowest bid. In the absence of such a specification, only the method provided in item #a, below, will be used: (Public Contract Code 20103.8)
 - a. The lowest bid shall be the lowest total of the bid prices on the base contract and those additive or deductive items that were specifically identified in the bid solicitation as being used for the purpose of determining the lowest bid price.
 - b. The lowest bid shall be the lowest total of the bid prices on the base contract and those additive or deductive items that, when taken in order from a specifically identified list of those items in the solicitation, and added to or subtracted from the base contract, are less than or equal to a funding amount publicly disclosed by the ~~district~~District before the first bid is opened.
 - c. The lowest bid shall be determined in a manner that prevents any information that would identify any of the bidders or proposed subcontractors or suppliers from being revealed to the ~~district~~District before the ranking of all bidders from lowest to highest has been determined. (Public Contract Code 20103.8)
5. Any subsequent change or alteration of a contract shall be governed by the provisions of Public Contract Code 20118.4.
6. After being opened, all submitted bids become public records pursuant to Government Code 6252 and shall be made available for review pursuant to law, Board policy, and administrative regulation.

Bids Not Required

Contracts for professional services or advice and insurance services do not require competitive bids (PCC 20111).

In an emergency when any repairs, alterations, work or improvement to any school facility is necessary to permit the continuance of existing school classes, or to avoid danger to life or property, the Board, by unanimous vote and with the approval of the County Superintendent of Schools, may contract for labor and materials or supplies without advertising for or inviting bids. (Public Contract Code 20113)

Bids shall also not be required for day labor under circumstances specified in law. Day labor shall include the use of maintenance personnel employed on a permanent or temporary basis. (Public Contract Code 20114)

Public projects of forty-five thousand dollars (\$45,000) or less may be performed by the employees of a public agency by force account, by negotiated contract, or by purchase order. (Public Contract Code 22032)

1. School building repairs, alterations, additions
2. Painting, repainting or decorating of school buildings
3. Repair or building of apparatus or equipment
4. Improvements on school grounds
5. Maintenance work as defined above (Public Contract Code 22002 (d)).

Sole Sourcing Brand Names

In any contract for the construction, alteration, or repair of school facilities, the Superintendent or designee shall not draft the bid specification in a manner that, either directly or indirectly, limits bidding to any one specific concern or calls for a designated material, product, thing, or service by a specific brand or trade name, unless the specification designating the specific material, product, thing, or particular brand name is followed by the words "or equal" so that bidders may furnish any equal material, product, thing, or service. In such cases, the bid specification shall provide a time period, before and/or after the award of the contract, for the contractor to submit data substantiating the request for substituting the designated material, product, thing, or service. If no such time period is specified, the contractor may submit the data within 35 days after the award of the contract. (Public Contract Code 3400)

Pursuant to Public Contract Code 3000-3010, added by AB 635 (Ch. 438, Statutes of 2010), for the repair or replacement of the roof of a public facility, a material is considered "equal" if it meets specific requirements, as specified below.

When the bid is for a roof project, a material, product, thing, or service is considered "equal" to the one designated if it is equal in quality, durability, design, and appearance; will perform the intended function equally well; and conforms substantially to the detailed requirements in the bid specification. (Public Contract Code 3002)

However, the Superintendent or designee may designate a specific concern, material, product, thing, or service by brand or trade name (sole sourcing), if the Board has made a finding, described in the invitation for bids or RFP, that a particular material, product, thing, or service is designated for any of the following purposes: (Public Contract Code 3400)

1. To conduct a field test or experiment to determine its suitability for future use.
2. To match others in use on a particular public improvement that has been completed or is in the course of completion.
3. To obtain a necessary item that is only available from one source.
4. To respond to the Board's declaration of an emergency, as long as the declaration has

been approved by four-fifths of the Board when issuing the invitation for bid or RFP.

Specifications for contracts may designate a product by brand or trade name (sole sourcing) when one or more of the following conditions apply: (Public Contract Code 3400)

Prequalification Procedure

For any contract for which bids are legally required, the Board may require that each prospective bidder complete and submit a standardized questionnaire and financial statement. For this purpose, the Superintendent or designee shall supply a form which requires a complete statement of the bidder's financial ability and experience in performing public works.

