

PROGRAM AUDIT OF THE CALIFORNIA CLEAN ENERGY JOBS ACT

Audit Report

PROPOSITION 39 PROGRAM

Chapter 29, Statutes of 2013

July 1, 2020, through June 30, 2021



BETTY T. YEE
California State Controller

June 2022



BETTY T. YEE
California State Controller

June 30, 2022

Adrienne Alvord, Chair
Citizens Oversight Board
1516 9th Street, MS 19
Sacramento, CA 95814

Dear Ms. Alvord:

The State Controller's Office audited a selection of completed projects related to the California Clean Energy Jobs Act for the period of July 1, 2020, through June 30, 2021.

As of June 30, 2021, 512 local educational agencies (LEAs) reported \$341,987,811 in completed project costs. From the list of completed projects, we selected for audit five LEAs, which together reported total expenditures of \$19,318,586. No community college districts were included in this year's audit. Our audit found that:

- Two LEAs sole-sourced a portion of their project costs, resulting in unallowable costs of \$508,108;
- Three LEAs did not identify the projected energy savings in the awarded contracts; and
- Four LEAs submitted their final project completion reports after the deadline.

This final audit report identifies two LEAs that sole-sourced a portion of their project costs, in violation of Public Resources Code section 26235(c). In addition, Public Resources Code section 26240(h) states, in part, "The Superintendent of Public Instruction shall require local educational agencies to pay back funds if they are not used in accordance with state statute or regulations."

Finding 1 is apportionment-significant for LEAs. If you disagree with the finding, you have 30 days from the date the State Controller's Office emailed this report to request a summary review of any apportionment-significant audit findings on the grounds of substantial compliance. In addition, you have 60 days from delivery of this letter—or 30 days following the conclusion of a summary review regarding the finding included in that review—to file a formal appeal of any apportionment-significant audit findings on any one or more of the grounds set forth in Education Code (EC) section 41344(d). The request for a summary review or formal appeal should be submitted to the following address:

Executive Officer
Education Audit Appeals Panel
770 L Street, Suite 1100
Sacramento, California 95814

If you have any questions regarding the summary review process or the appeal process, please see the Education Audit Appeals Panel website (www.eaap.ca.gov) or call Education Audit Appeals Panel at (916) 445-7745.

LEAs working to resolve audit exceptions may request structured repayment plans under EC section 41344. To request a repayment plan, the LEA must submit a letter to the California Department of Education (CDE) within 90 days of receipt of this letter; within 30 days of withdrawing or receiving a determination of a summary review if there is no appeal; or within 30 days of withdrawing or receiving a final determination regarding an appeal pursuant to EC section 41344(a). More information on repayment plans can be found on the CDE's website (<http://www.cde.ca.gov/fg/au/ag/resolution.asp>) or by contacting the CDE, School Fiscal Services Division, Categorical Allocations and Management Assistant Unit, at (916) 323-8068.

If you have any questions about the audit findings, please contact Lisa Kurokawa, Chief, Compliance Audits Bureau, by telephone at (916) 327-3138.

Sincerely,

Original signed by

KIMBERLY TARVIN, CPA
Chief, Division of Audits

KT/as

cc: Jim Bartridge, Program and Policy Advisor
Citizens Oversight Board
Jack Bastida, Program Specialist
Citizens Oversight Board
The Honorable Tony Thurmond, State Superintendent of Public Instruction
California Department of Education
Alice Lee, Director
Audits and Investigations Division
California Department of Education
Kelly Levario, Staff Services Manager II
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Elizabeth Dearstyne, Director
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School Fiscal Services Division
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David Hochschild, Chair
California Energy Commission
Drew Bohan, Executive Director
California Energy Commission

Michael Sokol, Deputy Director
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Patricia Speer, President
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Rechelle Pearlman, Superintendent
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Adriana Florez Lopez, Business Services Supervisor
Banta Unified School District
Kathy Zack, President
Board of Education
Bishop Unified School District
Katie Kolker, Superintendent
Bishop Unified School District
Midge Milici, Chief Business Officer
Bishop Unified School District
Tom Snyder, Deputy Superintendent
Business/Financial Services
Inyo County Office of Education
Patricia Smith, Chief Financial Officer
Business Services
Los Angeles County Office of Education
Kelly Gonez, President
Board of Education
Los Angeles Unified School District
Alberto M. Carvalho, Superintendent
Los Angeles Unified School District
David D. Hart, Chief Financial Officer
Los Angeles Unified School District
Peter Yee, Senior Project Manager
Maintenance and Operations Division
Los Angeles Unified School District
Dr. Natalie Lindemann, President
Board of Education
Rim of the World Unified School District
Michelle Murphy, Superintendent
Rim of the World Unified School District
Jenny Haberlin, Chief Business Official
Rim of the World Unified School District
Richard De Nava, Assistant Superintendent
Business Services
San Bernardino County Superintendent of Schools

Michael Simonson, Deputy Superintendent
Business Services
San Diego County Office of Education
Scott Anderson, Deputy Superintendent
Business Services
San Joaquin County Office of Education
Stacy Carlson, President
Governing Board
San Marcos Unified School District
Andrew S. Johnsen, Ed.D., Superintendent
San Marcos Unified School District
Erin Garcia, Assistant Superintendent
Business Services
San Marcos Unified School District
Tova Corman, Executive Director
Facilities Planning and Development
San Marcos Unified School District
Diane deBruyn, Accounting Technician
Facilities Planning and Development
San Marcos Unified School District

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Audit Report

Summary

The State Controller's Office (SCO) audited a selection of completed projects related to the California Clean Energy Jobs Act for the period of July 1, 2020, through June 30, 2021.

As of June 30, 2021, 512 local educational agencies (LEAs) reported \$341,987,811 in completed project costs. From the list of completed projects, we selected for audit five LEAs, which together reported total expenditures of \$19,318,586. No community college districts (CCDs) were included in this year's audit.

Our audit found that:

- Two LEAs sole-sourced a portion of their project costs, resulting in unallowable costs of \$508,108;
- Three LEAs did not identify the projected energy savings in the awarded contracts; and
- Four LEAs submitted their final project completion reports after the deadline.

Appendix A summarizes the audit results for the five LEAs.

Background

The California Clean Energy Jobs Act was created with the approval of Proposition 39 (Chapter 29, Statutes of 2013) in the November 2012 statewide election. The statute changed the corporate income tax code to allocate projected revenue from the General Fund to the Clean Energy Job Creation Fund for five fiscal years, beginning with fiscal year (FY) 2013-14. Under the initiative, it is estimated that up to \$550 million is available annually to be appropriated by the California State Legislature for purposes of funding eligible projects that create jobs in California while improving energy efficiency and expanding clean energy generation.

Senate Bill 73 requires that 89% of the funds deposited annually into the Clean Energy Job Creation Fund be made available to LEAs for energy efficiency and clean energy projects, and 11% be made available to CCDs for energy efficiency and clean energy projects.

An eligible energy project is an installation at or modification to a school site that improves energy efficiency or expands clean energy generation. Energy efficiency measures include heating, ventilation, and air conditioning (HVAC) system retrofits and various interior and exterior retrofits; clean energy generation measures include photovoltaic (solar) panels. All facilities within an LEA are eligible for Proposition 39 program funding.

Citizens Oversight Board

Proposition 39 also established the Citizens Oversight Board to review expenditures, audit the Clean Energy Job Creation Fund, and maintain

transparency and accountability of the Fund. The California Treasurer, Attorney General, and State Controller each appoint three members of the Citizens Oversight Board; the California Energy Commission (CEC) and the California Public Utilities Commission appoint two ex officio members.

California Department of Education

The California Department of Education (CDE) is responsible for distributing Proposition 39 funding to LEAs that serve grade K-12 students. CDE allocates funds based on the following formula:

- 85% based on average daily attendance reported as of the second principal apportionment for the prior year; and
- 15% based on the number of students eligible for free and reduced-priced meals in the prior year.

These funds may be used by LEAs for energy efficiency and clean energy projects, as well as related energy planning, energy training, and energy management. LEAs are required to submit an energy expenditure plan (EEP) to the CEC for consideration and approval. An EEP includes a technical description and project specifications for the proposed eligible energy measures. Funds are released to an LEA only after the CEC approves the EEP.

LEAs with prior-year average daily attendance of 1,000 or lower are eligible to receive funding for both the current year and the following year in the current year. LEAs that select this option do not receive a funding allocation in the following year.

LEAs whose first year of eligibility was FY 2013-14 also had the option of requesting a portion of that year's award allocation for energy planning activities without submitting an EEP to the CEC. The energy planning funds can be spent only on the following four activities:

- Energy audits and energy surveys/assessments;
- Proposition 39 program assistance;
- Hiring or retaining an energy manager; and
- Energy-related training.

Any unused energy planning funds must be applied toward implementing energy projects from an LEA's approved EEP.

California Energy Commission

The CEC is the primary state agency responsible for energy policy and planning. Public Resources Code (PRC) section 26235(a) requires the CEC to establish guidelines in consultation with the State Superintendent of Public Instruction, the Chancellor of the California Community Colleges, and the California Public Utilities Commission.

On December 19, 2013, the CEC adopted program implementation guidelines, to which substantive revisions have been made. For this audit

period, we referred to *Proposition 39: California Clean Energy Jobs Act – 2016 Program Implementation Guidelines (2016 Program Implementation Guidelines)*. These guidelines provide direction to LEAs on the types of awards and the required proposals, explain the screening and evaluation criteria, describe the standards to be used to evaluate project proposals, and outline the award process.

The *2016 Program Implementation Guidelines* include a savings-to-investment ratio (SIR) calculation. To be approved for Proposition 39 funding, energy projects must achieve a SIR above 1.0. For example, for every dollar invested in the eligible energy project, the LEA must accrue over \$1 in savings. The SIR calculation is based on the present value of the savings divided by project installation costs, subtracting rebates and other grant funding sources. The *2016 Program Implementation Guidelines* also include a formula for estimating job creation benefits, pursuant to PRC section 26235(e)(10).

The CEC also developed the *Proposition 39: California Clean Energy Jobs Act – 2015 Energy Expenditure Plan Handbook* (EEP Handbook), which includes step-by-step instructions to assist LEAs in completing the required forms.

This is the sixth program audit report that we have issued for the California Clean Energy Jobs Act, pursuant to an interagency agreement between SCO and the Citizens Oversight Board. Appendix B summarizes the amounts expended and audited; the audit finding amounts; and our conclusions for all six audit reports.

Audit Authority

Government Code (GC) section 12410 and PRC section 26210 provide the legal authority to conduct this audit.

GC section 12410 states, in part, “The Controller shall superintend the fiscal concerns of the state and audit the disbursement of any state money for correctness, legality, and for sufficient provisions of law for payment.”

The SCO’s interagency agreement with the Citizens Oversight Board, pursuant to PRC section 26210(d)(2), commissions the SCO to review a selection of completed projects to assess the effectiveness of the expenditures in meeting the objectives of the California Clean Energy Jobs Act.

Objective, Scope, and Methodology

On July 21, 2020, we entered into an agreement with the Citizens Oversight Board to conduct an audit of a selection of completed projects to evaluate their effectiveness in meeting the objectives of the Clean Energy Job Creation Fund’s program guidelines. We selected five LEAs for audit. No CCDs were included in this year’s audit.

The audit period was July 1, 2020, through June 30, 2021.

To achieve our audit objective, we selected five LEAs with project costs totaling \$19,318,586 and determined whether:

- Planning funds were expended in accordance with program requirements and unspent planning funds were applied towards implementing eligible energy projects approved by the CEC;
- The LEA submitted an EEP to the CEC consistent with the LEA's priority of eligible projects;
- The CEC approved the EEP in compliance with the 2016 *Program Implementation Guidelines* and EEP Handbook;
- The approved EEP included:
 - A signed utility data release form from the LEA allowing the CEC to access both historical and future utility billing data;
 - A benchmarking process established by the CEC to determine a prioritized plan for implementing the eligible energy projects;
 - An identification of eligible energy projects according to any one of the three methods available to LEAs (these include an energy survey; an American Society of Heating, Refrigerating and Air-Conditioning Engineering Level 2 energy audit; or data analytics);
 - A SIR that adheres to the cost-effectiveness determination set forth by the CEC; and
 - A job-creation benefits estimation that adheres to the formula set forth by the CEC.
- The final report to the CEC contained the information outlined in PRC section 26240(b), paragraphs (1) through (7);
- The LEA did not use a sole-source process to award funds;
- The LEA had a signed contract that identified project specifications, costs, and projected energy savings (if applicable);
- The LEA supported project costs;
- The LEA paid back Proposition 39 funds if the project was torn down, remodeled, or deemed surplus and sold prior to the project's payback period.

Errors found in the selected samples were not projected to the intended (total) population.

We did not audit the LEAs' financial statements.

We conducted this audit in accordance with generally accepted government auditing standards. Those standards require that we plan and perform the audit to obtain sufficient, appropriate evidence to provide a reasonable basis for our findings and conclusions based on our audit objective. We believe that the evidence obtained provides a reasonable basis for our findings and conclusions based on our audit objective.

Conclusion

As a result of conducting the audit procedures, we found instances of noncompliance with the audit objective described in the Objective, Scope, and Methodology section. These instances of noncompliance are quantified in the Schedule and described in the Findings and Recommendations section.

We selected five LEAs with total completed project costs of \$19,318,586. Our audit found that:

- Two LEAs sole-sourced a portion of their project costs, resulting in unallowable costs of \$508,108;
- Three LEAs did not identify the projected energy savings in the awarded contracts; and
- Four LEAs submitted their final project completion reports after the deadline.

**Follow-up on
Prior Audit
Findings**

Appendix B summarizes the audit findings for the five Proposition 39 program audits previously conducted and issued between June 30, 2017 and August 9, 2021.

The five LEAs selected for the current audit were not previously audited under the Proposition 39 program. However, we found that the current audit identifies the same issues noted in prior audit reports.

**Views of
Responsible
Officials**

We discussed our audit results with representatives of the five LEAs selected for testing during audit fieldwork, and via email at the end of the audit. All responses to the findings have been included in the LEA's respective section of Appendix A; and each formal response received on letterhead has been included as an Attachment to this report.

Restricted Use

This report is solely for the information and use of the Citizens Oversight Board, the CDE, the CEC, the Banta Unified School District, the Bishop Unified School District, the Inyo County Office of Education, the Los Angeles Unified School District, the Rim of the World Unified School District, the San Bernardino County Superintendent of Schools, the San Diego County Office of Education, the San Marcos Unified School District, and the SCO; it is not intended to be and should not be used by anyone other than these specified parties. This restriction is not intended to limit distribution of this report, which is a matter of public record, and is available on the SCO website at <https://www.sco.ca.gov>.

