

WCCUSD Subcommittee on Clay Investigation

Alvarado

The meeting was called to order at 7:03 PM by Chairperson Liz Block

A.2 Roll Call

Committee Members Present: Liz Block, Valerie Cuevas, Ivette Ricco

Staff Attendees: Lisa LeBlanc, Associate Superintendent for Operations; James K. Kawahara, Special Counsel; Phyllis Rosen, Clerical Staff.

Others Present: Ernie Cooper of Vicenti Lloyd Stutzman LLP (“VLS”) was present via conference call for a portion of the meeting.

A.3 Approval of Agenda

MOTION: Ms. Cuevas moved to approve the Agenda. Ms. Ricco seconded. Ms. Block, Ms. Cuevas and Ms. Ricco voted yes, with no abstentions and no absences. Motion carried 3-0-0-0.

A.4 Approval of Minutes: January 7, 2016

Board Comment:

Ms. Cuevas asked to include an additional comment she made on the top of page 3, adding that the cost proposed by VLS was less than 1% of the entire bond program. Tom Panas commented that the percentage amount of .49% that had been reported was inaccurate and that the correct number is .05%.

MOTION: Ms. Ricco moved to approve the minutes of January 7, 2016, as amended. Ms. Block seconded. Ms. Block, Ms. Cuevas and Ms. Ricco voted yes, with no abstentions and no absences. Motion carried 3-0-0-0.

B. DISCUSSION / APPROVAL ITEMS

B.1 Discussion of Phase II Scope of Work, not-to-exceed contract amount for forensic accounting services, not-to-exceed contract amount for related legal counsel services and timeline for completion of Phase II

Public Comment:

Mr. Panas said we need to invest more time reviewing how bond money has been spent, and asked the Subcommittee to include Forensic Investigation (“FI”) items FI-1, 3 and 7 in the recommendation. He said that pursuing civil litigation would be a mistake because of the time and energy the District would expend which would detract from the number one priority of improving academic performance.

performance audit is to essentially make sure the dollars are spent for the purpose for which the bonds have been authorized. In addition to that audit, AUPs have been negotiated between the District and the auditing firm which will provide a special enhanced audit on these topics. Ms. LeBlanc added that although AUPs, according to the Yellow Book, do not generally have a conclusion or an opinion, our auditor has agreed to give us a conclusion.

Ms. Cuevas asked whether the testing of controls in the performance audit is also structured around the questions posed based on the Clay allegations. Ms. LeBlanc said they are very similar because the scope that is somewhat limited on the VTD proposal was vetted at great length with the CBOC.

Ms. Block asked whether the performance audit will include interviews of staff and SGI. Ms. Ricco clarified that the performance audits in the past have in no way compared to the testing of controls in the forensic audit. She said that ideally some of these issues should have been discovered. Ms. Ricco added that although there are aspects of the performance audit we can link to the forensic audit, they are not what our goal is which is based on the allegations presented to the community. She thinks there is a big difference between past performance audits and the testing of controls and forensic investigation.

Ms. Cuevas asked whether the performance audit provided opinion. Ms. LeBlanc said VTD would not provide an opinion regarding AUPs. Mr. Kawahara clarified that VLS's goal is to make factual findings, not draw conclusions regarding culpability of parties.

Ms. Cuevas said she feels the two audits are different because they fall under two different sets of circumstances and so she favors keeping the two separate. Mr. Kawahara noted language in the VTD audit regarding professional standards that reads "attestation standards established by the American Institute of Certified Public Accountants." Ms. Block noted that VLS operated in accordance with the "code of professional standards of the Association of Certified Fraud Examiners."

Ms. Ricco recommended limiting the number of testing controls to save money saying that some items are redundant and encompassed in portions of the performance audit. She listed recent changes made to mitigate some of the high risk areas: a new ed in 7(a)-2(u)()Tj d ons of e02 Tc -0.7d [(p)ef34hu1(i) 11(d)2owi-2(s)d

Ms. Block said she is in favor of doing all the TCs.

Ms. LeBlanc noted that there is approximately \$200 million remaining for upcoming projects, and any amount spent would be taken away from future projects.

Ms. Cuevas asked if any of Ms. Ricco's list would be considered part of the performance audit by VTD. Ms. LeBlanc said TC-1, 2 and 4 are very current and are not part of the VTD performance audit.

Ms. Ricco added that much of TC-7, 9 and 12 will be part of the performance audit. She referred back to the Clay allegations and asked what were the critical points and what does the community expect to hear. Ms. LeBlanc agreed that TC-7, 9 and 12 overlap with the VTD performance audit.

Ms. Block inquired whether the audits are conducted according to different standards. Ms. LeBlanc said that was a question for VLS.

Ms. Ricco said that 62% of VLS's fees are for travel, oversight, communication and reports, and so, if you reduce the number of test controls by a significant portion you save a lot of money. She recommends negotiating the 62% fee and asking that they can complete the work in a four month time.