Prospective bidders shall submit the questionnaire and financial statement at least five days before the date fixed for public opening of sealed bids. The information shall be verified under oath in the manner in which civil pleadings in civil actions are verified. The questionnaires and financial statements shall not be public records and shall not be open to public inspection. (Public Contract Code 20111.5)

The Superintendent or designee shall establish a uniform system for rating bidders on the basis of completed questionnaires and financial statements in order to determine the size of contracts on which each bidder is qualified to bid. Bidders must be deemed prequalified by the ~~district~~District at least five days before the fixed bid-opening date. (Public Contract Code 20111.5)

The Superintendent or designee shall furnish each qualified bidder with a standardized proposal form. Bids not presented on the standard form shall be disregarded. (Public Contract Code 20111.5)

The District may establish a procedure for prequalifying bidders on a quarterly basis and may authorize that prequalification be considered valid for up to one calendar year following the date of the initial prequalification. (Public Contract Code 20111.5)

Appeal Procedures

Contractors will be allowed to appeal a negative pre-qualification determination in accordance with California Public Contract Code §20101.d. There is no appeal from a refusal for an incomplete or late application. Without a timely appeal, the Contractor waives any and all rights to challenge the decision of the District, whether by administrative process, judicial process or any other legal process or proceeding.

In conjunction with this ~~Pre-Qualification Policy~~pre-qualification procedure, the District hereby establishes a Bidder Prequalification Appeals Panel (~~"Appeals Panel"~~), consisting of the following ~~two~~ three (3) members, or their designee(s):

1. The District's ~~Director Construction/Maintenance/Facilities Management~~ Associate Superintendent of Business Services
2. The District's ~~Capital Projects, Purchasing Manager~~ Assistant Director of Capital Accounting
3. The District's Senior Manager of Internal Controls

The sole issue before the Appeals Panel shall be the scoring of a Contractor. The decision of the Appeals Panel shall be the District's final administrative decision.

The date for submission and opening of bids for a specific project will not be delayed or postponed to allow for completion of an appeal process.

Process:

1. Prior to disqualifying a contractor, the District shall serve written notice on the contractor:
 - a. Setting forth the reasons for the disqualification.
 - b. Indicating that the contractor will be afforded an opportunity to appeal the disqualification as outlined below. Effective notice shall be accomplished by certified mail, return receipt requested, to the last known address of the contractor, or the contractor's agent for service of process, or any of its principal officers, partners, owners or affiliated.
2. The contractor shall submit his appeal in writing with the Director of Construction/Maintenance/Facilities Management no later than 4:00 p.m. of the ~~FIFTH~~fifth (5th) business day following the day on which the notice of rejection was mailed to the contractor.
3. The District shall act upon properly filed requests within ten calendar days from the date of receipt of such request. If, after review, the District again rejects the contractor's application, the contractor may request an administrative hearing with the panel.
4. At the hearing, the contractor may present oral testimony concerning the contractor's qualifications, capability and responsibility. The District shall notify the contractor of its decision within five business days following the hearing. The decision of the panel is final.
5. A contractor, who is denied prequalification, shall be disqualified in the same type of work or category of value for a period of one year thereafter.

Formal Bid Opening Procedures

- a. Bid due date procedures: Post signs around the Education Center to instruct the bidders of the name of the bid, description, confirm the room reservation, time of the Bid Opening, and that each Bid must be time and date stamped and delivered to the

Purchasing Office.

