

State Allocation Board
Audit Subcommittee Meeting

State Capitol Building

Room 112

Sacramento, CA 95814

Wednesday, September 1, 2010

1:30 P.M.

Reported by
Tahsha Sanbrailo

APPEARANCES

Members Present:

Senator Alan Lowenthal, Chair
Scott Harvey, Department of General Services
Kathleen Moore, Department of Education

Staff Present:

Lisa Kaplan, Assistant Executive Officer
Chris Ferguson, Department of Finance

Others:

Cassandra Moore-Hudnall, State Controller's Office,
Chief, Financial Audits Bureau
Lettie Boggs, CEO, Colbi Technologies, Inc.

Public:

Tom Duffy, Coalition for Adequate School Housing (CASH)
Anna Ferrera, County School Facility Consortium
Lyle Smoot, LA School District
Mike Ricketts, CA County Superintendents Education
Services Association
Andrea Sullivan

1 P R O C E E D I N G S

2 SEPTEMBER 1, 2010

1:30 P.M.

3 SENATOR LOWENTHAL: Welcome everybody to the State
4 Allocation Subcommittee on Audits. I am Senator Lowenthal,
5 I think I am here, you know, we just finished up the first
6 part of our session last night, but different from other
7 years, it doesn't seem like we finished up anything because
8 everything is about the budget, as you all know, so that
9 just dominates everything. But talk not money and budgets,
10 we are here to talk about our Subcommittee and Audits.

11 First of all, let's call the roll, no, not as a
12 Subcommittee. We're going to operate as the subcommittee, I
13 am going to make a statement. Kathleen, would you like to
14 make a statement, offer a statement of any kind?

15 MS. MOORE: I may offer a couple of comments.

16 SENATOR LOWENTHAL: Okay. Let me introduce
17 myself.

18 MS. KAPLAN: Senator Lowenthal - Yes, thank you;
19 Kathleen Moore - Here. We do have a quorum. Scott Harvey
20 is on his way.

21 SENATOR LOWENTHAL: Good. And as I say, welcome
22 to our Subcommittee on Audits Hearing, and the Subcommittee
23 was established by unanimous vote and decision of the State
24 Allocation Board in recognition of concerns that were raised
25 by School Districts regarding changes in audit procedures

1 and requirements. The Board requested that the Subcommittee
2 study the scope of the OPSC auditing authority and bring
3 recommendations to the State Allocation Board defining that
4 authority. The Board further specified that the
5 recommendations should seek a balance between our fiduciary
6 responsibilities for bond accountability and the best use of
7 state and local resources in conducting audits.

8 To accomplish this task, the Subcommittee, with
9 the endorsement of the full State Allocation Board, formed
10 the Audit Working Group, a group of audit experts. This
11 group has reviewed areas of redundancy in State audits of
12 School Districts, and has studied the scope of the School
13 Facility Program Audits.

14 Before we begin the discussion of the Audit
15 Working Group recommendations, I first want to thank the
16 members of the Audit Working Group for all their thoughtful
17 work. This group, which is made up of Auditors, State
18 Agency and School District Representatives, modeled really
19 the best of the Democratic process. Auditor experts
20 listened to concerns raised about current School facility
21 program audit processes, and thoughtfully responded, at
22 times with reassurance to Districts that these processes are
23 necessary and typical, and at times with information about
24 how these processes can more efficiently be utilized to
25 accomplish the goals of accountability. Discussions were

1 always professional, considerate, and well informed. And
2 today, two members of the Audit Working Group will present
3 the group recommendations. Lettie Boggs, a School District
4 Representative who specializes in School Facility Program
5 Audits, and Cassandra Moore-Hudnall, Chief of the Financial
6 Audits Bureau with the Office of the State Controller.

7 I would like to ask staff from the Office of
8 Public School Construction and the Department of Finance if
9 they would like to come forward because I am sure there will
10 be questions and I would like them to also, if they have any
11 concerns, if they would like to come forward if there are
12 questions. You know, it is my hope that we are going to be
13 able to adopt most, if not all, the recommendations in the
14 Working Group today and have these recommendations sent to
15 the State Allocation Board for their review and approval.

16 I would like to introduce Subcommittee Members.
17 On my left is Kathleen Moore, Department of Education; on my
18 right, who will be on my right soon, is Scott Harvey from
19 the Department of General Services. If they would like to
20 make a comment?

21 MS. MOORE: Thank you, Senator Lowenthal. We are
22 pleased to be here. I know this is our third meeting of our
23 Audit Subcommittee Group, and I look forward to hearing the
24 recommendations of the working group so that we can move
25 forward, I think, with recommendations to the State

1 Allocation Board concerning this issue area. So, glad to be
2 here.

3 SENATOR LOWENTHAL: What I was thinking of, before
4 I turn it back to Lisa Kaplan, to introduce the members of
5 the working group, the task force, what I would like to do
6 is kind of lay out - I believe, as I understand, the Audit
7 Working Group is going to give kind of a brief overview of
8 how they see the process and what's important, and kind of a
9 general framework of what we're going to be talking about.
10 After they talk, if people from the audience want to make
11 comments just about the general framework, not about
12 specific recommendations, why don't you just come up and
13 make your comments because, then we are going to go through
14 the recommendations. And there will be time at the end of
15 each recommendation if you want to also make a comment, so
16 we can kind of have as much dialogue as possible. So, with
17 that, Lisa, would you like to begin?

18 MS. KAPLAN: Absolutely, thank you, Senator
19 Lowenthal and Kathleen Moore. I really truly had the honor
20 of kind of, I guess, being the facilitator of this working
21 group and really appreciate the time and effort everybody
22 went into. What I'd like to provide is an overview of who
23 was invited to be on the working group, who accepted, and
24 then just a brief synopsis of the meetings that we had and
25 how we got to this point of the recommendations that have

1 been brought forth.

2 SENATOR LOWENTHAL: Just before you do, I'd like
3 to introduce Scott Harvey. We just began, we are on kind of
4 a tight schedule.

5 MR. HARVEY: I am so sorry I was late.

6 SENATOR LOWENTHAL: That is quite all right,
7 Scott. You haven't missed anything, except my introductory
8 statement which I think framed the whole debate and
9 discussion.

10 MS. KAPLAN: I will try to summarize it in my -

11 SENATOR LOWENTHAL: But if you'd like to just say
12 a few things, if not, that's fine, too.

13 MR. HARVEY: It's a pleasure to be here. Thank
14 you for including me in this exciting endeavor. I'm going
15 to hand out a letter which is a restatement of the
16 Director's position on Audits, and the justification he has
17 for asking me to abstain today in all votes because, as his
18 letter says, with this function being his purview, he
19 welcomes all suggestions and recommendations, and he will
20 honor them, review them, and make the changes he believes
21 are necessary, and the letter goes on to indicate that, of
22 course, if there are changes, they will be broadly shared
23 and communicated with the stakeholders prior to
24 implementation. But it is consistent with what he has said
25 on more than one occasion, and I probably have uttered those

1 words myself on more than one occasion. So, to ensure that
2 we maintain that faith, he has put a letter into the record
3 and I will make sure you get your copies now. And I will
4 ask - I have a few extra - Ms. Kaplan and Ms. Silverman, and
5 then these are extras.

6 SENATOR LOWENTHAL: Good. Lisa, it is all yours.

7 MS. KAPLAN: Thank you. So, invitations were sent
8 out to FCMAT, which is the Fiscal Crisis Management Auditing
9 Team, I believe - Assistance Team - and that was represented
10 by Debi Deal, who is on vacation backpacking today, but it
11 was lovely to have her on there. We also invited and had
12 the Treasurer's Office, however, they only attended the
13 first meeting and said that they would be there on an ad hoc
14 or advice basis, if need be. A representative from the
15 California Department of Education, was Arleen Matsuura, who
16 is also here in the audience, so if there are any specific
17 questions, she is available to come up, as well. We also
18 had representatives from the Office of Public School
19 Construction, that was Steve Inman, who attended all
20 meetings and was there to add clarification and advice when
21 questions were asked about specific things with the Office
22 of Public School Construction. Representing the County
23 Offices, Education Schools Consortium, was Andrea Sullivan,
24 from the Orange County Office of Education. She is also
25 here in the audience and available to answer questions. Our

1 Independent School Auditor expert was Shilo Gorospe, who was
2 from Vavrinek, Trine, Day & Co., LLP, more so down in the LA
3 Area, was a great addition to this group in providing expert
4 outside auditing perspective. Our School Facility expert
5 was Kathy Allen from the Western Placer Unified School
6 District, and then representative from the California County
7 Superintendents Educational Services Association was Mike
8 Ricketts, who is also here today. And as you have already
9 introduced, you have Cassandra from the Controller's Office,
10 and Lettie Boggs here, as well, we also sent invitations to
11 the State Auditor, which was declined, the Inspector
12 General, declined, Department of Finance, declined, and OSAY
13 [phon] also declined to participate in the working group, so
14 it was made up pretty much of who I listed before you.

