



Conceptual drawing, Central Administrative Project at Cole

Measures B, J & Y Independent Citizens' Bond Oversight Committee

Annual 2022 Progress Report and
Review of Fiscal Year 2020-21 Audit Reports

SUMMARY

This report was prepared by the Measures B, J, and Y Independent Citizens' Bond Oversight Committee (CBOC) for the Oakland Unified School District (OUSD) in accordance with California Education Code §15280(b) and OUSD Board Bylaw 9131, Section 2, Subparagraph 4. The purpose of this report is twofold: (1) provide a publicly available annual report of bond activities and expenditures; and (2) provide a review of the annual financial and performance audits of OUSD that are required by Article XIII A of the California Constitution. The first component primarily covers the time period where CBOC meetings were held from August, 2021 through May 2022. Due to the timing of the audit reports, the second component is a review of the auditor's finding for the fiscal year that ended June 30, 2021 (i.e., FY 2020-21).

PURPOSE OF THE OUSD CITIZENS' BOND OVERSIGHT COMMITTEE

The OUSD CBOC is a state-mandated committee of local residents that oversees the approximately \$1.645 billion in School Facilities bonds approved by voters. According to state law (Cal. Educ. Code § 15278-15282), our job is to inform the public about the expenditure of bond revenues by reviewing and reporting on "the proper expenditure of taxpayers' money for school construction". California Law requires that "taxpayers directly participate in the oversight of bond expenditures" and "the members of the oversight committee appointed pursuant to this chapter promptly alert the public to any waste or improper expenditure of school construction bond money" Cal. Educ. Code § 15264.

In addition to the state-mandated oversight authority, in January 2021, the OUSD School Board approved additional oversight authority for the CBOC in Resolution No. 2021-0031, which is codified in Section 2 of Board Bylaw (BB) 9131. In addition to authorizing us to review the annual financial and performance audits, this resolution tasks us with "[p]reparing a publicly available annual report of bond activities and expenditures." OUSD BB § 9131(2)(4). The Board Bylaws further provide that the CBOC's authority includes "reviewing and making advisory recommendations to the OUSD Board of Directors regarding proposed alterations to project budgets, timelines, and other changes to bond program expenditures that are subject to OUSD Board of Directors approval." OUSD BB § 9131(2)(8).

BOND BACKGROUND

In June 2006, Oakland voters passed **Measure B, a \$435 million** School Facilities Improvement Bond which provided funding to the Oakland Unified School District (OUSD). Except for some remaining fire alarm projects, all Measure B funds have largely been spent prior to fiscal year 2019-2020.

In June 2012, Oakland voters passed **Measure J, a \$475 million** School Facilities Improvement Bond, for OUSD to enhance the educational environment for the students and communities of Oakland and better prepare students for college and jobs. Bond funds have been allocated to upgrade science labs, classrooms, computers, and technology; improve student safety and security; repair bathrooms, electrical systems, plumbing and sewer lines; improve energy efficiency; and make seismic upgrades.

In November 2020, Oakland voters passed **Measure Y, a \$735 million** School Facilities Improvement Bond, for OUSD to provide, among other things, classroom repair and school safety improvements, upgrading classrooms, science labs and technology; improving student safety and security; repairing bathrooms, electrical systems, plumbing and sewers; and improving energy-efficiency and earthquake safety.

BOND PROGRAM OVERSIGHT

Tadashi Nakadegawa is the OUSD Deputy Chief of Facilities Planning and Management. Mr. Nakadegawa and his staff are the primary points of contact for this committee. Publicly noticed meetings of the CBOC are typically held on the second Monday of each month from August through June. Scheduling information and meeting agendas are available at www.ousd.org/domain/67 under the body "Measures B, J, and Y Independent Citizens' School Facilities Bond Oversight Committee."

The past year continued the unprecedented challenge of dealing with the impacts of the global coronavirus pandemic. OUSD Schools reopened to students for the school year; however, meetings of the CBOC continued to be held virtually over zoom.

OUSD provided the 2020-2021 Financial and Performance Reports to this committee on May 9, 2022 (together, the "Audit Reports"). Eide Bailly, a third-party CPA and business advisor firm, prepared the Audits Reports, which are discussed in more detail below. In November 2021, OUSD made its first drawdown of Measure Y funds in an amount of \$185 million.



BOND PROJECT OVERVIEW

OUSD did not complete any major bond-funded construction projects between June 2021 and May 2022. (Please see the CBOC's previous May 2021 annual report for a list of projects completed with Measure J funding last year.) Several projects discussed below were in the planning, demolition and/or construction phases in 2021-22.