Original signed by

KIMBERLY TARVIN, CPA
Chief, Division of Audits

June 30, 2022

Schedule—

Total Completed Proposition 39 Program Costs for Local Educational Agencies July 1, 2020, through June 30, 2021

Local Educational Agency	Program Implementation	Planning Funds ¹	Total	Amount Unallowable	Reference ²
<u>Completed projects selected for audit:</u>					
Banta Elementary School District	\$ 187,327	\$ 11,480	\$ 198,807	\$ (166,801)	Finding 1, 2, 3
Bishop Unified	569,811	-	569,811	(341,307)	Finding 1, 2, 3
Los Angeles Unified School District	5,195,862	7,884,191	13,080,053	-	Finding 3
Rim of the World Unified	851,852	-	851,852	-	-
San Marcos USD	4,356,345	261,718	4,618,063	-	Finding 2, 3
Total, completed projects selected for audit	\$ 11,161,197	\$ 8,157,389	\$ 19,318,586	\$ (508,108)	
<u>Completed projects not selected for audit:</u>					
Achieve Charter School	\$ 86,957	\$ 51,024	\$ 137,981		
Acton-Agua Dulce Unified	216,012	47,528	263,540		
Adelante Charter	88,572	8,934	97,506		
Adelanto Elementary	2,123,491	-	2,123,491		
Alameda County Office of Education	219,246	56,781	276,027		
Alameda Unified School District (2 EEPs) (EEP #6123)	980,262	32,000	1,012,262		
Alameda Unified School District (2 EEPs) (EEP #126)	253,708	32,000	285,708		
Albert Einstein Academy Charter Middle	264,129	-	264,129		
Alder Grove Charter	99,980	52,893	152,873		
Alhambra Unified	2,346,582	102,816	2,449,398		
Alisal Union	2,159,473	130,692	2,290,165		
Alliance College-Ready Middle Academy 4	266,466	17,234	283,700		
Alliance College-Ready Middle Academy 5	249,580	22,915	272,495		
Alliance Gertz-Ressler Richard Merkin 6-12 Complex	287,593	24,483	312,076		
Alliance Judy Ivie Burton Technology Academy High	270,414	19,328	289,742		
Alliance Ouchi-O'Donovan 6-12 Complex	281,816	24,599	306,415		
Alpine County Office of Education	37,651	14,432	52,083		
Alpine County Unified	68,294	10,567	78,861		
Alta Loma Elementary	758,326	96,200	854,526		
Alternative Cooperative Education Charter	73,622	15,085	88,707		
Alternatives in Fction	204,139	52,200	256,339		
Alview-Dairyland Union Elementary	81,973	26,886	108,859		
American Indian Public Charter School II	281,083	-	281,083		
America's Finest Charter	204,306	26,887	231,193		
Anaheim Elementary	2,623,094	293,311	2,916,405		
Antioch Charter Academy	228,270	23,852	252,122		
Antioch Charter Academy II	161,469	50,392	211,861		
Arcadia Unified	1,968,876	96,000	2,064,876		
Arcata Elementary	245,678	25,849	271,527		
ARISE High	133,720	26,659	160,379		
Arts In Action Community Charter	190,140	27,029	217,169		
ASCEND	211,131	56,245	267,376		
Aspire APEX Academy	263,137	3,000	266,137		
Aspire Benjamin Holt College Preparatory Academy	264,076	3,000	267,076		
Aspire East Palo Alto Charter	48,472	-	48,472		
Aspire Firestone Academy	74,178	3,333	77,511		
Aspire Gateway Academy	73,428	3,333	76,761		
Aspire Golden State College Preparatory Academy	281,027	3,000	284,027		
Aspire Inskeep Academy	52,467	3,333	55,800		
Aspire Juanita Tate Academy	52,467	3,333	55,800		
Aspire Langston Hughes Academy	263,950	3,000	266,950		
Aspire Port City Academy	219,730	3,000	222,730		

Schedule (continued)

Local Educational Agency	Program Implementation	Planning Funds ¹	Total	Amount Unallowable	Reference ²
<u>Completed projects not selected for audit (continued):</u>					
Aspire River Oaks Charter	222,750	3,000	225,750		
Aspire Rosa Parks Academy	272,449	3,000	275,449		
Aspire Slauson Academy	53,179	3,333	56,512		
Bachrodt Charter Academy	279,825	-	279,825		
Ballico-Cressey Elementary	231,039	23,429	254,467		
Bass Lake Joint Union Elementary	268,863	14,904	283,767		
Bear Valley Unified	597,844	-	597,844		
Beaumont Unified School District	2,240,590	130,000	2,370,590		
Bellevue Elementary	207,791	6,075	213,866		
Bellevue-Santa Fe Charter	26,492	45,765	72,257		
Bellflower Unified (2 EEPs) (EEP #5906)	225,031	84,226	309,257		
Bellflower Unified (2 EEPs) (EEP #5897)	2,909,083	84,226	2,993,309		
Bogus Elementary	34,690	-	34,690		
Bonita Unified School District	1,404,913	130,000	1,534,913		
Bonny Doon Elementary	59,659	45,911	105,570		
Bradley Union Elementary	77,970	-	77,970		
Brawley Elementary	912,116	61,654	973,770		
Bret Harte Union High	258,207	11,400	269,607		
Bridgeville Elementary	71,661	5,143	76,803		
Buckeye Union Elementary	201,905	-	201,905		
Buena Park Elementary	1,130,993	59,300	1,190,293		
Burton Elementary	592,182	40,000	632,182		
Calaveras County Office of Education	127,819	12,658	140,477		
California Connections Academy @ Ripon	63,742	10,000	73,742		
California Montessori Project - Elk Grove Campus	204,462	50,859	255,321		
California Montessori Project-San Juan Campus	459,566	12,000	471,566		
California Montessori Project-Shingle Springs Campus	202,496	50,467	252,963		
Calistoga Joint Unified School District	148,770	36,754	185,524		
Camino Nuevo Academy #2	271,107	-	271,107		
Camino Nuevo Charter Academy	290,889	-	290,889		
Camino Nuevo Charter Academy #4	293,247	-	293,247		
Camino Nuevo Charter High	270,386	-	270,386		
Camino Nuevo Elementary #3	303,029	-	303,029		
Camino Nuevo High #2	222,989	-	222,989		
Camino Science and Natural Resources Charter	100,344	-	100,344		
Camino Union Elementary	264,936	-	264,936		
Canyon Elementary	30,215	-	30,215		
Capistrano Unified (2 EEPs) (EEP #5136)	3,277,717	246,000	3,523,717		
Capistrano Unified (2 EEPs) (EEP #5939)	4,253,446	201,994	4,455,440		
Carmel Unified	511,667	-	511,667		
Carpinteria Unified	523,800	-	523,800		
Cascade Union Elementary School District	562,412	-	562,412		
Celerity Cardinal Charter	3,450	31,642	35,092		
Celerity Nascent Charter	255,053	29,640	284,693		
Celerity Octavia Charter	960	33,620	34,580		
Celerity Palmati Charter	1,125	27,200	28,325		
Centinela Valley Union High	251,765	55,213	306,978		
Central City Value	282,727	-	282,727		
Central Union High School District	36,858	130,000	166,858		
Century Community Charter	276,683	-	276,683		
Ceres Unified	3,081,351	178,063	3,259,414		
Charter Home School Academy	85,575	10,490	96,065		
Chawanakee Academy Charter	100,344	-	100,344		
Chico USD	2,565,659	163,312	2,728,971		
Chino Valley Unified School District (2 EEPs) (EEP #5672)	2,717,259	39,000	2,756,259		
Chino Valley Unified School District (2 EEPs) (EEP #5892)	2,333,942	39,000	2,372,942		
Chowchilla Elementary	107,277	9,051	116,328		
Chrysalis Charter	152,168	-	152,168		
Chula Vista Elementary School District-Arroyo Vista Charter	85,977	-	85,977		
Chula Vista Elementary School District-Chula Vista Learning Com	170,411	-	170,411		
Chula Vista Elementary School District-Discovery Charter	70,220	-	70,220		
Cinnabar Charter	193,065	14,550	207,615		
Claremont Unified	1,421,873	95,800	1,517,673		
Classical Academy High School (2 EEPs) (EEP #5674)	200,279	31,080	231,359		
Classical Academy High School (2 EEPs) (EEP #6149)	79,422	7,954	87,376		
Clay Joint Elementary	234,314	17,137	251,451		

Schedule (continued)

Local Educational Agency	Program Implementation	Planning Funds ¹	Total	Amount Unallowable	Reference ²
<u>Completed projects not selected for audit (continued):</u>					
Clayton Valley Charter High	193,446	23,500	216,946		
Clear Creek Elementary	246,689	7,585	254,274		
Clovis Online Charter	212,963	-	212,963		
Coastal Grove Charter	34,406	7,381	41,786		
College Bridge Academy	180,342	-	180,342		
College Elementary School District	107,485	51,695	159,180		
Columbia Elementary	115,742	19,000	134,742		
Columbia Union	256,235	14,822	271,057		
Columbine Elementary School	251,311	3,500	254,811		
Come Back Kids	218,489	-	218,489		
Conejo Valley Unified	2,639,913	143,555	2,783,468		
Connecting Waters Charter	26,670	-	26,670		
Connections Visual and Performing Arts Academy	252,301	-	252,301		
Contra Costa County Office of Education	217,648	82,755	300,403		
Corcoran Joint Unified	776,729	68,121	844,850		
Corning Union Elementary	565,057	-	565,057		
Cottonwood Union Elementary	256,141	17,461	273,602		
Cucamonga School District	356,110	60,040	416,150		
Cuddeback Union Elementary	227,989	26,258	254,247		
Curtis Creek Elementary	257,113	12,600	269,713		
Cutten Elementary	238,428	29,435	267,863		
Cypress Elementary	110,118	81,555	191,673		
Da Vinci Charter Academy	153,603	-	153,603		
Darnall Charter	248,566	8,250	256,816		
Davis Joint Unified	624,094	127,429	751,523		
Death Valley Unified	73,905	-	73,905		
Del Norte County Unified	585,000	38,478	623,478		
Delano Union Elementary School District	1,336,558	130,000	1,466,558		
Delphic Elementary	76,040	-	76,040		
Denair Unified	281,313	-	281,313		
Desert Center Unified School District	34,851	-	34,851		
Discovery Charter	263,915	4,000	267,915		
Discovery Charter Preparatory No. 2	271,498	-	271,498		
Dixon Unified	669,286	130,000	799,286		
Douglas City Elementary	224,339	32,461	256,800		
Dr. Lewis Dolphin Stallworth Sr. Charter	216,649	26,253	242,902		
Dry Creek Joint Elementary School District	1,452,327	70,472	1,522,799		
Dunham Charter	221,680	29,571	251,251		
Dunham Elementary	63,588	8,769	72,357		
Dunlap Leadership Academy	68,805	-	68,805		
Edison-Bethune Charter Academy	272,541	13,769	286,310		
Einstein Academy	262,232	-	262,232		
El Dorado County Office of Education	252,000	-	252,000		
El Rancho Charter	510,215	-	510,215		
El Segundo Unified	523,674	130,000	653,674		
El Sol Santa Ana Science and Arts Academy	297,097	-	297,097		
Elise P. Buckingham Charter Magnet High	254,545	-	254,545		
Elkins Elementary	26,829	5,246	32,075		
Elverta Joint Elementary School District	48,916	53,327	102,243		
Emery Unified	214,971	55,491	270,461		
Encore Jr./Sr. High School for the Performing and Visual Arts	376,414	43,901	420,315		
Enterprise Elementary	899,468	-	899,468		
Escalon Charter Academy	220,493	-	220,493		
Escondido Charter High	240,150	26,292	266,442		
Escuela Popular/Center for Training and Careers, Family Learning	200,497	27,711	228,208		
Etiwanda Elementary	601,232	86,801	688,033		
Evergreen Elementary	2,731,939	78,423	2,810,362		
Excelsior Charter	240,714	56,647	297,361		
Exploer Elementary	247,707	10,000	257,707		
Ezequiel Tafoya Alvarado Academy	242,154	27,891	270,045		
Fallbrook Union Elementary	671,624	103,613	775,237		
Fallbrook Union High	429,923	98,290	528,213		
Fenton Primary Center	186,591	-	186,591		
Ferndale Unified	236,864	28,746	265,610		
Firebaugh-Las Deltas Unified	559,412	41,739	601,151		
Folsom Cordova K-8 Community Charter	233,035	17,463	250,498		

Schedule (continued)

Local Educational Agency	Program Implementation	Planning Funds ¹	Total	Amount Unallowable	Reference ²
<u>Completed projects not selected for audit (continued):</u>					
Folsom-Cordova Unified	4,299,482	20,760	4,320,242		
Forest Charter	134,151	5,280	139,431		
Forestville Academy	246,814	-	246,814		
Forestville Union Elementary	145,634	-	145,634		
Fort Ross Elementary	55,350	15,222	70,572		
Freshwater Charter Middle	66,388	9,283	75,670		
Garden Grove Unified (2 EEPs) (EEP #5683)	3,880,060	699,104	4,579,164		
Garden Grove Unified (2 EEPs) (EEP #5707)	3,823,164	699,104	4,522,268		
Garvey Elementary	1,235,121	70,000	1,305,121		
Gateway International	165,543	54,041	219,584		
Gazelle Union Elementary	61,500	15,554	77,054		
Geyserville Unified School District	187,832	27,150	214,982		
Gilroy Prep School (Navigators School)	80,707	43,865	124,572		
Gilroy Unified School District	2,508,491	85,936	2,594,427		
Gold Oak Union Elementary	233,581	20,000	253,581		
Gold Trail Union Elementary	262,401	800	263,201		
Golden Eagle Charter	71,926	53,422	125,348		
Golden Valley Charter School of Sacramento	213,394	47,500	260,894		
Golden Valley Unified	501,707	48,689	550,396		
Goleta Union Elementary	397,415	100,752	498,167		
Gompers Preparatory Academy	456,617	-	456,617		
Gorman Learning Center	522,713	-	522,713		
Grass Valley Elementary	169,459	35,214	204,673		
Gravenstein Elementary	247,502	12,930	260,432		
Gravenstein Union Elementary	72,812	12,930	85,742		
Graves Elementary	22,724	8,367	31,091		
Great Valley Academy	257,793	16,420	274,213		
Grossmont Union High	3,993,349	169,283	4,162,632		
Guadalupe Union Elementary	39,150	60,000	99,150		
Gustine Unified	285,274	24,285	309,559		
Hallmark Charter	263,236	-	263,236		
Happy Valley Union Elementary School District	213,042	-	213,042		
Harriet Tubman Village Charter	198,378	54,990	253,368		
Hart-Ransom Union Elementary	264,826	16,235	281,061		
Hawthorne Elementary	2,021,537	110,000	2,131,537		
Hawthorne Math and Science Academy	275,107	-	275,107		
Hayward Unified	870,752	-	870,752		
Healdsburg Charter	230,600	20,000	250,600		
Healdsburg Unified	543,447	17,500	560,947		
Health Sciences High	252,048	28,006	280,054		
Hermosa Beach City Elementary	248,625	-	248,625		
High Tech Elementary Chula Vista	254,841	10,000	264,841		
High Tech High Chula Vista	261,632	10,000	271,632		
High Tech High Media Arts	253,713	10,000	263,713		
High Tech LA	249,403	-	249,403		
High Tech Middle Chula Vista	251,546	10,000	261,546		
High Tech Middle Media Arts	260,602	-	260,602		
Hillcrest Middle	244,332	12,930	257,262		
Hillsborough City Elementary	400,189	100,000	500,189		
Hollister Prep	208,021	-	208,021		
Holly Drive Leadership Academy	78,821	8,446	87,268		
Homotech Charter	49,750	3,125	52,875		
Hope Elementary (2 EEPs) (EEP #6042)	208,435	51,046	259,481		
Hope Elementary (2 EEPs) (EEP #5623)	259,597	54,357	313,954		
Horizon Charter	498,704	52,998	551,702		
Hot Springs Elementary	64,671	-	64,671		
Howell Mountain Elementary School District (2 EEPs) (EEP #529)	17,074	6,213	23,286		
Howell Mountain Elementary School District (2 EEPs) (EEP #170)	42,918	6,213	49,131		
Hughes-Elizabeth Lakes Union Elementary	204,917	51,885	256,802		
Humboldt County Office of Education	235,493	26,341	261,834		
Indian Diggings Elementary	73,428	-	73,428		
Inglewood Unified	2,499,340	180,796	2,680,136		
Inland Leaders Charter	211,195	52,516	263,711		
Inspire School of Arts and Sciences	255,184	5,350	260,534		
Ivy Bound Academy Math, Science, and Technology Charter Midd	167,135	-	167,135		
Jacoby Creek Elementary	224,330	30,618	254,948		

