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STATE ALLOCATION BOARD
AUDIT SUBCOMMITTEE

STATE CAPITOL
ROOM 447
SACRAMENTO, CALIFORNIA 95814

DATE: AUGUST 27, 2012
TIME: 9:15 A.M.

Reported By: Mary Clark Transcribing
4919 H Parkway
Sacramento, CA 95823-3413
(916) 428-6439
marycclark13@comcast.net

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APPEARANCES

Committee Members:

SENATOR ALAN LOWENTHAL, Chair

ESTEBAN ALMANZA, Chief Deputy Director, Department of General Services, designated representative for Fred Klass, Director, Department of General Services

KATHLEEN MOORE, Director, School Facilities Planning Division, California Department of Education, designated representative for Tom Torlakson, Superintendent of Public Instruction; Member State Allocation Board

ASSEMBLYMEMBER JOAN BUCHANAN

State Allocation Board Staff:

LISA SILVERMAN, Executive Officer
BILL SAVIDGE, Assistant Executive Officer

P R O C E E D I N G S

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3 CHAIRPERSON LOWENTHAL: Welcome to the State
4 Allocation Board Audit Subcommittee hearing and welcome to
5 our new Subcommittee member, Assemblymember Buchanan.
6 Welcome.

7 ASSEMBLYMEMBER BUCHANAN: Thank you.

8 CHAIRPERSON LOWENTHAL: And to our veteran
9 members, Kathleen Moore and Esteban Almanza.

10 A little background. On November 10 -- or
11 November 3rd really of 2010, the State Allocation Board
12 adopted audit policies developed by this Subcommittee. The
13 Board approved an implementation plan for those policies in
14 December of 2010.

15 In taking these actions in 2010, the Board
16 recognized the critical importance of accountability and
17 transparency in the allocation of State bond dollars.

18 At that time, the Board directed staff to, one,
19 convene an Audit Committee that would review the Audit Guide
20 for clarity, consistency, and transparency and review the
21 Audit Guide annually thereafter. I think we now call it the
22 Program Guide. Is that -- or is it --

23 MR. SAVIDGE: Yes.

24 CHAIRPERSON LOWENTHAL: -- the Program Guide,
25 determine an independent entity -- I may say Audit Guide,

1 but it's synonymous also with that -- determine an
2 independent entity to conduct audits based upon the Audit
3 Guide, develop incremental compliance reviews and other
4 related tasks detailed in the Board action item.

5 The Audit Subcommittee met this past April and
6 received a report from the OPSC staff on the implementation
7 of the Board audit policies.

8 We learned that many of the Board policies had not
9 been implemented by staff in the 18 months since Board
10 adoption.

11 As a result, the Subcommittee asked that the Audit
12 Working Group reconvene to review and make recommendations
13 to the Audit Subcommittee on the following issues:

14 (A) Clarify whether it was the intent of the
15 Working Group to recommend to the Audit Subcommittee that an
16 independent entity conduct both the desk review and site
17 visit components of the audit;

18 (B) Does the OPSC statement that they, quote, are
19 not performing audits but are conducting desk reviews --
20 does that change any of the recommendations the Working
21 Group made to the Audit Subcommittee in 2010 and which was
22 later adopted by the SAB in November of 2010. If so what
23 are these amended recommendations; and

24 (C) Are these desk reviews adequate to ensure
25 accountability for the use of State bond funds.

1 Also we asked the OPSC to return to the Audit
2 Subcommittee in May with an analysis of the costs of
3 conducting audits by an independent entity versus the costs
4 of the OPSC desk reviews, while also solving the issue of
5 audit independence.

6 The analysis should include current OPSC staffing
7 levels and costs for audit and desk review services.

8 And, three, ask the Assistant Executive Officer to
9 request that a representative of the Controller's Office
10 attend the next Audit Subcommittee to discuss auditing
11 services.

12 We're now going to hear a report from the staff on
13 the recommendations of the Audit Working Group. Welcome.

14 And first before I begin, are there any of the
15 members of the Subcommittee that wish to make a statement?

16 ASSEMBLYMEMBER BUCHANAN: No.

17 CHAIRPERSON LOWENTHAL: Fine. Please begin.

18 MS. SILVERMAN: Yeah. Good morning. Lisa
19 Silverman with the Office of Public School Construction.

20 CHAIRPERSON LOWENTHAL: Can we hear you, Lisa?
21 Are you on?

22 ASSEMBLYMEMBER BUCHANAN: Pull the mic closer.

23 MS. JONES: She's on.

24 CHAIRPERSON LOWENTHAL: Pull the mic closer.

25 MS. SILVERMAN: Yeah. Yeah. So, yeah, I

1 appreciate the opportunity to come back and I know for the
2 most part you did cover a lot of areas and staff has been
3 working diligently with the Work Group to try to resolve --
4 and make some formal recommendations.

5 I think the goal is to kind of bluish out some of
6 the concepts that were discussed at the Work Group and try
7 to see whether or not we have enough support to either go
8 back and channel those concepts and further refine or bring
9 those forward to the State Allocation Board for an approval.

10 So again the goal is to try to work out some of
11 these issues from the perspective of streamlining our
12 processes plus also establishing interim reviews so we can
13 do additional compliance checks on the front end versus on
14 the back end.

15 With that, I know Mr. Savidge has a few comments
16 he'd like to share.

17 MR. SAVIDGE: Good morning, everyone. Bill
18 Savidge, Assistant Executive Officer for the State
19 Allocation Board.

20 Senator Lowenthal gave a good background of the
21 process leading up to our meeting today. Since the meeting
22 in April, the Audit Working Group has met three times to
23 look at a number of different options for increased
24 accountability, for trying to flesh out the implementation
25 of the original recommendations that were adopted by the

1 Board.

2 And we -- what we're bringing you today is a
3 document. There's a flowchart that you have in your packets
4 entitled Proposed Process for SFP Review and Audits and this
5 ties back to the original Board recommendations and in three
6 key areas: in the area of doing compliance checks for
7 certifications earlier and consolidating that with a number
8 of other milestones; proposing a process for external
9 audits; and also maintaining OPSC's final expenditure
10 review; and the reconciliation to the State Allocation
11 Board.

12 And so we think that this meets the intent of the
13 original Working Group recommendations that were forwarded
14 and approved by the Board.

15 The reason that we're here today is primarily we
16 want to make sure we're heading in the right direction. We
17 want to get some feedback from the Subcommittee. This is a
18 new approach. It's a similar approach to what was adopted,
19 but it really fleshes it out and proposes a model using an
20 external audit function that already exists in the State for
21 school districts.

22 So we want to hear concerns from the Subcommittee
23 and any stakeholders and get direction from the Subcommittee
24 in terms of going forward.

25 We think that there's probably a need to have a

1 meeting or two of the Working Group after this, but it kind
2 of depends upon what happens during today's meeting.

3 And so I do want to say that it's been a pleasure
4 to work with the Working Group. They are -- the Working
5 Group includes representatives from the State Controller's
6 Office, from the California Department of Education, from
7 FICMAT, from independent auditors, from County Offices of
8 Education, from school districts. So we get a wide range of
9 perspectives and a really good understanding of some of the
10 needs of accountability in the State regarding our State
11 bond funds.

12 I also want to say that it's really been a
13 pleasure to work with the Office of Public School
14 Construction in this process and during these three
15 meetings, they've been fully engaged in helping to prepare
16 the recommendations and working with members of the Working
17 Group to really flesh out a proposal that I think has a lot
18 of merit and want to turn to Mr. Rick Asbell to give us a
19 presentation on that process.

20 MR. ASBELL: Good morning, Mr. Chair --

21 CHAIRPERSON LOWENTHAL: Good morning.

22 MR. ASBELL: -- Board members. Next line, please.
23 For the audience, we are referencing a PowerPoint
24 presentation and after our meeting here, we'll get it posted
25 up on the website, so not to confuse anybody or --

1 So when we looked at the current process, I think
2 there's three things that we kind of zeroed in on and I
3 think they kind of have already been touched upon initially.

4 One of the things is we need to streamline the
5 process. It takes too long right now to be able to closeout
6 projects.

7 The current statutory and regulatory framework of
8 the program allows for a project essentially to be closed
9 out six or seven or eight years after the final fund
10 release. So that's a big issue.

11 We also understand certifications. They need to
12 be checked a little bit earlier in the process.

13 The majority of our material inaccuracies that
14 we've brought to the Board in the past has been associated
15 with the self-certifications, most notably the 50-05.

16 So we know that's an issue. That's something that
17 we need to kind of look at things a little bit earlier in
18 the process.

19 Additional accountability: The compliance reviews
20 that we're doing right now may not be -- have enough
21 accountability elements in there for this particular
22 program. So we know that's an issue also.

