EXAMINATION of RECEIPT, DISBURSEMENT, and USE of MEASURE G BOND FUNDS

Authority/Standard

In November 2000, California voters approved Proposition 39, the Smaller Classes, Safer Schools and Financial Accountability Act. Within the text of Proposition 39, various accountability requirements, including certain types of audits, were listed. One such requirement is the establishment of a Citizens’ Oversight Committee (Committee), as required by Education Code Section 15278, et seq.

The referenced Education Code Section states, “…the Committee shall, at least annually, inform the public in a written report concerning the expenditure of bond proceeds.” Specifically, the Committee shall:

1. “Actively review and report on the proper expenditure of taxpayers’ money for school construction;
2. Advise the public as to whether or not the school district is in compliance with the requirements of Article XIIIA, Section 1 (b)(3) of the California Constitution, which provides the following:
   (a) Bond funds are expended only for the construction, reconstruction, rehabilitation, or replacement of school facilities, including the furnishing and equipping of school facilities, or the acquisition or lease of real property for school facilities;
   (b) Bond funds shall not be used for any teacher or administrative salaries or other school operating expenses;
   (c) A list of projects to be funded will be included on the ballot;
   (d) An annual independent performance audit shall be performed; and
   (e) An annual independent financial audit shall be performed.”

On November 5, 2002, the registered voters of the County of Solano approved the Solano Community College District Measure G by an approval rate of 55.6%. A vote of 55% was required for passage. The Measure G Bond language read:

“To upgrade 30 year old classrooms, science labs, libraries, electrical wiring, technology, heating/ventilation, systems/lighting for student safety; replace portable classrooms; expand/establish facilities in Vacaville/Vallejo; prepare Solano College students for jobs/four-year colleges, shall Solano County Community College District issue $124.5 million of bonds at legal rates, appoint Citizens Oversight Committee, and perform annual audits to ensure the legal/proper use of all funds?”

The California Community Colleges Budget and Accounting Manual (BAM), cites further authority for the sale of bonds under 8940 (Proceeds of General Long-Term Debt – Sale of Bonds). This section also provides applicable Education Code Sections starting with E.C. 15140, et seq.
EdMAC Findings

- SCCD has a Bond Counsel.
- SCCD did not have a Financial Advisor for Measure G.
- Of particular interest is a deposit of $1,045,105 in August 2007. It appears SCCD transferred $1,045,105 from the Bond Fund to the Clearing Account. Warrant (#25688061), in the amount of $1,045,105, was issued on August 8, 2007. The warrant was deposited in the Clearing Account, not the County Treasury, on August 15, 2008. It should be noted that the initial warrant should have been deposited directly into the County Treasury.
- Transfers from the Bond Fund to the General Fund are not customary. The EdMAC reviewer found no intent document, resolution, or Board minutes reflecting approval of this action. Absent compliance with these documents or intent language, the action would not be authorized, and therefore inappropriate.
- SCCD has never checked with Bond Counsel on questionable transfers from the Bond Fund to the General Fund prior to them being made.
- It appears that the SCCD Governing Board did not adopt a “reimbursement resolution” relative to these types of reimbursements, even though a sample was provided to the District by Bond Counsel.
- The authority to expend Bond Fund dollars, consistent with the Board approved Bond Project List, would typically rest with the Director of Facilities and the Vice President of Administrative and Business Services. The Program Manager for Kitchell (Program Management) indicated that he had no authority to expend Bond Funds. This individual did indicate, however, that he would check the Project List to make certain the costs were related to approved projects on the list.
- It appears that SCCD is experiencing significant Bond Project “scope creep” through “change orders”. In addition to other reasons, some projects are being “rebenched” due to “scope creep”.
- Consistent with statutory requirements, the Citizens’ Bond Oversight Committee has issued annual reports through 2006.
- The California Constitution and applicable code sections require annual independent performance and independent financial audits be performed. On February 12, 2008, the SCCD’s independent auditors issued an Independent Accountant’s Report on Applying Agreed-Upon Procedures relative to the Measure G Bond Fund.
- SCCD has completed three (3) financings. Two (2) new money issues and one (1) refunding financing.
- The State and National financial crisis has created market conditions resulting in substantial investment losses throughout the country, including declining returns for some California County Treasurer’s investment portfolios.
- There is a $217,138 invoice to SunGard for TCP/Maintenance charged to the Bond Fund. Typically, maintenance costs would not be Bond approved expenditures. Also, in the most recent Kitchell Bond Financial Summary Report, a number of scheduled maintenance costs were noted. Typically, maintenance costs are not an allowable cost to the Bond Fund.
EdMAC Recommendations

1. SCCD should consider contracting with a financial adviser in subsequent Bond financings.
2. SCCD should adopt a “reimbursement resolution” regarding Bond Fund reimbursements. The SCCD’s Bond Counsel can provide a sample resolution for this purpose.
3. A Bond Counsel’s opinion is required to determine whether the $1,045,105 transferred from the Bond Fund to the General Fund is an approved Bond Project expenditure.
4. A Bond Counsel’s review and opinion is required on the scheduled maintenance costs noted in the October 2008 Kitchell Bond Financial Summary Report.
5. The District may want to consider expanding the independent auditor’s scope relative to the required annual independent performance and financial audits, to insure Bond Fund expenditures are consistent with the SCCD Board Project List.
6. Expenditures from the General Fund for Measure G projects should not be allowed without a “reimbursement resolution” approved by the Governing Board.
7. In the event SCCD is uncertain whether a Bond expenditure is listed on the Board Project List, they should check with their Bond Counsel prior to authorizing the expenditure.
8. The Governing Board should, by resolution, determine who has authority to sign-off on legitimate Bond Projects expenditures. This resolution would help SCCD hold responsible individuals accountable for such approval.
9. SCCD should monitor, through its CEO and administration, the degree and frequency of Bond Project “scope creep” through “change orders”. A monthly report needs to be provided the Governing Board and Citizen’s Oversight Committee relative to this matter.
10. SCCD should review the Fiscal Crisis and Management Assistance Team’s October 10, 2008, “FCMAT Alert” on “Investing and Safeguarding District Funds”. This Alert is provided as attachment B.

Status of Risk: Moderate to High