Schedule (continued)

Local Educational Agency	Program Implementation	Planning Funds ¹	Total	Amount Unallowable	Reference ²
<u>Completed projects not selected for audit (continued):</u>					
Jamul-Dulzura Union Elementary	241,068	5,950	247,018		
John Adams Academy	331,780	25,235	357,015		
Junction Elementary	187,230	49,762	236,992		
Kairos Public School Vacaville Academy	134,076	-	134,076		
Kelseyville Unified	387,105	-	387,105		
King-Chavez Academy of Excellence	249,896	23,433	273,329		
King-Chavez Community High	262,820	23,433	286,252		
King-Chavez Preparatory Academy	252,682	23,674	276,356		
Kings Canyon Joint Unified	2,276,469	81,779	2,358,248		
KIPP Comienza Community Prep	253,786	27,868	281,654		
KIPP Empower Academy	245,838	27,347	273,185		
KIPP Los Angeles College Preparatory	248,904	27,656	276,560		
KIPP Philosophers Academy	215,874	16,220	232,094		
KIPP Raices Academy	250,618	27,847	278,465		
Kirkwood Elementary	77,796	15,602	93,398		
Kneeland Elementary	60,431	15,016	75,447		
Knights Ferry Elementary	73,287	3,172	76,459		
Knightsen Elementary	229,827	32,720	262,547		
La Canada Unified School District	604,695	74,659	679,354		
Lafayette Elementary	663,466	46,506	709,972		
Laguna Joint Elementary	8,344	-	8,344		
Lake County International Charter	63,445	15,745	79,190		
Lake County Office of Education	74,941	4,000	78,941		
Lakeport Unified School District (2 EEPs) (EEP #6002)	135,095	-	135,095		
Lakeport Unified School District (2 EEPs) (EEP #6006)	430,297	-	430,297		
Lakeside Union	520,795	40,097	560,892		
Larchmont Charter	413,234	20,000	433,234		
Larkspur-Corte Madera	146,940	-	146,940		
Las Virgenes Unified	1,513,974	30,515	1,544,489		
Lassen County Office of Education	68,080	8,900	76,980		
Laton Joint Unified	292,746	-	292,746		
Leonardo da Vinci Health Sciences Charter	189,487	-	189,487		
Lewiston Elementary School	68,270	10,000	78,270		
Life Learning Academy Charter	75,617	-	75,617		
Lincoln Elementary	796	-	796		
Lincoln Unified	2,060,422	80,000	2,140,422		
Linden Unified School District	457,353	85,127	542,480		
Livermore Valley Joint Unified School District (2 EEPs) (EEP #27)	730,896	159,280	890,176		
Livermore Valley Joint Unified School District (2 EEPs) (EEP #18)	680,796	159,280	840,076		
Loma Prieta Joint Union Elementary	241,866	9,293	251,159		
Loomis Union Elementary (2 EEPs) (EEP #5281)	123,543	-	123,543		
Loomis Union Elementary (2 EEPs) (EEP #1770)	374,366	-	374,366		
Los Altos Elementary	851,036	80,750	931,786		
Lowell Joint	715,723	-	715,723		
Lucia Mar Unified	2,331,825	143,126	2,474,951		
Lynwood Unified School District	3,883,184	-	3,883,184		
MAAC Community Charter	231,518	3,944	235,462		
Madera County Independent Academy	247,902	16,038	263,940		
Magnolia Elementary	1,831,067	-	1,831,067		
Magnolia Science Academy 3	82,247	27,170	109,417		
Magnolia Science Academy 4	3,522	26,204	29,726		
Magnolia Science Academy 7	238,410	26,371	264,781		
Magnolia Union Elementary	251,770	-	251,770		
Manchester Union Elementary	72,899	-	72,899		
Manhattan Beach USD	1,314,205	-	1,314,205		
Manzanita Middle	124,017	51,838	175,855		
Manzanita Public Charter	87,224	49,715	136,939		
Marin County Office of Education	210,669	-	210,669		
Marysville Joint Unified	2,323,979	-	2,323,979		
Maxwell Unified	216,803	48,248	265,051		
McCabe Union Elementary	477,954	55,500	533,454		
McGill School of Success	155,945	-	155,945		
McKinleyville Union Elementary	512,875	30,000	542,875		
Mendota Unified	780,291	52,117	832,408		
Millbrae Elementary	519,763	-	519,763		
Millennium Charter	251,656	4,000	255,656		

Schedule (continued)

Local Educational Agency	Program Implementation	Planning Funds ¹	Total	Amount Unallowable	Reference ²
<u>Completed projects not selected for audit (continued):</u>					
Millville Elementary	242,220	15,789	258,009		
Mission Union Elementary (2 EEPs) (EEP #5765)	31,499	-	31,499		
Mission Union Elementary (2 EEPs) (EEP #5786)	58,705	-	58,705		
Modoc Joint Unified School District (2 EEPs) (EEP #2242)	22,754	-	22,754		
Modoc Joint Unified School District (2 EEPs) (EEP #6046)	61,356	-	61,356		
Monroe Elementary	177,771	32,579	210,350		
Monterey County Office of Education	276,839	-	276,839		
Montgomery Elementary	50,416	15,016	65,432		
Moraga Elementary	461,308	38,880	500,188		
Moreno Valley Community Learning Center	78,168	-	78,168		
Morrice Schaefer Charter	212,667	15,611	228,278		
Mountain House Elementary	22,264	13,930	36,194		
Mountain Oaks	196,050	6,000	202,050		
Mountain School	77,729	29,766	107,495		
Mountain View Elementary	526,300	11,500	537,800		
Mountain View Montessori Charter	205,665	51,190	256,855		
Mt. Baldy Joint Elementary	166,176	-	166,176		
Muir Charter (2 EEPs) (EEP #5806)	104,429	-	104,429		
Muir Charter (2 EEPs) (EEP #5805)	175,571	42,731	218,302		
Natomas Charter	454,717	70,464	525,181		
Needles Unified	295,211	-	295,211		
Nevada City Charter	21,781	-	21,781		
Nevada City Elementary	250,521	17,000	267,521		
Newark Unified School District	456,551	50,000	506,551		
Newman-Crows Landing Unified (2 EEPs) (EEP #1286)	80,840	32,130	112,970		
Newman-Crows Landing Unified (2 EEPs) (EEP #5342)	558,039	46,700	604,739		
Newport-Mesa Unified	168,015	-	168,015		
Nightingale Charter	164,095	50,000	214,095		
Norris Elementary	937,816	56,142	993,958		
North County Joint Union Elementary	266,106	-	266,106		
North Cow Creek Elementary	205,051	12,000	217,051		
North Monterey County Unified	1,110,864	10,517	1,121,381		
Norwalk-La Mirada Unified	155,508	289,023	444,531		
Novato Charter School	13,477	-	13,477		
Nuestro Elementary	243,390	9,400	252,790		
Nuvview Bridge Early College High	256,132	-	256,132		
Oak Grove Union Elementary	68,198	-	68,198		
Oakdale Joint Unified	1,055,143	-	1,055,143		
Oakland School for the Arts	228,844	-	228,844		
Olivet Elementary Charter	209,760	16,574	226,334		
Orange County Department of Education	1,749,984	36,275	1,786,259		
Orange Unified	6,414,668	-	6,414,668		
Orchard Elementary	282,166	-	282,166		
Orcutt Academy Charter	238,489	26,274	264,763		
Orcutt Union Elementary	954,046	63,725	1,017,771		
Orinda Union Elementary School District	466,170	45,000	511,170		
Oroville City Elementary	412,241	-	412,241		
Pacheco Union Elementary School District	272,780	-	272,780		
Pacific Collegiate Charter	202,152	50,665	252,817		
Pacific Elementary	130,737	50,349	181,086		
Pacific Law Academy	210,572	49,000	259,572		
Pacific Union Elementary (2 EEPs) (EEP #5922)	239,743	-	239,743		
Pacific Union Elementary (2 EEPs) (EEP #6045)	230,700	39,214	269,914		
Pacoima Charter Elementary	557,872	23,429	581,301		
Palm Desert Charter Middle	543,761	-	543,761		
Palos Verdes Peninsula Unified (2 EEPs) (EEP #5161)	761,737	100,457	862,194		
Palos Verdes Peninsula Unified (2 EEPs) (EEP #5162)	1,474,680	100,457	1,575,137		
Panoche Elementary	19,661	-	19,661		
Paradise Unified	646,852	65,000	711,852		
Paramount Unified	3,983,320	144,416	4,127,736		
Parlier Unified	757,470	130,000	887,470		
Pasadena Rosebud Academy	230,913	-	230,913		
Pasadena Unified (3 EEPs) (EEP #5235)	422,243	254,178	676,422		
Pasadena Unified (3 EEPs) (EEP #2153)	2,970,437	254,178	3,224,615		
Pasadena Unified (3 EEPs) (EEP #3880)	574,972	254,178	829,150		
Peabody Charter School	260,035	15,631	275,666		

Schedule (continued)

Local Educational Agency	Program Implementation	Planning Funds ¹	Total	Amount Unallowable	Reference ²
<u>Completed projects not selected for audit (continued):</u>					
Perris Elementary	1,157,580	44,865	1,202,445		
Perris Union High	2,319,507	-	2,319,507		
Petaluma Joint Union High	1,014,023	72,467	1,086,490		
Piedmont City Unified	532,424	-	532,424		
Piner-Olivet Charter	203,770	10,317	214,087		
Piner-Olivet Union Elementary	207,091	18,241	225,332		
Pioneer Technical Center	244,685	6,570	251,255		
Pioneer Union Elementary	205,526	51,916	257,442		
Pittman Charter	287,356	-	287,356		
Pivot Charter School North Valley	62,160	15,362	77,522		
Pivot Online Charter - North Bay	120,789	15,753	136,542		
Placer Union High	420,265	32,400	452,665		
Placerville Union Elementary	513,732	30,800	544,532		
Plainsburg Union Elementary	203,626	-	203,626		
Plaza Elementary School District	248,704	-	248,704		
Pomona Unified School District (2 EEPs) (EEP #4994)	497,269	404,635	901,904		
Pomona Unified School District (2 EEPs) (EEP #1999)	1,780,000	404,635	2,184,635		
Pope Valley Union Elementary	67,963	7,898	75,861		
Porterville Unified (2 EEPs) (EEP #1290)	811,442	17,915	829,357		
Porterville Unified (2 EEPs) (EEP #2411)	2,432,693	196,794	2,629,487		
Primary Charter	225,485	7,000	232,485		
Provisional Accelerated Learning Academy	231,844	25,760	257,604		
Public Safety Academy of San Bernardino	240,791	30,947	271,738		
PUC Excel Charter Academy	241,307	27,408	268,715		
Redwood City Elementary	1,921,767	133,162	2,054,929		
Redwood Coast Montessori	77,595	15,274	92,869		
Redwood Preparatory Charter	149,944	50,554	200,498		
Reeds Creek Elementary	222,934	51,125	274,059		
Renaissance Arts Academy	267,739	-	267,739		
Rialto Unified School District (2 EEPs) (EEP #1116)	1,101,775	34,000	1,135,775		
Rialto Unified School District (2 EEPs) (EEP #5568)	3,259,132	64,000	3,323,132		
Richgrove Elementary	296,010	-	296,010		
Richmond College Preparatory	237,942	26,746	264,688		
Richmond Elementary	251,634	-	251,634		
Rio Dell Elementary	215,044	35,580	250,624		
Rio Elementary	602,337	109,686	712,023		
River Valley Charter	250,975	-	250,975		
Roberts Ferry Union Elementary	115,262	3,030	118,292		
Rocketship Academy Brilliant Minds	51,119	23,165	74,284		
Rocketship Alma Academy	70,776	23,165	93,941		
Rocketship Spark Academy	82,425	-	82,425		
Rockford Elementary	254,175	-	254,175		
Rosedale Union Elementary	1,091,875	32,500	1,124,375		
Roseville City Elementary	905,624	58,500	964,124		
Roseville Joint Union High (2 EEPs) (EEP #398)	1,475,310	-	1,475,310		
Roseville Joint Union High (2 EEPs) (EEP #5610)	597,255	-	597,255		
Ross Elementary	211,481	32,000	243,481		
Sacramento Valley Charter	251,947	-	251,947		
Salinas City Elementary (2 EEPs) (EEP #5609)	1,878,759	59,004	1,937,763		
Salinas City Elementary (2 EEPs) (EEP #491)	256,422	70,996	327,418		
Salinas Union High	3,493,208	-	3,493,208		
San Ardo Union Elementary	69,439	-	69,439		
San Bernardino County Office of Education	620,932	-	620,932		
SAN JACINTO UNIFIED SCHOOL DISTRICT	1,021,604	136,615	1,158,219		
San Juan Choices Charter	204,778	51,266	256,044		
San Juan Unified School District	865,595	400,049	1,265,644		
San Lorenzo Valley Unified School District (2 EEPs) (EEP #5748)	163,315	-	163,315		
San Lorenzo Valley Unified School District (2 EEPs) (EEP #5749)	328,642	-	328,642		
San Luis Coastal Unified School District	963,790	130,000	1,093,790		
San Mateo Union High	1,618,047	129,993	1,748,040		
San Ramon Valley Unified	146,119	308,720	454,839		
Santa Ana Unified School District (2 EEPs) (EEP #5666)	2,808,331	182,606	2,990,937		
Santa Ana Unified School District (2 EEPs) (EEP #5665)	2,277,815	46,600	2,324,415		
Santa Barbara County Office of Education	266,062	-	266,062		
Santa Barbara Unified	2,572,274	92,250	2,664,524		
Santa Clara Unified	3,400,820	55,794	3,456,614		