23 So on the next slide, to address these concerns,
24 as we were going through the process -- the vetting process
25 with the Audit Work Group, we came up with a few

1 recommendations.

2 First of all, we want to be able to shorten the
3 life cycle of a project and the way things are right now,
4 once a project submits a hundred report, regulation states
5 that we have two years as OPSC to commence the review of
6 that particular project.

7 We're actually advocating that that two years,
8 through a regulatory change, be reduced down to a one-year
9 wait period essentially.

10 The other issues that's popped up also is
11 exploring a new trigger for the completion of a project. So
12 currently a hundred percent report is the trigger. But we
13 have had instances where projects have come in and they've
14 never met the hundred percent threshold.

15 Districts will submit a 99 percent report. We
16 never get to the hundred percent report. So we were looking
17 at maybe another alternative to that.

18 In terms of the verifications or the
19 certifications, we want to be able to bring forward a
20 compliance check. It's an incremental compliance check
21 within 18 months and what that would do is that would
22 consolidate looking at 50-04 certifications, 50-05
23 certifications, and then rolling into a check that we
24 currently have at 18 months which is called a substantial
25 progress check.

1 We believe that we can leverage what we already
2 have in the system. That would be one at 18 months as
3 opposed to checks prior to that.

4 ASSEMBLYMEMBER BUCHANAN: How do you define
5 substantial progress?

6 MR. ASBELL: The way the regulations are set up,
7 you have to show that you're making, quote/unquote,
8 substantial progress toward the completion of your project.
9 So there's a checklist of things that you have to attain at
10 that 18 months.

11 If you don't attain those criteria, those
12 milestones, at 18 months, the projects could be rescinded.

13 ASSEMBLYMEMBER BUCHANAN: So could you just give
14 me -- I mean when you request funding, you're supposed to be
15 under contract. So what exactly are we expecting to be done
16 at 18 months?

17 MR. ASBELL: I think one of them -- I may have to
18 ask Julie on this one, but I think it's -- is it 75 percent?

19 CHAIRPERSON LOWENTHAL: Could you please come
20 forward and identify yourself and kind of respond to the
21 Assemblymember's question about just really what are those
22 criteria that we use for substantial progress.

23 MS. ENNIS: My name is Julie Ennis.

24 CHAIRPERSON LOWENTHAL: Put it close to you --
25 that's it.

1 MS. ENNIS: So there's different criteria for
2 design and site and adjusted grant phase. So for site, you
3 have to meet all of the -- I might not remember these off
4 the top of my head.

5 So but for site, you have meet all the criteria
6 and it's meeting CEQA requirements. You have to have the
7 final appraisal of the site, I think final escrow docs, and
8 I'm not remembering another one of them.

9 And then for design, you only have to meet one of
10 the criteria and one is to submit your adjusted grant
11 application or the other one would be to submit a site
12 application and one is to have your plans. They don't have
13 to be completely approved by DSA, but they have to be
14 submitted to DSA for approval.

15 And the other one would be if you couldn't meet it
16 within the 18 months, then you would get an 18-month
17 extension that you would request from the State Allocation
18 Board and the district would have to submit a narrative of
19 other evidence.

20 And then for the adjusted grant, that one --
21 75 percent of -- thanks. Yes. At least 75 percent of the
22 site development work is necessary prior to the building
23 construction activity is complete and then at least
24 90 percent of the building construction activities are under
25 contract unless the building construction activities are

1 delayed as a result of necessary site development work.

2 And then the third one is all construction
3 activities are at least 50 percent complete and then also an
4 adjusted grant phase. You can't get an extension, but they
5 can submit something for other evidence also to show that
6 they meeting substantial progress, and then the Board -- we
7 would send a narrative to the Board and the Board would
8 determine whether they were complete and have met progress
9 on the project.

10 So for site, you have to meet all of the checks
11 and then for the design and adjusted grant, you just have to
12 check one of the boxes. And that's all in regs --
13 regulations.

14 ASSEMBLYMEMBER BUCHANAN: So --

15 MS. ENNIS: And I might finish the site one. So I
16 didn't say all of it. It was a final appraisal of the site,
17 CEQA, attain final approval from Department of Ed and then
18 final escrow. I missed one of them.

19 MR. SAVIDGE: Assemblymember, one of the things
20 that we looked at in the Working Group was there's really
21 two basic milestones after fund release, one at 12 months
22 which is the current requirement to submit your first
23 expenditure report or 50-06, and the other's at 18 months.

24 So we wrestled in the committee -- the Working
25 Group with whether to -- we wanted to align them both -- we

1 wanted to streamline them so there was less work for both
2 school districts and OPSC. So we said, well, what if we
3 move the substantial progress requirement to 12 months
4 rather than 18 and we didn't want to -- we saw that there
5 could be districts that would have a hard time meeting that.
6 And so we didn't want to jam them so to speak by pushing
7 that up.

8 And so the Audit Working Group is proposing that
9 these be consolidated at 18 months, so the 12-month
10 expenditure report would move to 18 months to be
11 consolidated and then that would go with the incremental
12 certification check at that time too.

13 ASSEMBLYMEMBER BUCHANAN: So refresh for me when
14 we do fund releases what -- how do we do those in terms of
15 what percent or what we're doing.

16 MS. SILVERMAN: You have to have 50 percent of the
17 contract in place --

18 ASSEMBLYMEMBER BUCHANAN: Right.

19 MS. SILVERMAN: -- plus a validation of whether or
20 not you have a labor compliance program or a CMU before we
21 can release the funds.

22 ASSEMBLYMEMBER BUCHANAN: And are we releasing the
23 full grant?

24 MS. SILVERMAN: Yes. Exactly. Yeah.

25 CHAIRPERSON LOWENTHAL: So just to follow up,

1 just --

2 ASSEMBLYMEMBER BUCHANAN: That's right.

3 CHAIRPERSON LOWENTHAL: -- understand -- so we --
4 with 50 percent under contract, we release and instead of
5 having a 12-month and an 18-month, your recommendation is to
6 do it all at 18 months -- to move the 12-month to the
7 18-month; is that what you're say?

8 MS. SILVERMAN: Yes.

9 CHAIRPERSON LOWENTHAL: Assemblymember.

10 ASSEMBLYMEMBER BUCHANAN: So we have a fund
11 release request. They have to show us that technically
12 they'll have an LCP and that they're 50 percent under
13 contract and we release the full grant amount, but then
14 18 months later, all we expect is either 75 percent of the
15 site development work to be done or -- I -- I'm just
16 trying --

17 MR. SAVIDGE: For many districts -- I think for
18 many districts, that's not a high bar and I think that --
19 but there certainly are projects and districts or entities,
20 county offices that would have difficult projects. And so
21 we're trying to respect that, but I -- and we wrestled with
22 this notion of which of these milestones to try and
23 consolidate around. And -- but interested in your feedback
24 on it.

25 ASSEMBLYMEMBER BUCHANAN: Yeah. I guess where I'm

1 going -- and I agree that there's got to be some
2 flexibility, but if you're releasing the full grant amount,
3 I would hope that after 18 months, you know, we would be
4 defining substantial progress in a way that we're -- I mean
5 most projects, if -- we built a high school or 2,400
6 students in less than two years' time.

7 So I'm not saying every district can do that, but
8 it seems to me we've got two problems. One is how do we
9 make sure these projects are being completed as quickly as
10 possible and then the second is, you know, how are we going
11 to interact in terms of audits and checkpoints.

12 And, you know, what really bothers me is the
13 99 percent versus a hundred percent. I mean it seems to me
14 like we want to give the money, we want to get the project
15 done, and there's got to be some reasonable time to have a
16 hundred percent so we don't end up -- you know, we had a
17 situation earlier this year where we approved a good
18 project -- solar -- but, you know, the buildings had been
19 occupied for how many years was it, four or six years, but
20 we weren't considering it complete because the audit hadn't
21 been complete.

22 So we've got to have some way I think of
23 tightening these definitions and making sure that we're
24 actually, you know, getting to construction and completion
25 as soon as possible.

1 MR. SAVIDGE: We discussed at length a new trigger
2 for completion or a recognition of completion and right now
3 Education Code allows school districts to occupy schools
4 without final certification of closeout and that's a whole
5 nother issue that relates to DSA closeout and certification.

6 ASSEMBLYMEMBER BUCHANAN: Right. Unless it's new
7 construction in which case we don't fund.

8 MR. SAVIDGE: Well, no. That's a different issue,
9 but yeah.

10 ASSEMBLYMEMBER BUCHANAN: Yeah. That's right.

11 MR. SAVIDGE: But I think one of the things that
12 we talked about was is there a trigger related to occupancy
13 that would initiate a closeout of the process. And really
14 this is a bigger issue I think than audits, but one possible
15 trigger that we discussed was to have a certificate of
16 occupancy, if you will.