- b. Check the time on the date and time stamp [clock](#) to see that it is correct. ~~If not, call Pacific Bell AT&T and correct the time.~~ Then stamp in each bid. Check the list pre-qualified bid list to confirm that the bidders are listed on the Pre-qualified Bidders List (if required for this bid).
- c. Check setup of the bid opening room. The Bidders can wait in the lobby after their bids are stamped. They may also be taken to “bid opening” room to wait for the bid opening if the room is available prior to the bid opening.
- d. About 15 minutes before the Bid Opening, check the folder of the bid to be opened and any other folders, and the mail room to make sure all bids have been received. (Are bidders on the Pre-qualified Bidders List?).
- e. Bidders waiting in the lobby can be taken to the room reserved for the bid opening 5 to 10 minutes before the bid opening.
- f. Check the time. Do not accept any bids that arrive after the time set for bid opening. Then go to the room reserved for the bid opening.
- g. Announce that bidding time for [project name] is now closed and bids will be opened. Distribute a sheet for the signatures of bidders and ~~district~~District staff present. Distribute a bid tabulation spreadsheet on which the bids may be recorded.
- h. State the procedure of the Bid Opening. No questions on bids will be answered at the end of the opening of all bids. If there are any concerns, a letter may be sent to the Capital Purchasing Office within (5) days and it will be answered. Announce that if there are any unanswered legal questions, we will seek legal counsel advice and get back to them.
- i. Open bids one at a time. Check the following: (1) Is the bid in a sealed envelope? (2) Does the time and date stamp meet the bid requirements? (3) Was the District’s Proposal Form used? (4) Does the bid have an Original Signature? (5) Has bid security been enclosed (~~Bond, Cashier’s Check, etc.~~)? along with other required forms and (6) Read and record the amounts that are bid-?
- j. Announce that all bids are subject to further review and the award recommendation will be made to the Board of Trustees at its meeting on Month, Day, and Year.
- k. Inform the bidders that the contract will be ready on the morning after the Board meeting. The contract must be returned within (10) calendar days with signatures (acknowledged by a notary public who is authorized to do business in the State of California), and with the required bonds, insurance certificates of companies authorized to do business in the State of California and other required documents.

1. Remind all bidders that all paperwork must be signed and returned to the District before work is started on the site. Thank the bidders for submitting bids.

Protests by Bidders

A bidder may protest a bid award if he/she believes that the award was inconsistent with Board policy or the bid's specifications or was not in compliance with law.

A protest must be filed in writing with the Superintendent or designee within five working days after receipt of notification of the contract award. The bidder shall submit all documents supporting or justifying the protest. A bidder's failure to timely file a protest shall constitute a waiver of his/her right to protest the award of the contract.

Any bidder submitting a Bid Proposal may file a protest of the District's intent to award the Contract provided that each and all of the following conditions are met:

1. The protest must be submitted in writing to the District (e-mail is not acceptable), before 4 p.m. of the ~~FIFTH~~fifth (5th) business day following bid opening.
2. The initial protest document must contain a complete statement of any and all bases for the protest, including without limitation all facts, supporting documentation, legal authorities and argument in support of the grounds for the bid protest; any matters not set forth in the written bid protest shall be deemed waived. All factual contentions must be supported by competent, admissible and creditable evidence.
3. The protest must refer to the specific portions of all ~~documents which~~ documents that form the bases for the protest.
4. The protest must include the name, address and telephone number of the person representing the protesting party.
5. Any bid protest not conforming to the foregoing shall be rejected by the District as invalid.

The Superintendent or designee shall review the documents submitted with the bidder's claims and render a decision in writing within 30 days. The Superintendent or designee also may convene a meeting with the bidder in order to attempt to resolve the problem. Provided that a bid protest is filed in strict conformity with the foregoing, the District's Associate Superintendent, Business Services, or such individual(s) as may be designated by him/her, shall review and evaluate the basis of the bid protest. The District's Associate Superintendent, Business Services or other individual designated by him/her shall provide the bidder submitting the bid protest with a written statement concurring with or denying the bid protest.

The bidder may appeal the Superintendent or designee's decision to the Board. The Superintendent or designee shall provide reasonable notice to the bidder of the time for Board consideration of the contract award. The District's Governing Board will render a final

determination and disposition of a bid protest by taking action to adopt, modify or reject the disposition of a bid award as reflected in the written statement of the Associate Superintendent, Business Services or his/her designee. Action by the District's Governing Board relative to a bid award shall be final and not subject to appeal or reconsideration by the District, any employee or officer of the District or the District's Governing Board. The rendition of a written statement by the Associate Superintendent, Business Services (or his/her designee) and action by the District's Governing Board to adopt, modify or reject the disposition of the bid award reflected in such written statement shall be express conditions precedent to the institution of any legal or equitable proceedings relative to the bidding process, the District's intent to award the Contract, the District's disposition of any bid protest or the District's decision to reject all Bid Proposals.