Schedule (continued)

Local Educational Agency	Program Implementation	Planning Funds ¹	Total	Amount Unallowable	Reference ²
<u>Completed projects not selected for audit (continued):</u>					
Santa Cruz City High (2 EEPs) (EEP #4933)	794,411	-	794,411		
Santa Cruz City High (2 EEPs) (EEP #5722)	121,436	-	121,436		
Santa Cruz County Office of Education (2 EEPs) (EEP #5795)	225,607	-	225,607		
Santa Cruz County Office of Education (2 EEPs) (EEP #5796)	65,651	-	65,651		
Santa Maria-Bonita	3,942,896	230,704	4,173,600		
Santa Monica-Malibu Unified	2,313,140	93,125	2,406,265		
Santa Rita Union Elementary (2 EEPs) (EEP #5763)	696,335	-	696,335		
Santa Rita Union Elementary (2 EEPs) (EEP #5762)	115,438	-	115,438		
Santa Rosa Academy (2 EEPs) (EEP #5643)	139,408	-	139,408		
Santa Rosa Academy (2 EEPs) (EEP #5642)	379,419	-	379,419		
Santa Ynez Valley Charter School	90,039	50,048	140,087		
Saratoga Union Elementary	420,882		420,882		
Savanna Elementary	91,070	52,291	143,361		
Scotts Valley Unified	358,908	-	358,908		
Sebastopol Independent Charter	87,730	-	87,730		
Sebastopol Union Elementary	250,801	17,902	268,703		
Seeley Union Elementary	206,004	55,104	261,108		
Shandon Joint Unified	163,725	-	163,725		
Sherman Oaks Elementary School	264,348	6,690	271,039		
Sierra Vista Charter High	28,387	-	28,387		
Silver Valley Unified	412,891	107,407	520,298		
Simi Valley Unified	2,021,268	114,000	2,135,268		
Siskiyou Union High	230,652	14,500	245,152		
Sixth Grade Charter Academy at Petaluma Jr. High	70,858	4,987	75,845		
SLVUSD Charter	250,831	-	250,831		
Solano County Office of Education	217,248	1,495	218,743		
Soledad Unified	1,176,737	-	1,176,737		
Sonora Elementary	259,947	12,160	272,107		
South Bay Charter	62,558	15,544	78,102		
South Bay Union Elementary	215,771	54,689	270,460		
South Monterey County Joint Union High	616,791	-	616,791		
South Pasadena Unified	918,269	73,515	991,784		
South San Francisco Unified	1,866,597	40,000	1,906,597		
South Whittier Elementary	789,343	19,300	808,643		
Southern Humboldt Joint Unified	251,329	26,383	277,712		
Southside Elementary	219,702	4,642	224,344		
Spreckels Union Elementary	208,094	52,440	260,534		
Stanislaus Alternative Charter	210,926	-	210,926		
Steele Canyon High	399,229	34,790	434,019		
Stella Middle Charter Academy	33,055	-	33,055		
Stockton Unified Early College Academy	264,433	-	264,433		
Stockton Unified School District	1,525,479	147,592	1,673,071		
Summerville Elementary	253,167	10,640	263,807		
Summerville Union High	226,783	30,817	257,600		
Summit Charter Academy	574,236	-	574,236		
Summit Leadership Academy-High Desert	188,704	-	188,704		
Sunnyvale (3 EEPs) (EEP #2414)	762,005	-	762,005		
Sunnyvale (3 EEPs) (EEP #2428)	535,687	-	535,687		
Sunnyvale (3 EEPs) (EEP #5418)	69,076	-	69,076		
Sunrise Middle	190,189	35,091	225,280		
Surprise Valley Joint Unified	53,647	-	53,647		
Susanville Elementary	307,696	33,595	341,291		
Taft City	605,975	22,000	627,975		
TEACH Academy of Technologies	243,105	27,069	270,174		
Tehachapi Unified	954,967	-	954,967		
The Education Corps	218,442	-	218,442		
The O'Farrell Charter	519,485	58,166	577,651		
Torrance Unified School District (2 EEPs) (EEP #2143)	803,440	-	803,440		
Torrance Unified School District (2 EEPs) (EEP #2163)	3,056,900	-	3,056,900		
Trillium Charter	25,000	5,933	30,933		
Trinity Center Elementary	60,412	15,075	75,487		
Tulare Joint Union High	1,283,316	-	1,283,316		
Tuolumne County Superintendent of Schools	69,359	8,797	78,156		
Turlock Unified (2 EEPs) (EEP #5184)	153,766	-	153,766		
Turlock Unified (2 EEPs) (EEP #5959)	2,956,595	-	2,956,595		
Union Hill Elementary (2 EEPs) (EEP #5741)	207,884	50,000	257,884		

Schedule (continued)

Local Educational Agency	Program Implementation	Planning Funds ¹	Total	Amount Unallowable	Reference ²
<u>Completed projects not selected for audit (continued):</u>					
Union Hill Elementary (2 EEPs) (EEP #5735)	209,670	-	209,670		
Union Joint Elementary	3,144	-	3,144		
University High	217,769	-	217,769		
Upper Lake Unified	387,630	-	387,630		
Vallecito Union	258,808	28,430	287,238		
Vallecitos Elementary	246,583	5,540	252,123		
Vallejo Charter	267,999	-	267,999		
Vallejo City Unified	2,712,081	193,000	2,905,081		
Valley Oaks Charter	148,370	8,500	156,870		
Valley Preparatory Academy Charter	242,953	27,044	269,997		
Valor Academy Middle	268,824	-	268,824		
Ventura County Office of Education	260,929	22,970	283,899		
Visalia Technical Early College	230,352	27,351	257,703		
Visalia Unified	5,721,831	379,039	6,100,870		
Visions In Education	387,430	78,000	465,430		
Washington Unified	82,667	51,128	133,795		
Washington Unified (2 EEPs) (EEP #5165)	1,077,909	-	1,077,909		
Washington Unified (2 EEPs) (EEP #5669)	428,987	-	428,987		
Washington Union Elementary	251,734	-	251,734		
Watsonville Charter School of the Arts	113,068	-	113,068		
West Side Union Elementary	202,351	50,491	252,842		
West Sonoma County Union High	428,180	88,531	516,711		
Western Sierra Collegiate Academy	235,457	15,040	250,497		
Westmorland Union Elementary	191,022	55,019	246,041		
Whitmore Charter High	117,136	50,475	167,611		
Whitmore Charter School of Art & Technology	100,608	53,485	154,093		
Whittier Union High	3,122,641	-	3,122,641		
William Finch	163,797	13,630	177,427		
Willow Creek Academy	246,707	15,014	261,721		
Winton	589,886	25,896	615,782		
Woodland Star Charter	131,800	16,000	147,800		
Woodside Elementary	252,360	-	252,360		
Wright Charter	248,729	25,377	274,106		
Wright Elementary	508,940	46,909	555,849		
Yav Pem Suab Academy - Preparing for the Future Charter	224,104	49,000	273,104		
Yosemite Unified	512,502	45,794	558,296		
Yu Ming Charter	224,760	25,135	249,895		
Yuba City Charter	127,785	51,838	179,623		
Yucaipa-Calimesa Joint Unified	1,804,441	130,000	1,934,441		
Total, completed projects not selected for audit	302,141,775	20,527,450	322,669,225		
Total completed projects	\$ 313,302,972	\$ 28,684,839	\$ 341,987,811		

¹ The planning funds are requested directly from CDE before an EEP is submitted.

² See the Findings and Recommendations section.

Findings and Recommendations

FINDING 1— Sole-sourced project costs

We found that two local educational agencies (LEAs) sole-sourced a portion of their project costs, totaling \$508,108. The table below summarizes this finding:

Local Educational Agency	Sole-sourced Amount
Banta Unified School District	\$ 166,801
Bishop Unified School District	341,307
Total	<u>\$ 508,108</u>

These two LEAs did not provide supporting documentation to show that they considered other vendors before awarding contracts. The LEAs contracted with various vendors for their Proposition 39 program energy upgrade projects. Despite the implementation guidance and best practices, the LEAs used noncompetitive processes to sign contracts with these vendors and, thus, did not ensure the cost effectiveness of these services.

Public Resources Code (PRC) section 26235(c) states, in part, “A community college district or LEA shall not use a sole source process to award funds pursuant to this chapter.”

We have interpreted the requirement to “not use a sole source process to award funds” as the necessity for a competitive process. Competitive processes improve cost-effectiveness, prevent favoritism, and make the procurement process transparent.

PRC section 26240(h)(1) states, “The Superintendent of Public Instruction shall require local education agencies to pay back funds if they are not used in accordance with state statute or regulations. . . .”

Recommendation

We recommend that the California Department of Education (CDE) take appropriate action in response to funds paid to LEAs that did not meet the sole-source requirement. No additional recommendation for LEAs is applicable to this finding, as the Proposition 39 program has ended.

LEAs’ Responses

We notified the two LEAs of this finding during our audit fieldwork and at the end of the audit via email. Appendix A includes Findings and Recommendations for individual LEAs and the LEAs’ responses. Formal responses received on letterhead are included as an Attachment.

**FINDING 2—
Projected energy
savings not identified
in contracts**

We found that three LEAs did not identify the projected energy savings in the awarded contracts as required. The table below summarizes this finding:

Local Educational Agency	Projected Energy Savings Not Identified
Banta Unified School District	X
Bishop Unified School District	X
San Marcos Unified School District	X

This finding does not result in questioned costs; however, ensuring that contracts include projected energy savings helps to ensure that program objectives are achieved.

PRC section 26206(d) states, “All projects shall require contracts that identify the project specifications, costs, and projected energy savings.”

Recommendation

No recommendation for the LEAs is applicable to this finding, as the Proposition 39 program has ended.

LEAs’ Responses

We notified the affected LEAs of this finding during our audit fieldwork and at the end of the audit via email. Appendix A includes Findings and Recommendations for individual LEAs and the LEAs’ responses. Formal responses received on letterhead are included as an Attachment.

**FINDING 3—
Final project
completion reports
submitted after the
deadline**

We found that four LEAs submitted their final project completion reports after the deadline. Each LEA is required to submit a final project completion report to the California Energy Commission (CEC) 12 to 15 months after the energy expenditure plan (EEP) is completed. An EEP is considered complete when the LEA has completed all measures in the approved EEP.

The following table identifies the number of months the final report was submitted after the project was completed:

District	Months
Banta Unified School District	17
Bishop Unified School District	23
Los Angeles Unified School District	22
San Marcos Unified School District	22

LEAs should submit timely final reports to the CEC to allow the CEC to respond promptly to changing situations and maintain effective program

oversight. Information contained in the final reports is compiled into a report that the CEC submits annually to the Citizens Oversight Board. PRC section 26240(b) states, in part:

As a condition of receiving funds from the Job Creation Fund . . . , not sooner than one year but no later than 15 months after an entity completes its first eligible project with grant, loan, or other assistance from the Job Creation Fund . . . , the entity shall submit a report of its project expenditures to the Citizens Oversight Board. . . . To the extent practical, this report shall also contain information on any of the following:

- (1) The total final gross project costs before deducting any incentives or other grants and the percentage of total project costs derived from the Job Creation Fund. . . .
- (2) The estimated amount of energy saved, accompanied by specified energy consumption and utility bill cost data for the individual facility where the project is located, in a format to be specified by the Energy Commission.
- (3) The nameplate rating of new clean energy generation installed.
- (4) The number of trainees.
- (5) The number of direct full-time equivalent employees and the average number of months or years of utilization of each of these employees.
- (6) The amount of time between awarding of the financial assistance and the completion of the project or training activities.
- (7) The entity's energy intensity before and after project completion, as determined from an energy rating or benchmark system. . . .

Recommendation

No recommendation for LEAs is applicable to this finding, as the Proposition 39 program has ended.

LEAs' Responses

We notified the four LEAs of this finding during our audit fieldwork and at the end of the audit via email. Appendix A includes Findings and Recommendations for individual LEAs and the LEAs' responses. Formal responses received on letterhead are included as an Attachment.

Appendix A— Audit Results by Local Educational Agency

Banta Unified School District.....	A2
Bishop Unified School District	A6
Los Angeles Unified School District	A13
Rim of the World Unified School District.....	A14
San Marcos Unified School District	A15

Banta Unified School District Proposition 39 Program

Background

The California Energy Commission (CEC) approved Banta Unified School District's energy expenditure plan (EEP) for \$187,327, consisting of \$21,403 for energy management, \$3,597 for training and services, and \$162,327 for program implementation. The district used its program implementation funds for the following energy efficiency measures:

School Site	Proposition 39 Share Used at School Site	Energy Efficiency Measures	Reported Annual Cost Savings
Banta Elementary	\$ 128,128	HVAC-Packaged/split system AC/Heat Pump/VRF	\$ 1,296
NextGeneration STEAM Academy	295	Interior lighting retrofit - convert compact fluorescent lamps to LED	5,358
NextGeneration STEAM Academy	58,904	Interior lighting retrofit - convert T8 fluorescent lamps to LED	5,358
Total	<u>\$ 187,327</u>		<u>\$ 12,012</u>

With these energy efficiency measures, the district reported a combined savings-to-investment ratio (SIR) of 1.01 and the creation of 0.91 direct job-years.

In addition, the district received \$11,480 in planning funds directly from the California Department of Education (CDE), which it used for program assistance.

Audit Results

We audited the Proposition 39 program costs to ensure compliance with the Job Creation Fund program guidelines, as well as the CEC's *Proposition 39: California Clean Energy Jobs Act – 2016 Program Implementation Guidelines (2016 Program Implementation Guidelines)* and *Proposition 39: California Clean Energy Jobs Act – 2015 Energy Expenditure Plan Handbook (EEP Handbook)*. We identified the following findings:

FINDING 1— Sole-sourced project costs

The district sole-sourced its \$166,801 contract with Indoor Environmental Services (IES) for facility solutions services. The district did not provide supporting documentation to show that it considered other vendors before awarding its contract to IES. Therefore, we found that the school district sole-sourced this Proposition 39 contract.