17 So at the point at which you occupy the project,
18 that begins your X period beyond that. So whether six
19 months or a year, then you're automatically considered to be
20 complete by OPSC and then the final review starts.

21 ASSEMBLYMEMBER BUCHANAN: So what do you do when a
22 district has to open a school because you have an opening
23 date set and they -- because I've been here and you've
24 probably have been there too where you say --

25 MR. SAVIDGE: Many times.

1 ASSEMBLYMEMBER BUCHANAN: -- look, you know, we'd
2 like you to make sure the classrooms are done. We can live
3 without the multiuse room or the gym being finished for a
4 few months, but we've got to have, you know, a place for
5 these kids to learn.

6 MR. SAVIDGE: Well, I wasn't meaning to mix up the
7 question of certification --

8 ASSEMBLYMEMBER BUCHANAN: Right.

9 MR. SAVIDGE: -- with occupancy, but to suggest
10 that when districts occupy a building that that might be
11 a -- let's say the project is occupied. That might be
12 something that triggers X number of months beyond that then
13 you're considered a hundred percent complete --

14 ASSEMBLYMEMBER BUCHANAN: Okay. So --

15 MR. SAVIDGE: -- for OPSC audit. And I don't want
16 to get into the certification issue particularly --

17 ASSEMBLYMEMBER BUCHANAN: Right.

18 MR. SAVIDGE: -- but they're connected somewhat.

19 ASSEMBLYMEMBER BUCHANAN: Yeah. You've got to
20 somehow be able to make some kind of adjustment there.

21 CHAIRPERSON LOWENTHAL: Kathleen.

22 MS. MOORE: So you're asking for feedback on each
23 of these stages, I'm assuming.

24 CHAIRPERSON LOWENTHAL: Right.

25 MS. MOORE: And the verify certifications earlier

1 in the life cycle of a project, actually the recommendation
2 as I understand it is coming back to verify later in the
3 project. We're going to 18 months instead of 12.

4 MR. SAVIDGE: No. The certifications are -- well,
5 and Mr. Asbell can help me out too whenever I misspeak.

6 So the certifications now are checked at the
7 closeout phase of the project. So we're proposing to move
8 the certification check to an earlier incremental compliance
9 point at the beginning or at 18 months into the project
10 rather than potentially four to six years down the road.

11 MS. MOORE: And we had originally a year on that;
12 is that correct?

13 MR. ASBELL: That's --

14 MS. MOORE: Consolidating the two because I will
15 say I thought that one of the problems we were trying to
16 overcome was that there is a compounding if there's a
17 mistake made.

18 So if someone didn't have the correct
19 certification and didn't know, you know, it's 18 months in
20 that they may be penalized for some reason around that.

21 So I'm wondering if there's a way to check the
22 certification actually at the point that it's submitted or
23 close to thereof so that we're correcting for the -- if
24 there's any problem early in the project.

25 MR. ASBELL: So I think one of the things -- and

1 when we get to the next slide and we look at the big
2 graphical display, we do kind of have a bifurcation of
3 looking at some of the certifications, mainly the 50-05, and
4 it's actually going to be at the fund release.

5 MS. MOORE: Okay.

6 MR. ASBELL: So it's way in advance of the
7 18 months.

8 MS. MOORE: Okay.

9 MR. SAVIDGE: Before we leave this question of
10 18 months versus 12 months though, it is -- would the
11 Subcommittee prefer that we focused on 12 months rather than
12 18?

13 I mean we're talking about a need if we do either
14 one of them to adjust some regulatory language to make this
15 consolidated checklist work. There's probably some good
16 arguments for 12 and good arguments for 18.

17 CHAIRPERSON LOWENTHAL: I thought you mentioned
18 that while for most districts -- many, the 12 months could
19 be appropriate, but then you have some of the County Offices
20 of Education and the more complex projects that it would be
21 more difficult to do that.

22 And so the compromise was to move it to 18 months
23 and then I think Assemblymember Buchanan said is that
24 process robust enough that we are really collecting the
25 appropriate data at that moment. And that's the issue is

1 both the time and the robustness of that and she had some
2 questions about exactly what we're doing.

3 ASSEMBLYMEMBER BUCHANAN: Yeah. And my other -- I
4 don't know if this is the best time or later. But we talked
5 about it briefly in my office -- is that is, you know, we
6 have these -- and it's brought down I think it was this page
7 or another page -- these Prop. 39 audits.

8 When you see the material inaccuracies that come
9 before us there because we weren't under contract or, you
10 know, we didn't have a labor compliance program and when you
11 look at them, you know, the -- if you have a Prop. 39
12 bond -- and I know that doesn't cover everybody. It doesn't
13 cover County Offices of Education, but legally you have to
14 do a financial audit annually and a performance audit
15 annually.

16 Except as all of you know, there are no guidelines
17 for the performance audit. So sort of the accountants got
18 together with some districts and said okay, we're going to
19 do some sampling and make sure that the money spent was on
20 the purposes listed in the bond.

21 But I still don't understand why we can't use that
22 resource to be able to include these measures in their
23 audit. So instead of -- you know, if the audit takes place
24 at 18 months and then it may take a few months to check and
25 get back to a district and the district's been out of

1 compliance, it seems to me that we're going to enter into
2 the problem we have right now with an issue that's coming to
3 us in the next Board meeting in terms of when the LCP was in
4 place.

5 It seems to me you could have -- I don't know we
6 can't have a Prop. 39 audit help us with this and do some of
7 those jobs. You know, they're paying for it. So why can't
8 we have them check and of course the audit report would be
9 sent to us, but then a district would know much, much
10 earlier within the first 12 months, you know, whether or not
11 they were meeting these types of performance requirements.

12 MS. SILVERMAN: Some of the certifications we're
13 talking about the material inaccuracy -- and I know we've
14 gone down this path, but we've actually instituted
15 something.

16 About three or four years, we had a flood of
17 material inaccuracies that the Board were having monthly
18 discussions about this issue. So -- actually probably four
19 or five years ago. And the goal was to try to curb that and
20 check the certifications up front.

21 So that's why we have contracts in place. That's
22 why we check that they have a labor compliance program.

23 So we actually -- we saw a slide -- we haven't
24 even really seen additional material inaccuracies come
25 forward because we cured that issue by having the cert up

1 front.

2 But I think as far as some of the other issues, I
3 think again the goal is to try to marry the certifications
4 and if you check the certifications up front when the
5 applications come in, there's 64 certifications that a
6 district certifies to. That's quite --

7 ASSEMBLYMEMBER BUCHANAN: Right. But what percent
8 of the actual projects do we audit?

9 MR. ASBELL: About 6 percent.

10 MS. SILVERMAN: About 6 percent.

11 ASSEMBLYMEMBER BUCHANAN: 6 percent.

12 MR. ASBELL: Right.

13 ASSEMBLYMEMBER BUCHANAN: So it seems to me that
14 using these Prop. 39 audits as a tool would be helpful for
15 the districts and also would be helpful for us to focus our
16 resources in the most efficient manner possible.

17 MR. SAVIDGE: What I would -- we wrestled with
18 this issue of the Prop. 39 audits as the external audit
19 vehicle at length in our Working Group meetings.

20 Can we -- why don't I have Mr. Asbell go ahead and
21 finish the presentation and walk through the flowchart --

22 ASSEMBLYMEMBER BUCHANAN: Okay. I apologize.
23 That's fine. Yeah. Right.

24 MR. SAVIDGE: No. If that's okay and then we can
25 come back to that because we certainly wrestled with that

1 issue.

2 CHAIRPERSON LOWENTHAL: One last question though
3 before we begin. Mr. Almanza.

4 MR. ALMANZA: Go ahead and finish.

5 CHAIRPERSON LOWENTHAL: Okay. That's the one
6 question.

7 MR. ASBELL: Okay. So now the third issue, we
8 want to make sure -- increased accountability. So we've
9 already kind of laid out the fact that maybe there needs to
10 be an external function.

11 We looked at that. One of the things that kind of
12 came out of the Audit Work Group -- and we'll get into the
13 flowchart here in a second -- is the 50-06 reports, once
14 those are submitted to OPSC, that would trigger an external
15 function to take at those 50-05 reports and potentially look
16 at some internal controls also.

17 Any additional scope above and beyond that would
18 have to be probably put into some kind of Audit Guide or
19 some kind of regulation structure.

20 Okay. So now we're going to go kind of into the
21 graphical display. We've kind of thrown out a few concepts,
22 but I want to try to bring it all together into this chart.