The procedure and time limits set forth in this paragraph are mandatory and are the Bidder's sole and exclusive remedy in the event of bid protest. Failure to comply with these procedures shall constitute a waiver of any right to further pursue the bid protest, including filing a Government Code Claim or legal proceedings.

Rejection of Formal Bids; Award of Contract, Force Account; Remedies

In its discretion, the ~~district~~District may reject any bids presented. If after the first invitation of bids all bids are rejected, after reevaluating the cost estimates of the project, the Board shall have the option of any of the following (PCC 22038):

- a) Abandoning the project or re-advertising for bids in the manner described herein.
- b) By passage of a resolution by a four-fifths vote of the Board, declaring that the project can be performed more economically by the employees of the public agency, may have the job done by force account (PCC 22038).
- c) If a **contract** is awarded, it shall be awarded to the lowest responsible bidder. If two or more bids are the same and the lowest, the Board may accept the one it chooses. (PCC 22038).
- d) If no bids are received by the formal or informal procedure, the project may be performed by force account or negotiated contract. (PCC 22038)
- e) Any subsequent change or alteration of a contract shall be governed by the provisions of (PCC 20118.4).
- f) Following completion of the work of the Agreement by the Contractor, and the Capital Projects Purchasing Manager, the Purchasing Manager shall execute and record the Notice of Completion at the Santa Clara County Recorder's Office for projects over \$25,000. In addition, the Board should accept the work of the contract as completed in accordance with the terms of the contract. Notification will be presented to the Board Monthly on a written report. (Civil Code Section 9200-9208)

Proposed revision to accommodate proposed revised AR3311 Bids, proposed new BP3312.1 Contracts Change Orders and AR3312.1 Contract Change Orders
EAST SIDE UNION HIGH SCHOOL DISTRICT

ADOPT RESOLUTION #2013/2014-XX
AUTHORIZED SIGNATURES

WHEREAS Education Code Section 42641 provides that the Board of Trustees may issue payroll orders to be drawn for the payment of salaries and wages of employees; and (1)

WHEREAS Education Code Section 42633 requires the Board of Trustees to file with the County Superintendent of Schools verified signatures of all persons authorized to sign orders in its name. (2)

NOW, THEREFORE BE IT RESOLVED that the East Side Union High School District's Board of Trustees authorizes and empowers any of the following to sign any and all orders in the name of said district drawn on the funds of said district.

Payroll Orders/Warrants(1)

Chris D. Funk
Marcus Battle
Juan Cruz

Contracts (2)

Chris D. Funk
Marcus Battle
Juan Cruz
Karen Poon
Cari Vaeth
Julie Kasberger
Donna Bertrand
Janice Unger
Toby Hopstone
Linda da Silva

BE IT FURTHER RESOLVED that the authority granted to the person above to sign contracts in the name of the District shall extend only to those contracts lawfully approved by the Board and which are within the limits specified in law or under Board policy or by Board directive or action.

PASSED AND ADOPTED by the Board of Trustees of the East Side Union High School District, this _____ day of _____, 2014, by the following vote:

AYES _____

NOES _____

ABSENT _____

ABSTAIN _____

I, _____, _____ President _____ of the Board of the Board of Trustees of the East Side Union High School of Santa Clara County, California, do hereby certify that the foregoing is a full, true, and correct copy of a resolution adopted by the Board at a meeting thereof held at its regular place of meeting on the date shown above and by the vote above stated, which resolution is on file in the office of said Board.

ESUHSD, Board President

Book	BOARD POLICIES
Section	3000 BUSINESS AND NONINSTRUCTIONAL OPERATIONS
Title	Expenditures and Purchases
Number	3300
Status	Active
Legal	
Adopted	March 11, 2004
Last Revised	May 21, 2009
Last Reviewed	May 21, 2009

For information only - No change to
current Board Policy #3300



EAST SIDE UNION HIGH SCHOOL DISTRICT

Board Policy: Expenditures and Purchases

The Governing Board recognizes its fiduciary responsibility to oversee the prudent expenditure of district funds. In order to best serve district interests, the Superintendent or designee shall develop and maintain effective purchasing procedures that are consistent with sound financial controls and that ensure the district receives maximum value for items purchased. He/she shall ensure that records of expenditures and purchases are maintained in accordance with law.

