

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

STATE ALLOCATION BOARD
AUDIT SUBCOMMITTEE

STATE CAPITOL, ROOM 447
SACRAMENTO, CALIFORNIA 95814

DATE: OCTOBER 14, 2010
TIME: 2:48 P.M.

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

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

APPEARANCES

Committee Members:

SENATOR ALAN LOWENTHAL, Chair

KATHLEEN MOORE, Director, School Facilities Planning
Division, California Department of Education, designated
representative for Jack O'Connell, Superintendent of Public
Instruction; Member State Allocation Board

State Allocation Board Staff:

LISA KAPLAN, Assistant Executive Officer

Audit Working Group:

CASANDRA MOORE-HUDNALL, CPA, Chief, Financial Audits Bureau,
Division of Audits

P R O C E E D I N G S

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

SENATOR LOWENTHAL: Welcome to the State Allocation Board's Subcommittee on Audits hearing. The Subcommittee was established -- I said this the last time, but I want to go over it again to be real clear that the Subcommittee was established by unanimous vote of the State Allocation Board in recognition of the concerns that have been raised by school districts regarding changes in audit procedures and requirements.

The Board requested that the Subcommittee study the scope of the OPSC audit authority and bring recommendations to the State Allocation Board defining that authority. The Board further specified that the recommendations should seek to define the bounds between the fiduciary responsibilities for bond accountability and the best use of State and local resources in conducting audits.

To accomplish this task, the Subcommittee with the endorsement of the full State Allocation Board formed an audit working group, which was a group of audit experts. This group has reviewed areas of redundancy in State audits of school districts and has studied the scope of the School Facility Program audits. This Audit Subcommittee met September 1st and adopted many of the working groups recommendations while asking for further clarification from

1 the group and we will have three issues today that we will
2 be discussing and we will review clarifications that have
3 come today.

4 Before we begin the discussion of the
5 recommendations, I want to once again thank the members of
6 the audit working group for all their thoughtful work.
7 Casandra Moore-Hudnall, Chief of the Financial Audits Bureau
8 with the Office of the State Controller and a member of the
9 audit working group will present the group's recommendations
10 of the working group.

11 It's my hope that today we will make the final
12 decisions on these recommendations and send these
13 recommendations to the State Allocation Board. The goal is
14 to seek the Board's approval of the recommendations at the
15 November 3rd Board meeting.

16 I would like to introduce my Subcommittee members.
17 I think we'll have one Subcommittee -- there's a three
18 person Subcommittee and that's Kathleen Moore from the
19 Department of Education and also who will not be present
20 today, Scott Harvey, Department of General Services. And I
21 ask, Kathleen, would you like to say a few words.

22 MS. MOORE: I believe we went through the majority
23 of the recommendations at the last Subcommittee meeting and
24 today we'll be dealing with the three remaining
25 recommendations and I too want to echo our appreciation for

1 the working group and their open process as well as the work
2 of staff. So thank you.

3 MS. KAPLAN: All right. So let's formally
4 establish us and convene the meeting and I'll record
5 attendance. Senator Lowenthal.

6 SENATOR LOWENTHAL: Here.

7 MS. KAPLAN: Kathleen Moore.

8 MS. MOORE: Here.

9 MS. KAPLAN: Scott Harvey. Absent. So two is a
10 majority, so we can convene the meeting and the next item is
11 to adopt the Minutes from the State Allocation Board's Audit
12 Subcommittee hearing on September 1st.

13 SENATOR LOWENTHAL: So moved.

14 MS. KAPLAN: Moved by Lowenthal.

15 MS. MOORE: I have just a couple of corrections --

16 MS. KAPLAN: Okay.

17 MS. MOORE: -- to the Minutes and I'm sorry I'm
18 giving them to you right now. I just -- I was able to read
19 over them today.

20 MS. KAPLAN: All righty.

21 MS. MOORE: There's -- on page 4 of 13, it's Anna
22 Ferrera that testified, A-n-n-a F-e-r-r-e-r-a. And that's
23 in a couple of spots. I would also say there is a few
24 locations of Steve that should be Scott.

25 MS. KAPLAN: Is it still there?

1 MS. MOORE: Yeah. There's Steve --

2 MS. KAPLAN: I'm sorry.

3 MS. MOORE: -- Harvey and it should be Scott. And
4 then the final piece, I think there was a page where there
5 wasn't an attribution of a comment. It's on page 6 of 13.
6 I actually think that Senator Lowenthal said it sounds
7 reasonable and we're sending to the State Allocation Board,
8 but there wasn't an attribute of that comment. I think all
9 other comments had attributes.

10 So with those changes, I would second.

11 MS. KAPLAN: Okay. As amended.

12 SENATOR LOWENTHAL: As amended.

13 MS. KAPLAN: Senator Lowenthal.

14 SENATOR LOWENTHAL: Aye.

15 MS. KAPLAN: Kathleen Moore.

16 MS. MOORE: Aye.

17 MS. KAPLAN: That passes two-zero as amended.

18 Thank you so much. All right. So let's present the
19 clarifications that we went over that were directed by the
20 Subcommittee and I will pass that on to Casandra, and I just
21 want to thank very much the audit working group for coming
22 together in such a short amount of time and continue again,
23 thank Kathleen for loaning Lisa Constancio to help with this
24 process. I very much appreciate it. Casandra.

25 MS. MOORE-HUDNALL: Okay. Beginning with Item

1 1(D) --

2 SENATOR LOWENTHAL: Um-hmm.

3 MS. MOORE-HUDNALL: -- the issue that was brought
4 before the Subcommittee was the -- I'm sorry -- the working
5 group was program requirements at the time of the
6 application change over the time that the LEA submits their
7 initial application and the time the project is audited. So
8 our recommendation is that LEA should be audited subject to
9 the Audit Guide in the regulations effective at the time the
10 application is deemed complete and accepted by OPSC.

11 A notification will be given to the LEAs upon
12 acceptance of their application detailing which regulations
13 and Audit Guide the project will be subject to at the time
14 of the audit.

15 The OPSC shall post electronically an archive of
16 all previous and current regulations and Audit Guides for
17 the districts and the public to access. An interim process
18 is needed to clarify application laws, regulations, and the
19 Audit Guides until a formal process is developed.

20 SENATOR LOWENTHAL: I think in my notes it also, I
21 believe, said -- I don't think that you said this, but
22 correct me if I'm wrong -- that there's going to also be a
23 complete application checklist will be included in the
24 School Facilities Program's handbook and the notification
25 will be given to the LEAs upon acceptance of their

1 application detailing which regulations and the Audit Guide
2 the project will be subject to at the time of the audit.

3 That too.

4 MS. KAPLAN: That was discussed and we're happy to
5 make sure it's clearly detailed out --

6 SENATOR LOWENTHAL: Okay.

7 MS. MOORE: So I just have a question that the
8 Committee as it considered this item. So if I'm a district
9 with a project that comes in and at the time I file that
10 project and it's deemed complete, I'm given the Audit Guide,
11 and that's how I'm audited. To any laws or regulations that
12 change in the intervening time between when I might have
13 submitted my application and when I go to construction are
14 not applicable to my project; correct? So it's the Audit
15 Guide and the rules and regulations at the time you submit
16 it; is that correct?

17 MS. MOORE-HUDNALL: That's correct.

18 MS. KAPLAN: Correct. And there is regulation
19 existing in OPSC that says to that, but I think it needs to
20 be further clarified because I think there has been some
21 instances where it may have changed or may have not been
22 clear. And so by adopting this and putting this in here, it
23 is abundantly clear so that when we update Audit Guides or
24 handbooks that they maintain the changes throughout the
25 years just as the EAAP Guide does as well so that you can

1 maintain -- so you knew when your project went in in '05
2 this is what you're going to be audited to for '05, not the
3 2010 standards which didn't apply.

4 MS. MOORE: Okay. Sounds --

5 SENATOR LOWENTHAL: That makes sense to me.

6 MS. MOORE: Yes.

7 SENATOR LOWENTHAL: It seems eminently fair. I'm
8 just wondering -- let's take that example -- or let's take
9 that your application came in in '10. You completed -- it
10 was complete. Those are the regulations that, you know,
11 let's say in October that you're going to be held
12 accountable in the compliance audit, but then over the next
13 three or four years, let's say the State Allocation Board
14 does change some of the regulations and -- could it
15 specifically request, if it did change those, that all --
16 even though that typically school districts would not be
17 under the new regulations, they would be under the old
18 regulations, but that these are so significant or some
19 consideration by -- that they would like these to be under
20 the new. And they know that school districts have not been
21 collecting this up until this time, but it's really deemed
22 important.

