



**Cold Spring Harbor
Central School District**
*Internal Audit Report on
Capital Projects*

Cold Spring Harbor Central School District
Internal Audit Report on Capital Projects

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We have been engaged by the Board of Education (the “Board”) of the Cold Spring Harbor Central School District (the “District”) to provide internal audit services with respect to the District’s internal controls related to capital projects for the period July 1, 2015 through February 1, 2016.

The objectives of the engagement were to evaluate and report on the District’s internal controls pertaining to the capital projects and to test for compliance with laws, regulations, and the District’s Board policies and procedures.

In connection with the following procedures, we have provided findings and recommendations for the internal controls related to the capital projects. Our procedures were as follows:

- Reviewed the District’s policies, procedures and practices with regards to the internal controls related to the capital projects;
- Interviewed key District employees involved in the District’s capital projects and performed a detailed walkthrough of the capital project procedures and processes;
- Reviewed the District’s Five Year Capital Facilities Plan for evidence of proper filing, a valid *Certificate of Occupancy* existed, a *Building Condition Survey* was performed on building locations and reviewed the safety rating of school facilities. Also, reviewed fire drills were conducted during construction period in accordance with Education Law and an annual visual inspection was conducted.
- Reviewed the District’s capital projects to determine voter and/or Board approval existed, and capital project expenditures did not exceed the voter approved/and Board approved amounts;
- Tested a sample of cash disbursements related to capital projects to verify the expenditure was an allowable cost as per contracts, the expenditure charged did not exceed the original bid and the architect certified the related expenditure. Also verified expenditures were properly authorized and approved, were properly recorded, coded and tracked in the Accounting Information System (“AIS”) and capital projects were not overspent;

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- Tested a sample of *Change Orders* to determine that work performed was not included in the respective contract, the total amount of the *Change Orders* did not exceed 5% of the base bid, multiple *Change Orders* did not occur that resulted in cost overruns and schedule delays, *Change Order* amounts did not exceed the allowance authorization amounts and *Change Orders* were properly authorized by the architect, the contractor and the Board.
- Tested a sample of contracts relating to the capital projects to verify that a signed contract existed, the contractor submitted the necessary pre-construction documents, evidence existed to support proper supervision during the construction phase and proper close-out documents were submitted; and
- Reviewed the District's *State Aid Building Project Status Report (SA777)* report to verify the *Final Building Project Reports* had been filed timely, *Final Building Project Report* contained a complete *Certification of Substantial Completion* form with the necessary signatures and approvals and *Change Order Certification* forms were submitted with the *Final Building Project Reports*.

The results of our procedures are presented on the following pages.

Our procedures were not designed to express an opinion on the internal controls related to capital projects, and we do not express such an opinion. As you know, because of inherent limitations of any internal control, errors or fraud may occur and not be prevented or detected by internal controls. Also, projections of any evaluation of the accounting system and controls to future periods are subject to the risk that procedures may become inadequate because of changed conditions.

We would like to acknowledge the courtesy and assistance extended to us by personnel of the District. We are available to discuss this report with the Board or others within the District at your convenience.

This report is intended solely for the information and use of the Board, the Audit Committee and the management of the District and is not intended to be and should not be used by anyone other than those specified parties.

Very truly yours,

R.S. Abrams & Co., LLP

R.S. Abrams & Co., LLP
March 11, 2016

CAPITAL PROJECTS OVERVIEW

Based upon our interviews and observations, we have provided a capital projects overview as follows:

Capital projects are generally long-term and require large amounts of money to develop, make improvements or to maintain the various building locations. The Board is responsible for oversight and management of the District's capital projects, monitoring that capital projects are properly planned and managed, project funding is authorized and related costs are within the approved budget, while minimizing the possibility of cost overruns.