The following are notable projects that remain in-progress and rely on, or will rely on, Measure J and Measure Y funds:

- **Cole Administrative Office Conversion:** OUSD is in the process of converting what used to be Cole Elementary School into district administrative office space. The project consists of a new 56,176 sf two-story Administration building. Site improvements include landscaping, fences, parking lots, and driveways on the 2.6-acre site. OUSD has identified \$57 million in Measure J and Y funding for this project.
- **Claremont Multi-Purpose Building:** Planning and design continue to replace the kitchen that was destroyed by a fire and build a new multi-purpose room at Claremont Middle School. OUSD submitted the design to the Division of the State Architect (DSA), but that review has been delayed due to COVID. OUSD has identified \$18 million in Measure Y funding for this project.
- **Laurel CDC:** OUSD expects to bid this project over the summer of 2022 and begin construction in the fall. The project consists of building new classrooms, administrative, foodservice, and other spaces. Site work includes new paved play and learning spaces. OUSD has identified \$15 million in Measure J and Y funding for this project.
- **McClymonds High School:** OUSD and the bridging architect, Perkins Eastman, are currently in the process of community engagement regarding the scope of the McClymonds High School modernization. OUSD has identified \$65 million in Measure Y funding for this project.
- **Coliseum College Prep Academy (CCPA):** OUSD has initiated community engagement and is in the design and scoping process with architect Shah Kawasaki for the modernization of CCPA. OUSD has identified \$35.5 million in Measure Y funding for this project.



College Prep Academy (CCPA), current condition

Citizens' Bond Oversight Committee Observations

CBOC's responsibility is to actively review and report on the expenditure of taxpayers' money for school construction with voter-approved projects in accordance with Cal. Educ. Code § 15278. In addition, OUSD Resolution No. 2021-0031, which is codified in Section 2 of Board Bylaw (BB) 9131, requires Staff to present to this committee for review and advice any substantial changes to project scope, budget or timeline that are subject to Board of Education approval.

Over the past year, the committee held virtual public meetings on our regular monthly schedule and reviewed program expenditures and other facility reports pertinent to expenditures of bond revenues. While the committee typically includes project site visits as part of our regular work, site visits were suspended due to the global pandemic.

2020-2021 CBOC MEMBERS

- Saleem Shaki-Gilmore, *Chairperson*
- Andrew Nelsen, *Vice Chairperson*
- Travis Ritchie, *Secretary*
- Mike Beebe
- Victor Valerio
- Sarah Price
- Andre Spearman
- Renee Swayne
- *Vacant*

OBSERVATIONS AND CONCERNS

The members of the CBOC find that the support by district Staff of our state mandated and board approved oversight role has deteriorated in some ways. We appreciate the efforts of OUSD Facilities Staff and Board Office Staff to manage CBOC meetings and present information to our committee each month. Facilities Staff members are at most times responsive to our concerns and strive to provide the information that our committee requests in a format that is most helpful to us. Nevertheless, CBOC members have been repeatedly frustrated by the lack of procedural support from Board Office Staff that is necessary to conduct productive and efficient meetings. Requests for items to be added to noticed CBOC agendas have often been improperly denied or ignored altogether. While Staff has made some progress on these concerns in recent meetings, a substantial portion of this year's CBOC meetings were spent litigating procedural hurdles. These frictions hurt not only our ability to do our job, but they exacerbate the distrust between the community and the district. Should this situation continue, we will request that the Board direct the appropriate supervisory staff to address and resolve the issue.

In addition to these general procedural concerns, the CBOC notes the following specific concerns related to bond expenditures:

- **Documentation of Decision Making:** We remain concerned about the implementation and documentation of formal processes outlined in the Procedures Manual for decision-making related to the on-going planning and prioritization of bond projects. We remain concerned about what process, if any, OUSD relies on to prioritize project spending. In particular, CBOC members have continued to express concern about what, if any, formalized consideration is given to equity impacts for various projects. We do note that Staff is in the process of revising its procedures manual and provided an update to the CBOC at our May, 2022 meeting. We hope that the continued development of these procedures will address this concern.

- **CBOC Authority to Review Substantial Changes:** There are substantial deficiencies regarding Staff's communication to the CBOC about important budget changes that affect use of bond program funds. Despite the new authority granted to this body by the Board of Education, we have thus far not been presented with any substantial changes to ongoing projects, as required by Board Resolution No. 2021-0031. For example, substantial changes in the scope, schedule and budget of the Cole office project have occurred without the review and advice of CBOC. For other projects, we simply do not know if changes have been made because none have been presented to us. We hope that Staff will work to revise the procedures manual to include this required oversight.
- **Using Measure J Bond money for lease payments at 1000 Broadway:** We have noted this concern in years 2019, 2020, 2021, and 2022. The CBOC continues to be concerned that lease payments may be an inappropriate use of bond funds, a concern we have raised in previous years. In response, Staff noted, and the Bond Auditor confirmed, that the State Trustee and Bond Counsel reviewed this issue and determined that "the [Measure J] language provides ample coverage for paying the lease of the 1000 Broadway site pending the construction of a new administration building..." (22-0881, Memo on Bond Performance Audit, May 3, 2022 at p.9.). Nevertheless, the lease payments occurred over several years without OUSD identifying a new administration building project, so the relationship of these costs to a specific project were not in evidence.
- **Using Measure J or Y money to process files:** We are concerned that the use of bond money to digitize or otherwise manage files at 1000 Broadway is not a proper capital expenditure for Measure J or Y bond money. Staff asserts that the digitization of paper files is part of the moving process from 1000 Broadway to the new Cole facility, and therefore the expense is a proper use of bond funds related to that capital expenditure. This committee remains concerned that the handling of archival documents is a district operating expense rather than an expense contemplated by Article XIII A, Section 1(b)(3) of the California Constitution.
- **Using Measure Y Bond money related to School Closures.** Staff identified a potential use of approximately \$7 million in Measure Y funds as a, "[p]laceholder to fund moth balling [sic] and securing consolidated school sites or alternative uses" (Measures B, J, and Y Independent Citizens' School Facilities Bond Oversight Committee Meeting, April 11, 2022, Tr. at 59:21). While OUSD does not plan to allocate or spend any of this money for several years, the identification of any potential bond money being spent to close or "mothball" schools or to spend funds on school sites for "alternative uses" raises serious concerns for this committee. Bond indebtedness may only be used for the "construction, reconstruction, rehabilitation, or replacement of school facilities..." California Constitution Article XIIA(1)(b)(3). Mothballing former schools or preparing former school sites for alternative uses does not appear to fall within these allowable expenses for bond funds. Bond funding may, however, be used to improve school sites that receive students from closed schools.