Public Resources Code (PRC) section 26235(c) states, in part, "A community college district or LEA [local educational agency] shall not use a sole source process to award funds pursuant to this chapter."

PRC section 26240(h)(1) states, "The Superintendent of Public Instruction shall require local education agencies to pay back funds if they are not used in accordance with state statute or regulations. . . ."

**FINDING 2—
Projected energy
savings not identified
in contracts**

We reviewed the district's contract with IES and determined that the contract did not identify the projected energy savings.

PRC section 26206(d) states, "All projects shall require contracts that identify the project specifications, costs, and projected energy savings."

**FINDING 3—
Final project
completion reports
submitted after the
deadline**

The district's final report was submitted on April 6, 2020, which is 17 months after the reported project completion date of November 30, 2018.

PRC section 26240(b) states, in part:

As a condition of receiving funds from the Job Creation Fund . . . , not sooner than one year but no later than 15 months after an entity completes its first eligible project with grant, loan, or other assistance from the Job Creation Fund . . . , the entity shall submit a report of its project expenditures to the Citizens Oversight Board. . . .

Recommendation

We recommend that the CDE take appropriate action in response to funds paid to the district that did not meet the sole-source requirement. No additional recommendation is applicable for the other two findings that we identified, as the Proposition 39 program has ended.

District's Response

We informed the district of the audit findings via email on February 14, 2022. Andi Lopez, Business Services Supervisor, responded by letter dated February 23, 2022. The district's response letter is included as Attachment A.

The district's response to Finding 1 is as follows:

The District relied on the professional knowledge and expertise of the contractors, who also benefited from the implementation of Proposition 39 improvements to the District. The passage of time and change in staff has made it difficult to now search past records, emails, documents, and recollections. Despite this, the District strongly believes that it did not sole-source the contract and that it complied with legal requirements for contracting under Proposition 39. . . .

The district's current and past practice regarding contracting is to competitively bid projects in accordance with law. Board Resolution 17/18-19 made certain findings, consistent with Government Code (GC) section 4217, including that the District "has conducted a selection of process related to the development and implementation of Proposition 39 projects, and has selected IES based on their qualifications and references as to be 'Best Value'." Discussion with a former superintendent and a former Board member confirm this and both individuals believed that the District complied with requirements to bid the project.

The district's response to Finding 2 is as follows:

Resolution 17/18-19 also stated that "based on comments, staff reports and documents reviewed by the Board, the Board makes the formal findings that the costs of the project will be offset by the anticipated savings in energy consumption." That step was consistent with requirements of law (reaching conclusions similar in nature to those required by GC section 4217). The Board made sufficient findings by way of this Resolution to award the work to demonstrate substantial compliance.

The IES Contract ("Contract"), at page C-5, includes the "Basis of Engineering" which states that the Agreement "should be considered in conjunction with the CEC approved energy savings forecast that are presented in the amended Customer's EEP, as required by Proposition 39 California Clean Energy Jobs Act."

In regard to lighting, the Contract, at page C-7, states that "Energy savings are realized due to the fact that total input watts of the lighting fixture will be reduced." In regard to heating, ventilation, and air conditioning (HVAC), the Contract, at page C-9, states that "the intent of this project is to reduce the Customer's utility costs and operational expenses by replacing the existing HVAC equipment with new high energy efficient units." The District's contract with IES included statements regarding energy savings in the Contract.

The district did not respond to Finding 3.

SCO Comment

Our findings and recommendations remain unchanged. We will address the district's responses in the order presented.

Finding 1—Sole-sourced project costs

During the audit, we worked with the district to find documentation supporting that it conducted a competitive bidding process. During that time, the district was ultimately able to support competitive bidding for its planning services, but not for its project implementation costs. During a meeting on February 8, 2022, the district's Budget and Accounting Consultant advised that the district was familiar with vendor IES and felt comfortable awarding its contract to the company without completing a formal bid solicitation.

In its formal response, the district cites reliance on GC section 4217. Specifically, section 4217.12 relates to districts entering into energy conservation contracts. The district also cites using "best value" criteria, although the California State Legislature repealed the "best value" provisions of PRC section 20133(c) in 2014. As a result, this statute was not applicable when the district entered into its contract with IES.

In addition, we believe that PRC section 26235(c), is a requirement in order to award funding under the Proposition 39 program. It does not affect how other contracting provisions apply to other projects. As the district applied for and obtained funding from the Proposition 39 program, it must comply with the prohibition of using a sole-source process, and instead use a competitive process in awarding its contracts for this program.

Finding 2—Projected energy savings not identified in contracts

Although we recognize that the district participated in the program to the best of its ability, the scope of our audit is to ensure compliance with state statutes and regulations. These requirements state that LEAs must identify projected energy savings in the awarded contracts.

The program's provisions require only an estimate of the projected energy savings. We would also point out that no financial penalty is applied to districts for violations of this program provision.

Bishop Unified School District Proposition 39 Program

Background

The CEC approved Bishop Unified School District's EEP for \$569,811, consisting of \$45,563 for energy management, \$9,112 for training and services, and \$515,136 for program implementation. The district used its program implementation funds for the following energy efficiency measures:

School Site	Proposition 39 Share Used at School Site	Energy Efficiency Measures	Reported Annual Cost Savings
Bishop Union High	\$ 325,056	Lighting-exterior retrofit, HVAC-chiller/boiler replacement	\$ 9,169
Home Street Middle	190,080	Lighting-interior retrofit, lighting controls	14,826
Total	<u>\$ 515,136</u>		<u>\$ 23,995</u>

With these energy efficiency measures, the district reported a combined SIR of 1.08 and the creation of 2.88 direct job-years.

Audit Results

We audited the Proposition 39 program costs to ensure compliance with the Job Creation Fund program guidelines, as well as the CEC's *2016 Program Implementation Guidelines* and EEP Handbook. We identified the following audit findings:

FINDING 1— Sole-sourced project costs

The district sole-sourced its contract with IES for energy manager services (\$49,637), and for facility solution services (\$291,670). The district did not provide supporting documentation to show that it considered other vendors before awarding its contract to IES. Therefore, we found that the school district sole-sourced this Proposition 39 contract, totaling \$341,307.

PRC section 26235(c) states, in part, "A community college district or LEA shall not use a sole source process to award funds pursuant to this chapter."

PRC section 26240(h)(1) states, "The Superintendent of Public Instruction shall require local education agencies to pay back funds if they are not used in accordance with state statute or regulations. . . ."

FINDING 2— Projected energy savings not identified in contracts

We reviewed the district's contracts with IES and determined that the contracts did not identify the projected energy savings.

PRC section 26206(d) states, "All projects shall require contracts that identify the project specifications, costs, and projected energy savings."

**FINDING 3—
Final project
completion reports
submitted after the
deadline**

The district’s final report was submitted on February 10, 2020, which is 23 months after the reported project completion date of March 31, 2018.

PRC section 26240(b) states, in part:

As a condition of receiving funds from the Job Creation Fund . . . , not sooner than one year but no later than 15 months after an entity completes its first eligible project with grant, loan, or other assistance from the Job Creation Fund . . . , the entity shall submit a report of its project expenditures to the Citizens Oversight Board. . . .

Recommendation

We recommend that the CDE take appropriate action in response to funds paid to the district that did not meet the sole-source requirement. No additional recommendation is applicable for the other two findings that we identified, as the Proposition 39 program has ended.

District’s Response

We informed the district of the audit findings via email on January 27, 2022. Midge Milici, Chief Business Officer, responded by letter dated February 8, 2022. The district’s response letter is included as Attachment B.

The district’s response to Finding 1 is as follows:

The District believes that it acted in good faith and complied with the relevant program requirements in entering into these contracts.

A. The District Complied with Proposition 39 and Applicable State and Local Law in Awarding these Contracts.

Public Resources Code section 26235(c) (“Section 26235(c)”) provides that an “LEA shall not use a sole source process to award funds pursuant to this chapter.” Section 26235(c) further provides that “an LEA *may* use the best value criteria as defined in paragraph (1) of subdivision (c) of Section 20133 of the Public Contract Code to award funds pursuant to this chapter.” (Emphasis added.) Notably, Section 26235(c) does not define the term “sole source,” describe the precise scope of the sole source limitation, or limit the procurement methods by which school districts may comply with the limitation (i.e., it does not state that an LEA may *only* use the best value method).

The language of Section 26235(c) leaves open the door for school districts to utilize procurement methods other than traditional competitive bidding and best value criteria to comply with its no sole source limitation, which is consistent with longstanding state law. Moreover, although Section 26235(c) generally regulates contract procurement using Proposition 39 funds, other state laws *specifically* regulate procurement of specific types of contracts, such as those here, and therefore should operate as an *exception* to Section 26235(c)’s general provisions. (See Code Civ. Proc. § 1859 [“when a general and particular provision are inconsistent, the latter is paramount to the former”]; (*State Dept. of Public Health v. Superior Court* (2015) 60 Cal. 4th 940, 961 [“it is the general rule that . . . the special act will be considered as an exception to the general statute . . .”].)

GC section 53060 permits a school district to “contract with and employ any persons for the furnishing [of] special services and advice in financial, economic, accounting, engineering, legal, or administrative matters,” without bid or with a very informal process. Although this bid exception lists specified categories, it is applied broadly to include *any* special services rendered to a school district. (See *Fair Education Santa Barbara v. Santa Barbara Unified School Dist.* (2021) 72 Cal. App. 5th 884.) Services are special based on their specialized nature to the school district, the qualifications necessary to furnish the services, and their availability from public sources. (See *Jaynes v. Stockton* (1961) 193 Cal. App. 2d 47.)

The contracts at issue here were separate agreements for services. The first agreement was for services related to energy efficiency upgrades and engineering, construction management, and installation of the same (the “Facility Solutions Agreement”). The second agreement was for services related to energy management, student energy education, and staff energy training (the “Energy Manager Agreement”). As evidenced by the difficulty the District had in finding a vendor who could perform the work under these contracts, the services were specialized to the District, the vendor had particular expertise and qualifications necessary for the work, and the services were otherwise unavailable to the District. These were therefore specialized services under GC section 53060 and did not require bidding.

The Energy Manager Agreement additionally fell within the purview of state law related to contracts for services. Public Contract Code section 20111 and corresponding California Department of Education guidance indicate that a school district, as of 2017, did not need to competitively bid contracts for services that were valued at less than \$88,300. (Pub. Contract Code, § 20111, subd. (a)(l).) As a contract for services valued at \$49,637, the Energy Manager Agreement was well below the competitive bidding threshold.

Finally, the Facility Solutions Agreement expressly included significant engineering and construction management services, which fall within the scope of GC section 4526. This section provides in relevant part, “[n]otwithstanding any other provision of the law, selection by a state or local agency head for professional services of private architectural, landscape architectural, engineering, environmental, land surveying, or construction project management firms shall be on the basis of demonstrated competence and on the professional qualification necessary for the satisfactory performance of the services required.” (See *id.*, emphasis added.) The District was therefore authorized under the law to enter into the Facility Solutions Agreement based on the demonstrated competence of the vendor as opposed to competitive bidding.

The District’s contracts with IES were entered into in good faith and in compliance with longstanding law specifically regulating the procurement methods use by the District, and based on the belief those methods did not conflict with the sole source limitation.

B. The District complied with the Sole Source Limitation even if it applied to these Contracts.

While Section 26235(c) provides little detail regarding the procurement methods that an LEA may use in the Proposition 39 context, the California Energy Commission (“CEC”), in its “Frequently Asked Questions California Clean Energy Jobs Act (Proposition 39),” (“FAQ”)

sheds some light on this issue. The FAQ provides that an “LEA shall defer to [its] own procurement regulations and procedures, as long as they reflect applicable state and local laws and regulations and do not conflict with the minimum legal standards specified above.” (FAQ (2020) California Energy Commission, at p. 27 <https://www.energy.ca.gov/sites/default/files/2020-05/prop39_k-12_faq_ada.pdf> [as of Mar. 18, 2020].)

Here, the District used its own procurement regulations based on and in compliance with the applicable state law discussed above. The procurement of the contracts at issue therefore complied with Section 26235(c)’s sole source limitation.

C. The District Did Not Sole Source these Contracts.

The District did not “sole source” these contracts. While Section 26235(c) does not define “sole source” as used in that section, Public Resources Code section 25620.5(e) presents analogous language, indicating that “single source” procurement involves choosing from “two or more parties.” This statute further explains that “sole source” procurement involves less competition than single source, seemingly implying that sole source procurement involves no form of choice between one option or another (Pub. Resources Code, § 25620.5, subd. (c).) So it is therefore reasonable to view “sole source” for the purposes of Proposition 39 to mean direct contracting with one vendor without even considering other vendors. As discussed more fully below, the District issued a Request for Proposals and considered the qualifications and expertise of at least two other vendors before entering into the contracts with IES.

As detailed in the Declaration of Midge Milici, attached hereto and incorporated by reference, the District carried out a competitive process for all work or services that would be funded with Proposition 39 dollars. This included issuing a Request for Qualifications (“RFQ”) in 2014, which garnered only a single response from Ameresco, Inc. [Declaration of Midge Milici (“Milici Declaration”), ¶¶ 2–3; Exhibit A.] For the specific project in question, involving replacement of a diesel-fueled boiler (“Project”), the District reached out to not one but **four total vendors** before selecting Indoor Environmental Services (“IES”). [Milici Declaration, ¶¶ 5–7.] The District respectfully submits the Milici Declaration and exhibits thereto as documentation specifically supporting and establishing that the District did not use a sole source process to select and award a contract to IES.

The district’s response to Finding 2 is as follows:

The District believes that it acted in good faith and complied with the relevant program requirements in entering into these contracts.

Section 26206(d) requires that a contract “identify” a project’s “projected energy savings.” Neither the statute nor the Guidelines provide any guidance on how an LEA must satisfy this requirement. For example, neither expressly requires this projection to be expressed as a dollar figure, a detailed chart identifying each improvement and specific estimate of energy savings, or any other form. Absent specific direction from the California Energy Commission, LEAs were left with reasonable discretion to attempt to “identify” expected savings in good faith.

Here, the District's contract with IES does, in fact, identify the Project's projected energy savings, although not in a specific dollar amount. Exhibit C, Section 1 of the Facility Solutions Agreement ("Facility Agreement") dated September 5, 2017, states as follows:

This Agreement should be considered in conjunction with the California Clean Energy Commission approved energy savings forecasts that are presented in the District's approved energy expenditure plan, as required by Proposition 39 California Clean Energy Jobs Act.

[Exh. C to Milici Declaration, pg. C-5.] As described in the Facility Agreement, the District already had an approved energy expenditure plan. Reproducing such plan within the body of the Facility Agreement would have been unnecessarily duplicative. Rather, the Facility Agreement specifically "identifies" the project's "projected energy savings" by referencing the approved energy expenditure plan and incorporating it by reference into the Facility Agreement. It is evident that the District made a good faith effort to strictly and substantially comply with the requirements of Proposition 39.