The New York State Education Department ("SED") is charged with the administration and enforcement of the New York State Uniform Fire Prevention and Building Code (the "Uniform Code") with respect to buildings, premises and equipment in the custody of, or activities undertaken by school districts. The Uniform Code applies to each and every facility owned or operated by a school district. This includes but is not limited to, school buildings, administration buildings, bus/maintenance, garages, storage buildings/sheds, press boxes and concession stands.

Obtaining Building Permits

There are two ways SED seeks to enforce the code: (1) by requiring an annual fire inspection which leads to an annual *Certificate of Occupancy*; and (2) by approving plans and specifications for all capital construction involving these facilities, based on procedures established by the New York State Office of Facilities Planning (the "Office of Facilities Planning"), which leads to a building permit.

Any capital project where the expected construction contracts will total more than \$5,000 but less than \$10,000, a school district may make a formal submission to the Office of Facilities Planning for a building permit if the nature of the work requires a building permit or will affect the health and safety of the occupants or users of the building.

For a capital project where the expected construction contracts will total less than \$5,000, a school district must assure compliance with the requirements of the Uniform Code, the *Manual of Planning Standards* and the Regulations of the Commissioner of Education. For any capital project that requires a building permit, regardless of the total cost of the construction contracts, the District is required to make a formal submission to the Office of Facilities Planning that includes plans and specifications which are signed, sealed and certified by an architect or engineer who is licensed by New York State.

The Board is ultimately responsible for the oversight and management of the District's capital projects, even though the responsibility has been delegated to the Director of Facilities. The Board and management are responsible for designing internal controls to ensure that capital projects are properly planned, managed, and monitored. Proper planning entails establishing a written plan that clearly defines the scope of the project, sources of funding, maximum cost projections, project budget, timeline and other criteria at the beginning of the project. District officials are also responsible for monitoring that plan to ensure that the project is progressing as expected.

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Each capital project proposed by a school district requires an appropriation of funds and therefore, must be properly authorized. This authorization, typically, is the approval of a specific object and purpose by the voters at the annual meeting or at a special meeting.

There are certain exceptions to voter authorization requirements which are as follows:

- Insurance Recoveries - may be expended for repair or replacement of damaged or destroyed property by resolution of the Board.
- Donations (design, labor, materials, funds) - may be expended by Board resolution when the entire cost of the project is covered by donations (*Education Law, Section 1718, Subdivision 2*). If any expenditure of District funds is anticipated, then the project requires a vote.
- Emergencies - costs for mitigation activities and recovery activities imposed by a sudden and unforeseen emergency. Such activities may be advanced by a Board resolution declaring that the costs for the activities are contingent and do not require authorization. Emergencies are defined by the *General Municipal Law (Section 103.4)* as an accident or other unforeseen occurrence or condition affecting public buildings, public property or life, health, safety, or property. The *Local Finance Law (Section 29.00)* defines an emergency as epidemic, conflagration, riot, storm, flood, earthquake, or other unusual peril to the lives and property of citizens.
- The difference between a capital project for reconstruction and one for an Energy Performance Contract (EPC) is that the EPC does not need to be authorized by the voters but instead is authorized by Board resolution.

A request for a capital project may be initiated from a few different sources as follows:

- The five year *Building Condition Survey* identifies specific building conditions that can generate the need for a capital project;
- The now suspended *Annual Visual Inspection* will also point out infrastructure needs requiring capital project investment and correction;
- Curriculum changes and other educational and functional needs are brought to the capital projects committee's attention by principals and department heads;
- Code compliance changes requiring capital investment are presented by the architect or Director of Facilities;
- The District's Health and Safety committee may present issues if not addressed through operations and maintenance codes that may require capital project investment;
- The Director of Facilities maintains a list of items that affect the day to day operation, management and environment of the school buildings and grounds and these are offered to the Capital Projects Committee for consideration; and
- The Board performs an annual walkthrough of the District and capital project needs are discussed with all individuals present.