(cf. 3000 - Concepts and Roles)
 (cf. 3100 - Budget)
 (cf. 3350 - Travel Expenses)
 (cf. 3400 - Management of District Assets/Accounts)
 (cf. 3460 - Financial Reports and Accountability)
 (cf. 9270 - Conflict of Interest)

Expending Authority

The Superintendent or designee may purchase supplies, materials, apparatus, equipment, and services up to the amounts specified in Public Contract Code 20111, beyond which a competitive bidding process is required. The Board shall not recognize obligations incurred contrary to Board policy and administrative regulations.

(cf. 3311 - Bids)
 (cf. 3312 - Contracts)

The Board shall review all transactions entered into by the Superintendent or designee on behalf of the Board every 60 days. (Education Code 17605)

The Superintendent or designee may authorize an expenditure which exceeds the budget classification allowance against which the expenditure is the proper charge only if an amount sufficient to cover the purchase is available in the budget for transfer by the Board.

(cf. 3110 - Transfer of Funds)

District funds shall not be expended for the purchase of alcoholic beverages. (Education Code 32435)

Purchasing Procedures

Insofar as possible, goods and services purchased shall meet the needs of the person or department ordering them at the lowest price consistent with standard purchasing practices. Maintenance costs, replacement costs, and trade-in values shall be considered when

determining the most economical purchase price. When price, fitness, and quality are equal, recycled products shall be preferred when procuring materials for use in district schools and buildings.

(cf. 3314.2 - Revolving Funds)

(cf. 3440 - Inventories)

(cf. 3511.1 - Integrated Waste Management)

All purchases shall be made by formal contract or purchase order or shall be accompanied by a receipt. In order to eliminate the processing of numerous small purchase orders, the Superintendent or designee may create a "blanket" or "open" purchase order system for the purchase of minor items as needed from a vendor. He/she shall ensure that the "open" purchase order system details a maximum purchase amount, the types of items that can be purchased under this order, the individuals authorized to approve purchases, and the expiration date of the "open" order.

Legal Reference:

EDUCATION CODE

17604 *Delegation of powers to agents; approval or ratification of contracts by governing board*

17605 *Delegation of authority to purchase supplies and equipment*

32370-32376 *Recycling paper*

32435 *Prohibited use of public funds, alcoholic beverages*

35010 *Control of district; prescription and enforcement of rules*

35035 *Powers and duties of superintendent*

35160 *Authority of governing boards*

35250 *Duty to keep certain records and reports*

38083 *Purchase of perishable foodstuffs and seasonal commodities*

41010 *Accounting system*

41014 *Requirement of budgetary accounting*

GOVERNMENT CODE

4330-4334 *California made materials*

PUBLIC CONTRACT CODE

3410 *U.S. produce and processed foods*

20111 *Contracts over \$50,000; contracts for construction; award to lowest responsible bidder*

Management Resources:

CSBA PUBLICATIONS

Maximizing School Board Governance: Fiscal Accountability, 2006

WEB SITES

CSBA, *Financial Services*: <http://www.csba.org/fs>

California Association of School Business Officials: <http://www.casbo.org>

California Department of Education: <http://www.cde.ca.gov>

Adopted: 03/11/04

Amended: 05/21/09

**East Side Union High School District
San Jose, California
Audit Committee Charter
Adopted 11/19/2009
Revised 11/17/2011**

I. Audit Committee Authority

The East Side Union High School District (ESUHSD) has established an Audit Committee to assist the Board of Trustees (Board) in the oversight of both the internal and external audit functions. The ability to create an Audit Committee was established by ESUHSD BP 3460.

II. Mission

The primary responsibility for financial and other reporting, internal control, and compliance with laws, regulations, and ethics within the ESUHSD rests with the Superintendent and his / her management team. The Board has oversight responsibilities in these areas and the Audit Committee is to assist the Board in fulfilling these responsibilities.

The Board Members who are members of the Audit Committee shall, on behalf of the Audit Committee, have unrestricted access to all information, including documents and personnel, and have adequate resources in order to fulfill its oversight responsibilities. All confidential information shall be maintained as confidential in accordance with Board policy and law, and shall not be provided or distributed to public members of the Committee.

In adopting this Charter the Board directs that District Administration shall work cooperatively with the Committee to promptly and fully respond to all requests for information and documentation.