23 I'm saying what if the Legislature passed or did
24 something, would that -- and made it real clear that it's
25 going to include --

1 MS. KAPLAN: It's retroactive.

2 SENATOR LOWENTHAL: It is. It's going to go
3 forward and if you are still out there at that moment,
4 you're going to have to do that. Is that not possible? You
5 cannot override the Legislature from doing that.

6 MS. KAPLAN: No. If the Legislation and
7 legislation does do that -- now there might be discussion
8 of -- depending on what it means to school districts and the
9 cost of --

10 SENATOR LOWENTHAL: Oh, I agree.

11 MS. KAPLAN: -- a mandated cost, whatnot, but yes.

12 SENATOR LOWENTHAL: And I agree. These are not
13 things that I would like to see happen.

14 MS. KAPLAN: Absolutely. Statute --

15 SENATOR LOWENTHAL: Absolutely. But I don't
16 believe you --

17 MS. KAPLAN: Statute always trumps --

18 SENATOR LOWENTHAL: -- can limit future
19 Legislatures from doing that especially if it's very
20 explicit and that it will include this. I think if these
21 are the -- that it should any future -- make it real clear
22 that this is -- it has to be done whether they --

23 MS. KAPLAN: Well, legislation always trumps
24 regulation. So if there is such legislation that exists and
25 does retroactively apply, then that would be, you know,

1 immediately given to school districts, how to comply, what
2 you comply. It's that communication piece that we send
3 out --

4 SENATOR LOWENTHAL: Absolutely. And --

5 MS. KAPLAN: -- and then the handbook would be
6 amended per se or the audit amended --

7 SENATOR LOWENTHAL: Right. Again --

8 MS. KAPLAN: -- to handle such a situation.

9 SENATOR LOWENTHAL: I don't think this is a good
10 way to do policy. I don't think this is the way we should
11 be doing it, but there may be considerations when that
12 Legislature wants to do that in the future and I don't think
13 we can pass that precludes them from having that.

14 MS. KAPLAN: No. And actually -- and this does it
15 in any way, shape, or form just by natural of evolution and
16 law and how you look at things, statute always trumps
17 regulation and regulation is considered null and void if it
18 conflicts with statute.

19 SENATOR LOWENTHAL: Any comments from folks? Come
20 on up.

21 MR. SMOOT: Hello.

22 SENATOR LOWENTHAL: Hello.

23 MR. SMOOT: Lyle Smoot with the Los Angeles
24 Unified School District.

25 SENATOR LOWENTHAL: We know that.

1 MR. SMOOT: Yeah. I want to make sure that --

2 SENATOR LOWENTHAL: Everybody out there in the
3 world knows it.

4 MR. SMOOT: -- in television land. Senator, I
5 think you're probably pretty much accurate in what you just
6 said. Unless it is determined that this action is a
7 contract between the State Allocation Board and the school
8 district because -- I'm not going to try to be a lawyer
9 here, okay, but I think there is a premise that the
10 Legislature can pass a law that makes a contract null and
11 void.

12 SENATOR LOWENTHAL: And I think you're right. I'm
13 just not sure on that where I would like to have -

14 MR. SMOOT: Well, at the same time, Senator, I
15 think there -- I can't think of one right offhand. But I
16 think there are probably circumstances where you would want
17 that to happen --

18 SENATOR LOWENTHAL: Absolutely.

19 MR. SMOOT: -- doesn't interfere with the kind of
20 action you're talking about --

21 SENATOR LOWENTHAL: It might even be included in
22 existing contracts, that is if the -- some statement about
23 that, if it deems that it in the -- that it's important that
24 every single program follows something that that would be
25 there. I'm just saying that --

1 MR. SMOOT: Yeah -- part of the contract.

2 SENATOR LOWENTHAL: -- it would be -- have to be
3 part of that contract and I think we have to be real clear,
4 this is not what we assume is going to happen. This is a
5 focus and I applaud again the working group to make it as
6 clear as possible what the guidelines are and I agree.
7 That's the way it should be. It hasn't been. This will
8 take us a step in the right direction, but there may be
9 circumstances that have to be defined clearly and we have to
10 honor contracts.

11 MR. SMOOT: I think everybody understands that,
12 Senator.

13 SENATOR LOWENTHAL: Okay.

14 MR. SMOOT: The issue I wanted to talk about -- I
15 just wanted to mention that in passing.

16 SENATOR LOWENTHAL: Yes.

17 MR. SMOOT: The issue I want to talk about is one
18 that Lisa did bring up, you know, a little bit is the
19 concept of when is an application deemed complete --

20 SENATOR LOWENTHAL: Yes.

21 MR. SMOOT: -- because if you file an application
22 today, that application under current rules might take
23 several months to be deemed complete. So one of the things
24 we did talk about at the working group level is to come up
25 with a process that says, you know, there is a timeline for

1 applications to be deemed either complete or incomplete and
2 that establishes the timeline for when these -- this rule
3 takes effect because you might file an application today.
4 You know, something happens on January 1st. If you're not
5 deemed complete by then, you could be subject to something
6 that might change your whole application.

7 So I just want to make sure that we -- that's
8 addressed in the final --

9 MS. MOORE: Well, there used to be a process that
10 I was aware -- I'm just curious if it's continuing -- that
11 within, you know, 24 hours of submittal, the Office of
12 Public School Construction would advise you whether your
13 application was complete or not and you had that time to, if
14 there was one missing document, to get it in, otherwise they
15 sent it back to you. Is that a process currently used at
16 the office?

17 MS. KAPLAN: There is a 15,4-day, I believe -- and
18 correct me if I'm wrong -- OPSC 24-hour rule that when you
19 get your application, you have a certain amount of time that
20 they'll send you a letter of -- for your application to be
21 complete, we need this, this, this.

22 MS. MOORE: Right.

23 MS. KAPLAN: And then generally what goes next is
24 a 24-hour and if it's not complete, the process is supposed
25 to be that the application is returned to the district and

1 they are required to resubmit. As to whether that process
2 is actually followed and occurs I think is another matter.

3 MS. MOORE: So what you're indicating, Mr. Smoot,
4 is that while we adopt this -- while the -- you know, you're
5 supporting -- I believe you're saying you're supporting --

6 MR. SMOOT: Yes.

7 MS. MOORE: -- the recommendation.

8 MR. SMOOT: Yes, ma'am, I am supporting the
9 recommendation.

10 MS. MOORE: -- but that we also work to define a
11 completion timeline -- deeming complete timeline.

12 MS. KAPLAN: And that is something that the
13 working group, we recognized. That's why the last sentence
14 is an interim process is needed to clarify the applicable
15 laws, regulations until a formal --

16 MS. MOORE: So we recommend that forward.

17 MS. KAPLAN: Yeah, we recommend that forward.

18 MR. SMOOT: Okay.

19 SENATOR LOWENTHAL: Anyone else wish to address
20 this?

21 MR. GONZALEZ: Thank you, members. Richard
22 Gonzalez, Richard Gonzalez & Associates. To follow up on
23 this little point here, the -- when we turn in the
24 applications to the OPSC folks, they look at it. They may
25 take a little time to look at it and then if they did find

1 something materially wrong with it, they give us 24-hours
2 communication, try and correct it. Sometimes because the
3 plan reviewers have to look at some of the backup
4 information -- backup's right there.

5 The date which the project is deemed complete is
6 generally the date that you turn in the application unless
7 there's something very significantly wrong with it. They
8 may not tell you the fact that it's complete for maybe two
9 or three weeks because they're still looking at it, but once
10 they finish looking at and they find everything's there, you
11 actually get the date as deemed complete as of the date you
12 turned it in.

13 And by the way, there is -- the other point for
14 you, Senator, is that one good example would be the labor
15 compliance requirements. The project could have been turned
16 in, deemed complete today or back in let's say January of
17 the current year and receive that letter, but because the
18 DIR folks -- rules came into effect August 1st as it stands
19 today, that that they would be subject to that requirement.

20 What I would hope would happen -- and I don't know
21 that that's maybe too much on the staff -- would be since we
22 do have a letter saying your project is deemed complete and
23 you're subject to these guidelines that there would be a
24 subsequent letter that says by the way, that has to amended
25 for the current labor requirements, so that would be

1 documented fully for them and on target.

2 SENATOR LOWENTHAL: Okay. And also under those
3 circumstances, to -- whatever those changes, to make sure
4 that they're posted electronically too.

