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Oversight Committee Best Practices

Approved by the SDCTA Board of Directors on October 21, 2011

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The following list of observed best practices reflect the experience of the San Diego County Taxpayers Association's (SDCTA) participation in dozens of oversight committees over the past decades. One of these committees preceded the passage of Proposition 39, which mandates oversight for bond-funded projects in K-12 schools and community colleges. That change led to rapid expansion of oversight and affected similar types of ballot measures such as the four-year extension of the TransNet sales tax, public safety facilities and hospital projects. From years of observation, extensive research and direct participation in oversight committees in San Diego County, SDCTA has derived a list of practices that enhance the effectiveness of the oversight that voters rely upon when making decisions at the ballot box. SDCTA's best practices hold oversight committees and the agencies that they oversee to a higher standard than those outlined in Prop 39 (Appendix A for language of the legislation).

(Please see Appendices A through F for all supporting materials)

Notification

Recruitment, selection and appointment

For at least 45 days the district or agency shall inform the public and the entities listed below of vacancies on the oversight committee by all available means in order to recruit qualified, motivated committee members.

- San Diego County Taxpayers Association
- American Institute of Architects
- American Society of Civil Engineers
- Associated Builders and Contractors of San Diego
- Associated General Contractors of San Diego
- Community organizations (e.g. Rotary, Kiwanis, etc.)
- Construction Managers Association of America
- Financial Executives International
- Labor organizations
- Local and community papers
- Local Chambers of Commerce
- Parent teacher organizations

These announcements shall include a description of the oversight committee duties and scope of authority. Eligibility requirements and selection criteria shall be made available. Appointments shall be made at a regularly scheduled publicly noticed meeting of the district or agency.

Membership Composition

A majority of the members of the Committee shall possess expertise in one or more of the following areas:

- Large scale construction operations
- Municipal/public finance matters
- Performance and financial auditing
- Construction related project management
- Real estate acquisition or sales
- Environmental laws or regulations
- Information technology

At least one member of the Committee shall be a representative of SDCTA. SDCTA will identify and nominate a member to fulfill the duties of the member of a bona fide taxpayers association. In the case that a member of SDCTA cannot be identified to serve on the oversight committee, solicitation for such representation shall be opened to the broader community. Committee members shall be appointed by the elected board as part of a regularly scheduled and publicly noticed meeting. The process shall include statement of qualifications to the public as well as the opportunity for public comment on the nominees. It is impermissible for any bond moneys that are the responsibility of the oversight committee to be spent before the formation and first official meeting of the oversight committee; this includes carryover funds from previous bonds. At its first meeting, the committee shall appoint a chairperson and vice-chairperson to serve in the absence of the chairperson.

Terms

The elected board shall determine the term duration and staggering of oversight committee members' terms.

Bylaws

Although not required by law, it is customary practice for governing boards to adopt administrative regulations outlining fundamental aspects of committee operations and activities. While this may take the form of bylaws, it is a best practice for the committee to be granted the opportunity of prior review and the opportunity to propose changes since these bylaws will describe the manner or governing board policy in which the committee carries out its responsibilities. At a minimum, the bylaws should describe the term limits of the oversight committee's members. Bylaws must be adopted before the oversight committee is formed (see Appendix D for an example of bylaws).

Orientation

Before a new oversight committee begins work, a comprehensive orientation is **mandatory**. It is important that each oversight committee member receive a thorough briefing by the district's staff and **oversight committee member(s)**, including copies of relevant codes, bond resolutions, project descriptions, budgets and schedules, financial reports and minutes of recent meetings. It is **strongly recommended** that new appointees tour facilities included in or affected by the bond funded program, however, tours at every committee meeting are excessive. Oversight committee members that are new to the committee mid-bond (due to term limits or for other reasons) shall receive the same in-depth, thorough orientation as those who were oriented upon the formation of the committee. Oversight committee members **are strongly recommended to attend** an orientation to the process by SDCTA. **SDCTA is available to provide an in-person presentation.** For Proposition 39 committees, a copy and overview of Proposition 39 shall be provided.