23 Lot of things going on in this chart. There are
24 essentially four parts to this. The green part where it
25 says incremental compliance of substantial progress checks,

1 that's OPSC, that's up until about 18 months.

2 The middle section, the SFP expenditure review
3 guide which is in blue, that's the closeout process. And
4 then we have an adjudicating authority which is under
5 yellow.

6 But then we have a parallel track down here at the
7 bottom which would be the external functions. So I'll get
8 to how all this kind of ties together.

9 So if we go from left to right, the first thing
10 that happens is we get a 50-04 submittal. The district
11 comes in and they request a fund release.

12 At that point, before the funds are released,
13 we've implemented administratively at OPSC -- we check
14 construction contracts and LCP requirements at that point.
15 We want to make sure we don't have any false 50-05 issues
16 coming out of that.

17 The next box over would be your incremental
18 compliance check and this is using the 18-month time frame.

19 Now this would be a departure from current process
20 in the fact that the first 50-06 report would be due at
21 18 months as opposed to 12 months. So that would require a
22 regulatory and statutory change.

23 The verifications that would occur at this point
24 would be 50-04 and 50-05 certifications.

25 Now we'll get into another document later on that

1 talks about certain things that can be checked. Not every
2 50-04 or 50-05 certification can be checked at the time of
3 submittal. Some things have to be checked later on just
4 because of the language and so forth associated with that
5 certification.

6 Under this proposal also, the first 50-06 would
7 trigger an external audit and so you see the dash line going
8 down to the pink area. That's where you would have the
9 scope looking at internal controls, looking at expenditures
10 on a 50-06, and whatever else that needs to be kind of
11 thrown in there. That would be looked at, the external
12 entity.

13 The other thing I want to kind of point out too is
14 you'll see circles with numbers in them and that goes to
15 another chart also. That talks about the statutory and
16 regulatory changes that would have to be done in order to
17 make this work.

18 MR. SAVIDGE: So the proposal for the external
19 audit is in keeping with the notion of -- that you raised,
20 Assemblymember, about the Prop. 39 audits.

21 The proposal is that these would be an added scope
22 that would be put into a district's education audit on an
23 annual basis. The Education Audit Guide is updated yearly
24 through regulation through the Department of Finance,
25 through California Department of Ed and the State

1 Controller's Office.

2 School Facilities Program scope would be added to
3 that. So a district would, as part of that educational
4 audit, there would be X number of questions. A certain
5 number of expenditures would be sampled.

6 Obviously a district that submits an expenditure
7 report with a hundred expenditures, they're not going to be
8 audited on every expenditure. So auditors would use their
9 standard risk model to sample expenditures and to look at
10 things that Mr. Asbell mentioned such as internal controls,
11 compliance with regulation related to the expenditure of the
12 funds, and were the expenditures fairly stated.

13 So on an ongoing basis, when a district has an
14 active project, each year there'd be a subset of questions
15 in their external audit. Their audit that their district
16 pays for now would include those funds and then some of the
17 questions related to that are the cost of that, how that
18 gets carried, whether -- so you could potentially not --
19 we're trying to not impact the general fund, for example.

20 So those SFP scope elements could be paid for from
21 local bonds or potentially from State bond funds. These are
22 some of the things that we're looking at, trying not to
23 impact general fund expenditures.

24 But the proposal is to try and use an existing
25 structure that is in place now and that districts are used

1 to as a way to provide an external audit function for SFP
2 projects.

3 CHAIRPERSON LOWENTHAL: And that being their
4 education audit?

5 MR. SAVIDGE: Yes.

6 CHAIRPERSON LOWENTHAL: And can you just explain
7 just in background and -- Assemblymember Buchanan, what
8 takes place in that education audit.

9 MR. SAVIDGE: Well, currently the education audit
10 looks at all of the district's expenditures related to the
11 general fund and their compliance with all of the
12 categorical funds and expenditures related to anything
13 such -- I mean it goes as deeply as --

14 ASSEMBLYMEMBER BUCHANAN: You're talking about the
15 standard annual audit.

16 MR. SAVIDGE: Standard annual audit. So the PTA
17 collect the money and get it through the right channels.
18 Did the cafeteria fund have the correct controls in place,
19 get the milk money back to the district to -- all of the
20 types of audits -- the correct number of teachers, staffing
21 levels, et cetera.

22 And so SFP scope added would be in keeping with
23 that and just a part of that basic audit.

24 ASSEMBLYMEMBER BUCHANAN: So I can see why you'd
25 want to include this for like a County Office of Education,

1 but you certainly don't want districts to have to include
2 this in their annual audit and at the same time pay for a
3 Prop. 39 audit, which is both a financial audit and a
4 performance audit, would you?

5 MR. SAVIDGE: Well, I mean I think the reason that
6 the committee -- the Working Group was more focused on this
7 audit path -- I think there's two from my perspective. The
8 first one is again we don't have a lot -- some areas of the
9 State don't have Prop. 39 bounds. There are school
10 districts that don't have them.

11 ASSEMBLYMEMBER BUCHANAN: I understand that.

12 MR. SAVIDGE: So that's one. So we have to end up
13 with a parallel track of some kind of we're going to do
14 this.

15 Secondly, I think that the -- there's concerns
16 still in the audit community relating to the quality and the
17 scope determination in the Prop. 39 audits and so I think
18 we've -- the scope and quality have certainly gotten better
19 over the last ten years as there's been additional
20 legislation in place and I think the Prop. 39 audits could
21 work as a vehicle.

22 ASSEMBLYMEMBER BUCHANAN: So --

23 MS. SILVERMAN: And I went into this thinking
24 that, but I'm persuaded by the fact that this -- the
25 education audits would provide a single vehicle for every

1 entity that you could add the scope onto.

2 ASSEMBLYMEMBER BUCHANAN: Well, legally to be in
3 compliance with Prop. 39, if the districts incurred this
4 extra cost in their education audit, they would still have
5 to pay for a Prop. 39 audit; correct?

6 MR. SAVIDGE: That's correct.

7 ASSEMBLYMEMBER BUCHANAN: So if you're talking
8 about streamlining it from the district's point of view,
9 you've just duplicated the effort. Right?

10 MR. SAVIDGE: Okay.

11 ASSEMBLYMEMBER BUCHANAN: So --

12 MR. SAVIDGE: Point taken.

13 ASSEMBLYMEMBER BUCHANAN: So I don't understand
14 why -- I mean the problem with Prop. 39 audits and the
15 financial audits, my experience is the auditors know how to
16 do financial audits, but I don't know -- but the problem is
17 we've never defined the performance audit.

18 So it seems to me that one way to solve that
19 for -- because probably -- I don't know what percent, but I
20 would think 90 percent or more of our projects are Prop. 39
21 projects. So for all those districts who are doing it,
22 wouldn't one way be to develop an audit manual for both the
23 financial and the performance audits for districts that have
24 the Prop. 39 bonds and have to pay for it and then, you
25 know, have an approved list of auditors just like you have

1 for the education audit so they're doing it twice, one for
2 the education and once for Prop. 39?

3 MR. SAVIDGE: Okay. Good --

4 ASSEMBLYMEMBER BUCHANAN: I mean --

5 MR. SAVIDGE: I mean that's why we're here.

6 CHAIRPERSON LOWENTHAL: So this -- I just want to
7 hear -- this is -- we're now dealing with -- and I think the
8 Assemblymember's raised an alternative approach, the
9 Prop. 39 audit versus the education audit. I'd just like to
10 hear some more -- whether this was discussed in the Working
11 Group and how you dealt with this issue in the Working Group
12 because the Assemblymember's raised the issue that this may
13 be more appropriate for 90 percent of those districts.

14 I'd like to hear -- I don't have an opinion. I'm
15 want to understand how this was discussed and what came out.

16 MS. SULLIVAN: Good morning. My name is Andrea
17 Sullivan and I'm representing the Facilities Subcommittee of
18 County Offices and I'm on the Working Group.

19 And this was an area that we discussed at length
20 and I think the Working Group's general direction was to
21 provide consistency and accountability in the reviews that
22 are being completed.

23 And we felt that there were -- among the Prop. 39
24 audits, the districts are defining the scope of those audits
25 and so they can vary significantly. And so the external

1 auditors actually had commented specifically that they felt
2 that that wasn't the appropriate area.

3 The annual audit is something that all districts
4 and county offices participate in on an annual basis and the
5 cost to do that is expected to be nominal and the amount of
6 time that will be saved by staff both at the districts,
7 counties, and at OPSC for doing those reviews would offset
8 any of those additional costs.

9 And so to go with one audit that is consistent
10 among the participating districts versus Prop. 39 that not
11 everybody will have and they will vary greatly seemed to be
12 the most consistent approach that was recommended.