Notwithstanding the above, if the Controller feels that the Facility Agreement could have more clearly articulated the projected energy savings for the project in order to satisfy the Controller, for future Proposition 39 projects, the District is committed to ensuring clear identification and articulation of the projected energy savings within the body of the contract.

The district's response to Finding 3 is as follows:

The District entered into an Energy Manager Contract with IES on or about September 5, 2017 for the provision of services to "complete documentation and reporting to the California Energy Commission (CEC) to meet Proposition 39 project annual progress and final reporting requirements . . ." [Exhibit B to Milici Declaration, p. 4.] This contract specifically required IES to submit the final report to CEC within 12-15 months after project completion. The District has been informed by IES that they submitted the report only eight days late. However, CEC's project manager for this project reopened the report in order to seek additional information regarding an increase in energy usage at one of the sites which resulted in a delay in CEC's processing of the report. Regardless, it is clear from the District's efforts to hire an independent contractor experienced in preparing such reports that the District recognized its obligation to submit the final report and took appropriate action in good faith to comply. The District will take steps to better monitor its independent contractors on future projects to ensure the final report is timely submitted.

SCO Comment

Our findings and recommendations remain unchanged. We will address the district's responses in the order presented.

Finding 1—Sole-sourced project costs

In its response, the district indicates its reliance on the provisions of GC section 53060, PRC section 25620.5(e), Public Contract Code section 20111, GC section 4526, and its own procurement policies and

procedures. The district cites its compliance with these sources as a valid reason for not complying with the sole-source language of PRC section 26235(c).

However, from our perspective, PRC section 26235(c), is a requirement in order to award funding under the Proposition 39 program. It does not affect how other contracting provisions apply to other projects. As the district applied for and obtained funding from the Proposition 39 program, it must comply with the prohibition of using a sole-source process and instead, use a competitive process in awarding its contracts for this Program.

The district is correct that the CEC's Proposition 39 "Frequently Asked Questions" document¹ states:

The LEA shall defer to [its] own procurement regulations and procedures, as long as they reflect applicable state and local laws and regulations, and do not conflict with the minimum legal standards specified above.

In addition, the CEC's 2016 *Program Implementation Guidelines* ("Contracts," page 35) state:

The guidelines defer to the LEA's own procurement regulations and procedures, as long as they reflect applicable state and local laws and regulations, and do not conflict with the minimum legal standards specified above.

However, the district fails to recognize that the guidelines defer to the LEA's own procurement regulations as long as they "*do not conflict with the minimum legal standards specified above*" (emphasis added).

The "minimum legal standards specified above" are PRC sections 26206(d), 26235(a)(2), and 26235(c). The district's procurement regulations conflict with the sole-source prohibition contained in PRC section 26235(c); therefore, we found that the district's reliance on GC section 53060, PRC section 25620.5(e), Public Contract Code section 20111, GC section 4560, and its own policies and procedures in lieu of PRC section 26235(c) was misplaced.

The district's response also includes a legal theory of sole-sourcing that is based on PRC section 25620.5(e). We are not qualified to opine on the validity of legal arguments. The district may choose to pursue an appeal of the audit findings. In the cover letter to this report, we provide guidance on filing an appeal.

In its response, the district also states that it contacted four total vendors before selecting IES. After we received the district's response, we requested documentation supporting that it invited vendors other than IES to bid on its HVAC system Proposition 39 contracts. The district provided documentation from two local vendors that had performed periodic maintenance on the district's HVAC systems. Both vendors acknowledged that the district's HVAC system needed replacement and that the district

¹ Available under the "Program Information" tab on the "California Clean Energy Jobs Act K-12 Program – Prop 39" page of the CEC's website. The quoted text is in the second paragraph on page 27.

should pursue the funding to do so. However, there was no language in these documents offering a bid to perform the project for the district. Furthermore, the district did not provide any evidence supporting that it asked these vendors to provide a bid on the project.

Finding 2—Projected energy savings not identified in contracts

The district states that the program guidelines provide no clear guidance on how districts can comply with the provisions of PRC section 26206(d). We disagree. The CEC's *2016 Program Implementation Guidelines* ("Contracts," page 35) state:

All contracts need a clear and accurate description of the eligible energy project, including material, products, or services to be procured, and a budget that includes cost and *an estimate of the projected energy savings* [emphasis added].

The program's provisions require only an estimate of the projected energy savings. We would also point out that no financial penalty is applied to districts for violations of this program provision.

Finding 3—Final project completion reports submitted after the deadline

The district acknowledges the late submittal of its final completion report. We would also point out that no financial penalty is applied to districts for violations of this program provision.

Los Angeles Unified School District Proposition 39 Program

Background

The CEC approved Los Angeles Unified School District's EEP for \$5,195,862 for program implementation. The district used its program implementation funds for the following energy efficiency measures:

School Site	Proposition 39 Share Used at School Site	Energy Efficiency Measures	Reported Annual Cost Savings
Marshall High School	\$ 2,086,073	HVAC, lighting exterior, & controls	\$ 126,036
Santee Education Complex	3,109,789	HVAC, lighting interior/exterior retrofit, DHW, pumps, motors	210,629
Total	<u>\$ 5,195,862</u>		<u>\$ 336,665</u>

With these energy efficiency measures, the district reported a combined SIR of 1.26 and the creation of 29.10 direct job-years.

In addition, the district received \$7,884,191 in planning funds directly from the CDE, which it used for screening and audits, energy management, and training.

Audit Results

We audited the Proposition 39 program costs to ensure compliance with the Job Creation Fund program guidelines, as well as the CEC's *2016 Program Implementation Guidelines* and EEP Handbook. We identified the following audit finding:

FINDING— Final project completion reports submitted after the deadline

The district's final report was submitted on June 23, 2020, which is 22 months after the reported project completion date of August 31, 2018.

PRC section 26240(b) states, in part:

As a condition of receiving funds from the Job Creation Fund . . . , not sooner than one year but no later than 15 months after an entity completes its first eligible project with grant, loan, or other assistance from the Job Creation Fund . . . , the entity shall submit a report of its project expenditures to the Citizens Oversight Board. . . .

Recommendation

No recommendation is applicable, as the Proposition 39 program has ended.

District's Response

We informed the district of the audit finding via email on March 15, 2022. Peter Yee, Senior Project Manager, responded via email on March 24, 2022, saying, "The district reviewed the identified audit issue and take[s] no exception to the finding."

Rim of the World Unified School District Proposition 39 Program

Background

The CEC approved Rim of the World Unified School District's EEP for \$851,852, consisting of \$85,185 for energy management, \$17,037 for training, ant services and \$749,630 for program implementation. The district used its program implementation funds for the following energy efficiency measures:

School Site	Proposition 39 Share Used at School Site	Energy Efficiency Measures	Reported Annual Cost Savings
Rim of the World Senior High	\$ 749,630	Electrical-high efficiency transformer, lighting-interior fixture	\$ 33,193
Total	<u>\$ 749,630</u>		<u>\$ 33,193</u>

With these energy efficiency measures, the district reported a combined SIR of 1.02 and the creation of 4.20 direct job-years.

Audit Results

We audited the Proposition 39 program costs and found that all costs reported are in compliance with the Job Creation Fund program guidelines, as well as the CEC's *2016 Program Implementation Guidelines* and EEP Handbook.

District's Response

We informed the district via email on January 27, 2022, that all costs reported for Rim of the World Unified School District are in compliance with the program guidelines. Jenny Haberlin, Chief Business Official, responded via email on February 9, 2022, to thank us for our assistance in the audit process.

San Marcos Unified School District Proposition 39 Program

Background

The CEC approved San Marcos Unified School District's EEP for \$4,356,645 for program implementation. The district used its program implementation funds for the following energy efficiency measures:

School Site	Proposition 39 Share Used at School Site	Energy Efficiency Measures	Reported Annual Cost Savings
Carillo Elementary School	\$ 412,213	Lighting-interior/exterior retrofit, HVAC-packaged/split system	\$ 27,340
Discovery Elementary School	35,522	Lighting-interior retrofit	4,822
Joli Ann Elementary School	41,738	Lighting-interior/exterior retrofit	5,134
Knob Hill Elementary School	350,454	Lighting-interior/exterior retrofit	23,577
Mission Hills High School	235,641	Lighting-interior/exterior retrofit	47,713
Paloma Elementary School	100,282	Lighting-interior/exterior retrofit	13,051
Richland Elementary School	116,982	Lighting-interior/exterior retrofit	7,644
San Elijo Elementary School	43,380	Lighting-interior/exterior retrofit	23,587
San Elijo Middle School	140,940	Lighting-interior/exterior retrofit	12,714
San Marcos Middle School	1,340,232	Lighting-interior/exterior retrofit	51,246
Twin Oaks Elementary School	609,108	Lighting-interior retrofit, HVAC-packaged/split system	35,066
Twin Oaks High School	345,868	HVAC-Packaged/split system AC/Heat Pump/VRF	11,225
Woodland Park Middle School	583,985	Lighting-interior/exterior, HVAC-Packaged/split system	32,527
Total	<u>\$ 4,356,345</u>		<u>\$ 295,646</u>

With these energy efficiency measures, the district reported a combined SIR of 1.39 and the creation of 24.40 direct job-years.

In addition, the district received \$261,718 in planning funds directly from the CDE, which it used for program assistance, screening and audits.

Audit Results

We audited the Proposition 39 program costs to ensure compliance with the Job Creation Fund program guidelines, as well as the CEC's *2016 Program Implementation Guidelines* and EEP Handbook. We identified the following audit findings:

FINDING 1— Projected energy savings not identified in contracts

We reviewed the district's contracts with Lusardi Construction and Jackson & Blanc and determined that the contracts did not identify the projected energy savings.

PRC section 26206(d) states, "All projects shall require contracts that identify the project specifications, costs, and projected energy savings."

FINDING 2— Final project completion reports submitted after the deadline

The district's final report was submitted on October 5, 2020, which is 22 months after the reported project completion date of December 31, 2018.

PRC section 26240(b) states, in part:

As a condition of receiving funds from the Job Creation Fund . . . , not sooner than one year but no later than 15 months after an entity completes its first eligible project with grant, loan, or other assistance from the Job Creation Fund . . . , the entity shall submit a report of its project expenditures to the Citizens Oversight Board. . . .

Recommendation

No recommendation is applicable, as the Proposition 39 program has ended.

District's Response

We informed the district of the audit findings via email on January 27, 2022. Myra Lopez, Executive Director of Maintenance and Operations, responded by letter dated February 8, 2022. The District's response letter is included as Attachment C.

The district's response to Finding 1 is as follows:

The scope of work for these contracts were written and signed before the savings were estimated, therefore not included in the contracts. The District accepts the findings as outlined.

The district's response to Finding 2 is as follows:

The due date of the final project completion report was in March 2020. While our consultant began working on the report at the beginning of the year, the impacts of COVID 19 Virus on their workflow ultimately resulted in a significant delay in collecting, analyzing, and reporting all the data. Additionally, given that this was such a comprehensive project that spanned multiple years of construction, there were many pieces of information needed for this report that were not readily available, and it took some time for the new project team to gather everything.

SCO Comment

Our findings and recommendations remain unchanged.

Although we recognize that the district participated in the program to the best of its ability, the scope of our audit is to ensure compliance with state statutes and regulations, which require that the final project report be submitted within 12–15 months of completion of the district's project. We would also point out that there is no financial penalty for violation of this program provision nor for the provision requiring the inclusion of projected energy savings into the district's contracts with its vendors.

Appendix B— Overview of Issued Audit Reports

Issued Proposition 39 Reports	B2
Executive Summary	B2
Report issued June 30, 2017	B3
Report issued July 13, 2018	B3
Report issued June 30, 2019	B4
Report issued June 30, 2020	B4
Report issued August 9, 2021	B4
Report issued June 30, 2022	B5

Issued Proposition 39 Reports

Executive Summary

This is the sixth final program audit report that we have issued for the California Clean Energy Jobs Act, pursuant to an interagency agreement between the State Controller's Office (SCO) and the Citizens Oversight Board.

The following table summarizes the amounts expended and audited by fiscal year for all six audit reports:

Report Issue Date	Audit Period	Amount Expended	Amount Audited	Audited Percentage
June 30, 2017	December 19, 2013–June 30, 2016	\$ 51,645,871	\$ 18,553,175	35.92%
July 13, 2018	July 1, 2016–June 30, 2017	53,802,904	20,389,253	37.90%
June 30, 2019	July 1, 2017–June 30, 2018	85,519,333	24,233,274	28.34%
June 30, 2020	July 1, 2018–June 30, 2019	238,876,104	45,102,262	18.88%
August 9, 2021	July 1, 2019–June 30, 2020	250,241,010	39,178,611	15.66%
June 30, 2022	July 1, 2020–June 30, 2021	341,987,811	19,318,586	5.65%
Totals		<u>\$ 1,022,073,033</u>	<u>\$ 166,775,161</u>	16.32%

The following table summarizes the audited amounts and audit finding amounts for each report:

Report Issue Date	Audit Period	Amount Audited	Audit Findings	Error Rate
June 30, 2017	December 19, 2013–June 30, 2016	\$ 18,553,175	\$ 527,514	2.84%
July 13, 2018	July 1, 2016–June 30, 2017	20,389,253	788,560	3.87%
June 30, 2019	July 1, 2017–June 30, 2018	24,233,274	3,033,349	12.52%
June 30, 2020	July 1, 2018–June 30, 2019	45,102,262	9,540,081	21.15%
August 9, 2021	July 1, 2019–June 30, 2020	39,178,611	1,583,747	4.04%
June 30, 2022	July 1, 2020–June 30, 2021	19,318,586	508,108	2.63%
Totals		<u>\$ 166,775,161</u>	<u>\$ 15,981,359</u>	9.58%

During this six-year period, we audited 86 local educational agencies (LEAs) and 19 community college districts (CCDs), and identified total dollar findings of \$15,981,359 (an error rate of 9.58%). We reported the following findings:

- Sole-sourced project costs totaling \$15,535,493 – 32 LEAs spent \$14,365,423 and five CCDs spent \$1,170,070 in Proposition 39 funding on sole-sourced project costs.
- Ineligible costs totaling \$326,866 – six LEAs spent \$307,287 and two CCDs spent \$19,579 in Proposition 39 funding on ineligible costs.
- Overpayment totaling \$47,072 – one LEA's energy expenditure plan (EEP) was improperly approved, resulting in an overpayment of funds.
- Unspent planning funds totaling \$25,355 – one LEA did not spend all of its approved planning funds.