5 MS. KAPLAN: Correct. All right. So --

6 MS. MOORE: Well, I'll go ahead unless there's
7 further discussion and move item scope and type of audits
8 1(D), the recommendations of the audit working group
9 committee -- or audit working group.

10 MS. KAPLAN: Moved by Moore.

11 SENATOR LOWENTHAL: Second.

12 MS. KAPLAN: Senator Lowenthal.

13 SENATOR LOWENTHAL: Second. Oh, do we need a
14 second?

15 MS. KAPLAN: Roll call. Senator Lowenthal.

16 SENATOR LOWENTHAL: Aye.

17 MS. KAPLAN: Kathleen Moore.

18 MS. MOORE: Aye.

19 MS. KAPLAN: Scott Harvey absent, two-zero. Okay.
20 Let's move on to streamlining the audit process, Item 4.

21 MS. MOORE-HUDNALL: Okay. Item 4, the issue --
22 and it's 4(A). The issue was program requirements can
23 change from the time a district submits an application to
24 the time the project is audited.

25 The recommendation is to draft an incremental

1 compliance verification in a separate audit process. OPSC
2 program staff will verify program compliance within a year
3 at two distinct phases: at the time, the SAB action on the
4 application for funding and from the date of the fund
5 release.

6 The verifications made by OPSC program staff will
7 be limited to a number of items per project and should be
8 selected based on a program-wide random sample. After the
9 verification has been performed by OPSC program staff or the
10 one year expires, the project at both phases is deemed in
11 compliance with the applicable certifications and those
12 phases are no longer auditable.

13 The review of expenditure audits should remain a
14 function of the project audit.

15 MS. KAPLAN: So this was brought up and there was
16 discussions of -- the main concerns that were brought up is
17 how do you -- while we agreed on the working group in an
18 incremental review and audit for a timeline purpose, the
19 main concern is how do we make sure that there are clearly
20 defined rules and responsibilities such that the incremental
21 audit is not used by OPSC or anybody else to delay the
22 auditing and delay the project. And of course this is
23 something, you know, which may change if the auditing
24 process is ever taken outside of OPSC, but this is something
25 that whoever then does the auditing, this could be something

1 of a role that they look at.

2 The major premise and problem in regards to this
3 is when you have site development and you're auditing on
4 site and it's seven, eight years later, making sure that
5 there's relevancy because people constantly change and you
6 having all the document, that if you do it at the
7 step-by-step funding application process, it might
8 streamline the process and make things more relevant so
9 that, you know, if there is a material inaccuracy with an
10 early fund release that these are identified earlier not
11 seven years down the road to handle these circumstances.

12 SENATOR LOWENTHAL: I'm not quite sure I
13 understand all of this and so I'd like to hear from -- and I
14 just really want to listen to -- if anybody has any concerns
15 or support of this issue or want to come up and kind of
16 educate us because this is one I need some help on.

17 And I'm not saying I'm starting off being
18 negative. I'm just not sure is this the way want it, does
19 it work, is this the idea, the incremental audit, is this --
20 are these the right time and -- and what about the idea of
21 once you've completed it, it can't audited again. There are
22 number of issues here. I just need to some understanding.

23 MS. KAPLAN: First I'd like to open it up if
24 anybody from the audit working group is here. Before we go
25 to public comment, I'd like audit --

1 SENATOR LOWENTHAL: Sure.

2 MS. KAPLAN: -- working group to make statements
3 first. And make sure that Andrea can speak into that mic as
4 well, so it's -- the little mic --

5 MR. SMOOT: This one?

6 MS. KAPLAN: Yeah.

7 MS. SULLIVAN: Good afternoon. I'm Andrea
8 Sullivan with the Orange County Department of Education and
9 I was a participant in the working group. Thank you for
10 your consideration today and there was a lot of discussion
11 on this particular recommendation and really the intent is
12 to be a safeguard early in the process for the district to
13 identify any issues in their application that could cause a
14 material inaccuracy or some disqualification from not
15 meeting a requirement at the time of the application.

16 So it's really intended to be a program
17 verification for compliance that the program manager at OPSC
18 would do with the district and it's separate from the actual
19 audit function. So you verify probably along the lines of
20 the checklist that all those items are complete and there
21 you've gotten the okay that you've met those requirements
22 and then you can move on and so you wouldn't have the issue
23 of this coming up and not being identified until the end
24 audit eight years down the road.

25 SENATOR LOWENTHAL: How does that -- and again

1 I -- just my lack of understanding. And I understand what
2 you're saying is a way along the way and it's really a
3 safeguard to make sure that districts pretty much are
4 protected as they go through this.

5 But it says after the verification has been
6 performed by OPSC program staff or the one year expires, the
7 project at both phases is deemed in compliance with the
8 applicable certifications and those phases are no longer
9 auditable. Is that really what we're -- is that fine? I
10 mean I just need to kind of understand what those -- if
11 there are any issues around that. Does this really mean
12 that it's not necessary -- what -- to do any kind of
13 audit -- once you've gone through this -- these interim
14 stages and you've said that it's fine, none of that data can
15 be audited. Is that --

16 MS. SULLIVAN: Well, I think unless there's a
17 legal of fraud or some specific --

18 SENATOR LOWENTHAL: Um-hmm.

19 MS. SULLIVAN: -- issue that it would --

20 MS. KAPLAN: Or violation of statute.

21 MS. SULLIVAN: That would reopen it, but the
22 intent would be that there's a finite timeline that you can
23 be confident in --

24 SENATOR LOWENTHAL: Right.

25 MS. SULLIVAN: -- your project that you are --

1 it's been deemed complete and you can move on and it --
2 yeah, the limited time frame is really just to address the
3 issue where how long can things be hanging out there that we
4 can have a gotcha' at the end. And so really the intention
5 was that it would be really a checks and balances at the
6 beginning as a safeguard for both agencies to --

7 MS. MOORE: How do you address the issue of that
8 this program has extensive self-certification and was built
9 on really -- originally on self-certification, that we are
10 going to believe, you know, that districts know what they're
11 certifying to and that they, in good faith, are completing
12 all those requirements versus I think where we were ten --
13 over ten years ago in a program where you submitted every
14 single piece of paper and someone reviewed that, every
15 contract, every item and actually did what you're saying.
16 Everything was complete and it moved to the next phase.

17 To me what is being recommended sounds a bit like
18 that, that we're going to now chunk out projects in phases.
19 We're going to recommend that somebody verify that all the
20 documents that were necessary, that were originally
21 self-certified was actually done, so that there isn't a
22 concern that's raised in an audit. And you're actually
23 calling that the program audit versus the expenditure
24 audit -- or program verification --

25 MS. SULLIVAN: Program verification.

1 SENATOR LOWENTHAL: Right.

2 MS. MOORE: -- which is not an audit to me.

3 MS. SULLIVAN: Right.

4 MS. MOORE: So it -- there's a balance there in my
5 mind and I know we received a letter from CASH. I don't
6 know if they're still opposed to this recommendation and I
7 think that's along the line of their thinking. Probably
8 mine is a little bit differently in that I do see by having
9 that verification -- okay, so what are you verifying? Well,
10 do I need to see the contract that you said you signed? Do
11 I need to then see it? Does that mean you're going to have
12 to file it? You know, do I want -- do I have to see the
13 purchase agreement and all the signatures on it versus --
14 you know, versus not and do we want to weigh that paperwork
15 and dismissal really of self-certification to allay concerns
16 that districts may have that they might have missed
17 something and get an audit situation in the back end.

18 MS. KAPLAN: Well, just to clarify because one of
19 the things you'll actually find in the notes of the audit
20 working group on page 4 of 6, this was very clear as we
21 stated it, is that the front-end review is kind of like a
22 verification process because what generally happens when you
23 have the audit, they're actually going through and the
24 self-cert doesn't mean much of anything because they're
25 actually double-checking the self-certification of what

1 you're doing. What we're trying to do is do the
2 verification a little bit more on the front end without
3 delaying the project or funding going forward. So, you
4 know, what we -- we want to make sure that there is
5 sufficient protocols that can be relied upon in audits,
6 that -- basically we stated it becomes an auditable process
7 for anyone auditing at OPSC rather than a part of the
8 district's audit. In other words, OPSC becomes responsible
9 to verify that they are collecting and checking a sufficient
10 number of documents routinely and that the documentation can
11 be routinely relied upon in this grant program without heavy
12 audit reviews of districts' full audits at the very end
13 asking for documents six months later. But it's critical to
14 do it as a review and not a part of the current approval
15 process; otherwise the timeline gets forced for everyone.