15 The charge of the Audit Working Group, as we
16 started, was to review current and existing junctures of
17 accountability at the State and local level, including at
18 various stages within the State Facilities Program, in order
19 to avoid potential redundancies, and limit inefficiencies
20 within the SFP Expenditure Audit Program. In this regard,
21 the objective of the Audit Working Group was to provide
22 recommendations to the State Allocation Board Subcommittee
23 on Audits that define the scope of the Office of Public
24 School Construction Audit Authority, and draft
25 recommendations for this Subcommittee to consider as to what

1 is the best use of State and local resources, including the
2 junctures of accountability within the use of State Bond
3 proceeds to build a school. Specifically, the working group
4 was also charged with drafting recommendations for what
5 would potentially an Audit Appeals process look like, to
6 ensure a transparent, consistent, and equitable appeals
7 process for the State Allocation Board consideration.

8 The specific issues that we looked at and
9 addressed, as they are outlined in your recommendations,
10 that were looked at by the working group, include, but not
11 limited to process, we looked at the law, regulation,
12 policy, and procedures, scope and type of audits being done
13 and recommended, the content of audits, transition issues
14 addressing redundancies, promoting best practices, and
15 communication with School Districts. We held four meetings.
16 Our first meeting was in April and our last meeting was
17 right before the State Allocation Board meeting a couple of
18 weeks ago at the end of August. Specifically discussed
19 during the meeting, as we outlined the Agenda, was to
20 discuss and - well, to create a process for handling the
21 following items with the OPSC Audit: the scope and type of
22 audit, the publishing of findings, what would be the
23 recommendation, and a process for a yearly update and
24 communication with Districts for changes within the audit
25 process. We also looked at the Controller's and the CDE EEP

1 [phon] Guide as a model potentially that could be adopted as
2 for updating the Audit Guide and establishing a clear
3 transparent yearly update so that Districts knew.

4 We also looked at streamlining the current and
5 existing junctures of audit accountability, so we looked at
6 what can we do to streamline the audit process throughout
7 the timeline and close-out specifically, so that there is
8 something that is clear as to what Districts should expect,
9 and to identify redundancies that are out there and provide
10 recommendations that could potentially address them. We
11 also looked at the Audit Appeals process, and specifically
12 the Education Audit Appeals Panel and their Appeals process,
13 and would that be a process that could potentially be
14 adopted for the State Allocation Board, and would that work.

15 At our last meeting, what we went over and what
16 has turned into the recommendations, was to define the scope
17 of the OPSC Audit Authority, specifically recommending
18 changes to the scope and types of audits being done,
19 recommended changes in procedures for SAB consideration on
20 the publishing and funding of audits, and, again, the yearly
21 update. We also drafted recommendations to streamline and
22 make the audit process more efficient, and also ways that
23 Districts could be clearly communicated with so that they
24 understood what type of audit they were getting and what
25 they should expect in timelines and communications and

1 visits with OPSC down to the District.

2 And then our last item, that you will find behind
3 the recommendations, is a Redraft of the Index of the OPSC
4 Audit Guide. We took the current Audit Guide and redrafted
5 the Index such that, if we were to update the Audit Guide,
6 this is what the working group suggested the Index should
7 look like, and then we could go in and backfill as to what
8 it would look like. But I truly want to thank everybody who
9 took part in the working group, they gave up a considerable
10 amount of time. Our meetings were three to four hours, our
11 last day was six hours, and I really thank everybody for the
12 time that they put into this. And I specifically want to
13 thank Lisa Constancio from the Department of Education for
14 helping me in this crunch time of pulling together the draft
15 recommendations, I really couldn't have done it without her.

16 SENATOR LOWENTHAL: Thank you. Shall we begin
17 with, yeah, the general overview now? Lettie, Cassandra,
18 how are you going to begin?

19 MS. BOGGS: The Committee really looked
20 extensively at Audit responsibility, Audit timelines, Audit
21 content, and these discussions took a form that was very
22 interactive. The topics are very interdependent, and the
23 recommendations before you today -

24 MS. MOORE: Lettie, could you speak up? The
25 audience cannot hear you.

1 MS. BOGGS: Okay. I have a bit of a soft voice,
2 sorry. The recommendations that are before you today are
3 really rather interdependent, so, as you are looking at
4 them, some of them would certainly be worded differently if
5 others were not adopted, kind of thing. So, they're a bit
6 of a whole, and just kind of - they came together very
7 quickly as our timeline, as you know, got shortened, so we
8 appreciate the opportunity to be able to more fully explain
9 some of them today. I know there are some concerns from the
10 field and I think they primarily deal with wording, rather
11 than what the actual content and intent of the Committee
12 recommendation would be.

13 And I think probably the primary concern and a lot
14 of the discussion of the Committee -- or working group --
15 revolved around the manual and the guide, the Program Manual
16 and the Audit Guidelines, and the lack of coordination
17 between them, and probably, if you were to weight any of
18 these, that is the very - one of the strongest
19 recommendations is that those documents need to be rewritten
20 to correspond to each other, and then they need to be
21 maintained in an open, transparent manner, so that people
22 know when they change and which rules they are operating
23 under, and which guidelines they are going to be audited on
24 from the time they begin to account for a project. So, any
25 additional?

1 SENATOR LOWENTHAL: Cassandra?

2 MS. CASSANDRA MOORE: In reiterating Lettie's
3 comments, it is very important that you not put the chicken
4 - no, the horse before the cart, or something, or chicken
5 before the egg, I'm sorry -

6 SENATOR LOWENTHAL: We get it.

7 MS. CASSANDRA MOORE: -- and when we develop Audit
8 Guidelines, we always look to either legislation, or program
9 compliance requirements, before we develop an Audit Guide,
10 and so the overarching principle is to have those program
11 compliance requirements detailed enough so that the field
12 understands what the requirements are, so then, when the
13 auditor performs the audit, and they have issues, they can
14 point to the requirements or State law, in explaining what
15 their findings are. And the other issue is those program
16 requirements, there should also be something that spells out
17 the consequences of non-compliance, so that the Districts
18 understand whether to pursue an Audit finding, let's say,
19 appeal an audit finding, because there is a significant
20 fiscal impact to the District, or to take it under
21 consideration and just make corrective action without
22 spending the resources on maybe a non-issue, or a non-fiscal
23 issue.

24 SENATOR LOWENTHAL: Good. Before we get to any of
25 the specific recommendations, as we move on, is there

1 anybody in the audience that wants to comment at all about
2 this general overview of what we're doing? All right,
3 people in agreement, let's move on, and then comments after
4 each recommendation will be done, okay? So let's go to the
5 tab on Audit Recommendations. I believe that will be - we
6 are all yours, Lettie.

7 MS. BOGGS: Did you want us to read the issue in
8 the recommendation and then -

9 SENATOR LOWENTHAL: Yeah, I think these are the
10 general scope; what we are trying to do is, again,
11 understand that we're just looking at setting the overall
12 policy now and we're talking about the policy and what the
13 Rec issues are, the very implementation and how it's done
14 and the specifics of all that, that is not done by State
15 Allocation Board at all, in our understanding, so we're
16 really looking at the general policies. So why don't you
17 explain what you see as the issue and what your
18 recommendation is?

19 MS. BOGGS: Issue A, we discussed the scope of the
20 audits need to be defined, the School Facility Program was
21 intended to be a grant and go program. One of the things
22 that has occurred recently is the expansion of the type of
23 audit to include more components, and so this is part of
24 what brought about this conversation. So, we discussed
25 somewhat a compliance audit vs. a fiscal audit, the types of

1 audits, what typical scope is, what kind of things need to
2 be included in various types of audits.

3 The recommendation that the Committee is making is
4 that the SAB define the scope of the audit as a Compliance
5 Audit. Local Education agencies such as School Districts
6 are audited to ensure they enter in compliance with laws and
7 regulations of the School Facility Program. The Audit Guide
8 needs to be revised and updated annually. So, as I said,
9 you're going to see some of the same components show up as a
10 response to various issues, but to really define a
11 Compliance Audit as the type of audit we're talking about,
12 and even within the range of Compliance Audits, what is
13 sufficient to assure the State that program dollars are
14 being wisely spent, but is also a reasonable level of audit
15 for a grant program.

16 SENATOR LOWENTHAL: Okay, I was thinking, what is
17 your pleasure, Kathleen? You know, there are a number of
18 categories, the first one being scope and type of audits,
19 then procedures and the publishing and finding of the
20 audits, so maybe - shall we go through all the issues of the
21 scope? And then see if we want to -

22 MS. KATHLEEN MOORE: I think that would be good.
23 So why don't we go through the scope and type of audits,
24 with the recommendations, and then -

25 SENATOR LOWENTHAL: Ask for input and then we will

1 discuss -

2 MS. KATHLEEN MOORE: -- ask for input, our
3 discussion, and our consensus, and then move to the next
4 category. I think that would be good because they are
5 probably interrelated within each issue area, correct?

6 SENATOR LOWENTHAL: Okay, so the first is you
7 start off and you are saying - we are talking about
8 Compliance Audits, and we are going to define them, we're
9 going to - okay.

10 MS. CASSANDRA MOORE: Okay, Item B is the audits
11 should be performed consistent with audits that are
12 performed by other state agencies. The recommendation is
13 that the audit should be performed in accordance with
14 government audit standards, and audits should commence
15 within the established time periods. The issue as discussed
16 here was to ensure that the audit met the common audit
17 standards that every governmental entity who performs audits
18 should follow, unless they are internal audits, and so we
19 wanted to be clear that these audits follow what is called
20 Yellow Book.

21 MS. KATHLEEN MOORE: Can I ask, so then audits
22 should commence with established time periods, that there is
23 a general audit time period within the governmental auditing
24 standards? Is that what you are saying?