Access to information

Access to critical benchmarking data in a timely and easily comprehensible manner is essential. This frequently takes the form of a so-called "dashboard" which summarizes critical metrics in graphic form. Whenever bond revenues are combined or used in conjunction with other sources of funding, the oversight committee shall be kept informed of the status of all funds. Reports shall summarize the original funds budgeted and allocated, amounts expended and obligated to date and the percent of completion as of the close of the most recent accounting quarter. A regularly updated Program Evaluation Review Technique (PERT) chart or its equivalent with milestones for each project in the program is necessary to allow oversight committee members to track progress. (See Appendix E for an example of a "dashboard" and Appendix F for an example of a PERT chart).

Public disclosure

Transparency is achieved by promptly displaying detailed information about the progress of each project included in the ballot measure and resolution, as well as the committee's minutes and materials, including subcommittees, it has received on the oversight committee website. Preferred oversight committee website will be located as a subpage of the Board's website. Oversight committee websites shall disclose, at a minimum, the following:

- Minutes of all meetings, including subcommittees, within a reasonable amount of time. Preference is by next regularly scheduled committee meeting
- Materials provided to the Committee at each meeting
- Sufficient notice of the dates and times and agendas of planned meetings of the oversight committee and its subcommittees, when applicable
- List of the committee's members and a main contact information (email and phone)
- List of projects accompanied by measurements of their status in terms of budgets and timelines
- Any alterations to project budgets or timelines with adequate explanations for these changes
- Comparison of current status of projects in terms of budgets and timelines to the original budget and timeline estimates of the project
- Oversight committee website(s) shall be kept current and up-to-date
- Whenever available, the committee shall support open data by publishing on its website the raw (non-summarized) data on spending, progress, timelines, and budgets, in an open or widely supported format such as Excel or .CSV

Meetings

The oversight committee must meet with sufficient frequency to ensure that members remain fully informed about all relevant current conditions. The Committee shall schedule at least quarterly (or more frequently as needed) meetings as either a full body, or in the form of subcommittees that shall then report back to the full Committee at its next regularly scheduled meeting, for the initial two years after passage of the bond measure or until 20 percent of bond projects are completed, and at least quarterly thereafter. Subcommittees may be formed to monitor specific components of program implementation such as the audit process or construction progress and prepare the annual report to the elected board and public. Both committees and subcommittees shall be subject to the Brown Act. As appropriate, there should be updates provided to the elected board on the oversight committee's activities.

Project Delivery Methods

The District shall present to the Oversight Committee the available project delivery options for the district and which one will be utilized for projects undertaken during the bond program. The District

shall outline the reason each particular method will be utilized. The District shall make every effort to present to the Oversight Committee prior to final approval by the Governing Board.

Budget

Pursuant to Education Code section 15280 (See Appendix B for language), “The governing board of the district shall, without expending bond funds, provide the citizens' oversight committee with any necessary technical assistance and shall provide administrative assistance in furtherance of its purpose and sufficient resources to publicize the conclusions of the citizens' oversight committee.”

Financial Audit

It is desirable for the oversight committee to participate in the process of screening independent auditors of the bond-funded program, recognizing that the governing board has the sole authority to make such appointments. Financial audits should at a minimum comply with Government Auditing Standards and all Proposition 39 requirements.

The oversight committee shall review and comment upon the annual financial report prior to its presentation to the elected board. Independent auditors shall meet annually with the oversight committee audit subcommittee and/or the full committee (prior to presentation to the elected board) at a regularly scheduled meeting. The oversight committee should make recommendations and provide input on the audit.

Performance Audit

In addition to the compliance audit usually prepared by the financial auditors, the oversight committee shall participate in a comprehensive performance audit conducted by qualified independent professionals who have demonstrated knowledge in the fields of project management and construction industry best practices. The purpose of this audit is to provide accountability to the public that those projects that were supported through their approval of the bond are being completed, and that any changes to the projects have been adequately explained. All performance audits should at a minimum comply with those standards outlined under Proposition 39 and Senate Bill 1473 (See Appendix H for language of the legislation) and provide an independent review and evaluation of at least the following:

- Current Bond Program Management Program/Plan
- Design and Construction Timelines which include benchmarking to industry standards.
- Review of Project Budgets
- Use of Best Practices and Technology Regarding the Planning and Construction of School Facilities
- Payment Procedures and Payment Processing Time
- Program and Construction Management Structure including staff and fees.
- Change Order Procedures and Results which include benchmarking to industry standards.
- Construction Project Delivery Methods and Performance Analysis
- “Best Practices” for Procurement of Contractors and Professional Services and compliance with public contracting code
- Evaluation of Public Outreach and Communication Program
- Evaluation of Overall transparency of Bond Program, including but not limited to the evaluation of the bond website information.
- Compliance with legal requirements for prevailing wage and labor compliance.
- Review performance of Independent Citizen’s Bond Oversight Committee.