16 So it's really about how do you implement this
17 without delaying it, at the same time streamlining it
18 because of the audit at the end, they're asking for that
19 contract. They're asking for everything that you
20 self-certified to get the funding.

21 So how do we do that review, not delay the
22 funding, that the project continues on, but that we ask for
23 these documents we're to ultimately come and audit as a
24 program review earlier so if there is a potential mistake or
25 there was something done with a contract or they -- we

1 weren't -- you didn't meet the 50 percent that this can be
2 acknowledged and addressed earlier rather than six, seven
3 years down the line.

4 MS. MOORE: Well, now not meeting the 50 percent
5 pieces like that, that's not -- well, I guess it could be
6 program and fiscal. They're both, I guess what you're
7 saying. So -- I'm just -- in my mind, I'm weighing
8 additional work on everyone's part versus an outcome. Our
9 outcomes are we really don't want districts in situations of
10 material inaccuracy. We don't want them with audit
11 exceptions. We prefer that they -- you know, that that
12 process be a clean one so that everybody knows what their
13 expectations are.

14 So weighing that worry perhaps that districts have
15 versus the additional work of districts and staff to -- for
16 these other verifications -- I mean that's what I'm weighing
17 in my mind.

18 MS. SULLIVAN: If I might just go back to the
19 recommendation. This isn't intended for every project and
20 every application. The verifications made by OPSC program
21 staff will be limited to a number of items, so in terms of
22 the documents -- the number of items -- actually I'm
23 sorry -- per project and should be selected based on a
24 program-wide random sample.

25 So it checks and balances overall, where random

1 projects would be checked and then it can identify areas
2 where there might be issues and maybe that's -- and then it
3 would be addressed --

4 MS. MOORE: So --

5 MS. SULLIVAN: -- overall in the program. But
6 it's really -- it's not for every project and every
7 district -- if that helps clarify that at all.

8 MS. MOORE: Okay. That helps with some of it.
9 And also I'm assuming then that you -- that whoever works on
10 this would be trying to pinpoint what seems to be common
11 mistakes, that we are alleviating early in the process so
12 that the -- so that it doesn't compound throughout the
13 project like the 50 -- not meeting the 50 percent
14 requirement which then causes a whole host of other issues
15 for a district.

16 I can see that. I'm just trying to weigh, you
17 know, that additional work to a self-certified program.

18 MS. KAPLAN: And I think one of the things we were
19 talking about because it did come up about workload and are
20 we actually making more work because in the end, you need
21 all the documents like we talked about, the document
22 checklist that you go through, that the district constantly
23 needs to have to make sure that they have. So by having
24 that in the Audit Guide, they already know the documents
25 that they need to have on hand that are going to be used for

1 the audit. Those are the same documents that would be used
2 for at least the front-end program review, if they got a
3 call from OPSC, because what we're trying to do is actually
4 spread it out instead of all of a sudden at audit you've got
5 this entire chunk that has been reviewed.

6 So what could happen, and not every project is
7 totally audited, is that if you have that program review, it
8 follows that application and goes in, so at the time of
9 audit, that's already been done, so that it's not the
10 double-check as what we were doing so it actually
11 streamlines. At the back end, you're really doing the 5006
12 expenditure audit as was additionally -- was originally set
13 up in statute was an expenditure audit. So the front end,
14 we're just spreading out the work. It's the same work.
15 It's just the timeline is not chunked at one end and also
16 making sure that it's a more timely check.

17 SENATOR LOWENTHAL: Other input about this?
18 Others -- concerns? Everybody fine with this?

19 MS. KAPLAN: Lyle.

20 MR. SMOOT: Yes. On making sure the LA supports
21 this proposal completely, understanding full well that it is
22 a compromise. Okay. I mean the one side of the compromise
23 is that some people say that when the application, for
24 instance, goes to the State Allocation Board and the Board
25 approves it, that should end that self-certification issue.

1 We fully understand that, you know, if you're going to have
2 some things that are reviewed, we don't want the application
3 slowed down. Okay.

4 So by giving a year to do a verification process
5 through a random sample and selected audits, those issues we
6 hope will become resolved but at the same time protecting
7 the school district from things like -- for instance, one of
8 the issues that came up and has been a minor problem but
9 nonetheless an irritant, if you will, is that there's a
10 process you have to go through in determining your selection
11 of your architect. I mean there's a whole host of things
12 you're self-certifying.

13 So if you certify, you can follow the process.
14 Chances are that you're going to get rid of your
15 documentation that showed you did that in a couple years.
16 Reasonably so, by the way. But if it's not -- if the door
17 isn't closed so you can't, you know, have that issue
18 reviewed seven, eight years later, it's sometimes just
19 absolutely impossible to prove that you did those things and
20 therefore you are subject to some issue not because you
21 didn't do it but because you don't have the documents to
22 prove it so much later.

23 And so this thing separates the two issues.
24 Eligibility versus expenditures, you know, and I think -- I
25 just want to make it clear. We're totally in support of

1 this and we think it's a good compromise.

2 MS. MOORE: Well, as one of the largest end users
3 of the program, I would think that that carries a lot of
4 sway as well as -- however, CASH represents a lot of school
5 districts as well and I'm interested in their concern. I
6 will say that I think we might naïve to think that we are
7 going to put a process in place earlier in the system than
8 later and that it's not going to take time or add time to
9 the time frame. And I think that's something that we are --
10 that we should be serious about weighing.

11 We hear daily from districts that they would like
12 the process to be smoother, to be more streamlined, to go
13 quicker. I think that placing more requirements of staff --
14 OPSC staff and district staff takes time. So we can't
15 expect that it's not going to slow down the process at all.
16 We could all hope that it wouldn't do that, but I think that
17 districts should be -- should have that expectation that
18 that's going to take a little time to do that verification.

19 MR. SMOOT: You know, Kathleen, I don't deny the
20 things you're saying. Obviously those are things that very
21 well could happen. I think we were hoping they wouldn't
22 happen and that -- and even further than that, I think maybe
23 we'd even like to go so far as to see an annual report -- a
24 semi-annual report on those issues brought to the Board by
25 the staff showing what's really going on.

1 In our case for LA -- and I'll just speak for LA.
2 You know, we are not shy. We'll come to the Board and we'll
3 tell you hey, this has slowed down the process, you know,
4 appropriately or inappropriately, whatever, and ask for
5 change to be made. So I think you have valid concerns. I
6 don't deny that at all, but I think we're looking at it from
7 the perspective that our protection of not being audited on
8 issues that are long gone and dead so much later is worth
9 the difference.

10 SENATOR LOWENTHAL: I like the idea of an annual
11 report back to the Board to see whether it is slowing it
12 down or not. I mean -- because that's right. That is the
13 issue, you know, is did the medicine cure or did it kill the
14 patient.

15 MS. SULLIVAN: Hopefully not the latter.

16 SENATOR LOWENTHAL: Well, it might. That's what
17 we're saying. You know, that's what we're trying to balance
18 now. How do we streamline this process and if it turns out
19 that the solution fixes something and we have better -- we
20 know in that verification on the front end what's going on
21 in a real clear way and districts do too, but if it slows
22 everything down so much, we have to really consider that --
23 how that fits in.

24 MS. KAPLAN: And just before -- in my mind's eye,
25 if the Board adopts this, my wonderful audit working group

1 will come together and figure out with OPSC how do we
2 actually implement this, have full discussion, full hearing,
3 get input before it actually into play so we don't say, hey,
4 we're adopting, do this. We establish the rules, the
5 playing field, what it's supposed to be, then go into place
6 before it actually goes in.

7 SENATOR LOWENTHAL: Good. Good. We'd like to
8 hear from CASH.

9 MS. HERRERA: Thank you. Patti Herrera with CASH.
10 Kathleen, thank you so much for your caution over this
11 recommendation and recognizing CASH's reticence around this
12 recommendation.

13 I think where we are today, we've had a
14 discussion -- a pretty in-depth discussion last week I think
15 it was around this particular item and we think that this is
16 a worthy goal actually when looking at it from the
17 practitioner's perspective of providing that assurance to
18 school districts that they're complying with law. And let
19 me give you an example that one of the audit working group
20 members gave during one of their meetings and it was Debbie
21 Deal from FCMAT. And she said, you know, what if -- often
22 school districts do subsequent -- or submit subsequent
23 applications for subsequent projects. So in one year,
24 they're submitting one project. Maybe six months later,
25 they're submitting an application for another and then maybe

1 another six months later, they're submitting an application
2 for yet a third project.