- Unspent implementation funds totaling \$102,725 – two LEAs did not spend all of their approved implementation funds.
- Unspent interest totaling \$37,992 – two LEAs earned interest on their Proposition 39 allocations but did not spend it.
- Projected energy savings not identified – 60 LEAs and 16 CCDs did not identify the applicable projected energy savings in the awarded contracts.
- No signed contracts – nine LEAs and two CCDs did not have signed contracts with one or more of their vendors.
- Late reports – 34 LEAs submitted their final project reports after the deadline.
- Apparent violation of payback period – one LEA appeared to be in violation of the energy measure payback period, pending the sale of school facilities.

Our reports also included the observation that seven LEAs properly applied unused planning funds to project implementation; however, as these funds were not included in the LEAs' approved EEPs, the Proposition 39 funds exceeded the LEAs' approved EEPs by \$494,426.

**Report issued
June 30, 2017**

We audited 16 LEAs and four CCDs with projects completed during the period of December 19, 2013, through June 30, 2016, and total program expenditures of \$18,553,175. We identified the following findings:

- Sole-sourced project costs totaling \$507,056 – four LEAs spent Proposition 39 funding on sole-sourced project costs.
- Ineligible costs totaling \$20,458 – one LEA spent Proposition 39 funding on ineligible expenditures, resulting in unallowable costs.
- Projected energy savings not identified – 12 LEAs and three CCDs did not identify the projected energy savings in the awarded contracts.

**Report issued
July 13, 2018**

We audited 16 LEAs and four CCDs with projects completed during the fiscal year ending June 30, 2017, and total program expenditures of \$20,389,253. We identified the following findings:

- Sole-sourced project costs totaling \$557,645 – seven LEAs spent Proposition 39 funding on sole-sourced project costs.
- Ineligible costs totaling \$227,987 – two LEAs spent Proposition 39 funds on ineligible expenditures, resulting in unallowable costs (\$335,222 less \$57,235 that was also sole-sourced).
- Overpayment totaling \$47,072 – one LEA's EEP was improperly approved, resulting in an overpayment of funds.
- Projected energy savings not identified – 12 LEAs and three CCDs did not identify the projected energy savings in the awarded contracts.
- Late reports – Four LEAs submitted their final project completion reports after the deadline.

**Report issued
June 30, 2019**

We audited 16 LEAs and three CCDs with projects completed during the fiscal year ending June 30, 2018, and total program expenditures of \$24,233,274. We identified the following findings:

- Sole-sourced project costs totaling \$3,013,770 – seven LEAs spent \$2,189,993 and three CCDs spent \$823,777 on sole-sourced project costs.
- Ineligible expenditures totaling \$19,579 – one LEA spent \$8,075 and one CCD spent \$19,579 in Proposition 39 funds on ineligible expenditures, resulting in unallowable costs (\$27,654 less \$8,075 that was also sole-sourced).
- Projected energy savings not identified – 10 LEAs and three CCDs did not identify the projected energy savings in the awarded contracts.
- Late reports – Five LEAs submitted their final project completion reports after the deadline.

Our report also included an observation that four LEAs properly applied unused planning funds to program implementation; however, as these funds were not included in the LEAs' approved EEPs, the Proposition 39 funds paid to the districts exceeded the LEAs' approved EEPs by \$26,238.

**Report issued
June 30, 2020**

We audited 17 LEAs and four CCDs with projects completed during the fiscal year ending June 30, 2019, and total expenditures of \$45,102,262. We identified the following findings:

- Sole-sourced project costs totaling \$9,537,047 – six LEAs spent Proposition 39 funding on sole-sourced project costs.
- Ineligible expenditures totaling \$3,034 – one LEA spent Proposition 39 funds on ineligible expenditures, resulting in unallowable costs.
- Projected energy savings not identified – 12 LEAs and four CCDs did not identify the projected energy savings in the awarded contracts.
- No signed contracts – four LEAs did not have signed contracts with one or more vendors.
- Late reports – Nine LEAs submitted their final project completion reports after the deadline.

Our report also included an observation that two LEAs properly applied unused planning funds to program implementation; however, as these funds paid to the districts were not included in the LEAs' approved EEPs, the Proposition 39 funds exceeded the LEAs' approved EEPs by \$232,713.

**Report issued
August 9, 2021**

We audited 16 LEAs and four CCDs with projects completed during the fiscal year ending June 30, 2020, and total program expenditures of \$39,178,611. We identified the following findings:

- Sole-sourced project costs totaling \$1,411,867 – six LEAs spent \$1,065,574 and two CCDs spent \$346,293 in Proposition 39 funding on sole-sourced project costs.

- Ineligible expenditures totaling \$5,808 – One LEA spent \$5,808 and one CCD spent \$34,513 in Proposition 39 funds on ineligible expenditures, resulting in unallowable costs (\$40,321 less \$34,513 that was also sole-sourced).
- Unspent planning funds totaling \$23,355 – one LEA did not spend all of its approved planning funds.
- Unspent implementation funds totaling \$102,725 – two LEAs did not spend all of their approved implementation funds.
- Unspent interest totaling \$37,992 – two LEAs earned interest on their Proposition 39 funds but did not spend it.
- Projected energy savings not identified – 11 LEAs and three CCDs did not identify the projected energy savings in the awarded contracts.
- No signed contracts – five LEAs and two CCDs did not have signed contracts with one or more of their vendors.
- Late reports – 12 LEAs submitted their final project completion reports after the deadline.
- Apparent violation of payback period – one LEA appeared to be in violation of the energy measure payback period, pending the sale of school facilities.

Our report also included an observation that one LEA with unused planning funds properly applied the funds to program implementation; however, as these funds were not included in the LEA's approved EEP, the amount of Proposition 39 funds paid to the LEA exceeded its approved EEP by \$235,475.

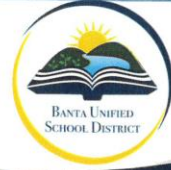
**Report issued
June 30, 2022**

We audited five LEAs with projects completed during the fiscal year ending June 30, 2021, and total completed project costs of \$19,318,586. We identified the following findings:

- Sole-sourced project costs totaling \$508,108 – two LEAs spent Proposition 39 funding on sole-sourced project costs.
- Projected energy savings not identified – three LEAs did not identify the projected energy savings in the awarded contracts.
- Late reports – four LEAs submitted their final project completion reports after the deadline.

**Attachment A—
Banta Unified School District's Response
to Audit Results**

**Banta Unified
School District**



Phone: (209) 229-4651
Fax: (209) 835-9851
22375 El Rancho Rd. Tracy, CA 95304

February 23, 2022

Liliana Juarez, Auditor
State Controller's Office
Division of Audits
PO Box 942850
Sacramento, CA 94250

RE: Clean Energy Jobs Act -- Proposition 39 Program Audit of Banta Unified School District

Dear Ms. Juarez,

By way of this letter, the Banta Unified School District ("District") seeks to provide additional information related to the California Clean Energy Jobs Act -- Proposition 39 Program audit (the "Audit") of the District, specifically in response to your February 14, 2022 email. The District respectfully requests that any determination relating to the Audit be made taking the following information into consideration.

By way of background, during the time at issue under the Audit, the District was a one school, elementary school district, with approximately 350 students (approximately 73% of which were on Free and Reduced Lunch). During the time of the Audit, the District experienced significant staff turnover at the level of superintendent and chief business official. The District is a small district and as a result, many responsibilities which are often handled by designated employees are collapsed into other positions resulting in more disruption when an employee departs.

The District relied on the professional knowledge and expertise of the contractors, who also benefited from the implementation of Proposition 39 improvements to the District. The passage of time and change in staff has made it difficult to now search past records, emails, documents, and recollections. Despite this, the District strongly believes that it did not sole source the contract and that it complied with legal requirements for contracting under Proposition 39.

Sole-Source Funds

The District's current and past practice regarding contracting is to competitively bid projects in accordance with law. Board Resolution 17/18-19 made certain findings, consistent with Government Code section 4217, including that the District "has conducted a selection of process related to the development and implementation of Proposition 39 projects, and has selected IES based on their qualifications and references as to be 'Best Value.'" Discussions with a former superintendent and a former Board member, confirm this and both individuals believed that the District complied with requirements to bid the project.

Projected Energy Savings

Resolution 17/18-19 also stated that "based on comments, staff reports and documents reviewed by the Board, the Board makes the formal findings that the cost of the project will be offset by the anticipated

Superintendent

Rechelle L. Pearlman M.Ed.

Board of Trustees

Patricia Speer - President | Douglas Diestler - Vice President | Karen Dell'Osso - Clerk
Joshua Anderson - Member | Gene Neely - Member

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Banta Unified School District



savings in energy consumption.” That step was consistent with requirements of law (reaching conclusions similar in nature to those required by Government Code section 4217). The Board made sufficient findings by way of this Resolution to award the work to demonstrate substantial compliance.

The IES Contract (“Contract”), at page C-5, includes the “Basis of Engineering” which states that the Agreement “should be considered in conjunction with the California Energy Commission (CEC) approved energy savings forecast that are presented in the amended Customer’s Energy Expenditure Plan (EEP), as required by Proposition 39 California Clean Energy Jobs Act.”

In regard to lighting, the Contract, at page C-7, states that “Energy savings are realized due to the fact that total input watts of the lighting fixture will be reduced.” In regard to HVAC, the Contract, at page C-9, states that “the intent of this project is to reduce the Customer’s utility costs and operational expenses by replacing the existing HVAC equipment with new high energy efficient units.” The District’s contract with IES included statements regarding energy savings in the Contract.

Conclusion

Proposition 39 funds awarded to the District for this project were spent according to plans and as legally permitted. The purpose of Proposition 39, to improve facilities and help lower energy bills, was accomplished.

The District substantially and in good faith complied with the requirements of Proposition 39 and Government Code section 4217, including the prohibition against sole sourcing. Based on the above summary, the District believes that it acted in good faith to comply with bidding requirements and that it is incorrect to conclude that the District sole-sourced the energy improvements. Moreover, the funds received under Proposition 39 were used for their intended purpose, and the energy savings goals that were intended have been achieved.

The potential penalty that the District would be required to repay, the full award relating to the cost of the energy upgrades (\$166,801), constitutes a significant portion of the District’s operating budget. If penalized the full amount, this would represent 12% of the District’s unrestricted general fund reserves and have a substantial adverse impact on school operations. Therefore, since the District expended the funds in accordance with the plans, and was of the understanding that it complied with the procurement provisions of the law, the District respectfully requests that the penalized amount be reduced.

Thank you for your consideration and please do not hesitate to contact me or Andi Lopez with any additional questions.

Sincerely,

Rechelle L. Pearlman

Superintendent

cc: Andi Lopez

Superintendent

Rechelle L. Pearlman M.Ed.

Board of Trustees

Patricia Speer - President | Douglas Diestler - Vice President | Karen Dell’Osso - Clerk
Joshua Anderson - Member | Gene Neely - Member

**Attachment B—
Bishop Unified School District's Response
to Audit Results**



Katherine Kolker, Superintendent
656 W. Pine Street, Bishop, CA 93514
760.872.3680

February 8, 2022

By E-Mail: ljarez@sco.ca.gov

Liliana Juarez
Auditor
Office of the State Controller Betty T. Yee
Division of Audits, Compliance Audits Bureau
3301 C Street, Suite 725A
Sacramento, CA 95816

Re: Prop 39 CA Clean Energy Jobs Act Audit Findings

Dear Ms. Juarez:

I write this letter in response to your January 27, 2022, email. In that correspondence, you indicated that your office had conducted an audit of the Bishop Unified School District's ("District") California Clean Energy Jobs Act Program Expenditures – Proposition 39, spanning from July 1, 2020, through June 30, 2021. You further indicated that your office had identified three audit issue(s) regarding the District's contract with Indoor Environmental Services ("IES") for the design and installation of energy efficiency measures ("Project") and the District's submittal of its final report on Project expenditures. In this letter, we respond to each issue.

As an initial matter, we emphasize that, despite any potential discrepancies identified, the Project undeniably served to advance the purposes of Proposition 39. The Legislature has indicated that Proposition 39's primary objectives include "[c]reat[ing] good-paying energy efficiency and clean energy jobs in California" and "[p]utt[ing] Californians to work repairing and updating schools and public buildings to improve their energy efficiency and mak[ing] other clean energy improvements that create jobs and save energy and money." (Pub. Resources Code, § 26201, subds. (a), (b).) The Project, as evidenced by the District's Energy Expenditure Plan ("EEP"), achieved these goals. The District has worked with due diligence to achieve these goals and has, at all times, made a good faith effort to comply with Proposition 39 requirements.

Board of Trustees

Dr. Claudia Moya-Tanner

Virginia Figueroa

Dr. Taylor Ludwick

Kathryn Zack

Steve Elia

www.bishopschools.org

Finding 1: Sole-Sourced Funds

Your office made the following finding:

The district contracted with Indoor Environmental Services (IES) for Energy Manager (\$49,637), and for Facility Solutions (\$291,670). The district did not provide documentation to show that it considered other vendors when it awarded the contracts to Indoor Environmental Services. Therefore, we found that \$341,307 of Prop 39 funds were sole-sourced.

The District believes that it acted in good faith and complied with the relevant program requirements in entering into these contracts.

A. The District Complied with Proposition 39 and Applicable State and Local Law in Awarding these Contracts.

Public Resources Code section 26235(c) (“Section 26235(c)”) provides that an “LEA shall not use a sole source process to award funds pursuant to this chapter. Section 26235(c) further provides that “an LEA *may* use the best value criteria as defined in paragraph (1) of subdivision (c) of Section 20133 of the Public Contract Code to award funds pursuant to this chapter.” (Emphasis added.) Notably, Section 26235(c) does not define the term “sole source,” describe the precise scope of the sole source limitation, or limit the procurement methods by which school districts may comply with the limitation (i.e., it does not state that an LEA may *only* use the best value method).

The language of Section 26235(c) leaves open the door for school districts to utilize procurement methods other than traditional competitive bidding and best value criteria to comply with its no sole source limitation, which is consistent with longstanding state law. Moreover, although Section 26235(c) generally regulates contract procurement using Proposition 39 funds, other state laws *specifically* regulate procurement of specific types of contracts, such as those here, and therefore should operate as an *exception* to Section 26235(c)’s general provisions. (See Code Civ. Proc. § 1859 [“when a general and particular provision are inconsistent, the latter is paramount to the former”]; (*State Dept. of Public Health v. Superior Court* (2015) 60 Cal.4th 940, 961 [“it is the general rule that...the special act will be considered as an exception to the general statute...”].)

Government Code section 53060 permits a school district to “contract with and employ any persons for the furnishing [of] special services and advice in financial, economic, accounting, engineering, legal, or administrative matters,” without bid or with a very informal process. Although this bid exception lists specified categories, it is applied broadly to include *any* special services rendered to a school district. (See *Fair Education Santa Barbara v. Santa Barbara Unified School Dist.* (2021) 72 Cal.App.5th 884.) Services are special based on their specialized nature to the school district, the qualifications necessary to furnish the services, and their availability from public sources. (See *Jaynes v. Stockton* (1961) 193 Cal.App.2d 47.)