13 ASSEMBLYMEMBER BUCHANAN: But you're from the
14 County Office of Education.

15 MS. SULLIVAN: Um-hmm.

16 ASSEMBLYMEMBER BUCHANAN: So I can certainly see
17 why for the county office you don't have Prop. 39 bonds and
18 you would default to the education audit.

19 But for a school district, when these auditors
20 come in and take up all of this time, why should the
21 facilities department have to spend all this time with the
22 people who do your standard -- I hate to call them education
23 audit, but your standard financial audit and then, you know,
24 a few months later have to sit down and spend time with the
25 auditors you're hiring for a Prop. 39 audit when if you had

1 an audit manual and you had certification for these
2 auditors, you would clarify the standards.

3 It would be one standard for all your Prop. 39
4 audits and you wouldn't be tying up facilities' time twice.

5 MS. SULLIVAN: Well, we already are tying up
6 facilities' time twice because we're doing the OPSC reviews
7 currently and so having those consolidated --

8 ASSEMBLYMEMBER BUCHANAN: I'm just --

9 MS. SULLIVAN: -- annual audit was the direction
10 that the --

11 ASSEMBLYMEMBER BUCHANAN: Well, yeah, I know. But
12 I think there are two issues though. One is the audit and
13 the second is what's included in the audit. And I -- again
14 I'm just -- I know I'm -- I'm not trying to belabor the
15 point, but by law, every district that has -- does a
16 Prop. 39 bond has to have a financial audit and a
17 performance audit.

18 If they're not clearly defined, we should have an
19 audit manual and people should be -- you know, they
20 should -- districts would have to choose from that, you
21 know, approved list.

22 But I still don't know why you're going to ask
23 districts to go through that twice.

24 MR. SAVIDGE: I think that you -- the issue of the
25 Audit Guide and the certification for the auditors related

1 to Prop. 39 is probably -- those already exist for the
2 education audit.

3 ASSEMBLYMEMBER BUCHANAN: Right.

4 MR. SAVIDGE: And so if we were to go down the
5 Prop. 39 route, we would have to develop a really more
6 rigorous structure. It probably -- with legislation to
7 incorporate and I think if we're trying to be consistent
8 with the original recommendations that the Board adopted
9 about audits, we'd want to have an annual Audit Guide
10 process that would include the input from the SFP so that
11 they were consolidated in the Prop. 39 audits.

12 I -- you know, as you know, I went into this
13 thinking that the Prop. 39 audits would be a really good
14 vehicle because in the district I was in, they were very
15 rigorous.

16 ASSEMBLYMEMBER BUCHANAN: Right.

17 MR. SAVIDGE: And I thought they were extremely
18 effective actually too, but my sense is from involvement
19 with some statewide agencies -- or statewide entities and
20 hearing a lot of feedback, they're not always as rigorous as
21 that everywhere across the State.

22 ASSEMBLYMEMBER BUCHANAN: Right.

23 MR. SAVIDGE: And so what we -- if we're going to
24 go down that route, there's some work for us to --

25 ASSEMBLYMEMBER BUCHANAN: Right.

1 MR. SAVIDGE: -- related to getting them to the
2 level that the education audits are at now with the guide
3 and the process.

4 ASSEMBLYMEMBER BUCHANAN: And I guess my question
5 is shouldn't we do that. Wouldn't it be better for the
6 taxpayers to know that you've got that consistency in a
7 Prop. 39 audit and it certainly would clarify it for
8 districts and you wouldn't then have to duplicate.

9 CHAIRPERSON LOWENTHAL: So what you're saying is
10 instead of having -- and this is an interesting argument
11 that we need to do. Instead of having a duplicative process
12 and if there are inconsistencies now between what certain
13 districts and others do in terms of what they're -- you
14 know, what is in the requirements for a Prop. 39.

15 If we did do for those 90 percent of the districts
16 that must do Prop. 39 that we would need, either statutorily
17 or through regulations, to create this consistency in the
18 Prop. 39 audits and to go in that direction.

19 ASSEMBLYMEMBER BUCHANAN: Yeah.

20 CHAIRPERSON LOWENTHAL: So that is one of --

21 ASSEMBLYMEMBER BUCHANAN: Right.

22 MS. MOORE: That was exactly what I was going to
23 comment on because we do have a legislated process for the
24 annual audit that meets annually to -- with a prescribed
25 group of people that determines what's in the Audit Guide

1 and what will be audited annually.

2 And any changes in that are approved through that
3 process and it was. It's prescribed in legislation -- or in
4 law and -- the Department of Education is a part of that --
5 obviously a part of that process.

6 CHAIRPERSON LOWENTHAL: So what you're saying also
7 again it's clear of what we have to do there and if we do
8 decide to do the Prop. 39, we would have to clarify that --

9 MS. MOORE: Yeah. My -- one of my questions is
10 this. I heard earlier in the conversation that we currently
11 audit in the manner that we do now through the Office of
12 Public School Construction about 6 percent of projects.

13 So are we recommending through this procedure -- I
14 mean whether it's the Propr. 39 or the annual audit, the
15 recommendation that's coming forward. Then are we at a
16 hundred percent audit situation or -- I mean that hasn't --

17 MR. SAVIDGE: That's basically the proposal that
18 any district that receives funds under the School Facilities
19 Program would at the 18-month milestone when they submit an
20 expenditure report, a 50-06, that would trigger their
21 participation in audit which would be a sample type audit.
22 It's not that everything -- it would follow standard
23 procedure.

24 You're not going to have every single expense
25 audited. You do what auditors do in terms of assessing risk

1 and sampling projects and you develop a guide to check the
2 projects for compliance with law and whether they were
3 allowable or not allowable expenditures and then each year
4 you have funds from the SFP. You go through that.

5 And then the part that Rick hasn't gotten to yet
6 is that at the end of the project, OPSC still has a function
7 related to reconciliation. Many of the projects have money
8 on the table, if you will, that need to be adjusted one way
9 or the other.

10 There's a reconciliation process that the Office
11 of Public School Construction does that then goes back to
12 the State Allocation Board for the approval of the
13 reconciled funds and also some projects that have no
14 reconciliation that are just closed out at their final
15 expenditure review, at which point OPSC honors the work of
16 whatever audit function has -- in other words, they're not
17 going to recheck every expenditure, but they're going to
18 look at the final report, make any reconciliations and
19 adjustments required, take those to the Board or issue a
20 closeout letter from any districts with no reconciliation.

21 CHAIRPERSON LOWENTHAL: Mr. Almanza.

22 MR. ALMANZA: I think it's important to define,
23 you know, the difference between this Prop. 39 audit and the
24 reviews that OPSC does.

25 I think what OPSC does is a review for payments

1 and certification on that 6 percent. I think what we do is
2 certify the documentation behind the expenditures.

3 Now the Prop. 39 I think is a true audit where
4 auditors come onsite, camp out for a while, and profiles --
5 review everything.

6 OPSC has never done that. Well, I think you tried
7 to do that a few years ago and that's what triggered this
8 Work Group and this Subcommittee.

9 You know, I do think that, you know, given that
10 it's a multi-billion dollar local assistance program, we
11 ought to have an audit program, a real audit program which
12 we've never had.

13 So if we started to do this Prop. 39, we'd enhance
14 what we currently do. Most of what we do, we have to do in
15 managing the program.

16 So a Prop. 39 vehicle to do independent audits
17 would be good, but I don't think it's replaced anything that
18 we're doing right now because right now we don't do any
19 onsite rigorous auditing.

20 ASSEMBLYMEMBER BUCHANAN: Right. Yeah. See, I
21 think I -- I think we're in agreement. I don't -- we
22 can't -- I mean if we're 6 percent, we can't go from -- I
23 mean you'd have to have 20 times more people to do a hundred
24 percent.

25 MR. ALMANZA: Right. We're not going --

1 MR. ALMANZA: And I don't think we can go there
2 financially. I think the whole idea of narrowing the time
3 frame is good because districts don't want that big surprise
4 down the road. Five or six years after they've spent all
5 the bond money, now you're saying, well, you owe us, you
6 know, money.

7 I mean they -- the only place they can take that
8 money is out of the general fund. So you've got to have a
9 process that does a much better job of informing and I think
10 we have to have a process that requires better closeouts on
11 a district's part so they don't drag on as well.

12 So my -- you know, the thinking behind my
13 recommending that we use Prop. 39 in a more robust way is
14 that if we had those audits and the results were sent, they
15 would provide earlier triggers for the district, but they
16 would provide reports to our staff and hopefully help us
17 narrow where we want to focus our time.

18 You know, we all know if you want to read an audit
19 report, you read it from the back to the front. You go to
20 the exceptions first and that tells you where there are
21 problems.