25 MS. CASSANDRA MOORE: This is what we are saying

1 here, is that OPSC should determine, you know, how often the
2 audits would be performed; when would you have an audit that
3 was an Expenditure Audit, for example? Perhaps that should
4 be performed within the year of the expenditure that would
5 be at the same time that the Annual Financial Audit is
6 performed, rather than perform that Expenditure Audit three
7 years later, or five years later, so it is not something
8 that is defined in Government Auditing Standards, but it is
9 something that should be defined in the Audit Guide.

10 MS. KATHLEEN MOORE: Thank you.

11 MS. BOGGS: To that same point, we did discuss
12 issues of there are timelines in statute now and the
13 interpretation that OPSC takes to them is very broad, so
14 there is a timeline that an audit should begin within two
15 years, and once begun, should be completed within six
16 months. And currently, the interpretation has been that, if
17 they send you a letter telling you they are going to audit,
18 then your window is open forever, so we did talk about the
19 actual timing of audits should commence within established
20 timelines because the timelines make the audit timely to
21 personnel and paperwork. And also, the reopening of audits,
22 that we had discussion about the fact that OPSC has wording
23 in their current documents that leaves the district open to
24 return to audits, so the audit is never really done, that it
25 always remains open. So those also kind of fall in that

1 category.

2 SENATOR LOWENTHAL: Okay.

3 MS. BOGGS: Item C, ensure the objectivity and
4 independence of the audit, audits should not be conducted by
5 the same entity that issued the apportionments. The
6 recommendation is the audit should be conducted by an
7 independent entity outside of the OPSC; for example, the
8 State Controller's Office or Independent Auditors, existing
9 OPSC Audit Staff, and/or resources could be transferred to
10 the responsible entity, unless, of course, it is outside
11 auditors. But this one really speaks to the fact that OPSC
12 is a party to the transaction that occurs with the issuance
13 of these funds, and sometimes the issues that come up for
14 appeal have to do with whether or not OPSC has conducted
15 their piece of the granting correctly. And then, they are
16 reviewing that themselves. So, that is an issue for School
17 Districts. And also the ability to overtly or not overtly -
18 implicitly, I guess - say, you know, there is a concern
19 that, if I create an issue over my audit, it will affect how
20 my paperwork is processed for other projects. So, because
21 of that control on both sides of this, the Committee was, I
22 believe, unanimous in the thought that there is a conflict
23 of interest in having OPSC conduct audits on projects to
24 which they are party.

25 SENATOR LOWENTHAL: Okay.

1 MS. KATHLEEN MOORE: Well, I have another
2 question. Was there any discussion within the Committee
3 about that an outside entity would not have the program
4 knowledge necessarily of the Office of Public School
5 Construction and how that might affect their audit and audit
6 situation?

7 MS. BOGGS: Yes. There was extensive conversation
8 about that, and I think one of the things that - and that
9 led to the whole compliance vs. a straight expenditure
10 audit, that piece of it, and I think you will see in the
11 recommendations, we kind of came to a point that, as an 04
12 or 05 that would be eligibility or project approval would
13 come, that the elements that constitute that approval, those
14 elements need to be audited timely, or at least reviewed
15 timely to the award of that document. And that, perhaps,
16 what remains to the end to be audited, at the end of a
17 project, is the expenditure audit. But if there are
18 elements of the approvals that need to be audited, and that
19 needs to be determined what those would be considered is a
20 self-certification program with, you know, a grant, self-
21 certification grant program. But within that scope, if
22 there are things that need to be reviewed that are certified
23 on the 05, perhaps they need to be done in a more timely
24 manner than waiting all the way until the end, which is
25 easily six years later, or longer.

1 MS. KATHLEEN MOORE: Is it similar to the -

2 MS. BOGGS: Did that answer -

3 MS. KATHLEEN MOORE: No, you did answer my
4 question and I am going to follow-up with - is it similar to
5 how, you know, the Department of Education sends out the
6 General Funding for schools throughout the State? So, they
7 administer that funding, but an independent auditor provides
8 the audit of that funding, and then there is, you know,
9 we'll talk about it later, but there is an appeal process.
10 So, is that the similar kind of - is that what the committee
11 was thinking about?

12 MS. BOGGS: I think what we kept coming back to
13 with respect to program issues is, if the program is more
14 clearly defined, and the audit requirements are more clearly
15 defined, and those manuals are coordinated, or
16 complementary, if that is done, that takes a lot of what we
17 see as those issues off the table because they have to do
18 with it complying with the program. Right now, you can read
19 that manual and that doesn't mean you understand the
20 program, even if you understand the manual because, you
21 know, of the complexity and the manner, the way in which the
22 manual is written, which is what led us actually to
23 producing a different outline for the manual. It is very -
24 all of the programs are intermixed within the manual, so it
25 is different for an unfamiliar reader to know which pieces

1 of the program when you dropped one, and now you're talking
2 about a different one, and then, oh, this is Oregon, this is
3 a different component of the program.

4 MS. KATHLEEN MOORE: So it would be the
5 recommendation of the working group that it be an
6 independent auditor, but that obviously the program document
7 and the Audit Guide would be produced by the Office of
8 Public School Construction, and the independent auditor
9 would utilize those documents when performing the audit?

10 MS. CASSANDRA MOORE: Yes.

11 MS. BOGGS: AND that would mean that they had to
12 be of a substantial quality.

13 SENATOR LOWENTHAL: Good. I think we understand
14 that very clearly now, what your recommendation is. Let's
15 move on to program requirements at the time of application.

16 MS. CASSANDRA MOORE: Program requirements at the
17 time of the application change over the time that the LEA
18 submits their initial application and the time that the
19 project is audited. Review and audits should be a multi-
20 part process and there is more discussion in the
21 streamlining section. Develop a process to ensure that LEAs
22 understand audit requirements. A subsequent audit at the
23 time of fund release re substantive close-out on audit would
24 be conducted upon project completion. This recommendation
25 and this issue and recommendation goes to what we've been

1 discussing, the development of a program manual that clearly
2 outlines what the requirements are for the LEAs, so that
3 they understand what they have to comply with when actually
4 doing the work for the project. Then, what happens from
5 that Program Guide, or that program handbook, you would
6 develop an Audit Guide. And the Audit Guide would piggyback
7 off the program requirements. Actually, the Audit Guide
8 would be fairly easy to write and to maintain if you've got
9 the detailed program requirements. Then, what would happen
10 is, if there are any changes to the program requirements,
11 those changes would be reflected in subsequent Audit Guides
12 and there would be delineation before and after, so that the
13 auditors aren't applying a requirement in 2010 for a program
14 - for a project that started in 2006, for example. So, it
15 would be a very clear delineation in the Audit Guide as to
16 what requirements apply and which ones don't.

17 SENATOR LOWENTHAL: Uh huh. I know that this,
18 this is the one where you're talking about this multi-part
19 process in your recommendation?

20 MS. CASSANDRA MOORE: Uh huh.

21 SENATOR LOWENTHAL: Do you want to elaborate on
22 that? Because I know that will be an issue in terms of
23 actual implementation that will raise some discussion about
24 how that operates and what are the pros and cons of it, so
25 I'd like to hear more about that.

1 MS. CASSANDRA MOORE: Okay, I'm going to turn this
2 over to Lettie since she's here.

3 MS. BOGGS: We didn't delineate specifically what
4 it could look like because it could take several forms, but
5 we did have significant conversation and we came back to
6 this conversation over and over again, that there were
7 components that happen earlier on in a project, that are
8 actually kind of pass/fail elements; for instance, if you
9 don't competitively bid the architect, and that is not
10 decided until the audit at the end, then you actually owe
11 the entire grant back on that one. And so, for a District
12 to be proceeding down a road, understanding that they have
13 approval, and yet the approval is not certain or reliable,
14 is a difficulty. Now, how that could be addressed could
15 take several forms, and it kind of is dependent upon what
16 gets decided as to who the audit entity is. But there could
17 be a review following a 50-05 approval, for instance, of all
18 the components of the 04 or 05 that might require audit,
19 that could be a departmental review and not rise to the
20 level of an audit, but would constitute documentation that
21 then flowed forward to the audit. Our concern is that we
22 not have one process here and then re-do the whole process
23 all over again, but that maybe the process needs to be
24 bifurcated so there is an early component of the process,
25 and a later component. And whether or not one is done by

1 OPSC, and another one is done by the Controller's Office or
2 an outside auditor, that could be separated; but that
3 essential 05 approval element, we felt that a long delay
4 between that and final closure left a District with a
5 potential huge dollar problem at the end.

6 SENATOR LOWENTHAL: Now, Mr. Duffy may want to
7 comment on that since you have submitted a letter on this
8 very issue.

9 MR. DUFFY: Yes

10 SENATOR LOWENTHAL: We welcome your input.

11 MR. DUFFY: Thank you, Senator Lowenthal and
12 members of the Subcommittee. Tom Duffy for CASH, and thank
13 you for recognizing that we have submitted the letter,
14 Senator. On the issue, we believe that, if there is indeed
15 a very clearly written Program Guide, that issues such as
16 were identified by Ms. Boggs could be recognized by the
17 individual Districts or County Office Applicants by going
18 through what would - and, I guess in my imagination - not
19 only be a guide, but also a checklist. There may be issues
20 that are interpretive issues by the District under existing
21 program regulations that may confound the District somewhere
22 down the line, and I won't give you examples, but I can
23 think of several. But I think the amelioration of that
24 possibility through the Program Guide as we outline in our
25 letter, that would match up with the audit document and

1 audit process, I think, would eliminate or certainly control
2 a lot of the missteps that I think were identified in this
3 particular area of Item 1D.