The contracts at issue here were separate agreements for services. The first agreement was for services related to energy efficiency upgrades and engineering, construction management, and installation of the same (the “Facility Solutions Agreement”). The second agreement was for services related to energy management, student energy education, and staff energy training (the

“Energy Manager Agreement”). As evidenced by the difficulty the District had in finding a vendor who could perform the work under these contracts, the services were specialized to the District, the vendor had particular expertise and qualifications necessary for the work, and the services were otherwise unavailable to the District. These were therefore specialized services under Government Code section 53060 and did not require bidding.

The Energy Manager Agreement additionally fell within the purview of state law related to contract contracts for services. Public Contract Code section 20111 and corresponding California Department of Education guidance indicate that a school district, as of 2017, did not need to competitively bid contracts for *services* that were valued at less than \$88,300. (Pub. Contract Code, § 20111, subd. (a)(1).) As a contract for services valued at \$49,637, the Energy Manager Agreement was well-below the competitive bidding threshold.

Finally, the Facility Solutions Agreement expressly included significant engineering and construction management services, which fall within the scope of Government Code section 4526. This section provides in relevant part, “[n]otwithstanding any other provision of the law, selection by a state or local agency head for professional services of private architectural, landscape architectural, *engineering*, environmental, land surveying, or *construction project management* firms shall be on the basis of demonstrated competence and on the professional qualification necessary for the satisfactory performance of the services required.” (See *id.*, emphasis added.) The District was therefore authorized under the law to enter into the Facility Solutions Agreement based on the demonstrated competence of the vendor as opposed to competitive bidding.

The District’s contracts with IES were entered into in good faith and in compliance with longstanding law specifically regulating the procurement methods use by the District, and based on the belief those methods did not conflict with the sole source limitation.

B. The District complied with the Sole Source Limitation even if it applied to these Contracts.

While Section 26235(c) provides little detail regarding the procurement methods that an LEA may use in the Proposition 39 context, the California Energy Commission (“CEC”), in its “Frequently Asked Questions California Clean Energy Jobs Act (Proposition 39),” (“FAQ”) sheds some light on this issue. The FAQ provides that an “LEA shall defer to [its] own procurement regulations and procedures, as long as they reflect applicable state and local laws and regulations and do not conflict with the minimum legal standards specified above.” (FAQ (2020) California Energy Commission, at p. 27 <https://www.energy.ca.gov/sites/default/files/2020-05/prop39_k-12_faq_ada.pdf> [as of Mar. 18, 2020].)

Here, the District used its own procurement regulations based on and in compliance with the applicable state law discussed above. The procurement of the contracts at issue therefore complied with Section 26235(c)’s sole source limitation.

C. The District Did Not Sole Source these Contracts.

The District did not “sole source” these contracts. While Section 26235(c) does not define “sole source” as used in that section, Public Resources Code section 25620.5(e) presents analogous language, indicating that “single source” procurement involves choosing from “two or more

parties.” This statute further explains that “sole source” procurement involves less competition than single source, seemingly implying that sole source procurement involves no form of choice between one option or another. (Pub. Resources Code, § 25620.5, subd. (e).) So It is therefore reasonable to view “sole source” for the purposes of Proposition 39 to mean direct contracting with one vendor without even considering other vendors. As discussed more fully below, the District issued a Request for Proposals and considered the qualifications and expertise of at least two other vendors before entering into the contracts with IES.

As detailed in the Declaration of Midge Milici, attached hereto and incorporated by reference, the District carried out a competitive process for all work or services that would be funded with Proposition 39 dollars. This included issuing a Request for Qualifications (“RFQ”) in 2014, which garnered only a single response from Ameresco, Inc. [Declaration of Midge Milici (“Milici Declaration”), ¶¶ 2-3; Exhibit A.] For the specific project in question, involving replacement of a diesel-fueled boiler (“Project”), the District reached out to not one but **four total vendors** before selecting Indoor Environmental Services (“IES”). [Milici Declaration, ¶¶5-7.] The District respectfully submits the Milici Declaration and exhibits thereto as documentation specifically supporting and establishing that the District did not use a sole source process to select and award a contract to IES.

Finding 2: Energy Savings

Your office made the following finding:

We reviewed the district’s contract with Indoor Environmental Services (IES), and determined that the contract does not include projected energy savings.

The District believes that it acted in good faith and complied with the relevant program requirements in entering into these contracts.

Section 26206(d) requires that a contract “identify” a project’s “projected energy savings.” Neither the statute nor the Guidelines provide any guidance on how an LEA must satisfy this requirement. For example, neither expressly requires this projection to be expressed as a dollar figure, a detailed chart identifying each improvement and specific estimate of energy savings, or any other form. Absent specific direction from the California Energy Commission, LEAs were left with reasonable discretion to attempt to “identify” expected savings in good faith.

Here, the District’s contract with IES does, in fact, identify the Project’s projected energy savings, although not in a specific dollar amount. Exhibit C, Section 1 of the Facility Solutions Agreement (“Facility Agreement”) dated September 5, 2017, states as follows:

This Agreement should be considered in conjunction with the California Clean Energy Commission approved energy savings forecasts that are presented in the District’s approved energy expenditure plan, as required by Proposition 39 California Clean Energy Jobs Act.

[Exh. C to Milici Declaration, pg. C-5.] As described in the Facility Agreement, the District already had an approved energy expenditure plan. Reproducing such plan within the body of the

Facility Agreement would have been unnecessarily duplicative. Rather, the Facility Agreement specifically “identifies” the project’s “projected energy savings” by referencing the approved energy expenditure plan and incorporating it by reference into the Facility Agreement. It is evident that the District made a good faith effort to strictly and substantially comply with the requirements of Proposition 39.

Notwithstanding the above, if the Controller feels that the Facility Agreement could have more clearly articulated the projected energy savings for the project in order to satisfy the Controller, for future Proposition 39 projects, the District is committed to ensuring clear identification and articulation of the projected energy savings within the body of the contract.

Finding 3: Final Report Submission

Your office made the following finding:

We found that the final report was submitted on February 10, 2020, which is 23 months after the reported project completion date of March 31, 2018.

The District entered into an Energy Manager Contract with IES on or about September 5, 2017 for the provision of services to “complete documentation and reporting to the California Energy Commission (CEC) to meet Proposition 39 project annual progress and final reporting requirements...” [Exhibit B to Milici Declaration, p. 4.] This contract specifically required IES to submit the final report to CEC within 12-15 months after project completion. The District has been informed by IES that they submitted the report only eight days late. However, CEC’s project manager for this project reopened the report in order to seek additional information regarding an increase in energy usage at one of the sites which resulted in a delay in CEC’s processing of the report. Regardless, it is clear from the District’s efforts to hire an independent contractor experienced in preparing such reports that the District recognized its obligation to submit the final report and took appropriate action in good faith to comply. The District will take steps to better monitor its independent contractors on future projects to ensure the final report is timely submitted.

It is evident that the District made a good faith effort to strictly and substantially comply with the requirements of Proposition 39 and did so to the greatest extent possible.

Sincerely,



Katie Kolker
Superintendent

Enclosure: Declaration of Midge Milici and Exhibits thereto

DECLARATION OF MIDGE MILICI

I, Midge Milici, hereby affirm and declare the following to be true and correct:

1. I am the Chief Business Officer of Bishop Unified School District ("District") and have held that position and title since June 6, 2006. I have personal knowledge of the matters contained within this Declaration, and could and would testify as to the truth of the statements made herein.

2. On November 25, 2014, the District issued a Request for Qualifications, Energy Conservation Performance Contracting Program for Proposition 39 California Clean Energy Jobs Act ("RFQ"). The RFQ was published in our local newspaper, the Inyo Register. A true and correct copy of the RFQ is attached hereto as Exhibit A and incorporated herein by this reference. The RFQ sought statements of qualifications from interested, independent, established and experienced Energy Service Companies or other qualified firms having specific qualifications and experience in utilities analysis and providing comprehensive energy management and energy-related capital improvement services. The scope of the RFQ included "utilities services and energy related capital improvements to be financed through a performance-based contract with energy, operational savings, grants, incentive[s], and the District's Proposition 39 allocations." [Exhibit A, pg. 2.]

3. Responses to the RFQ were due on December 15, 2014, and the District received only one (1) response, from Ameresco, Inc. ("Ameresco"). Having received no other responses, the District negotiated an Energy Services Agreement with Ameresco dated January 16, 2015. Pursuant to that Agreement, Ameresco completed lighting and electrical retrofits.

4. On February 3, 2017, the District received notice from the Great Basin Air Pollution Control District that the District's existing diesel-fueled boiler was not compliant with applicable law and needed to be replaced or retrofitted (the "Project"). The District desired to use Proposition 39 California Clean Energy Jobs Act ("Prop. 39") funding for the Project.

5. The District had discussed the Project as well as several other HVAC projects with Ameresco, who indicated that none of these projects were eligible for Proposition 39 funding due to the savings calculations not meeting Proposition 39 savings criteria. Ameresco therefore did not submit a quote or proposal for the Project.

6. In March of 2017, District staff contacted two (2) additional vendors regarding the Project, Bishop Heating & Air Conditioning and Dean's Plumbing and Heating. Based on the age and complexity of the District's HVAC system, both vendors indicated that the only option they could provide was a replacement of the entire system. The District did not have sufficient funding for a full replacement. The District did not contact any other vendors at that time because the District was not aware of any other qualified firms who could perform the work. This belief was supported by the fact that the District only received a single response to the RFQ.

7. In March of 2017, the District's former Superintendent Barry Simpson attended a school administrators conference that was also attended by representatives of Indoor Environmental Services ("IES"). Having solicited proposals for the Project from three (3) other vendors, which proposals did not meet the District's needs, Mr. Simpson discussed the Project with IES and learned that IES had recently completed a similar project for another school district using Prop. 39 funds. IES offered to complete a cost savings analysis, which confirmed that the Project qualified for use of such funds.

8. On September 5, 2017, following the competitive process outlined above, the District entered into a contract for "Energy Manager" and Facility Solutions Agreement with IES. True and correct copies of the Energy Manager and Facilities Solutions Agreements are attached hereto as Exhibits B and C and incorporated by reference. Pursuant to those contracts, IES completed the Project in December of 2018.

[Continued on the following page.]

I declare under penalty of perjury under the laws of the State of California, that the foregoing is true and correct. Executed on the date set forth below at Bishop, California.

2-8-22
Date


Signature

M MILICI
Print Name

**Attachment C—
San Marcos Unified School District's Response
to Audit Results**

February 8, 2022

Ms. Liliana Juarez
Auditor
Office of the State Controller
Division of Audits, Compliance Audits Bureau
3301 C Street, Suite 725A
Sacramento, CA 95816

RE: San Marcos Unified School District – Response to Audit Findings
California Clean Energy Jobs Act – Proposition 39 Program

Dear Ms. Juarez,

This letter is in response to the Exit Conference Audit Findings for the San Marcos Unified School District ("District"), California Clean Energy Jobs Act – Prop 39 Program. The following is responses to the Criteria and Additional Findings.

Projected Energy Savings Not Included In The Contracts:

We reviewed the District contract with Lusardi Construction and Jackson & Blanc and determined that the contract does not include projected energy savings.

Criteria

Public Resource code (PRC) section 26206(d) states, in part, "All Projects shall require contracts that identify the project specification, costs, and projected energy savings."

The scope of work for these contracts were written and signed before the savings were estimated, therefore not included in the contracts. The District accepts the findings as outlined.

Final Report Not Submitted Within 12-15 Months Following The Project Completion Date.

Criteria

The public Resource Code (PRC) section 26240(b) states, in part, "as condition of receiving funds from the Job Creation Fund, not sooner than one year but not later than 15 months after the entity completes its first eligible project with grant, loan, or other assistance from the Job Creation Fund, the entity shall submit a report of its project expenditures to the Citizens Oversight Board..."

The due date of the final project completion report was in March 2020. While our consultant began working on the report at the beginning of the year, the impacts of the Covid 19 Virus on their workflow ultimately resulted in a significant delay in collecting, analyzing, and reporting all the data. Additionally, given that this was such a comprehensive project that spanned multiple years of construction, there were many pieces of information needed for this report that were not readily available, and it took some time for the new project team to gather everything.

Governing Board: Sarah Ahmad Stacy Carlson Jaime Chamberlin Sydney Kerr Carlos Ulloa, Ed.D.

Andrew S. Johnsen, Ed.D. - Superintendent

Additional Observation

Our review found that the district contracted with Johnson Consulting Engineers, Inc. for consulting services, Blue Coast Consulting Inc. for DSA inspection, Building Construction Professionals for HVAC consulting services, and Bowie, Arneson, Wiles & Giannone Law Firm for legal services. The district did not provide documentation to show that it considered other vendors/agencies when it awarded the contracts to Johnson Consulting Engineers, Inc. (\$1,500), Blue Coast Consulting Inc. (\$3,910), Building Construction Professionals (\$4,241), and Bowie, Arneson, Wiles & Giannone Law Firm (\$8,135). The district reported that the services provided by the vendors were considered a "special service" and therefore, all vendors in question were hired using Governmental Code 53060. However, under Proposition 39 regulations, PRC 23235(c), LEA's must not sole-source.

Criteria

Public Resource Code (PRC) section 26235(c) states in part, "A community college or LEA shall not use a sole source process to award funds pursuant to this chapter."

Public Resource Code (PRC) section 26240(h)(1) states, in part, "The Superintendent of Public Instruction shall require local education agencies to pay back funds if they are not used in accordance with state statute or regulations..."


PUC section 388 (b) states, in part, "The Department of General Services or any other state or local agency intending to enter into an energy savings contract or a contract for an energy retrofit project may establish a pool of qualified energy service companies based on qualifications, experience, pricing, or other pertinent factors. Energy service contracts for individual projects undertaken by any state or local agency may be awarded through a competitive selection process to individuals or firms identified in the pool. The pool of qualified energy service companies and contractors shall be reestablished at least every two years or shall expire."

Therefore, we found that the district sole-sourced contracts with Johnson Consulting Engineers, Inc., Blue Coast Consulting Inc., Building Construction Professionals, and Bowie, Arneson, Wiles & Giannone Law Firm, however, amounts are below materiality and therefore, not a finding

The District accepts the findings as outlined.

If you have any questions, please do not hesitate to call me at 760-290-2650.

Sincerely,



Myra Lopez
Executive Director
Maintenance and Operations

**State Controller's Office
Division of Audits
Post Office Box 942850
Sacramento, CA 94250**

<http://www.sco.ca.gov>