3 And if they are -- if that district is committing
4 an error on that initial application and is not aware of it,
5 that -- and this is something that's uncovered six years
6 later at audit of the initial project, not only did that
7 district -- is that district's initial project harmed, but
8 the subsequent applications have also been hard, potentially
9 resulting in full rescissions of apportionments and that's
10 something that really echoed in my mind about being able to
11 seek corrective action when corrective action can be taken,
12 not only for the initial project but for any subsequent
13 project.

14 So we recognize this as a worthy goal. For us --
15 and so I think where we are right now is we'd like to just
16 sort of see this play out. The devil's in the details. As
17 this particular recommendation gets implemented and
18 executed, if there -- we will look at the development of the
19 implementation of this recommendation to make sure that the
20 intent of it is being fully executed and if we have any
21 concerns over that -- over the implementation of it, then
22 we'll raise concerns at that time.

23 SENATOR LOWENTHAL: So what you're saying is
24 you're find at this point with the concept and the
25 recommendation going forward -- CASH is, but you are

1 concerned as other questions have come up about how this is
2 implemented and the implementation and you think you reserve
3 the right to kind of really question -- to look at as we
4 begin to develop the procedures for implementation and
5 actually begin to implement it, to really readdress this
6 issue and come back to this issue.

7 MS. HERRERA: Yes.

8 SENATOR LOWENTHAL: But right now, it's a worthy
9 enough goal to go forward even though there are some issues
10 still around this that are not completely resolved.

11 MS. HERRERA: Yes. Exactly.

12 SENATOR LOWENTHAL: Good. Thank you. Anyone else
13 wish to address the Subcommittee?

14 MS. MOORE: Then with that, I'd make the
15 recommendation on Item 4, streamlining actions without audit
16 process, Issue A, adopt the recommendations of the
17 Subcommittee to move forward to the full State Allocation
18 Board.

19 MS. KAPLAN: Motion by Moore.

20 SENATOR LOWENTHAL: Second.

21 MS. KAPLAN: By Lowenthal. Roll call -- prior
22 unanimous?

23 SENATOR LOWENTHAL: Probably, but, you know,
24 you're making an assumption.

25 MS. KAPLAN: May I --

1 SENATOR LOWENTHAL: No, no. You can do it.

2 That's fine --

3 MS. KAPLAN: -- prior unanimous.

4 SENATOR LOWENTHAL: -- since we -- you know, we
5 made the motion --

6 MS. MOORE: Since we made the motion and seconded
7 it.

8 SENATOR LOWENTHAL: -- and a second, but a lot can
9 happen as was pointed out --

10 MS. KAPLAN: I mean --

11 SENATOR LOWENTHAL: -- you know, in doing, you
12 know, school construction. A lot happens from the initial,
13 you know --

14 MS. MOORE: Few minutes to the next.

15 SENATOR LOWENTHAL: -- completion to the actual
16 vote.

17 MS. KAPLAN: I would like to make an assumption --
18 you know, I'll always appreciate being corrected. That's --

19 SENATOR LOWENTHAL: Okay. Moving right along.

20 MS. KAPLAN: So to Item 5, audit appeals process.

21 SENATOR LOWENTHAL: Right. This is our final item
22 for the day.

23 MS. MOORE-HUDNALL: This is our final item.

24 Currently LEAs can appeal issues to the SAB. A process is
25 needed to address audit discrepancies that have a fiscal

1 impact on the district and on the State. The
2 recommendations is create an appeals panel as an SAB
3 Subcommittee to hear fiscally-related appeals as an interim
4 process while taking the necessary steps to move towards an
5 independent process such as the Education Audit Appeals
6 Panel.

7 The SAB Subcommittee would consist of
8 representatives from the CDE, Department of Finance, and the
9 Legislature. The interim process would allow districts to
10 go before an administrative law judge in cases where the
11 districts do not agree with the findings of the SAB Audit
12 Appeals Subcommittee and then ultimately before the full
13 SAB.

14 SENATOR LOWENTHAL: I don't understand what
15 ultimately before the full SAB. Take the process again?
16 You're going to have a Subcommittee -- an appeal to the
17 Subcommittee and then the next stage is what? From the
18 Subcommittee --

19 MS. KAPLAN: So let's say there's a disagreement
20 on -- you let -- a hundred thousand is owed back.

21 SENATOR LOWENTHAL: Right.

22 MS. KAPLAN: That's what OPSC's recommendation is.

23 SENATOR LOWENTHAL: And then --

24 MS. KAPLAN: The district wants to appeal it. It
25 comes in front of the Subcommittee. If the Subcommittee

1 actually agree with OPSC, the district then has the ability
2 to appeal to an administrative law judge, but the ultimate
3 decision maker on the final would be the State Allocation
4 Board.

5 So the State Allocation Board could choose -- the
6 full State Allocation Board could choose --

7 SENATOR LOWENTHAL: So why are we going through
8 this? If the State -- seems to me -- here's where I'm
9 coming from and I need to be convinced and I want to hear
10 from those that are supporters.

11 The State Allocation Board is the Appeals Board.
12 That's it. I think OPSC -- we're trying to streamline the
13 process and make sure that it's clear. I'm not sure what
14 these interim steps -- why we would want to and wouldn't we
15 need legislation to change this role. I think this would
16 definitely need statutory change to make a check like this
17 and I'm not sure that I'm in favor of it. I think that -- I
18 personally on the State Allocation Board would like to see
19 the process that the State -- really clarify not to go
20 through these interim steps, but that the OPSC does it and
21 that's the role of the State Allocation Board to hear
22 appeals. That's where I'm coming from.

23 MS. KAPLAN: Um-hmm.

24 SENATOR LOWENTHAL: I'm not wedded. I just need
25 to -- that's what was my --

1 MS. KAPLAN: Well, because the ultimate
2 recommendation which you approved in the beginning of
3 September was to establish an appeals panel while
4 potentially the EAAP process is looked into so that the --

5 SENATOR LOWENTHAL: Um-hmm.

6 MS. KAPLAN: -- EAAP, Education Audit Appeals
7 Panel, might be the ultimate determinant and that whether
8 that would take legislation or not because if they were the
9 final determinant, it may not be what the State Allocation
10 Board -- so what is the interim process that potentially the
11 State Allocation Board would like to see which we then could
12 develop a timeline. So if it is, you know, a district
13 disagrees with OPSC, an appeal goes in, do you still want a
14 subcommittee to look at and gather all the information
15 before it goes to the full Subcommittee.

16 MS. MOORE: Lisa.

17 MS. KAPLAN: Yes.

18 MS. MOORE: Your first statement that we approved
19 what in September?

20 MS. KAPLAN: Going forward with the recommendation
21 of potentially looking as an outside entity --

22 MS. MOORE: Which item is that?

23 SENATOR LOWENTHAL: You're talking about to do the
24 audits.

25 MS. KAPLAN: To do the audit.

1 MS. MOORE: Oh, the audits.

2 SENATOR LOWENTHAL: Right. Right.

3 MS. KAPLAN: Yeah. Yeah.

4 MS. MOORE: Oh. Oh. Okay.

5 SENATOR LOWENTHAL: You're talking about --

6 MS. MOORE: All right. Never mind.

7 SENATOR LOWENTHAL: -- the statement that not OPSC
8 but an outside --

9 MS. KAPLAN: Yeah. Yeah.

10 SENATOR LOWENTHAL: -- within the State -- when we
11 were talking about outside, I believe we were talking about
12 other State agencies --

13 MS. KAPLAN: Yes. Sorry.

14 SENATOR LOWENTHAL: -- besides -- we're not
15 talking about subcontracting outside of the family of State
16 agencies. We're saying there are other State agencies that
17 potentially could do the same work.

18 MS. KAPLAN: Correct.

19 SENATOR LOWENTHAL: And that staff could be moved
20 to those State agencies. We're not talking about loss of
21 staff. We're talking about is there a conflict between the
22 agency that awards the grants and contracts and the one that
23 does the audit and could it be done within the State system
24 without having to have the same agency do that. That was
25 the issue, but that's --

1 MS. KAPLAN: Sorry. I didn't mean to confuse.

2 SENATOR LOWENTHAL: Right. I think you're clear
3 where I am.

4 MS. MOORE: I'm in the same place where you are,
5 Senator Lowenthal, particularly with going to an outside
6 administrative law judge which I think completely requires
7 legislation. I believe that the Board has the authority
8 here as well and is part of their requirements and fiduciary
9 responsibility and if there were to be a recommendation
10 concerning a subcommittee, I would simply want to see it be
11 a subcommittee of the Board, so -- you know, that we have a
12 number like this Subcommittee that perhaps takes some of the
13 work or time that the Board may take --

14 SENATOR LOWENTHAL: Um-hmm.

15 MS. MOORE: -- on an item and hear it and give it
16 good due process and then do a recommendation to the Board.
17 That would probably be all that I would support and that's
18 actually not how this is written --

19 SENATOR LOWENTHAL: Right.

20 MS. MOORE: -- at all. And it might be something
21 we'd want to talk to the Board about as we move forward, but
22 I also believe it's the responsibility of the Board.