22 So it seems to me that that would help us, you
23 know, take a look at these things and then the auditors have
24 to be approved and you have a real audit guide. Then you've
25 improved the process dramatically.

1 MS. MOORE: That was one -- oh, excuse me,
2 Senator.

3 CHAIRPERSON LOWENTHAL: No. Go on.

4 MS. MOORE: That was one of my questions as well
5 is we go down this path and ask to, you know, have more
6 information, I think you're -- this is an intermediary time
7 check-in -- is that question of if there is an audit
8 exception, whether it be in the Prop. 39 or in the education
9 audit or whatever direction that we kind of determine to go,
10 how is that handled?

11 Currently that -- you know, audit exceptions in
12 the education audit are handled at the school district and
13 then ultimately can be handled at the State Controller
14 level.

15 So how do we -- or the State -- State Controller
16 or State Auditor. How -- I think we would want to explore
17 that as well.

18 Currently, you know, the Office of Public School
19 Construction, any concerns or issues that are raised in
20 their functions are dealt with by the State Allocation Board
21 or the office.

22 So how would we propose -- when you're looking at
23 this and coming back to us, how would we propose to handle
24 that issue.

25 MR. ASBELL: Actually that's kind of a part of the

1 flowchart. So maybe we can continue on with that and I can
2 kind of explain that.

3 CHAIRPERSON LOWENTHAL: Okay.

4 MR. ASBELL: So going to the next box over to the
5 right, in the middle under the SFP expenditure review, the
6 first blue box -- so after the first 50-06 report comes in
7 and then you're required to submit on an annual basis
8 additional expenditure reports and then once again we have
9 another dashed line that's going down to the pink box down
10 there.

11 The next box over, we talk about the trigger for
12 the completion of a project. Once that comes in and that
13 gets added to our workload list and kind of what I'd alluded
14 to before, we proposing a regulation change from two years
15 down to one year on how long it sits on a workload list
16 before we engage and do some kind of a review.

17 The next box over is when we actually begin the
18 review and that's based off the final 50-06. Kind of
19 dovetailing on what Bill was saying, we are not going to
20 duplicate what the external function had done previously,
21 i.e., looking at previous 50-06 reports.

22 We would look at the final expenditure report and
23 do our reconciliation based off of that.

24 One of the other things at this point too, there
25 might have been some 50-04 and 50-05 certifications we were

1 not able to check earlier on in the process maybe because
2 the information wasn't available to the district or us that
3 we would check at this point also.

4 And then once we're there, then we would do our
5 review and then based on the outcome of that review, either
6 the district would agree or disagree and then it would go to
7 the State Allocation Board for final adjudication.

8 Going back down to the parallel track though, if
9 there is a finding -- we talked about this at length at the
10 Audit Work Group.

11 One of the things that we threw out -- and I think
12 we're still trying to bluish out some of these concepts -- is
13 the trigger related to a finding in which repayment of funds
14 are due.

15 I have a dash line at the very bottom right now
16 that goes from a decision point that goes up to the blue
17 part that's dashed that if the reconciliation would have to
18 occur because of a financial finding would have to go back
19 to the State Allocation Board.

20 That's the current structure right now. Anything
21 that has an adjustment up or down has to go to the State
22 Allocation Board.

23 So that is a possibility to look at there or the
24 other process is they would just continue down the education
25 audit appeals panel process and the finding would be

1 adjudicated that way.

2 So that's kind of a parallel track, but then it
3 kind of diverges based on what kind of finding that you're
4 looking at and that I think that was what we just talked
5 about.

6 MR. SAVIDGE: So does that answer your question,
7 Ms. Moore?

8 MS. MOORE: Somewhat, yes.

9 MR. SAVIDGE: Okay.

10 MS. MOORE: I am not --

11 MR. SAVIDGE: So it -- basically if there's a
12 finding that apparently would result in the return of funds,
13 that's something that would need to go back to the State
14 Allocation Board because that's the agency that does all the
15 allocations and adjustments -- reconciliations.

16 If there are findings in an audit that are --
17 don't necessarily involve money, they could go through the
18 regular process for whatever audit it is we're using and
19 be -- you know, many times in audits districts receive
20 findings or comments or various items from their auditors
21 and many of them are resolved internally and responded to by
22 districts as they go forward.

23 Some of them require changes in process,
24 et cetera. So there's certainly a line of actions that come
25 out of audit findings and exceptions that districts are

1 pretty used to at least in the education audit side.

2 MS. MOORE: Mr. Savidge, if you've been through a
3 Prop. 39 audit as a school district, then how does the
4 district deal with any exceptions currently in a Prop. 39
5 audit?

6 MR. SAVIDGE: Well, we never had any major
7 exceptions at our district and I think it's really good to
8 go back and remember what Prop. 39 audits are meant to do.

9 And the primary function of a Prop. 39 audit is to
10 ensure that the funds are being spent in accordance with the
11 bond language on the projects that the district listed.

12 And so there's a pretty fundamental focus of them
13 that's on the financial side, it's checking the transactions
14 related to that. Were those on projects that were on the
15 project list that the Board of Education approved.

16 The performance audit side if we're talking about
17 a vehicle to use, it's probably the better approach for this
18 program potentially because the performance audit is --
19 casts a little bit broader net and looks at the entire
20 structure of the district that is expending bond funds,
21 ensuring that their processes are there related to the
22 projects that are on the bond list, but also looking at
23 compliance with law, fitting in procurement processes, and
24 et cetera.

25 So typically the findings that we got are the

1 exceptions or issues that arose in audits that we had to
2 deal with. We would propose a solution to that and then
3 auditor would come back and accept that or not.

4 You know, if we had three projects that should
5 have been bid in a certain way, then they would say -- we
6 would say, well, we'll do them this way, here's the
7 structure we've set up to respond to that, and they would
8 say yes, that's fine.

9 So a little bit different structure than in the
10 education audit.

11 MR. ALMANZA: So if we were to use the Prop. 39
12 vehicle to establish an external audit program that we
13 currently don't have, wouldn't the auditor's report come
14 back to staff and any significant findings be brought before
15 the State Allocation Board?

16 MR. SAVIDGE: I think that what we were talking
17 about with Mr. Asbell's review is that especially areas
18 where there was a need for funds -- there were funds that
19 might need to be returned or funds were impacted,
20 definitely.

21 I don't think we've talked at length about the
22 process of -- the feedback process to the Board in terms of
23 any of the external audits, whether it's the education audit
24 or Prop. 39.

25 We did talk in the Working Group a little bit

1 about how audits are posted or the information available in
2 the audits and there were some recommendations in the
3 original work about that.

4 But I think this is one of the areas that needs to
5 get fleshed a little bit is how does information get back to
6 the Board, what is the posting and public accountability
7 pieces.

8 Right now the education audit is posted on the
9 school district's website and I think one of the current
10 pieces of legislation that I think Senator Wyland carried
11 for Prop. 39 performance audits was to require those to be
12 sent to the State Controller's Office.

13 So there's certainly a lot of activity in the
14 field relating to wanting to get the information back up to
15 the State level.

16 MR. ALMANZA: Yes. Because the -- you know, the
17 monies that are delivered by State Allocation Board and
18 OPSC, you know, they're our responsibility. You know, we're
19 the ones held accountable, you know, and staff is -- OPSC is
20 held accountable financially for the program.

21 So if we're going to have this new external audit
22 conducted through the Prop. 39 vehicle, then for the record
23 and for accountability, then that audit and its findings
24 need to be a part of our file.

25 MR. SAVIDGE: Yep. I think we agree that they

1 definitely need to get transmitted in some way back to OPSC
2 because it becomes part of the overall project file.

3 CHAIRPERSON LOWENTHAL: Right. So as I
4 understand, let's -- well, I have one question and then I'm
5 going to comment and ask -- that someone threw out that
6 90 percent would be covered under Prop. 39. How did you
7 arrive at that number? Is that a real number or just an
8 estimate?

9 MR. SAVIDGE: I think some of the information that
10 we have --

11 ASSEMBLYMEMBER BUCHANAN: I threw it out. I
12 actually think it might be more than 90 percent.

13 CHAIRPERSON LOWENTHAL: Well, I just don't know
14 what that number is. I'm just wondering how we would know.

15 MR. SAVIDGE: I think actually CDE has a listing.
16 One of the ones you can tell is, there is a table listing of
17 bonds that have been passed locally since 1998 and the
18 percentage that are Prop. 39 bonds and the percentage that
19 are non-Prop. 39 bonds and it's in that neighborhood, 80,
20 90 percent I believe.

21 Ms. Moore, you have that --

22 MS. MOORE: We have the list. I don't have it by
23 percentage of districts that participate, only on -- we have
24 it on percentage of pass rate.