4 Our hope would be that, with the Allocation Board,
5 and Regulations, and with the cooperation and involvement of
6 the Department of General Services and OPSC, that we could
7 have in the future a Program Guide that would be easily
8 read, and also have a checklist on top of it that would
9 match up, as said, with the audit that would take place, and
10 allow Districts not to be stopped in the process. In our
11 letter, we talked about the issues of both cost and also the
12 potential delay of a project that may impact the opening of
13 schools. Because we, as you know, follow calendars that are
14 fairly defined, they are actually negotiated with teachers
15 of bargaining units, that we cannot move around very easily,
16 that the opening of school, or the opening of a building
17 that has been modernized, is really well-timed by the
18 District, so we would not want any steps to stop that. I
19 think what was proposed, if we understand it, is to insert
20 something that doesn't exist today, and we really believe
21 that the self-certification process works; if there is need
22 for us as an organization to continually help educate our
23 members about this future Guide and Program, we would commit
24 to doing that. But I appreciate very much your recognizing
25 me and I'm happy to answer any questions.

1 SENATOR LOWENTHAL: Thank you.

2 MS. KATHLEEN MOORE: So, just to be clear, then,
3 the Coalition for Adequate School Housing is not really
4 supporting recommendation D and having multi-level audits,
5 and you have an alternate way that you think that could be
6 handled better. Is that correct?

7 MR. DUFFY: That is a good summary. Thank you.

8 MS. FERRERA: Good afternoon. Anna Ferrera with
9 the County School Facility Consortium. We agree with a lot
10 of what CASH has outlined. When we looked at the
11 recommendations, basically yesterday, when we looked at the
12 recommendations and saw the first part of it, and what
13 Lettie has described in here, it sounds a little less formal
14 than this streamlining recommendation that it points to
15 later on in the document, where you see actually three
16 separate steps in interview, audit-type look-see, and then,
17 you know, another one mid-way, and then one at the very end.
18 So, for us, we would agree that it seems like a more formal
19 delineation of an audit process, it sounds like a multi-part
20 audit, than something that may be delineated in an Audit
21 Guide, so that would be no [inaudible] [40:27].

22 MS. KATHLEEN MOORE: So, if I may, Ms. Ferrera, as
23 well, so your organization also does not support a multi-
24 level audit, as delineated in Item D, here? Is that
25 correct?

1 MS. FERRERA: If it is a hard audit like a GATE,
2 rather than a guide, then we would say no, we would not
3 support that.

4 SENATOR LOWENTHAL: Are you also concerned about
5 the delay process?

6 MS. FERRERA: And for those reasons, exactly.

7 MS. KATHLEEN MOORE: Just a comment, it would seem
8 to me that, if we can identify those - the exact example
9 that you gave, that could be a substantial issue to a
10 District on one component, then actually, to me, that is a
11 program issue and actually should be handled in the program
12 and perhaps, you know, if there is additional paperwork that
13 needs to be given at that time in OPSC, or the Office then
14 says, yes, you've met - it's part of the program review vs.
15 an audit review, because I think it would be terrible for a
16 district to make a mistake like that and then have never had
17 corrected it and six years later does not have a project.

18 MS. FERRERA: And that does happen.

19 MS. KATHLEEN MOORE: So we need to address that at
20 the program side, and we could probably do that.

21 SENATOR LOWENTHAL: Good.

22 MS. BOGGS: I think there is a significant
23 misunderstanding in the reading of this item and the intent
24 that the Committee had because we would not want to do
25 anything they have spoken against, either. So, let me

1 reiterate again what we meant when we discussed incremental
2 audit. There is already an audit interview, but it happens
3 at the end when the project is completely done, and they
4 show up on site to do the audit. Our understanding, and
5 what we are saying is, if there are audit requirements
6 known, they should have them when they begin to account for
7 the project, so it is not the addition of an audit
8 interview, it is the moving of the audit interview to a
9 timeframe that allows the district to comply with the audit
10 and not get a "gotcha" at the end. Another item is those 05
11 checks I mentioned. If they, in fact, are going to audit
12 those, then it needs to be reviewed and determined which of
13 those are auditable, but if they are going to audit those
14 things, then move that timeline closer to the point at which
15 that work occurs, leaving, really, only the playing out of
16 all the expenses and the expenditure audit for the end. We
17 did not suggest any additional items. We, in fact, had
18 talked about less audit items because there are items they
19 are auditing now that are already audited by others, so I
20 don't think anyone on the committee would have supported an
21 expansion of audit requirements, but, rather, a better
22 coordination of the audit requirements and the working of a
23 project in the real world. And that may have suffered from
24 a really truncated timeline for writing all this up, so we
25 apologize that we may not catch in our review - I do not

1 think Dee [phon] conveyed, really, what we were trying to
2 do.

3 SENATOR LOWENTHAL: Good. Let's move on to the
4 last. We have two more.

5 MS. BOGGS: Okay, Item E. The LEA should know the
6 requirements for the audit at the time of application and
7 ensure they are keeping the appropriate documentation to
8 quality expenditures. The School Facility Program Handbook
9 and the Audit Guide should complement each other and
10 incorporate the compliance requirements in the Handbook that
11 the LEAs will be audited on, and allow the audits to be
12 audited to the Audit Guide requirements. The Audit Guide
13 should reflect and be consistent with the SFP Program
14 Handbook, which complies with statute regulation and
15 guidance governing the program. That is what we have been
16 talking about.

17 SENATOR LOWENTHAL: Yeah, it is pretty clear.

18 MS. CASSANDRA MOORE: Okay, F. There is a concern
19 that, once an audit is closed out, that OPSC has the
20 authority to reopen the audit at any time and re-look at the
21 expenditures. The recommendation is audits should not be
22 reopened. Additional audits may be conducted if there has
23 been a legal finding of fraud, misappropriation of funds, or
24 other illegal acts. I wanted to throw my comment in
25 regarding a legal finding of fraud. Actually, I believe

1 this would have been better to say - a suspicion of fraud,
2 not necessarily a legal finding, because -

3 SENATOR LOWENTHAL: Not a finding?

4 MS. CASSANDRA MOORE: Not a finding because that
5 raises a whole additional level of requirements.

6 SENATOR LOWENTHAL: So maybe if there has been a
7 question?

8 MS. CASSANDRA MOORE: A question of fraud.

9 MS. KATHLEEN MOORE: I like your word "suspicion."
10 Suspicion of Fraud is fine. If I may, is that general
11 auditing standards that an audit is final?

12 MS. CASSANDRA MOORE: Right. Typically, once the
13 Auditor issues the Final Audit Report, it is final, unless
14 there is an issue that has arisen that would cause another
15 audit to be performed.

16 SENATOR LOWENTHAL: Right, and that's a clearly
17 broad or legal - some suspicion, or some question about
18 whether the audit was conducted at that time appropriately -
19 something has come up that raises an issue, it cannot be
20 just reopened as a matter of process, or done on a random or
21 some method, once they're closed, they're closed.

22 MS. CASSANDRA MOORE: Once they're finished.

23 SENATOR LOWENTHAL: Are there lots of examples
24 that that's happened?

25 MS. BOGGS: It's more concerned based on wording

1 that we are seeing in the new documentation, that this is,
2 you know, basically subject to re-audit forever. And I wish
3 that -

4 SENATOR LOWENTHAL: So it's more a concern, again,
5 of making sure we're real clear, rather than there's been
6 some identified problem that's out there, and you're seeking
7 - this is part of the clarity that we're talking about.

8 MS. BOGGS: Yes. And there is a concern right now
9 in that, when the audit - because they have a new process
10 now coming to the District, when they are listing all the
11 projects they are going to audit, some of those are past the
12 timeline for being subject to audit, and the District
13 believes that those are closed, they are past the timeline.

14 MS. KAPLAN: I have also heard some concern from
15 Districts that their audit, they know, has been closed, but
16 they are hearing that OPSC is internally reviewing the
17 audits and looking at them, but also not discussing that
18 with the Districts, and there is concern because the letter
19 has been claimed that, you know, while it is closed out, it
20 could potentially be reopened and there is no process for a
21 district knowing reopen and why, and there is not a clear
22 process and procedure.

23 MR. SMOOT: Good afternoon, Lyle Smoot, Los
24 Angeles Unified School District. Listening to those terms,
25 "Suspicion of Audits," is a lot of concern. You know, a

1 legal finding of fraud, or whatever, that is a definite
2 thing, there is something there, but it is a great concern
3 that the term "suspicion of fraud" is put into this program
4 because -

5 SENATOR LOWENTHAL: No, that is a well - I -

6 MR. SMOOT: It needs to be nailed down pretty
7 clearly. In Los Angeles, we had a number - I don't know the
8 exact number, but a lot of audits reopened, not because of
9 anything except the OPSC appeared to want to apply new audit
10 standards to projects that were already closed for a long
11 time, so that's a big issue for the district.

12 SENATOR LOWENTHAL: Got it, you just don't want it
13 to be left that additional - with such language or
14 terminology of a suspicion of, it should be really clearly
15 defined conditions under which an audit can be reopened.