23 MS. KAPLAN: So if there was to be a modification
24 in this recommendation, it may be to create an Audit Appeals
25 Panel within the State Allocation Board made up of

1 Subcommittee members.

2 SENATOR LOWENTHAL: I -- where I am is that's a --
3 I right now would not like to see this recommendation go
4 forward.

5 MS. KAPLAN: Um-hmm.

6 SENATOR LOWENTHAL: I still think it needs more
7 work.

8 MS. KAPLAN: Okay.

9 SENATOR LOWENTHAL: And I don't think that this
10 one has to be before November 3rd. I mean the way I feel is
11 that I --

12 MS. MOORE: I'm with you, but I also would say I
13 think we've asked enough of the working group.

14 SENATOR LOWENTHAL: Right.

15 MS. MOORE: I think that if it dies today, it kind
16 of dies that death.

17 SENATOR LOWENTHAL: Right. That'd be where I am.

18 MS. MOORE: That we don't ask -- I mean they've
19 done a tremendous amount of work and I would like to see it
20 completed, move forward to the State Allocation Board and
21 take its --

22 SENATOR LOWENTHAL: Okay.

23 MS. MOORE: -- take its actions there.

24 SENATOR LOWENTHAL: Right.

25 MS. MOORE: But I wouldn't want to ask them to go

1 back on it.

2 SENATOR LOWENTHAL: Got it. Right.

3 MS. KAPLAN: Well, and as what I could take is
4 your recommendations and where you guys feel that you are
5 and work on a potential suggestion to --

6 MS. MOORE: No. I think we're saying that
7 until -- we're going to --

8 SENATOR LOWENTHAL: I'd like to hear from people,
9 but right now --

10 MS. MOORE: We're going to hear the discussion,
11 but right now --

12 SENATOR LOWENTHAL: -- it's no.

13 MS. MOORE: -- it would be no.

14 SENATOR LOWENTHAL: Input.

15 MR. SMOOT: Go ahead. You're first.

16 MS. SULLIVAN: Thank you. I just wanted to
17 clarify on the interim process is really to deal with
18 appeals that might be happening right now and there's a
19 number of them on the workload listing coming up and others
20 that haven't been identified possibly and there is not a
21 process or a timeliness to a review with that. So it's
22 really to have the independent objective evaluation of the
23 issue and to have a mechanism to deal with it for the more
24 immediate concerns or projects.

25 SENATOR LOWENTHAL: When you say an independent

1 objective, is that what you mean by the administrative law
2 judge?

3 MS. KAPLAN: Somebody other than OPSC.

4 MS. SULLIVAN: Somebody other than OPSC.

5 SENATOR LOWENTHAL: That's what the -- yeah.

6 That's the Appeal Board. That the State Allocation Board.
7 That is the State Allocation Board, in my mind. That's why
8 we have one.

9 MS. KAPLAN: I think what we were also discussing
10 is sometimes what I've heard from school districts is that
11 they don't feel that what is presented to the State
12 Allocation Board is a true and accurate, fully documented
13 appeal with all the information for the Board to make a
14 decision on. So the recommendation that comes from OPSC,
15 some districts feel is flawed as not including all
16 information.

17 MS. MOORE: I see that as a different issue.

18 SENATOR LOWENTHAL: That may be true and that
19 we're not disagreeing with that. I'm just saying that this
20 solution is not one that I feel comfortable with. But I
21 agree that I've heard that same thing and that needs to be
22 addressed.

23 MR. SMOOT: I hate to step in the middle of this
24 one --

25 SENATOR LOWENTHAL: Okay.

1 MR. SMOOT: -- all of a sudden, but I think for
2 Los Angeles, we would believe that the State Allocation
3 Board is the proper authority to go to and to create a
4 subcommittee really in our mind just means you have to go
5 through an appeal twice potentially because the whole Board
6 is going either have to rubberstamp what the subcommittee
7 comes up with or hear it again anyway. So I think we agree
8 with what you're saying, but we would like to walk across
9 that line of independence on the preparation of the analysis
10 that comes to the --

11 SENATOR LOWENTHAL: Um-hmm.

12 MR. SMOOT: -- to the Board and I'll just walk
13 right into the muck and we'd like to see that delegated to
14 your Assistant Executive Officer as being independent.
15 Thank you.

16 (Whispered conversation between Senator Lowenthal and
17 Ms. Moore.)

18 SENATOR LOWENTHAL: I think since -- you know,
19 listening -- would be fine to have an amendment that it --
20 what you're saying is that when OPSC makes a -- finds a
21 school district is out of compliance and there's an appeal
22 that you would want as it comes to the Appeal Board which is
23 the State Allocation Board that a review of that
24 recommendation by OPSC be done and a presentation also be
25 made by the Assistant Executive Officer to the Board. I

1 would accept that as an amendment.

2 MS. MOORE: And I -- actually I heard it slightly
3 different --

4 SENATOR LOWENTHAL: Right.

5 MS. MOORE: -- that the Assistant Executive
6 Officer would prepare the audit appeal item for the State
7 Allocation Board in conjunction with the Office of Public
8 School Construction and --

9 SENATOR LOWENTHAL: That's fine.

10 MS. MOORE: -- and present that appeal.

11 SENATOR LOWENTHAL: I would accept that as a
12 working amendment.

13 MS. KAPLAN: Okay. So on items that are
14 discrepancies that a district has submitted an appeal on,
15 the recommendation is to have the AEO in concert with OPSC
16 prepare an audit appeal item that shall be presented to the
17 Board, but the AEO shall conduct I guess their own
18 independent analysis of gathering information from the
19 district --

20 MS. MOORE: Just -- no. I think what we said was
21 for the AEO to prepare the item, you know, in consultation
22 with the Office of Public School Construction, but that
23 would be the item coming forward.

24 MS. KAPLAN: Can I be blunt?

25 SENATOR LOWENTHAL: No. Obviously yes, you can be

1 blunt, Lisa.

2 MS. KAPLAN: I -- in preparing items for the
3 Board, I do consult with OPSC, but often my consultation
4 goes nowhere in items presented to the full State Allocation
5 Board.

6 SENATOR LOWENTHAL: But what we're saying is we
7 would make it real clear as part of this that you would be
8 in concert, but it would be your presentation to the Board.

9 MS. KAPLAN: Oh, okay.

10 MS. MOORE: It would be --

11 SENATOR LOWENTHAL: It would be your --

12 MS. MOORE: It would be that item -- it would be
13 the item of the AEO --

14 SENATOR LOWENTHAL: Right. Your item.

15 MS. MOORE: -- in consultation with the Office of
16 Public --

17 SENATOR LOWENTHAL: Appeal -- right. Appeals
18 would come through by and be presented by the AEO to the
19 Board.

20 MS. MOORE: And we're talking about audit appeals.
21 This --

22 SENATOR LOWENTHAL: Just audit appeals.

23 MS. MOORE: We're the Audit Subcommittee. There
24 are many appeals that come before the State Allocation
25 Board. I think this is -- I heard the recommendation is for

1 audit appeals.

2 MS. MOORE-HUDNALL: If we were to -- if you were
3 to have an outside entity, another State agency, perform the
4 audit, then that outside entity would actually be a party to
5 the appeal rather than OPSC.

6 SENATOR LOWENTHAL: Right.

7 MS. MOORE: Correct. So whoever was responsible
8 probably for the audit concerns or audit exceptions, you
9 know, if it was an outside agency, they would have to be --
10 it would be in conjunction with that entity I would assume.

11 SENATOR LOWENTHAL: But it would still be
12 presented by the AEO to the Board.

13 MS. KAPLAN: I've got that down.

14 MS. MOORE: Okay.

15 SENATOR LOWENTHAL: All right.

16 MS. MOORE: With that amendment, I would move then
17 the audit appeals process item to be changed from the
18 current recommendation to the recommendation that an audit
19 appeal would be the responsibility of the Assistant
20 Executive Officer in consultation with the Office of Public
21 School Construction and/or a future audit group if that is
22 the direction of the Department of General Services and the
23 State Allocation Board -- present that item to the State
24 Allocation Board for -- as an appeal.