The Board has established an Audit Committee to serve in an advisory capacity to the Board and shall:

- 1) Assist the Board in providing oversight of the external/internal audit functions by:
 - a. Making recommendations regarding the selection of the external independent auditor,
 - b. Reviewing the plan for the audit process with the independent auditor to determine the adequacy of the nature, scope, and timetable of the audit,
 - c. Reviewing the results of the audit and participate with the independent auditor and the Board in preparing final recommendations and responses,
 - d. Participating with the independent auditor in presenting the audit report to the Board,
 - e. Reviewing Board policies and administrative regulations to recommend any revisions needed to ensure effective financial reporting,
 - f. Periodically reporting to the Board regarding the status of previous audit recommendations for improving the accounting and internal control functions, and
 - g. Providing input on the effectiveness of the external independent auditor.

- 2) Assist the Board in providing oversight of the external/internal audit functions
- 3) Assist the Board in complying with its fiduciary oversight obligations;
- 4) Provide a communication link between the external and/or internal auditor and the Board
- 5) Provide greater transparency over public funds while improving public trust

III. Membership

The Audit Committee consists of five voting members appointed by the Board as follows:

- 1) Two Board members, who shall serve as Chair and Vice Chair of the Committee as determined by the Board. The Board President may not concurrently serve on the Audit Committee.
- 2) Three public members.

The Board may appoint an alternate public member. The alternate's responsibility is to temporarily substitute, with full voting powers, for any Audit Committee member who is absent from a meeting.

All voting members of the committee must reside within the boundaries of the East Side Union High School District.

The Board may appoint non-voting members with specific expertise to the committee. There is no residency requirement for non-voting members.

Appointment of Board members to the Audit Committee will be made at the Board's annual organizational meeting in December or as vacancies occur.

Board member terms shall be for one year beginning on the date of appointment at the Board's annual organizational meeting in December and ending the following year at the Board's next annual organizational meeting.

Public members will be appointed at the first regular Board meeting in January. Notification of the appointment process shall be posted at least 30 days prior to the appointment date. Public member terms will be for two years. The alternate public member term will be for one year. In order to coincide with the annual presentation of the external audit report to the Board, public member terms shall begin on February 1 and end two years later on January 31.

Public member's terms will be staggered so that all terms do not start and end at the same time. Immediately after the initial appointment of the three public members, the Board shall determine by lot which two of the public members shall serve an initial term of two years with the third public member serving an initial term of one year. The maximum number of consecutive terms a member may serve is four. A termed out member is eligible for appointment again after not serving for at least one year.

The members of the Audit Committee must collectively possess knowledge and experience in accounting, auditing, financial reporting, and school district finances needed to understand and evaluate the district's financial statements, the external audit of those statements, and the district's internal audit activities. Accordingly, the Audit Committee members should:

- 1) Be independent of the day-to-day management of the ESUHSD,
- 2) Possess the required skills and experience necessary to understand technical and complex financial reporting issues,
- 3) Have the ability to communicate with and offer advice and assistance to the Board, the external auditors, and the internal auditor,
- 4) Be knowledgeable about internal controls, financial statement audits, and managerial/operational audits
- 5) Be available to take training in educational finance

The following individuals cannot serve on the Audit Committee:

- a) Any person who, within the two years prior to appointment, has been an employee of the ESUHSD or sold goods or services to the ESUHSD,
- b) Anyone who, within the past two years, owns or has a direct and material interest in an entity, or who holds a leadership position in any entity, which provides substantial goods or services to the ESUHSD pursuant to purchase order or contract (either individually or under a fictitious business name),
- c) A close or immediate family member of anyone who would be prohibited from serving on the Audit Committee under a) through b) above. The term “close or immediate family member” includes parent, sibling, nondependent child, spouse or domestic partner, or dependent (whether or not related),

Exceptions are as follows:

- d) An individual who would otherwise be excluded may serve if, after full disclosure to the Board, the potential conflict of interest is not material,
- e) Any member who develops a conflict of interest while on the Audit Committee must disclose such conflict. The other Audit Committee members at the next meeting shall, by majority vote, make a recommendation to the Board. The Board shall decide whether or not to remove and replace the affected member. Should a vacancy occur, the Board will notify the public of the opening, accept applications and appoint an individual to serve the balance of the vacated term.