Ernie Cooper of VLS was brought into the conversation via speaker phone.

Mr. Kawahara asked if the standards used by VTD in the AUPs were the same used by VLS in the testing of controls. Mr. Cooper responded that the AUPs are typically specific steps that the District and auditor agree need to be done. He said he reviewed the VTD audit report, but the specific work they will do is not apparent.

Ms. Block asked if there was any overlap with some of the testing of controls. Mr. Cooper said that strictly looking at the titles, AUP 10 was the same area as TC-8 and 9, AUP 11 appeared to be the same category as TC-13, AUP 13 seemed to be the same area as TC-11, and AUP 17 appeared the same category as TC-1.

Mr. Cooper said he did not know the type of steps VTD will use

standards.” He said that attestation is a broad category and AUP is a category under the attestation. Mr. Cooper clarified that VLS’s work was entirely influenced by the Clay allegations.

Ms. Cuevas said she was in favor of having VLS do all the items, but was concerned that 62% of the proposal is tied into administrative costs. Mr. Cooper provided a detailed explanation of the charges for project oversight, travel, communications and reporting.

Mr. Cooper suggested that if the District is cutting down areas, VLS could look at costs and come back with whatever “discount” they can. Mr. Kawahara suggested reducing weekly reporting to monthly. Mr. Cooper said he could do that adding there could be other things they could do to bring costs down.

Discussion followed regarding VLS’s timeline. Mr. Cooper said it would take six months for forensic investigation and four months for testing controls, but if everything was done the total time would be eight months to deliver the final report.

Ms. Block left the dais at 8:51 PM. A break was taken at 8:52 PM and ~~at the~~ Mr. Cooper concluded. The meeting resumed at 8:58 PM.

Discussion followed regarding approval of the forensic investigation items.

Ms. Ricco said the forensic investigation is a critical element to determine what has transpired and recommended focusing on the allegations that impact waste, abuse or fraud and how the money was handled. She strongly recommended doing only three areas: FI-1 Conflict of Interest; FI-3 Vendor Contract Administration SGI; and FI-7 Vendor Contract Administration Architectural, with total projected costs of \$219,520 plus the costs for project oversight, travel, communications and reporting.

Mr. Kawahara provided his list for those areas of potential third-party restitution and criminal referral. He said third-party areas are F3, 4, 5, 7, 8, 9, 10. The potential criminal referral was item FI-1.

Ms. Cuevas asked for clarification on follow up steps and costs once Phase II was completed. Mr. Kawahara clarified that law enforcement agencies have discretion as to what they decide to prosecute. Regarding claims against third parties, the governing board has jurisdiction over an entity that may have a contract with a third party and could enforce that contract in state court. The Phase II portion is to find facts, and then what follows is a policy decision for the Board. If findings of a false claim is documented, he would recommend that the District retain counsel to prosecute that claim in a contingency lawsuit.

Ms. Block said that initially she hesitated on including item FI-2, but decided this is important because going forward she would want to know if there were pitfalls to avoid for the future. She said she now thinks they should do all of the items.

Ms. Cuevas said she is okay having VLS do all the items. She said she believes she does not have the capacity to say which items are not needed.

Ms. Block thinks it makes more sense to look at the costs as a percentage of total bond fund rather than of remaining funds.

Ms. Ricco said she is troubled by the cost and timeframe and that the most critical aspects are triggered by Mr. Clay who did not address the CBOC.

Ms. Cuevas asked about excluding items that are not high risk. Mr. Kawahara said items FI-4, TC-10 and TC-12 were not high risk. Ms. Cuevas said this could be a reason for excluding some items, with a savings of approximately \$40,000 plus the administrative costs.

Ms. Ricco said she would go along with excluding items that are not high risk and moved to eliminate those items from the scope of work for the testing of controls.

B.2 Approve recommendation for (a) Phase II Scope of Work, (b) not-to-exceed contract amount for forensic accounting services, (c) not-to-exceed contract amount for related legal counsel services and (d) proposed timeline for completion of Phase II.

Public Comment:

Tom Panas said that with AUPs the District and the auditor jointly agree to test things and with a more conventional audit it is the auditor's responsibility to identify how they are going to test things without any input from the District. He added that the CBOC was not in favor of the AUPs and would have preferred a conventional audit. He said he believes that spending money now would save money later. He commented that Mr. Jungherr was taking a more saving money stance.

Linda Ruiz-Lozito said that the AUPs are less reliable because the scope of the audit is dictated by the District rather than the auditor. The auditor does not have to give an opinion. She said she has seen so much waste over the years and by comparison

Mr. Kawahara provided copies of his Legal Counsel Estimate of Hours and Expenses for Phase IJ and provided clarification.

Ms. LeBlanc explained that this estimate needs to go to the Board for approval and that the expenses will come from the General Fund.

MOTION: Ms. Cuevas moved approval of Mr. Kawahara's Legal Counsel Estimate of Hours and Expenses for Phase II for