25 SENATOR LOWENTHAL: Right. And the State

1 Allocation Board is the Appeal Board. There isn't --

2 MS. KAPLAN: No, there is no anything else in
3 between.

4 SENATOR LOWENTHAL: Right.

5 MS. KAPLAN: All right. Motion by Moore.

6 SENATOR LOWENTHAL: Aye.

7 MS. KAPLAN: Two-oh. Shall I -- prior unanimous
8 roll call.

9 SENATOR LOWENTHAL: It was assumed unanimous.

10 MS. KAPLAN: As existing. The last item is
11 regards to the index and the reorder of the index, so --

12 SENATOR LOWENTHAL: Are we doing that? Is there
13 another item?

14 MS. MOORE-HUDNALL: The Audit Guide --

15 MS. MOORE: There's another item?

16 SENATOR LOWENTHAL: I thought there wasn't another
17 item.

18 MS. MOORE-HUDNALL: I think this was just the
19 reordering of the index and the issue was, is that the Audit
20 Guide summarizes the audit requirements for each Local
21 Educational Agency.

22 SENATOR LOWENTHAL: Which one is this?

23 MS. MOORE: Reorder --

24 SENATOR LOWENTHAL: Oh.

25 MS. MOORE: Okay?

1 SENATOR LOWENTHAL: Okay.

2 MS. MOORE-HUDNALL: And our recommendation is the
3 Audit Guide in the School Facility Program Handbook should
4 be coordinated and reorganized to provide clear guidelines
5 for all LEAs. The coordination of the Audit Guide in the
6 School Facility Program Handbook should be updated annually
7 and vetted through the SAB Implementation Committee.

8 MS. KAPLAN: And this was just an intent to make
9 sure that everything is up to speed and that if there are
10 any changes, there's a public vetting process to allow
11 districts and others to have public input and to make sure
12 that both are aligned -- no matter who's doing the auditing,
13 that both are aligned.

14 MS. MOORE: Is this -- was this item put over from
15 our last meeting and can you --

16 MS. KAPLAN: It was in regards to how we ordered
17 the index and what the index of the Audit Guide said, so --

18 MS. MOORE: So why did we put it over? Remind me.
19 What was in conflict and what have we resolved?

20 MS. SULLIVAN: I don't think we had referenced in
21 the recommendation going to Implementation Committee
22 specifically. So the second part of the recommendation I
23 believe is what was added.

24 SENATOR LOWENTHAL: And that was the reason why we
25 put it over because we were unclear where it would go?

1 MS. KAPLAN: Of how we should potentially do the
2 vetting and what was the recommendation on the vetting.

3 MS. MOORE: However, don't we already have a
4 recommendation? We didn't go through all the
5 recommendations that we approved at the last meeting, but
6 one of the recommendations was the annual update of the
7 Audit Guide; am I not correct?

8 MS. KAPLAN: Correct.

9 MS. MOORE: And so the annual update of the Audit
10 Guide was not through the Implementation Committee; correct?

11 MS. KAPLAN: No.

12 MS. MOORE: It was through a different process.

13 MS. KAPLAN: If -- that was the recommendation
14 of -- kind of established like the EAAP like process of --
15 and so we didn't do a recommendation of what that annual
16 update potentially should look like. And so that's where
17 the Implementation Committee recommendation came in. Plus
18 we didn't in the first one recommend the coordination of the
19 updates together between the handbook and the Audit Guide.

20 Because it was specifically 3A, creating a
21 standing Audit Committee that will do an annual review of
22 the Audit Guide and create a process --

23 SENATOR LOWENTHAL: 3A?

24 MS. KAPLAN: -- to address changes. I'm sorry, in
25 the original, so it's not in this documentation.

1 SENATOR LOWENTHAL: But create a standing Audit
2 Committee?

3 MS. KAPLAN: Um-hmm. To do an annual review of
4 the process, to go through, and what this recommendation is
5 is making sure that annual review is also discussed and
6 coordinated with the handbook so if there's any changes in
7 the audit to the handbook.

8 MS. MOORE: Well, I have a concern because I think
9 we already had a process and I thought we -- it was a very
10 thoughtful process, about how changes to the Audit Guide
11 were going to occur and that's -- thank you for pointing us
12 to that. It's 3A and where we have created a standing Audit
13 Committee that will do the annual review and update of the
14 Audit Guide.

15 I don't believe that there's the need for a second
16 look at that. If that Audit -- that's a lot of work of an
17 Audit Committee. That work should stand on its own and I
18 wouldn't support that it then goes the Implementation
19 Committee. I think we have an independent standard for that
20 and it was -- I thought it was thoughtful. I don't think
21 that we should have another review of that Audit Guide
22 annually at an Implementation Committee meeting.

23 So I for one -- unless you can convince me why we
24 should. It seems like a duplication of work.

25 SENATOR LOWENTHAL: All right. Those that want to

1 convince come forward.

2 MR. SMOOT: I'm not sure that I'd say I'm not
3 convinced. As long as the Audit Guide Review Panel is an
4 open meeting and published notification so that members of
5 the Implementation Committee that might want to participate
6 in that discussion could have that opportunity to do so. I
7 think that's what I -- at least LA was looking for is that
8 if the Audit Review Panel is a closed-door session that we
9 wanted to have an opportunity to review it in open public
10 session. That's all.

11 MS. MOORE: Casandra, can you indicate, are you
12 part of the process that they already -- that they do at the
13 Department of Education?

14 MS. MOORE-HUDNALL: Yes, I am.

15 MS. MOORE: Is that an open process?

16 MS. MOORE-HUDNALL: It's not an open -- we don't
17 notice the public. It is an open process in the sense that
18 we have representatives from various State agencies as well
19 as the school districts and the superintendents association.
20 It's actually in State law who will participate.

21 MS. MOORE: Right. And we kind of modeled this
22 off of that, didn't --

23 MS. MOORE-HUDNALL: Right. And then what happens
24 is, is that so the Committee itself meets as often as needed
25 to update the Audit Guide and then submit it over the

1 Education Audit Appeals Panel, and at that point they adopt
2 it into regulation. So then they go through the public
3 hearing and the discussion at that point. But in terms of
4 actually creating the Audit Guide or updating it, initially
5 it falls to the Committee.

6 MS. KAPLAN: So I think that's kind of what we
7 were recommending is that if we had the working group there
8 and people could speak and comment and then that the
9 ultimate with the publishing of Bagley-Keene and everything
10 else, the vetting of it --

11 MS. MOORE: I for one -- I'm not convinced. I
12 think that we've set up a process for this Audit Guide. It
13 was a thoughtful process. It has entities that are
14 representative of different -- at different interests. It
15 appeared very balanced and I think let them do their work
16 and their recommendation. I think it -- so what happens if
17 someone in the Implementation Committee disagrees with that?
18 Then does it go back to that Committee? You know, I think
19 we let them do their work. We're creating something new.
20 I'm not so sure going to the Implementation Committee after
21 that work is done is going to be very fruitful. People --
22 if people have concerns, they should get them to the
23 representatives that sit on those committees and vet that
24 process there. Having it then vetted once again seems to me
25 a lot of additional work.

1 MS. KAPLAN: What about potentially removing that
2 last part? Because I know part of the concern was is that
3 what we really want is a coordination between the Audit
4 Guide and --

5 MS. MOORE: I think that's appropriate.

6 MS. KAPLAN: So if we just stop at the
7 coordination of the Audit Guide and the School Facility
8 Program should be updated annually.

9 MS. MOORE: Yes. And maybe some of that over here
10 could be coordinated with this group and again I mean like
11 Senator Lowenthal, if this process doesn't work, people
12 should let us know, should we then involve the
13 Implementation Committee. But until such time as we give --
14 you know, first of all, we have to go to the State
15 Allocation Board and seek their concurrence.

16 SENATOR LOWENTHAL: Under 3A, could -- the
17 standing Audit Committee, could that have an open public
18 hearing?

19 MS. MOORE: Yeah or --

20 MS. KAPLAN: We can make it standard as part of
21 rules and procedures.

22 SENATOR LOWENTHAL: If the standing Audit
23 Committee is really where -- we're saying since they're
24 already doing this, could we insert that very thing that
25 Lyle's saying about public meeting, it should be done where

1 people are noticed.

2 MS. KAPLAN: I can -- it can be made done --

3 SENATOR LOWENTHAL: Open public meeting.

4 MS. KAPLAN: -- that -- if this is what the State
5 Allocation Board wants, it would be noticed and public
6 comment could be allowed. The recommendation, just so that
7 we're not in conflict from the Rules and Procedures
8 Committee was to not have it subject to Bagley-Keene but
9 allow it to be open and subject to public comment.