25 But I would assume that those that are not a part

1 of the Prop. 39 audit area are hardship and county offices
2 and those would be the two.

3 And then the other -- there's a lot of
4 coordination that would have to go on because these Prop. 39
5 committees exist during the time of the bond fund
6 expenditures, which may or may not coincide with the
7 completion of a project.

8 So I think we'd have to look at that carefully.

9 MR. SAVIDGE: Citizens oversight committees.

10 MS. MOORE: Right. The citizens oversight
11 committees. I know that we -- and the citizens oversight
12 committees they have for -- the committee members have
13 prescribed membership time allotments. I don't -- and we
14 just extended that by legislation.

15 MR. SAVIDGE: That's correct. Three two-year
16 terms.

17 MS. MOORE: Three two-year terms.

18 MR. SAVIDGE: Um-hmm.

19 MS. MOORE: So that's a six-year function
20 potentially on it and that I would think we'd want to look
21 at how is it consolidated if there's more than one Prop. --
22 I'm assuming more than one Prop. 39 bond issuance, which
23 could happen. There could be different times that a
24 community has gone -- or a school district has gone to their
25 voters for bond authorization. So that would have to be

1 considered as well.

2 Any other, Andrea, that you know?

3 MS. SULLIVAN: I just had a thought as far as, you
4 know, if we're looking to have some consistency in the scope
5 for the Prop. 39 that what's included in the education audit
6 for facilities review, that component would establish a
7 baseline of what needs to be in the Prop. 39 audit.

8 So rather than trying to adjust all the Prop. 39
9 audits to fit this, you establish what that criteria is as
10 part of the education audit and it gets carried into the
11 Prop. 39 and maybe that reduces the scope of the Prop. 39
12 and has more consistency between all Prop.39 audits.

13 CHAIRPERSON LOWENTHAL: Yeah. What I'm hearing
14 from the -- is that this is -- from the committee, it's
15 still not resolved. It's an open issue --

16 ASSEMBLYMEMBER BUCHANAN: Right.

17 CHAIRPERSON LOWENTHAL: -- and that we -- I think
18 we've raised a lot of interesting issues that have been --
19 and my sense is that the Audit Working Group -- and I'm
20 going to listen to also the public comment that comes out --
21 needs to go back and struggle with this issue and to come
22 back to us with it, that we could go either way, depending
23 upon what is the most appropriate information that we get.

24 Really it's all about which provides us with the
25 most appropriate information.

1 And if it means that the -- as you pointed out,
2 that we go with the Prop. 39 but we need to make that more
3 robust also and to be -- that's fine too.

4 We just need you to struggle with that issue and
5 then come back to us.

6 MR. SAVIDGE: Thanks.

7 MS. SULLIVAN: I have a question on this section
8 of the flowchart because there's a distinction that we
9 haven't discussed at the Audit Working Group that notes that
10 the additional 50-06 reports would be verified through the
11 external audit except the final 50-06 and that was not
12 something that we had discussed with the Working Group. And
13 so I think that that's something that definitely needs to go
14 back.

15 Because what this is showing is that that would
16 now be picked up by OPSC and our understanding at the Audit
17 Working Group would be that that would just -- actually that
18 would still be part of the audit -- the external auditor,
19 but the reconciliation would be OPSC's review but not
20 auditing the expenditures.

21 So I want to make sure that we're clear on that.

22 MR. SAVIDGE: In going forward too, if -- I think
23 a good way for us to wrestle with this, if it's okay with
24 this Subcommittee, I'd actually like to propose that we
25 maybe bring an additional resource to the Audit Working

1 Group and ask someone involved in Prop. 39 audits to sit on
2 the panel with us if that's okay with the Subcommittee.

3 CHAIRPERSON LOWENTHAL: Absolutely. That's -- so
4 I think we -- again we need to make the most rational
5 decision in that and if that's going to help us, then that
6 would be certainly appropriate.

7 MR. SAVIDGE: I don't have a suggestion at this
8 time, but I'll get back to everyone and we'll let you know.

9 CHAIRPERSON LOWENTHAL: Right.

10 MR. ASBELL: Let's go to the next slide. So the
11 next slide here, we had talked about when certifications
12 would be looked at. And so we've put together a matrix
13 based on certifications on the 50-04, the 50-05, and
14 substantial progress.

15 We've got them broken out into when we would check
16 these. One would be at the time of fund release and that
17 really relates to the 50-05 with the contracts and the LCP
18 requirements.

19 And then in the middle column, you've got the
20 consolidated check which would be the 50-04, the 50-05, and
21 substantial progress check which would take care of the
22 majority of those certifications.

23 And then the final column would be the SFP closeout.

24 And I had talked about earlier about some of these
25 certifications we would not be able to check until later on.

1 As an example, if you go down to line 27, under the 50-04
2 certification, fire system request to have funding is
3 installed during project before completion.

4 We could check that at the incremental review, but
5 the project may not be close to complete. So that's why we
6 have an X there at the SFP closeout stage.

7 So, you know, in theory it would be nice to be
8 able to check all these certifications at the time of
9 submittal, but reality is we wouldn't be able to check a lot
10 of these just because they wouldn't be ready by then.

11 So that's what this chart is showing here. And
12 you can tell there's a lot of certifications on here.

13 If you combine all three of the documents
14 together, I think you're looking at 67 certification-related
15 line items. But this at least would give a sense and a
16 heads-up to the districts of what we would check and when we
17 would be checking it.

18 MS. MOORE: Rick, so the column in the middle, the
19 consolidated incremental compliance check, that's the
20 18-month check?

21 MR. ASBELL: Yes, that's correct.

22 MS. MOORE: And that's all the things that would
23 be checked -- that would be reviewed during that time?

24 MR. ASBELL: Right.

25 MR. SAVIDGE: I think the better word is could be

1 reviewed at that time and I think that auditors work by --
2 I've learned about working with auditors since I've been
3 involved in this process and I think that auditors work by
4 sampling techniques because the amount of data and the
5 amount of information is so overwhelming. So they focus on
6 areas of risk and look at specific subsets of items, but
7 this is a listing of items that could be.

8 These are certifications that are made by
9 districts.

10 MS. MOORE: But this --

11 MR. SAVIDGE: Some of them are clearly more
12 important than others.

13 MS. MOORE: -- Public School Construction work;
14 right? Versus --

15 MR. ASBELL: Yes.

16 MS. MOORE: -- external auditor work.

17 MS. SILVERMAN: Right.

18 MR. ASBELL: Yes.

19 MR. SAVIDGE: Yes. Correct.

20 CHAIRPERSON LOWENTHAL: Since we all being
21 laypeople, I'm not really quite sure I -- and assume that
22 all of this is done in every audit which as you're saying
23 is -- could be done, might be done -- are there those are
24 that more -- that we need to kind of examine that are more
25 appropriate that should be done and others are choices? I'm

1 just -- I just need to understand that.

2 MR. ASBELL: Kind of going back to our flowchart,
3 the biggest issues that we see the material inaccuracies are
4 making sure you have contracts in place at the time of the
5 50-05. So we're checking every single one of those for
6 every single project.

7 CHAIRPERSON LOWENTHAL: Okay.

8 MR. ASBELL: That's a hot button issue. LCP has
9 been a hot button issue. So we're checking the labor
10 compliance.

11 Those without fail are going to be checked on
12 every single project.

13 CHAIRPERSON LOWENTHAL: Okay.

14 MR. ASBELL: You have our assurances on that.
15 Otherwise, you know, it is kind of a hot -- whatever the hot
16 button issue is at the time, if we start to see that there's
17 an issue that's popping up with a certain certification,
18 then what we may do is focus toward looking at those for
19 maybe all the projects because we know we have a problem
20 there.

21 CHAIRPERSON LOWENTHAL: And that will be really
22 clearly spelled out in the Audit Guide or the guide because
23 really what we're trying to do is to make sure that
24 everybody knows what the rules are and that they're
25 following the rules and there has to be consistency between

1 what we ask people to do and then what we audit.

2 And so I just want to make sure that -- you know,
3 that was the -- one of the driving reasons for the audit.

4 MR. ASBELL: I think one of the things you need to
5 keep in mind though, it's kind of -- it's very fluid and
6 dynamic because at one point, we may not be having an issue
7 and all of a sudden now, we start to see these issues pop
8 up.

9 So I mean we'll do the best we can as far as
10 outreach, notifying districts on what we will look at
11 because to have a crystal ball to understand what
12 certifications are going to be issues down the road is very,
13 very difficult.