16 MR. SMOOT: We would hope so, yes, sir. Thank
17 you.

18 MS. KATHLEEN MOORE: Well, then, in the interest
19 of moving it along, can I offer a recommendation?

20 SENATOR LOWENTHAL: Yes.

21 MS. KATHLEEN MOORE: For our consideration, I
22 would indicate that we as a Subcommittee accept the scope
23 and type of audits, recommendations, A through F, and not
24 change the recommendation language in F, with the exception
25 of Item D, which we will hold in abeyance until we go

1 through the Streamlining Section, and perhaps we will
2 revisit that, but I would pull that out and recommend
3 adoption of the remaining. And that would be my
4 recommendation.

5 SENATOR LOWENTHAL: Let's hear this comment from
6 Finance first.

7 MR. FERGUSON: Sure. Chris Ferguson, Department
8 of Finance. We would support the creation of a K-12 School
9 Facilities Program Audit Guide. We believe that it would
10 require some legislative adjustments to put that into the
11 law, and then we would support putting that guide into
12 regulations and annually adjusting that guide, similar to
13 the K-12 Education Audit Guide, as needed. If there are no
14 programmatic changes in a given year, there may be no need
15 to adjust that audit guide in a given year; however, we
16 would also note that the Controller's Office certifies all
17 of the independent auditors under the K-12 Education Audit
18 Guide, and we would support the creation, then, of a similar
19 list, using potentially the Office of Public School
20 Construction to certify a list of appropriate Independent
21 Auditors that would be certified for the School Facilities
22 Program.

23 SENATOR LOWENTHAL: These are things I think we
24 should be discussing, recommendations that are clear, and I
25 think they would add to the Board's coming to grips with

1 this issue of the Independent Auditor. I think these
2 certainly should be added to our potential for our list to
3 bring before the -

4 MR. HARVEY: You know, I've been around this
5 process an awfully long time and nothing is black and white,
6 there's always areas of gray, and as I hear this discussion,
7 I am taken with the fact that I don't think we're that far
8 apart. I appreciate your comments, recognizing that the
9 Board has the policy oversight -

10 SENATOR LOWENTHAL: Right.

11 MR. HARVEY: -- and DGS has the administration
12 portion. Our Director has said that a robust audit must be
13 independent, it must be comprehensive, and it should be the
14 Yellow Book Standards. I think everybody appreciates the
15 fact that you've got to have clarity in what you're going to
16 audit, and there's got to be communication with all parties
17 so they know what to expect in the audit, and he has so
18 stated in his letter. The bottom line is, we have a \$35
19 billion bond program that the Legislature and the Governor
20 and the taxpayers expect have integrity, so you must have
21 independence, you must have [inaudible] [51:57], and our
22 Director, as we speak, is considering options to contract
23 out, or to change the nature in which we currently do our
24 audits. So, again, we are all, I think, interested in the
25 same thing, and as he said in his letter, any comments, any

1 recommendations, he will seriously consider from any source
2 and certainly appreciates the work of not only the working
3 group, but Senator Lowenthal, this Subcommittee. So, on we
4 go.

5 SENATOR LOWENTHAL: Let's go. All right, is there a
6 motion?

7 MS. KATHLEEN MOORE: That is my motion and so -

8 MS. KAPLAN: I will call the roll. Senator
9 Lowenthal - Aye; Kathleen Moore - Aye; Scott Harvey - Not to
10 preclude the Director and his decision-making, I will
11 abstain.

12 Okay, 2-0 -

13 MS. KATHLEEN MOORE: So, the motion passes.

14 SENATOR LOWENTHAL: Yes, the motion passes. Let's
15 move on to 2, Procedures on the Publishing and Finding of
16 the Audits.

17 MS. BOGGS: In accordance with the Governor's
18 Executive Order, audits are posted to the Accountability
19 Website. The recommendation is that the audits should only
20 be published after the audit report is final, and the LEA
21 has provided a written report. Draft review of audits
22 should be given to the LEA 30 days prior to publishing and
23 the LEA should have 30 days to respond. Responses should be
24 published in their entirety. Audit findings that are on
25 appeal should also be noted with any published audit

1 information.

2 SENATOR LOWENTHAL: There is only one
3 recommendation in this category. Does anybody want to
4 comment on that? If not, I mean, unless you have some
5 alternative kind of perspective, we don't need to comment on
6 every single one if you're in agreement.

7 MS. KATHLEEN MOORE: It certainly sounds
8 reasonable to me.

9 SENATOR LOWENTHAL: If it sounds reasonable. I
10 don't know if those numbers and that all that, but it's
11 worth sending it on to the larger Board and, you know,
12 seeing whether these numbers make sense.

13 MS. BOGGS: This piece of it is very new to the
14 Districts. I believe there's only one been published to
15 date.

16 SENATOR LOWENTHAL: Okay.

17 MS. BOGGS: So, this is a new component for
18 Districts and we just were saying what would be reasonable,
19 we think.

20 SENATOR LOWENTHAL: Sounds - I think it's worthy
21 of discussion.

22 MS. KATHLEEN MOORE: So I will - since there's
23 only one item in this category, unless there's additional
24 public comment, I would move that we recommend on Procedures
25 in the Publishing and Findings of Audit Issue, Area A,

1 recommendation forward to the full Board -

2 SENATOR LOWENTHAL: Executive Officer, please call
3 the roll.

4 MS. KAPLAN: Senator Lowenthal - Aye; Kathleen
5 Moore - Aye; Scott Harvey - DGS supports the Governor's
6 Executive Order on Accountability and anything that furthers
7 that, we, I am sure, will endorse and follow, but I will
8 abstain so as not to preclude the Director's decision-
9 making.

10 MS. KAPLAN: The measure passes.

11 SENATOR LOWENTHAL: Good, let's move on to the
12 next category, Category 3, Process for Yearly Update and
13 Communication to Districts regarding Changes with the Audit
14 Process.

15 MS. CASSANDRA MOORE: Okay, the issue is changes
16 to the audit requirements are not effectively communicated
17 to LEAs. A transparent process to revise the Audit Guide
18 should be established that is relevant to the time of the
19 audit. The recommendation is to create a standing Audit
20 Committee that will do an annual review of the Audit Guide
21 and create a process to address the needed changes. The
22 Committee should be comprised of California Department of
23 Education, State Controller's Office, Facility and Fiscal
24 LEA staff, Independent Auditors, OPSC staff, and other
25 appropriate staff.

1 MS. KATHLEEN MOORE: If I may, Chris, is this to
2 which you were saying that you supported, but you think it
3 may take some legislative action, as well?

4 MR. FERGUSON: Yes and no. We believe the
5 legislative action would specifically authorize the creation
6 of an SFP Audit Guide and then we would do that through
7 regulation. It would be similar to the Education Audit
8 Guide.

9 MS. KATHLEEN MOORE: Are you really saying that we
10 have to have legislation to create an Audit Guide?

11 MR. FERGUSON: It would be specific to enable
12 that, so that it's very clear as to what would be included
13 in that Audit Guide and the scope of what that Audit Guide
14 would cover. I think we're looking at transparency here.
15 If we look at the current K-12 Audit Guide, there is
16 specifically enabling statutory authority for it.

17 MS. KATHLEEN MOORE: Well, I think certainly we
18 can look at that, but I would like to hope that we can get
19 to an Audit Guide without having to have specific
20 legislation authorizing that. I know that there is specific
21 legislation authorizing this - the Appeals Committee for
22 School Districts on their regular audits, and that there's
23 actually an established position, and that's an office all
24 unto itself.

25 MR. FERGUSON: Correct, the Education Audit

1 Appeals Panel.

2 MS. KATHLEEN MOORE: But I don't think we went
3 that far - not "we" - I don't think this recommendation goes
4 that far, so -

5 MR. FERGUSON: Correct, we would encourage that.

6 SENATOR LOWENTHAL: Right, right. I think we
7 should note that, I think that we should - the
8 recommendation should be - I would like the recommendation
9 that we have here and note also that the recommendation -

10 MS. KATHLEEN MOORE: From the Department of
11 Finance.

12 MR. FERGUSON: I have an additional comment on
13 this one -

14 SENATOR LOWENTHAL: All right. A Statement from
15 the Department of Finance.

16 MR. FERGUSON: Correct. What the Department of
17 Finance, again, this is Chris Ferguson, specific to this, we
18 would recommend we utilize existing infrastructure. There
19 is a current work group that develops the Education Audit
20 Guide, and we would recommend that we utilize that with the
21 exception that we add district representatives from the
22 facilities program to that work group, to create the School
23 Facilities Program Audit Guide, and we would also note that
24 we are concerned with the inclusion of Independent Auditors
25 that would make recommendations on what should be included

1 in the Audit Guide.

2 SENATOR LOWENTHAL: Right, you don't mind the
3 Independent Auditors, you just don't want them to be - the
4 very reason why we have them, they create another conflict
5 of interest by having -

6 MR. FERGUSON: Correct, correct. And we think
7 that they should be on the Committee in terms of being able
8 to provide input on the documentation that School Districts
9 may need, things of that nature, so they do have a role and
10 play a vital role, but we just don't believe that the
11 Independent Auditors should be deciding what is and isn't in
12 the Audit Guide.

13 SENATOR LOWENTHAL: Could you write that up? Do
14 we have anything written from them? Or just make sure that
15 maybe, Lisa, we can do that to have an addendum to our
16 recommendation.