If a vacancy among the voting public members occurs, the Board may appoint the alternate public member to fill the term of the vacated member.

The Audit Committee Chair and Vice Chair shall recommend to the Board as to when (as quickly as possible or in conjunction with the annual appointment of public member(s)) a new alternate public member shall be appointed.

IV. Duties and Responsibilities

Internal Control

The Audit Committee monitors the fiscal health of the ESUHSD and the relationship between its spending and its adopted budget. To carry out this duty, the Audit Committee:

- 1) Reviews the effectiveness of the ESUHSD's accounting organizational structure, and operations
- 2) Reviews the ESUHSD's internal controls, the adequacy of such controls, and recommends changes to management and the Board,
- 3) Reviews with the Superintendent and other management personnel the adequacy of systems and procedures for protecting information,
- 4) Inquires of the Superintendent and other management personnel about significant financial risks or exposures facing the ESUHSD, assesses the steps the ESUHSD has taken, or proposes to take, to minimize such risks to the ESUHSD, and periodically review compliance with such steps,
- 5) Review with the Superintendent and other management personnel;
 - a. Significant findings with respect to any management financial review including that of the Audit Committee, during the year and responses thereto,
 - b. Any difficulties review teams or personnel encountered in the course of their review, including any restrictions on the scope of their work or access to required information,
 - c. Any changes required in the scope of the review.
- 6) Reviews with the independent auditors, the Superintendent, and financial management personnel:
 - a. The adequacy of the ESUHSD's internal controls including computerized information system controls and security,
 - b. Any related significant findings and recommendations of the independent auditors together with management's responses thereto, and
 - c. The clarity and transparency of financial information and disclosures.

The Audit Committee reviews the ESUHSD's procedures for monitoring compliance with the Code of Conduct.

The Audit Committee recommends procedures for the confidential, anonymous submission of concerns about questionable accounting or auditing matters or suspected fraud. At the request of the Board, it reviews any submissions that are received, the current status of the review, and the resolutions, if any.

Assist the Board in providing oversight of the external audit functions

General

The Audit Committee

- Shall perform its duties in good faith, in a manner to be in the best interests of the Audit Committee and the ESUHSD which a reasonably prudent person in a similar position would use under similar circumstances,

- Shall have an obligation to the ESUHSD to maintain strict confidentiality regarding confidential information it may have access to,
- Shall meet at least three times per calendar year, and at additional times when necessary, to fulfill its responsibilities,
- Shall receive training and comply with the Brown Act
- May ask members of management or others to attend its meetings and provide pertinent information as necessary,
- In consultation with the Board may have access to all information it deems necessary to carry out its duties, consistent with California law,
- May request information from the ESUHSD that is deemed necessary to carry out its duties and responsibilities. Only the Audit Committee Chair will make these requests for information. Any member wishing to request information will do so by submitting the approved Committee request form to the Audit Committee Chair for approval. If the Audit Committee Chair approves the request, the Chair will send the request to the Board for processing. If the Chair does not approve the request, a majority of the Audit Committee may override the request denial. In the event of an override, the Chair is required to submit the request to the Board.

A quorum constitutes a simple majority of the total voting membership and meetings will not be conducted unless a quorum is present.

Every attempt will be made to make decisions by consensus of the voting members present. Consensus is defined as an acceptable solution that all can agree to support. If consensus cannot be reached, polling of the voting membership will take place. Any decision of the Audit Committee requires an affirmative vote by the majority of the committee's voting membership. Voting members who are physically absent from a meeting can participate through audio or video means. Proxies CANNOT be granted.

The Audit Committee may recommend to the Board the engagement of professional consultants. The authority to engage professional consultants rests exclusively with the Board.

The Audit Committee shall report to the Board, at least annually, its activities, findings, and decisions. Reported findings should include any suspected fraud or abuse or material defects in internal management controls, and any significant failure to comply with laws, or district policies or regulations.

The Chair prepares the agenda with consultation with the Vice Chair. Any member wishing to place an item on the agenda will do so by communicating in writing to the Chair.