14 CHAIRPERSON LOWENTHAL: Right. As I say, you
15 know, we don't want to go through a process where people --
16 we get into an adversarial relationship where it's a
17 gotcha'. You know, see -- we're trying to make sure that we
18 maintain the highest standards and that we check for that
19 and yet it's clearly defined as much as possible.

20 MS. SILVERMAN: And I think the goal is once we
21 put the cert check in place I mean is also blush out what
22 other documents may be required as far as validating that
23 checklist.

24 CHAIRPERSON LOWENTHAL: Um-hmm.

25 MS. SILVERMAN: So I mean but once we get through

1 this and get married to it, then we can create what the
2 checklist would look like. So that way it's a clear table,
3 clear standard for everyone to understand.

4 CHAIRPERSON LOWENTHAL: Okay.

5 ASSEMBLYMEMBER BUCHANAN: Yeah. I'm looking at
6 this certification list that you're making I mean and I
7 don't know exactly on some of these, but district has
8 considered joint use of land and facilities. I mean it's --
9 you the DVBE or whatever, it's -- I mean I look at some of
10 these things and it looks -- a lot of it looks to me like it
11 would be a very simple -- I don't want to keep belaboring
12 the Prop. 39, but a very simple checklist for someone to say
13 yes, here's a copy of the district's resolution or whatever.

14 Because I just get back to the sooner the district
15 knows of a problem, the easier it is to correct it, and, you
16 know, if you're not a couple years down the road finding
17 this out and then finding out you're potentially
18 jeopardizing the funding you've received, it's better.

19 CHAIRPERSON LOWENTHAL: That's right. Okay.

20 MR. ASBELL: Okay. So going back to our
21 multicolored flowchart, we've got numbers that are in
22 circles and the charge that -- what we have here on the wall
23 now kind of speaks to what we think would have to be done
24 from a regulatory and statutory change in order to make this
25 proposal work.

1 So one of the things that we would look at, just
2 looking at the very first one, if we did -- if we were to do
3 an 18-month incremental check, it would have to be a change
4 to the statute and regulation. Also changing the reporting
5 requirement at 18 months as opposed to 12 months, we're
6 looking at statutory and regulatory change.

7 The trigger, that would be in regulation. In
8 statute it doesn't say the -- it talks about a final report
9 being due. So we may have to make a statute change on that,
10 but we weren't sure on that.

11 The review of the final expenditure report, that
12 will require regulation change. That would be on our
13 workload list, changing it from two years to one year and
14 then as far as the annual Audit Guide and the findings and
15 how they're handled, I think that really needs to be blushed
16 out.

17 We need to talk to maybe the State Controller's,
18 education office, audit appeal panel, maybe talk to Prop. 39
19 personnel and see how we can kind of make that happen if
20 that's the way we want to go.

21 MR. SAVIDGE: And I think if we were to go down
22 the road of a Prop. 39 audit as opposed to an education
23 audit that was the basis of this chart, there's probably a
24 different matrix we could bring you regarding which elements
25 of the Education Code and -- or regulations need to be

1 adjusted for those components.

2 ASSEMBLYMEMBER BUCHANAN: And I've got two
3 questions. Again I'm not trying to supersede OPSC's
4 responsibility, just the question in my mind is what is the
5 most efficient.

6 And then my last question that I don't think
7 we've -- we've sort of touched on the beginning, the
8 99 percent versus a hundred percent complete, but, you know,
9 what is the time frame there where a district has to be a
10 hundred percent complete so we don't drag out these
11 99 percent situations and, you know, they are complete. We
12 can close it out and there is some certainty there for the
13 district.

14 So, you know, if I file my income taxes, I know
15 that if they haven't been reviewed within the first four
16 years, unless there's fraud or something else, I'm sort of
17 home free.

18 It seems to me that we ought to work closely to
19 find when these projects have to be a hundred percent
20 complete. You don't drag out the 99 percent per years and
21 then, you know, we're providing within this some certainty
22 that says, okay, if you're not the -- among the 6 percent or
23 whatever, I mean we're doing this so that the districts have
24 certainty, so we don't have the Compton situation or other
25 types of situations that come out years down the road.

1 MR. SAVIDGE: So we'll take that back to --

2 MS. SULLIVAN: If I could just comment on that
3 briefly.

4 I did want to just note that although there are
5 projects that come in for several years at 99 percent, it's
6 due to different reasons. One could be that you're waiting
7 for your final change order to be approved by DSA.

8 We've had to wait a year before for that. I think
9 that's being streamlined at this point, but generally you
10 don't want to close out your project after you've been in
11 the facility a couple of months. You want a whole year to
12 make sure that you've purchased all the appropriate
13 furniture and equipment and that you haven't missed
14 something and especially at the high school level, that's
15 really critical.

16 So it's not just a -- you know, we're just putting
17 it off. There are actual, you know, things that are being
18 considered and taken into account that you wouldn't be able
19 to turn that in following immediately --

20 ASSEMBLYMEMBER BUCHANAN: If you have a change
21 order at DSA, I have no problem with that, you know, but if
22 you've given the contractor final payment, his -- the
23 10 percent retention, then is that a hundred percent? I
24 mean so --

25 MS. MOORE: Well, I think what she's indicating is

1 that there are some things that come at the end of the
2 project --

3 ASSEMBLYMEMBER BUCHANAN: Right.

4 MS. MOORE: -- particularly a lot of equipping and
5 furnishing that oftentimes are what go on for a period of
6 time.

7 But I think you could arrive at a period of time
8 that everybody agrees to. It's not current; right? We
9 don't -- do we have one, Lisa, that you have to file the
10 hundred percent within?

11 MS. SILVERMAN: No. I mean the parameters are is
12 either you report three to four years after your -- I mean
13 once you've received your fund release, your project should
14 be complete within the three- to four-year window, but we
15 have challenges when we don't necessarily have the full
16 reporting of the project because folks may say I'm only
17 99 percent complete but yet may extend that chain of that
18 real trigger because it's either one -- either/or.

19 So if they don't report a hundred percent
20 complete, that string keeps getting extended. So --

21 CHAIRPERSON LOWENTHAL: Right.

22 MS. SILVERMAN: -- we don't necessarily get to
23 shorten that window if that string keeps getting extended.

24 So we all agree that a trigger date would be
25 really helpful for us.

1 You know, one of those aspects is do you create a
2 bright line test with that trigger mark, is it occupied plus
3 six months, or do you have projects that have encumbrances
4 attached to it that, you know, we would take into account
5 those encumbrances and okay, well, after that point in time,
6 then yeah, we have to create a bright line for us.

7 CHAIRPERSON LOWENTHAL: So we have something else
8 you got to go back and work on.

9 MS. SILVERMAN: Yes.

10 CHAIRPERSON LOWENTHAL: Good. All right.

11 MR. SAVIDGE: Thank you. I think that completes
12 our presentation and we came asking for feedback and we got
13 it.

14 CHAIRPERSON LOWENTHAL: You got plenty.

15 MR. SAVIDGE: Thank you so much for that.

16 CHAIRPERSON LOWENTHAL: And I think very
17 effective. Now we would like to -- oh, Bill. We would like
18 to have -- I think the next would be the public comment.

19 I think that was very complete. I think we've had
20 a robust at least discussion if not a robust audit.

21 It'd be nice to hear public feedback especially
22 about some of the issues that the -- our Audit Subcommittee
23 is grappling with.

24 So is there any public feedback or public comment?
25 Any concerns? How do you think it's going? Any issues

1 that you'd like to just raise now that you've heard this
2 discussion.

3 And don't all jump up at once. You know, there's
4 not -- there doesn't have to be a rush to the microphone.

5 ASSEMBLYMEMBER BUCHANAN: Everyone's doing good
6 work; right?

7 CHAIRPERSON LOWENTHAL: Well, I think we've done
8 good work. We've identified the critical issues. We're
9 sending them back to the mines to come back with -- you
10 know, work on these issues.

11 If any of the members wish to make a final
12 statement or -- I mean we've done enough talking I think,
13 but -- I think our views have been expressed clearly on what
14 we want to do and I just want to thank everyone, OPSC for
15 stepping up and being very supportive and working with the
16 Working Group.

17 I've only heard positive things that -- about
18 this. I think everybody realizes the importance of this
19 venture. We just have some loose ends that really need to
20 be completed.

21 I think the general framework we're pretty clear
22 on and how we're going to streamline this, how we're going
23 to really have a much more transparent and open process.
24 We're just not quite sure exactly what that means yet and so
25 we're going to hear back on that.

1 And so with that then, I think this Committee is
2 adjourned.

3 ASSEMBLYMEMBER BUCHANAN: Thank you very much.

4 CHAIRPERSON LOWENTHAL: Thank you.

5 (Whereupon, at 10:32 a.m. the proceedings were
6 recessed.)

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