17 MS. KAPLAN: Chris, can you just make sure I get
18 all your recommendations in writing to add it on?

19 MR. FERGUSON: Sure.

20 MS. KAPLAN: Thank you.

21 SENATOR LOWENTHAL: Comments.

22 MR. RICKETTS: Thank you, Senator and members. I
23 am Mike Ricketts with the County Superintendents
24 Association. I was also on the Audit Working Group, so will
25 probably comment on a couple of other things, but specific

1 to what you just heard, I just want to be sensitive to the
2 issue, when we say Districts, that that includes all LEAs
3 that are subject to audits and that participate in the
4 School Facilities Program, and that includes counties,
5 because when we talk about representation on working groups,
6 it's really important, especially since we have kind of a
7 unique place in the funding mechanism, that there is County
8 representation, as well as School Districts.

9 SENATOR LOWENTHAL: We will note that.

10 MS. KATHLEEN MOORE: So noted, and you also note
11 in the recommendation it does say LEA, so our talking
12 Districts, we should be more inclusive and be talking LEAs,
13 and you rightfully correct us. But note that the
14 recommendation does include LEAs, which speaks to your
15 issue. Well, with that being said, I would recommend that,
16 under the process for Yearly Update and Communication to
17 Districts, regarding changes with Audit Process, that we
18 recommend as a Subcommittee to the full State Allocation
19 Board the recommendation in Item 8.

20 MS. KAPLAN: Senator Lowenthal - Aye; Kathleen
21 Moore - Aye; Scott Harvey - He just supports Transparency
22 and Communication, but in deference to not precluding the
23 Director's decision-making, I will abstain.

24 MS. KAPLAN: The measure passes, 2-0.

25 SENATOR LOWENTHAL: Okay, let's move on to

1 Streamlining Actions within the Audit Process.

2 MS. BOGGS: Program requirements can change from
3 the time a District submits an application to the time the
4 project is audited. Recommendation: Draft an incremental
5 review with Audit Process, initial consultation with Program
6 Staff and Desk Review done immediately after funds are
7 released. Final Audit done at the time of Final Expenditure
8 Report. Process should be a collaboration between Program
9 Staff and Audit Staff.

10 SENATOR LOWENTHAL: This is interrelated with 1D,
11 which we just said, the same issues that arose with 1D arise
12 here, and need to be fully - when we discuss this, we do
13 this as a package on the Board, because you can't separate
14 these two, I think. And so, even if we do recommend going
15 forward, that issue of multiple reviews needs to be
16 addressed by the Board.

17 MS. KATHLEEN MOORE: Here is what I would suggest
18 in concurrence with my committee members. If we said, after
19 we go through everything, return to these two items, and
20 perhaps what we say is there is a consensus of those - well,
21 it is a consensus of the Committee - for the recommendation.
22 However, this was one area that we think needs further
23 discussion and vetting and fleshing out, so not to preclude
24 the full Board from seeing the item and hearing the item,
25 but it may come separately, than us under the

1 recommendation.

2 SENATOR LOWENTHAL: And also the fact that, to
3 clearly what the problems are, what is perceived as, you
4 know, while there may be conceptually some issues posited
5 about the multiple - when we are talking about multiple
6 reviews - there are some questions that raise in doing that
7 and how that could delay processes, and how people - how
8 that would be played out, that the Board is going to need
9 further discussion and these are very serious -

10 MS. KAPLAN: So just to clearly, so that I
11 understand as we do this, so the things that are recommended
12 to go to the full Board, except for these 1D and this issue,
13 which may come under a separate report -

14 MS. KATHLEEN MOORE: No, I'm not saying that.

15 MS. KAPLAN: Okay.

16 MS. KATHLEEN MOORE: I'm saying let us go through
17 the list; for right now, we'll hold out this one and hold
18 out the other one -

19 SENATOR LOWENTHAL: Right.

20 MS. KATHLEEN MOORE: But, then, when the whole
21 item is presented to the Board, that these are separate from
22 the consensus and we need a fuller discussion than simply
23 making a recommendation from the Subcommittee, that is how I
24 saw it.

25 SENATOR LOWENTHAL: Right.

1 MS. KAPLAN: The identification of the specific
2 problem and conceptually what this would look like, the
3 further detail.

4 MS. BOGGS: And if I may comment, this is very
5 hard to write in concept prior to deciding how the audit
6 will be conducted and by whom because that may matter as to
7 how the streamlining could occur, how any incremental review
8 could occur. So, I think the point that the Committee
9 really wanted to make was that the reviews by timely to the
10 decisions, that is the overriding concern that the Committee
11 has.

12 SENATOR LOWENTHAL: Let's hear from -

13 MS. SULLIVAN: I am Andrea Sullivan with Orange
14 County Department of Education, and I also participated in
15 the Working Group and on these particular items 1D and the
16 current, I would just recommend possibly sending it back to
17 the Working Group for some additional discussion to present
18 - I think we didn't have a lot of time --

19 SENATOR LOWENTHAL: I think that is an excellent
20 suggestion. Those should go back to the Working Group.

21 MS. KATHLEEN MOORE: For further fleshing out and
22 maybe consideration of the concerns that have been raised to
23 the Subcommittee, as well.

24 MS. SULLIVAN: That's good.

25 MS. KATHLEEN MOORE: And then that might affect

1 our timeline for coming back to the State Allocation Board.
2 Mr. Ricketts.

3 MR. RICKETTS: Thank you, and with that, if I
4 could take just a couple more minutes to elaborate on this.
5 And I think what I'm going to say is consistent with what
6 the Working Group discussed around this issue, is I want to
7 clarify that the Working Group was really looking at how do
8 we - what can we do that would make this process clear, both
9 at the local level with the LEAs that are involved with the
10 projects, and at the State level with those that are
11 involved in administering the grants and in overseeing the
12 use of those funds and auditing those funds. And I think
13 you made earlier a distinction that is really important to
14 make again here, in that there is a program function and an
15 audit function, and we really looked at both sides of these,
16 and I think the Committee was not so focused on specifying
17 what should be an audit and what should be program
18 consultation and what should be a review. The Committee was
19 more focused on saying at the beginning, and this is kind of
20 a three-part process, at the beginning there needs to be
21 clarity with the district as to what the expectations are
22 for the project, and that really comes from the Program
23 Guide. And so that's where we were looking, and that's part
24 of a program function, not an audit function. At fund
25 release, there is self-certifications and there may need to

1 be a consultation or a review with Program staff or possibly
2 with Audit staff, especially if there's going to be
3 provisions of that, that are audited later on. And the
4 point of this is to make sure that, as you go through the
5 lifecycle of a program, which can span multiple years, and
6 there may be changes in the audit practices that occur
7 during that time, that you have at the appropriate times
8 informed the LEA about what the expectations are and that,
9 if you are doing a review that will affect the final audit
10 of something that happened midway through the project, it
11 happens at that point and there is a sign-off on that, that
12 then carries forward to the final audit, so it doesn't
13 become an issue of dispute once the project is completed,
14 especially if it has a Fiscal impact on the District. So, I
15 just wanted to clarify kind of the parameters of the
16 discussion of what we were trying to get to with this
17 recommendation. Thank you.

18 SENATOR LOWENTHAL: Okay. Let's move -- there are
19 two more under Streamlining Actions, and I must admit, I
20 need to leave in a half hour, so let's try to get - okay.
21 Next, let's get there.

22 MS. BOGGS: Issue B - OPSC staff does not have a
23 good understanding of the entire cash management process
24 within an LEA. The recommendation: provide training to OPSC
25 staff on internal controls, cash management, and multi-fund

1 accounting, not to take an advisory role, but to allow for a
2 better working knowledge of administering the program.

3 One of the concerns expressed in the Committee was
4 that, from time to time, Districts will call OPSC to ask for
5 assistance with how they manage the multi-fund and multi-
6 year aspects of this accounting because School Districts are
7 really mandated to operate annualizing of fund accounting
8 systems, and in fact, they give advice that is contrary to
9 what most CBOs who have been through this and are veterans
10 are at it would recommend. And we were further alarmed by a
11 report that OPSC is getting more involved in analyzing and
12 giving advice regarding the General Ledger aspects, and that
13 was a lot of concern for the Committee members because OPSC
14 understands OPSC's programs, but the District deals with a
15 lot of other issues, and the Committee, you know, we
16 expressed the issue of whether or not they understood all
17 our other funding source requirements. The matching funds
18 come from RDAs and from developers and from local bonds, and
19 all of those have individual and separate nexuses. So,
20 while we felt that some that are education for OPSC staff to
21 appreciate the challenges with accounting for an SFP
22 project, we felt it was not appropriate to have OPSC
23 providing guidance to Districts regarding those broader
24 concepts.

25 SENATOR LOWENTHAL: So you are not into redefining
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1 roles, per se, or changing the roles regarding those other
2 funding streams, but just to increase somehow the
3 communication and let them understand more just what takes
4 place, that there should not be just communication, but also
5 maybe some cross training.

6 MS. BOGGS: And the way that that works out as an
7 issue -

8 SENATOR LOWENTHAL: Now, assuming that anybody is
9 taking over anybody else's roles -

10 MS. BOGGS: Right, right.

11 SENATOR LOWENTHAL: -- and how that plays out,
12 what those issues are, but I get the concept. I'm not quite
13 sure I understand how we do - but I think it is consistent,
14 the idea of some cross training. The issue is making sure
15 we're not telling people your job, now, is to do something
16 that it's not to do.