10 MR. SMOOT: Again I'm not an attorney, but if you
11 look at the open meeting laws, when you had this committee
12 originally and it was just a working group and it's a
13 one-time thing, you're not subject to --

14 SENATOR LOWENTHAL: Right.

15 MR. SMOOT: I don't think you're subject to it,
16 but the second you say it's a standing committee, you are
17 subject to the open meeting laws.

18 SENATOR LOWENTHAL: Okay.

19 MR. SMOOT: That's my opinion. Obviously you can
20 have your real attorneys check it out, but I think that's --
21 and of course from our perspective, whether that is or isn't
22 true, we'd like to see it subject to that Committee.

23 SENATOR LOWENTHAL: Right. Right. So would we.
24 So I -- right.

25 MR. SMOOT: Yeah. Thank you.

1 MS. KAPLAN: Or we can just change it as create an
2 audit working group and make it still subject to notice and
3 then it --

4 SENATOR LOWENTHAL: Right.

5 MS. KAPLAN: -- doesn't need --

6 MR. SMOOT: Yeah. That's fine.

7 MR. GONZALEZ: Richard Gonzalez, Richard
8 Gonzalez & Associates. I'm okay with what you've just
9 shared with only one caveat, is that we understand that the
10 audit work group will be doing all the Audit Guide work. I
11 think that -- again reflecting again on what Ms. Kaplan
12 said. This piece is to ensure that the handbook coincides
13 with what was done in the working group. It isn't an
14 attempt to reevaluate what the audit work group did. It's a
15 case of we want the Implementation Committee or someplace,
16 whether it's presented to the Board for approval, but
17 somewhere it's identified as someone reviewed it. It was
18 determined that it was married and coordinated with the
19 Audit Guide, and that everybody's comfortable with it.

20 That was how I perceived that this role here was
21 in there for. It was to just make sure that the handbook
22 did incorporate what the audit folks had wanted be put in
23 there, not to reevaluate whether it was accurate or that,
24 that it was accurately put into it.

25 MS. MOORE: Well, that's not what this says. This

1 says that the coordination of the Audit Guide and the School
2 Facility Program Handbook should be updated annually and
3 vetted through the SAB Implementation Committee. What I
4 heard you say, Mr. Gonzalez, is that you are hoping that --
5 or not hoping. You're recommending that the program
6 handbook be coordinated with the Audit Guide and that that
7 happen annually.

8 MR. GONZALEZ: Yes. And that we have a chance to
9 make sure as practitioners that what was agreed upon from
10 the audit work group actually got into the handbook
11 appropriately and not translated differently.

12 MS. MOORE: Tell me this, would you think it would
13 be additional work for this Audit Subcommittee -- Audit
14 Guide Subcommittee to review the handbook -- to also
15 coordinate the handbook concerns or is that too broad a
16 subject for that working group. I mean their focus is
17 audit; right?

18 MS. KAPLAN: The focus is audit and not
19 necessarily being experts in the program, which I know
20 that's where we spent a lot of time as the working group was
21 trying to get comfortable in understanding what the program.

22 MS. MOORE-HUDNALL: The way the Audit Committee
23 works for the school district audits is, is that when we
24 have a program that we want to introduce into the Audit
25 Guide we ask the experts to bring that program forward and

1 explain, you know, what that program is about and then we
2 try to determine what we could consider the items that
3 should be auditable and then how we could audit those items.
4 Then we develop the procedures.

5 So we rely on the experts, you know, from, let's
6 say, Department of Education just like I would think that
7 you would rely on the experts from OPSC, the program
8 people --

9 MS. MOORE: Right.

10 MS. MOORE-HUDNALL: -- to say, okay, these are
11 areas that we really would like you to look at as a part of
12 your audit or as a part of the requirements. These are the
13 items that should be kept so they can support the compliance
14 requirements. And then we develop the Audit Guide from
15 there. So trying to make sure that your program group or
16 your program handbook is separate and all the Audit Guide is
17 doing is taking that information that's been put out into
18 the field and they're going to use -- the auditors will use
19 that Audit Guide to audit the program. It's -- there is a
20 definite, you know, communication.

21 MS. MOORE: How about this, a little bit different
22 approach on your second sentence on the recommendation of
23 the reorder. I think, Senator Lowenthal, we're in agreement
24 on the first sentence; right?

25 SENATOR LOWENTHAL: Right.

1 MS. MOORE: So if the second sentence were to read
2 the coordination of the School Facility Program Handbook and
3 the adopted Audit Guide should be updated annually and
4 vetted through the SAB Implementation Committee so that
5 we're not -- the Imp. Committee is not revetting the Audit
6 Guide, but they are vetting the Audit Guide together with
7 the program handbook which I think could be appropriate, but
8 I don't think we need another crack at the Audit Guide at
9 the Implementation Committee.

10 MS. KAPLAN: And I think the reordering
11 appropriately gets out with the intent of what the working
12 group was trying to accomplish.

13 MS. MOORE: Okay.

14 SENATOR LOWENTHAL: Good.

15 MS. MOORE: Are you okay with that?

16 SENATOR LOWENTHAL: I'm fine with that.

17 MS. KAPLAN: Motion to approve.

18 SENATOR LOWENTHAL: Motion to approve.

19 MS. MOORE: As amended.

20 MS. KAPLAN: Unanimous.

21 SENATOR LOWENTHAL: Unanimous.

22 MS. KAPLAN: Two-zero-one and direction on this is
23 I will continue -- I will follow up with this and work with
24 Ms. Constancio from CDE to make sure we've got the
25 recommendations down correctly and continue this preparation

1 for the November SAB with the layout pretty much being how
2 we presented it to you as that's how it will go to the State
3 Allocation Board unless you give me different direction.

4 MS. MOORE: I'm very good with that and I think
5 that that's a really clear document. So if you could just
6 put that together within an action item --

7 MS. KAPLAN: Yes.

8 MS. MOORE: -- for the November 3rd Board meeting.

9 MS. KAPLAN: Would you like me to attach in the
10 back and that this -- recommendations and all of this go in
11 the front end. On the back end, would you like the Minutes
12 after amended?

13 MS. MOORE: I don't think that's -- I mean
14 that's --

15 MS. KAPLAN: Okay.

16 MS. MOORE: -- that's available on the record, but
17 I would like to keep this document to be the document that
18 we've discussed and approved and move forward with the
19 recommendation. I for one, I think the Minutes are part of
20 the public record, but they don't need to go to the State
21 Allocation Board.

22 MS. KAPLAN: Okay. And is it direction to invite
23 Ms. -- Casandra and Lettie Boggs back to help present this
24 item at the State Allocation Board?

25 MS. MOORE: Sure.

1 SENATOR LOWENTHAL: Sure. I think -- you know,
2 they've done so much work, we can compliment you again.
3 Yes. That'd be fine.

4 MS. KAPLAN: So I will extend those invitations.

5 SENATOR LOWENTHAL: Yes. Extend that. You know,
6 we're very appreciative. We think that this really does
7 streamline the communication, does clarify what is required
8 and hopefully, you know, we'll resolve some of the conflicts
9 that have developed.

10 So we're looking forward to that. And as Kathleen
11 said, we should always consider as we do this that there may
12 be some glitches that come up along the way. We'll work on
13 them if they do.

14 MS. KAPLAN: Thank you.

15 SENATOR LOWENTHAL: Thank you. With that, I want
16 to thank everyone. Thank the audit working group and thank
17 everyone who came today and I think we have a good document
18 to bring forth at the November 3rd meeting. With that, this
19 Committee hearing is adjourned.

20 MS. KAPLAN: Thank you.

21 (Whereupon, at 4:01 p.m. the proceedings were recessed.)

22

23

---oOo---

24

25

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

REPORTER'S CERTIFICATE

STATE OF CALIFORNIA)
) ss.
COUNTY OF SACRAMENTO)

I, Mary C. Clark, a Certified Electronic Court Reporter and Transcriber, Certified by the American Association of Electronic Reporters and Transcribers, Inc. (AAERT, Inc.), do hereby certify:

That the proceedings herein of the **STATE ALLOCATION BOARD AUDIT SUBCOMMITTEE** hearing were duly reported and transcribed by me;

That the foregoing transcript is a true record of the proceedings as recorded;

That I am a disinterested person to said action.

IN WITNESS WHEREOF, I have subscribed my name on November 26, 2010.

Mary C. Clark
AAERT CERT*D-214
Certified Electronic Court
Reporter and Transcriber