The oversight committee shall review and comment upon the annual performance audit prior to its presentation to the elected board. The oversight committee should make recommendations and provide input on the audit.

Access to the governing board and chief administrative officer

The oversight committee shall periodically meet with the chief administrative officer of the district or agency and at least annually with the governing board. It is recommended that oversight committee members monitor the district's governing board meetings. The oversight committee shall meet with the governing board prior to the oversight committee's presentation of its performance assessment report. Any matters related to the bond shall go to the oversight committee prior to the elected board.

Significant program changes

The governing board shall provide the oversight committee with the opportunity to review and comment upon major changes in each bond-funded program, allocation and project prior to final action being taken. A major change is one that affects the lesser of 10% of a specific project budget allocation or \$1 million or a delay of a major project by 6 months or more.

Any board action that would significantly change the cost or schedule or bidding of bond financed projects should be reviewed by the oversight committee prior to any non-emergency governing board decision. In the event of significant program changes, the committee shall produce a special report in addition to its annual report specifically covering the program changes to scope, budget and timelines. This report shall be readily available to the public and submitted to appropriate media outlets.

Annual report

The oversight committee shall be the principal author, with staff assistance as may be requested, of its required annual report to the public. The district or agency shall provide technical, production and distribution support. The report shall appear on the oversight committee web site and be available at principal offices of the district or agency. The project priority shall be those specific projects that were approved by the public upon approval of the bond measure. The report shall contain, at a minimum:

- List of all original projects, and their status regarding budget, scope and /or implementation
- Certification of all expenditures
- Any changes, such as specific project cancellations or scope reductions, shall be highlighted and thoroughly explained
- A list of joint-use projects
- Status and scoring of deferred maintenance projects
- Prevailing wage requirements compliance report

See Appendix G for examples of adequate annual reports.

Bond issuance

The district or agency shall inform the oversight committee concerning the full details of the selection of bond counsel, underwriters, the issuance of bonds, the refinancing of bonds, project list with relevant bond ballot language and bond financing structure. The oversight committee shall be fully informed before each new series of bonds is issued.

Joint use

The oversight committee shall assure that the agency or district has demonstrated that best efforts have been applied to maximize opportunities for bond-funded projects to be used in conjunction with other local agencies in a manner that benefits the public and reduces costs. Joint-use efforts should be described and scored in the annual report.

Deferred maintenance

Part of the oversight committee's responsibility is to review the status of the district or agency's deferred maintenance elimination plan and major repair and replacement plan. The District shall submit a governing board approved funding plan to eliminate deferred maintenance using general fund revenues, and if necessary with a limited reliance on bond revenues; and an approved major repair and replacement funding plan to ensure that both new and renovated facilities do not become maintenance deferred once the backlog has been eliminated. Within the submitted plan, the District shall include the deferred maintenance funding, including the amount of state matching funds received, for the previous 10 fiscal years. The District shall also include a current list of those projects and their respective costs within the District's deferred maintenance backlog. Status of deferred maintenance should be described and scored in the annual report.

Certification of expenditures

The oversight committee must review whether expenses are within the constraints of the bond, and any non-certified expenditures shall be publicly reported. The district or agency shall present to the oversight committee written certification that all bond revenues currently expended have been in conformity with the bond resolution and applicable statutes on an annual basis. Certification of expenditures must be in the annual report.

Prevailing wage requirements

Most, if not all, publicly funded projects fall under prevailing wage requirements. The oversight committee shall request and receive an annual compliance report from the agency or district detailing related compliance issues of importance.

Liability

Committee members may be concerned about personal liability arising from serving. While this does not appear to be a problem, if requested, the governing board must provide written hold harmless agreements. This may appear in the oversight committee's bylaws.

Final report

Upon final completion of the entire bond fund program the oversight committee shall prepare and distribute a complete detailed analysis of all expenditures, noting significant variances from the original stated expenditure plan, why they occurred and how they were mitigated.

Note: Please contact SDCTA if complications or concerns arise.