17 MS. BOGGS: And this works itself out, for
18 instance, in inventory rules vs. capitalization rules. The
19 Districts are doing a very complex exercise in meeting all
20 the requirements of the State Accounting Manual and meeting
21 the requirements of the School Facility Program Audit. And
22 sometimes they are really difficult to reconcile, so better
23 education would help the program requirements be more
24 efficiently accounted for. But the last thing I think most
25 Districts think they need is somebody else telling them

1 another way they have to do things and comply with, so
2 that's the delicacy.

3 SENATOR LOWENTHAL: All right, we will struggle,
4 but let's move on to the next.

5 MS. CASSANDRA MOORE: C - Audit Requirements
6 related to financial accounting are not coordinated with the
7 requirements of the California School Accounting Manual that
8 affects all LEAs. The recommendation is that OPSC staff
9 coordinate with the California Department of Education staff
10 that maintains the CSAM, to assure financial documentation
11 for audits is an integrated part of the CSAM and does not
12 impose additional accounting burdens on LEAs.

13 MS. KATHLEEN MOORE: Again, seems reasonable to be
14 coordinating --

15 SENATOR LOWENTHAL: Not being an Auditor myself,
16 it seems, but I have no idea what you just said. But it
17 seems reasonable when you're in the dark.

18 MS. KAPLAN: An easy way to explain this, it's
19 something that we've talked about in the Program Working
20 Group is having one tracking number for building a school,
21 it's let's make sure we have one documentation guideline
22 that applies across the board and there's not two different
23 standards.

24 MR. FERGUSON: While we are on this standard under
25 B, we would be - the Department of Finance would be very

1 interested in receiving or working with Districts to
2 understand their cash management and their accounting
3 practices, so if you could include us, as well, we would be
4 very interested in that.

5 SENATOR LOWENTHAL: Sure. Okay. A motion?

6 MS. KATHLEEN MOORE: So, I would move in the
7 Streamlining Actions within Audit Process, I will hold off
8 on A and would move B and C both forward to the full Board.

9 MS. KAPLAN: Senator Lowenthal - Aye; Kathleen
10 Moore - Aye; Scott Harvey - DGS supports the training of
11 OPSC staff, we will have our staff, the Yellow Book
12 Standards, when appropriate, we do not endorse duplicative
13 and redundant audits, and we want timely decisions. Having
14 said all of those things, I will abstain for reasons stated
15 earlier.

16 MS. KAPLAN: And then just to seek clarification,
17 is it the direction of the Subcommittee to take Item 1D and
18 -- what is this -- 4A back to the Working Group for further
19 clarification? Or do we take all of these - is it
20 potentially to take all of these to the State Allocation
21 Board and let the full Board flesh it out?

22 SENATOR LOWENTHAL: Or do both, to send it back,
23 just let them know to bring it back to the State Allocation
24 Board, both the idea that we have also sent these two items
25 back, so that they know for the Working Group to come back

1 with it more fleshed out. I really like using the Working
2 Group.

3 MS. KAPLAN: Okay, just to make sure I'm clear -

4 SENATOR LOWENTHAL: I am just concerned about the
5 timeframe because -

6 MS. KAPLAN: Yeah, ask my other working group -
7 ask the Working Group if and when we can meet again, the
8 possibility to flesh out this and whatever the
9 recommendations come back, include it in the report that is
10 going to the full Board? Or would you want me just to try
11 and come back to Subcommittee? Or coordinate with the
12 Chair?

13 SENATOR LOWENTHAL: All of those seem very
14 interesting, Lisa.

15 MS. KATHLEEN MOORE: Well, do you want to maybe
16 establish the timeline and then that would help?

17 SENATOR LOWENTHAL: Yeah, let's just talk about
18 the timeline.

19 MS. KATHLEEN MOORE: How about if we recommend
20 that these recommendations go before the State Allocation
21 Board November 3rd, or is that - I know you're not here at
22 the October 6th meeting, is that correct?

23 SENATOR LOWENTHAL: Right.

24 MS. KATHLEEN MOORE: So when would you like to do
25 that?

1 SENATOR LOWENTHAL: November 3rd.

2 MS. KATHLEEN MOORE: November 3rd, so you can back
3 into the date from there what OPSC requirements are for
4 producing documents to go to the next Board Meeting, we
5 would have to meet those deadlines.

6 MS. KAPLAN: So, I will take that as a
7 recommendation by the Subcommittee to talk to the Chair of
8 the SAB to make sure that this is included in the project
9 workload and included for the November meeting.

10 SENATOR LOWENTHAL: Right, if we can, then get
11 back to me if there is going to be an issue.

12 MS. KAPLAN: Is that okay, Mr. Harvey?

13 MR. HARVEY: Yeah.

14 SENATOR LOWENTHAL: Okay. Order Appeal Process.

15 MS. BOGGS: Currently, LEAs can appeal issues
16 through the SAB. A process is needed to address audit
17 discrepancies that have a fiscal impact on the District and
18 the State. Recommendation: Create an Appeals Panel as an
19 SAB Subcommittee to hear fiscally related appeals, the
20 Subcommittee to consist of representatives from the CDE,
21 Department of Finance, and Legislature, the Subcommittee to
22 determine appropriate process and timeline. Consider
23 establishing a more formal Appeals structure modeled after
24 the Education Audit Appeals Panel formal process if, in the
25 future, the Subcommittee approach is insufficient. The

1 thought being that there is already process there that seems
2 to work well, and that, if the Subcommittee doesn't seem to
3 be an adequate process, perhaps model after the one that we
4 use for other educational appeals.

5 SENATOR LOWENTHAL: I'm not sure how this works,
6 but - Mr. Harvey.

7 MR. HARVEY: I just have a question about the
8 level of discussion or kinds of things the working group may
9 have discussed relative to conflict. I use that because,
10 earlier, you had talked about why there should be an
11 independent audit separate from OPSC, because OPSC had their
12 hands in the process. Obviously, the SAB has its hands in
13 the process -

14 MS. BOGGS: Right.

15 MR. HARVEY: -- and I'm trying to get a better
16 understanding of where you see conflict in one area and not
17 in the other, and if you were forgiving at the Board level,
18 why? And why not in the case of OPSC?

19 MS. BOGGS: This would possibly be me speaking and
20 not the Committee, but I think there is a level of
21 detachment at the Board from the everyday processes. But we
22 did talk about, would that, in fact, be - would the
23 Subcommittee, in fact, be an entity of the process making
24 the alternative process more appropriate. We did talk about
25 that. Do you have any additional recollection?

1 MS. CASSANDRA MOORE: As Lettie stated, we did
2 talk about actually creating a Panel or some other entity to
3 actually hear the appeals because of the possibility of some
4 conflict, but, you know, given the timeline, this is what we
5 came up with to give to the Committee to discuss.

6 MS. KAPLAN: Just to flesh it out a little bit
7 more, as a for example, if there was a recognized appeal, or
8 an appeal had been submitted to the Office of Public School
9 Construction, there would be - OPSC would come up with a
10 determination, and then, based on that determination, it
11 would go to the Subcommittee of such this was created, to
12 hear this - for the District to present their side, for OPSC
13 to present their side, and if an agreement was reached, it
14 would go to the full Board. If there wasn't agreement, then
15 it would be sent out to an ALJ for official determination or
16 review so that there was an outside legal entity, somebody
17 other than the Board, and the disagreement, because, as
18 recognized in the Director's letter and the AG's Opinion,
19 the final determinant on an appeal is the State Allocation
20 Board, so that was the thought. And if by chance that OPSC
21 remains in control or some control of audits, but there was
22 also the variation of the Controller or some other entity
23 has it, how would that process be modified? But there needs
24 to be kind of an official appeals process outlined.

25 MR. FERGUSON: We would support having the

1 Education Audit Appeals Panel be the entity responsible for
2 handling any audit appeals. We believe that enabling
3 statutory legislation, or enabling legislation would be
4 required to authorize the Audit Appeals Panel to handle
5 this, but we believe that entity is in place now and would
6 be capable of reviewing these audits. It is also a process
7 that School Districts are familiar with currently.

8 MR. DUFFY: Mr. Chairman, members, Tom Duffy again
9 for CASH. In reading this, I appreciate Ms. Kaplan's
10 comment because it inserted something that may help to
11 understand, but in reading what is written, first it appears
12 that the Subcommittee would actually be an Appellate body on
13 a fiscal related appeal. Then, when you read the rest of
14 what's in the box, it identifies that it would create a
15 process. It seems to me that the idea of having a
16 Subcommittee, that appropriate information that would
17 basically distill what would go to the Board, makes sense,
18 and it may make it more efficient for the Appeals process
19 for the Board. That is different, however, from what I
20 understood Ms. Kaplan to explain when she talked about an
21 agreement at the Appellate Subcommittee level, and if that
22 goes forward it would go to the Board with the Board - with
23 the reservation for approval, if I'm understanding this
24 correctly; but, if not, then it would go to an ALJ, some
25 outside body. I think that there appear to be at least

1 three concepts, then, both in what's written and what's
2 discussed, and I would say, if you are going to have a
3 review again by the Working Group, this may be one that you
4 would want to have more discussion.