The Audit Committee shall prepare minutes of each meeting that, at a minimum will include:

- Copies of the meeting agenda,
- Date, attendance, and location of the meeting
- A brief summary of the topics discussed, and
- Any recommendations forwarded to the Board

The Audit Committee may recommend to the Board the dismissal of any member who has had two unexcused absences during the member's term or three absences, for any reason, in any twelve month time period. Dismissal requires a majority vote of the Board.

External Auditors

The Audit Committee oversees the ESUHSD's engagement of any independent accountants for the purpose of preparing or issuing an independent audit report or performing other independent audit, review, or attest services. The Board, acting on the recommendation of the Audit Committee, makes all final decisions concerning the appointment, compensation, and retention of such accountants. All accountants thus engaged report directly to the Audit Committee that will oversee the accountant's work and evaluates their performance.

The Audit Committee's oversight responsibility includes:

- 1) Monitoring the periodic selection of and contracting with, the outside independent auditor in accordance with State law, and reviewing the independence of the audit,
- 2) Meeting with the independent auditors prior to commencement of the annual audit to review the engagement letter (scope of the work to be performed)
- 3) Receiving and reviewing the draft annual audit report and draft management letter comments,
- 4) Reviewing all non-privileged significant written communications between the independent auditors and management, such as any schedule of unadjusted differences,
- 5) Making a recommendation to the Board concerning acceptance of the annual audit report,
- 6) Reviewing with management and independent auditors:
 - a. The ESUHSD's annual financial statements, related footnotes, and management's discussion and analysis,
 - b. The independent auditor's audit of the financial statements and their report thereon, including any management letter comments or schedule of unadjusted differences,
 - c. The independent auditor's judgments about the quality, not just the acceptability, of the ESUHSD's accounting policies as applied in its financial reporting,
 - d. The auditor's assessment of the ESUHSD's system of internal controls,
 - e. Any significant changes required in the independent auditor's audit plan,
 - f. Restrictions on the auditor's activities or access to information, and any significant difficulties or disputes with the Superintendent or management encountered during the audit,
 - g. Matters required to be discussed by applicable government and professional literature and standards,
 - h. All critical accounting policies and practices used by the ESUHSD, any significant changes in these policies and practices, and the degree of aggressiveness or conservatism in applying these policies and practices,
 - i. Recent and proposed professional and regulatory pronouncements, especially those having a material impact on the ESUHSD's financial statements,
 - j. All alternative treatments of financial information within Generally Accepted Accounting Principles (GAAP) that have been discussed with the Board, the ramifications of each alternative, and the treatment preferred by the ESUHSD, and
 - k. Any corrective action plans developed by the ESUHSD.

The Audit Committee considers, with the Board, the rationale for employing audit firms other than the principal independent auditors for services that the ESUHSD or the independent auditors determine would not be appropriate for the principal independent auditors to perform.

Internal Audit

The Audit Committee:

- a) If requested, may make recommendations to the Board regarding the selection of an internal auditor ,
- b) Assists in the oversight of any internal audit function,
- c) Reviews the annual internal audit plan to ensure that high risk areas and key control activities are periodically evaluated and tested,
- d) Reviews the results of internal audit activities and significant recommendations and finding of the internal auditor,
- e) Monitors implementation of the internal auditor's recommendations by the Superintendent and/or Board,

The Audit Committee and the internal auditor(s) shall maintain a degree of professional independence when assessing management's performance of its responsibilities. However, this does not mean that an adversarial role is necessary or desirable as both parties share common goals.

In working to ensure the independence of the internal auditing function and that appropriate actions are taken on audit findings, the Audit Committee shall promote and enhance the mutual cooperation among the Committee, internal auditor(s), and executive management.

V. Self-Assessment

The Audit Committee shall review its charter annually, reassesses the adequacy of the charter and recommends any proposed changes to the Board. The Audit Committee considers changes that are necessary as a result of new laws, regulations, or accounting or auditing standards.

The Audit Committee conducts an annual self-assessment and describes to the Board, in a written report, how it discharged its duties.

Adoption and amendments to this charter shall be recommended by an affirmative vote of a majority of the committee and by passage of the Board.

The Audit Committee Chair, at the request of the Board, shall take responsibility for the immediate review and approval of the Internal Auditors hours, vacation requests and expense reimbursements.