Fremont High School Gymnasium, part of campus renovations

Annual Financial and Performance Audit Review and Findings

CBOC's primary duty is to provide a written statement on compliance for the public on both our review of the bond program expenditures and activities and the independent auditor's Financial and Performance Audit to ensure that Measure B, J and Y bond funds are spent in accordance with the bond language.

Each fiscal year a financial and performance audit of Measures B, J, and Y expenditures is required to be conducted. Eide Bailey LLP was contracted to conduct the performance and financial audit of Measures B, J and Y for the year ending June 30, 2021. These Audit Reports typically have a deadline for Staff to provide to the CBOC by March 31 of each year. This committee did not receive the Audit Reports until our regular meeting on May 9, 2022. This delay impaired our ability to perform the state-mandated review of the Audit Reports. Nevertheless, it is our understanding that the delay was in part attributable to COVID related issues that have caused staffing and production issues across many sectors. We therefore find that Staff is not at fault for the delay. We do request that Staff attempt to meet the March 31 deadline to provide the Audit Reports to this committee in the future.



Glenview Elementary Courtyard, part of New Construction Project

The Audit Reports are available for review on the District website (www.ousd.org/domain/67) by searching for file number 22-0881.

The following are a summary of specific findings from the Audit Reports:

- **District Improvement** - The Audit Reports noted that OUSD continues to show improvement in its performance processes. Eleven items identified in previous audits have been satisfactorily resolved, and the auditors did not identify any new performance related control efficiencies. The auditors further noted that the District continues to work on improving many of the issues discussed below.
- **Project Timeframes and Forecasts** - The District does not include expenditures by timeframe based on project forecasts to validate that sufficient funding is available to meet the financial requirements of bond measure objectives.
- **Payment Procedures** - The Audit Reports noted instances where payment processing took longer than contractual requirements and were not supported by a payment application/invoice rejection letter justifying the delay. Improvements to the procedures manual are necessary to resolve this issue.
- **Change Order Review** - The Audit Reports continued to note several deficiencies related to change orders. The policies and procedures that relate to change order are not applied consistently. Moreover, those policies do not currently include procedures for reporting change orders to the CBOC or other relevant stakeholders, which we note is inconsistent with the requirements of Board Bylaw 9131. Finally, many change orders are improperly classified as “errors or omissions” by the architect without providing necessary specifications as to the scope or need for a change order. This committee shares the concerns of the auditors related to change orders based on our experience - or rather lack of experience - with notification from Staff regarding substantial changes. It is our hope that further modifications to the procedures manual will alleviate this concern in the future.
- **Procurement of Materials** - The District’s standardized items list for Bond Program materials procurement is not current and is potentially not complete. The auditors recommend that the District update its list of materials more frequently and include a process for future updates in the procedures manual.
- **Conflict of Interest Forms** - The Audit Reports did not find any instances where a conflict of interest occurred. However, the Audit Reports noted that although conflict of interest form 700s were apparently completed, the process for stakeholders to obtain copies of those forms is deficient. The auditors recommend improving procedures for managing the handling of conflict of interest forms.
- **Procedures Manual** - Several observations in the Audit Reports related to the lack of policies in the procedures manual. The District is in the process of updating its procedures manual and presented a recent draft to the CBOC at our May 2022 meeting. The procedures manual appears to address many of the Audit Reports observations, and we look forward to the District’s continued improvement on this issue.

CBOC COMPLIANCE STATEMENT

In accordance with Cal. Educ. Code § 15278 (b), the CBOC is tasked with advising the Board of Education and the public on OUSD's compliance with the California Constitution's requirements related to the expenditure of bond funds. Although we have noted above some observations and concerns with the expenditure of bond funds, these concerns do not at this time rise to a level that constitutes improper use of bond funds. We therefore **find that OUSD is in compliance** with the requirements of Article XIII A, Section 1(b)(3) of the California Constitution.