5 SENATOR LOWENTHAL: I agree. I definitely agree.

6 MR. DUFFY: Thank you.

7 MS. KATHLEEN MOORE: And as you discuss it, I do
8 like the concept that Chris Ferguson talked about, of an
9 existing body, as opposed to creating a new body,
10 particularly at this time in Government. I think we should
11 look at our efficiencies and - well, we always should be
12 looking at efficiencies, but particularly now. So, I would
13 ask the Committee to consider that component of it, as well.

14 MS. KAPLAN: And that was actually included as
15 part of our discussion. It was that we didn't want to
16 recommend one or the other because it may change, depending
17 on for whatever reason, the Controller's Office comes and
18 takes over the Audits, then the Appeals process would then
19 apply.

20 MS. KATHLEEN MOORE: The only other piece that I
21 would suggest about this, however, is if indeed, as Mr.
22 Ferguson indicates, that we have to have law to implement
23 this, you know, we all know the Legislative process, that is
24 a good year before that would happen. So, I would be
25 interested that, if there is a recommendation, an interim

1 recommendation of the Committee, as well, because we have a
2 year between now and the time really a piece of legislation
3 could be vetted, and if it was successful, passed. And yet
4 we have an ongoing problem, I think, in the area. So, I
5 would like to see the Committee consider that.

6 SENATOR LOWENTHAL: Excellent suggestion and we
7 will include all of that as part of our recommendations.

8 MS. KATHLEEN MOORE: Okay, so we don't make any
9 recommendation on 5, other than it goes back with the other
10 two, and we have one more.

11 SENATOR LOWENTHAL: Right. Do we need to vote on
12 that?

13 MS. KAPLAN: Why don't we just make it official
14 that the recommendation is to go back to the working group?
15 Senator Lowenthal - Aye; Kathleen Moore - Aye; Scott Harvey
16 - I can endorse that one, but I do want to make a statement,
17 as well, which is the DGS Director has recognized that there
18 needs to be a formal appeals process, he is working on one,
19 and it will be published. But for the reasons so stated, I
20 can endorse coming back to the Working Group with an Aye.

21 MS. BOGGS: May I just ask, Mr. Harvey, is that an
22 Appeals process solely for Audits? Or an Appeals process
23 overall?

24 MS. HARVEY: It's overall.

25 MS. BOGGS: Thank you.

1 SENATOR LOWENTHAL: Let's move on. I have 15
2 minutes. Let's go.

3 MS. KATHLEEN MOORE: We're going to get you out of
4 here.

5 SENATOR LOWENTHAL: Reorder the Index of the OPSC
6 Audit Guide.

7 MS. CASSANDRA MOORE: The issue with the Audit
8 Guide summarizes the audit requirements for each local
9 educational agency, the recommendation is the Audit Guide
10 Index should be reorganized to coordinate with a revised SFP
11 Handbook to allow better definition of the subject areas, a
12 sample portion of the example proposed index is attached.
13 So, what the Working Group did was went through the existing
14 Audit Guide and, on the page labeled "Content," you can see
15 all the changes, recommended changes.

16 SENATOR LOWENTHAL: But you are going to have the
17 same issue here with the Audit Guide that some of these
18 issues, various stages of Audits, we have referred that back
19 to the Subcommittee, so this, too, has to be referred back
20 since we're trying to integrate everything, this part would
21 be referred back.

22 MS. KAPLAN: Right. It could potentially change,
23 yes.

24 SENATOR LOWENTHAL: This could change.

25 MS. BOGGS: But by way of example, I think the

1 significant redesign is that the things that apply to all
2 SFP programs are handled in one section, and then the Manual
3 would go program by program, so Joint Use, High Performance,
4 Financial Hardship.

5 SENATOR LOWENTHAL: Right.

6 MS. BOGGS: So that each program's components are
7 not scattered throughout the document, but there is one
8 place they can go to and feel assured that they have an
9 understanding of what will be required of that program.

10 MS. KATHLEEN MOORE: Which might mean that it is
11 repetitive, correct?

12 MS. BOGGS: Yes.

13 MS. KATHLEEN MOORE: Because there are some
14 requirements that flow through all project programs and some
15 that don't.

16 MS. BOGGS: Well, Section 2 are the things that
17 apply to everyone, so no matter what you were doing, you
18 would look at Section 2 plus anything from Section 3 that
19 applied to your funding.

20 MS. KATHLEEN MOORE: Okay.

21 SENATOR LOWENTHAL: Okay, that makes sense.

22 MS. BOGGS: That was the idea - not the specifics,
23 but the concepts.

24 MS. KATHLEEN MOORE: I am very supportive of the
25 concept that an Audit Guide and the Program Guide should

1 align and be user-friendly to the School Districts because,
2 ultimately, the objective is for the Districts to know the
3 rules, and therefore be able to proceed with their projects
4 under the rules, and at the end have a clean audit. That is
5 all of our objective, I believe, so any way that we can help
6 that type of information flow is going to be very
7 successful, I think, with having clean audits, ultimately,
8 at the end of the project.

9 SENATOR LOWENTHAL: Okay.

10 MS. KATHLEEN MOORE: So, do you think this is
11 something that goes along with the streamlining?

12 MS. KAPLAN: Why don't we just send this back to
13 the Working Group in case that any changes come up as a
14 result of the recommendations in the review?

15 MS. KATHLEEN MOORE: Okay, so then I will make
16 that motion.

17 MS. KAPLAN: Senator Lowenthal - Aye; Kathleen
18 Moore - Aye; Scott Harvey - Aye.

19 MS. KATHLEEN MOORE: If I may make a comment?

20 SENATOR LOWENTHAL: Yes.

21 MS. KATHLEEN MOORE: I just wanted to say, if
22 indeed we are moving forward for November 3rd, I think there
23 would be a Subcommittee Hearing prior to November 3rd, and
24 not leave this out loose, so that everyone has an
25 opportunity again to also make their comments in public, and

1 then a recommendation to the State Allocation Board. So,
2 whatever that timeline is -

3 SENATOR LOWENTHAL: Yeah, we can work around that.

4 MS. KATHLEEN MOORE: -- back into it.

5 SENATOR LOWENTHAL: The other thing is, I just
6 wanted to ask Lettie and Cassandra, did you ever talk about
7 any recommendation about audits, about a timeframe when
8 audits must be completed by, upon project completion? Or -
9 do we need to address the timeframe? I mean, what I had
10 heard at some point, and I think you have done a great job,
11 and I'm not saying we need to deal with it, but the one
12 thing I had heard out there was, you know, and you mentioned
13 it also, if people, or programs, or a School District, had
14 completed their projects and the audit didn't occur until
15 significantly later, is that something that needs to be
16 addressed, that issue? And I'm not saying I know exactly
17 how you would address it.

18 MS. BOGGS: We did talk a lot about that. It is
19 not in the recommendations because I think what we really
20 came to was that the law in place now should be followed -
21 the Regulations. So there is a very defined regulation now
22 that sets a timeframe within which an audit should begin,
23 and once begun, it should be completed within six months, I
24 believe it is. But currently, there is very broad
25 interpretation of that and I think Districts will be

1 inclined to support a more literal translation of that.

2 MS. KATHLEEN MOORE: So -

3 SENATOR LOWENTHAL: Let me hear from Mr. Duffy
4 first.

5 MR. DUFFY: Thank you, Senator. Tom Duffy again
6 for CASH. We, in the letter we submitted to you, we
7 suggested the six-month timeframe on what we discussed
8 earlier on information being before a District, or before a
9 State agent, that is looked at three or four years later,
10 means that people may have changed jobs, information may be
11 lost, so if there is a timeframe of an audit that is related
12 to the Notice of Completion being filed on the project,
13 therefore the project is closed, occupied, then if it is in
14 a six-month timeframe, we think that that is healthier and
15 better information is more available, both to the State and
16 to the District, so we are in support of that, and I
17 appreciate you bringing that up.

18 SENATOR LOWENTHAL: I would like to see how the
19 Audit Working Group wants to deal with that issue and get
20 back -

21 MS. KAPLAN: And it could be as - we'll look at
22 the Regulations, and if the Regulations maybe need to be
23 clarified, we'll look at that.

24 SENATOR LOWENTHAL: Good.

25 MS. CASSANDRA MOORE: One of the thoughts was that

1 perhaps parts of the audit can be carved up to be covered in
2 the Annual Audit that is performed by the Independent
3 Auditor, so -

4 SENATOR LOWENTHAL: Right.

5 MS. CASSANDRA MOORE: -- for example, the
6 expenditure part can be done during the course of the Annual
7 Audit, and so that is something to be considered. So you
8 may not just have one audit, in other words, you may have
9 several components, or several different audits, but you
10 address the expenditure portion in the Annual Audit, so it
11 is done routinely, so if there is an issue with how they
12 expend their funds, it is brought up and it is discussed and
13 it is dealt with, so then you don't have those same mistakes
14 the next year. And then there will be other components,
15 like in the approval process, for example, looking at the
16 Architect, and whether it was competitively bid, that is
17 done, it is a very short condensed review, it is very
18 focused. So there are different ways you can approach it so
19 it's not like an all encompassing audit. And so I think
20 that's one of the things that the Working Group was
21 discussing.

22 SENATOR LOWENTHAL: Good. Would you like to make
23 a final comment?

24 MS. KATHLEEN MOORE: No, I'm good. Great,
25 fabulous work.

1 SENATOR LOWENTHAL: I think this is just great
2 work. I look forward to the Working Group dealing with some
3 of these.

4 [Adjourned at 3:10 p.m.]

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