The Interim Assistant Superintendent for Business and the Finance Manager will determine what sources of funding are readily available to perform the capital project work. The Interim Assistant Superintendent for Business determines the availability of capital funds in the capital reserve and will request a cost estimate from the architect. Current capital projects are funded from the capital reserve originally approved by voters.

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The District performed various renovations at the different locations that included roof framing, renovations on the music room and replacement of kitchen hoods. Additionally, other work was performed on asphalt, the alarm system, security tanks and a storage building, univents, drywells, ceilings, playground at one location, art room stage and security, flooring, doors, building shell repair, flooring and rooftop fans.

GOVERNANCE

Based upon our review of the Board policy manual, we noted that the District has adopted the following policies that relate to capital projects:

Facilities Development Goals

The District's *Facilities Development Goals* policy, No. 7000, states that the Board will establish goals to integrate facilities planning with other aspects of District-Wide planning and address state learning standards and student educational needs in developing school building specifications. Additionally, the Board will seek involvement from the community, District staff and experts with facilities development by establishing a facilities advisory committee, while providing adequate space for future improvements in educational programs and services.

Facilities Planning

The District's *Facilities Planning* policy, No. 7100, establishes that the Superintendent shall be responsible for developing and implementing a comprehensive long-range facilities development plan which will be re-evaluated annually and contain the District's educational philosophy, present and projected pupil enrollments, space usage and state rated pupil capacity of existing facilities. The Superintendent shall also be responsible for developing and implementing a five year capital facilities plan which will be updated annually and shall include an annual estimation of expenses for items such as repairs and maintenance and include a District-Wide building inventory.

Construction Safety

The District's *Construction Safety* policy, No. 7365, establishes that the Superintendent shall be responsible for ensuring the safety and health of students and staff during the pre-construction stage by ensuring proper planning, hiring a New York State licensed architect or engineer, and ensuring safety issues are addressed. Notice should also be provided to parents and staff in advance for any construction project costing \$10,000 or more and the District's emergency management plan should be revised where appropriate. The Superintendent is also responsible for additional measures such as ensuring fire drills are conducted, valid *Certificates of Occupancy* exist and ensuring compliance with state and regulatory requirements with respect to lead and asbestos testing, noise abatement, air quality and fire and hazard prevention during the construction phases.

School Building Safety

The District's *School Building Safety* policy, No. 8110, establishes that the Board will appoint a health and safety committee consisting of district administration and staff, bargaining units and parents. The policy also states that the Board will review and approve building condition surveys and take action to remedy serious conditions in school buildings, when applicable.

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Health and Safety Committee

The District's *Health and Safety Committee* policy, No. 8112, establishes that the health and safety committee will consult with District officials in completing safety ratings of school buildings and reviewing and addressing complaints related to health and safety during construction. Additionally the Director of Facilities will perform a walk through inspection to ensure the area can be utilized upon the completion of construction and the Health and Safety Committee will be expanded to include the architect, construction manager and/or contractor.

FIVE YEAR CAPITAL FACILITIES PLAN

Based upon our interviews and observations, we noted the procedures for the District's Five Year Capital Facilities Plan to be as follows:

Pursuant to Section 155.1 of the Regulations of the Commissioner of Education, a school district is required to develop and maintain on file a comprehensive long-range plan pertaining to educational facilities and the plan needs to be re-evaluated and updated on an annual basis. Long-range building plans are important because of the life expectancy of the District's educational facility and should include a well designed maintenance plan. The purpose of the long-range maintenance plan is to not only ensure the safety and welfare of pupils and staff, but also to maintain school district properties and ensure that they remain in sound structural condition. A sound long-range plan will help reduce the extent to which districts routinely defer needed repair and maintenance projects.

The Commissioner of Education requires the District and the Board to utilize the safety rating of each facility in developing or amending the plan. The five-year facilities plan should also be developed in conjunction with the District's comprehensive long-range plan.

According to Section 155.1 of the Regulations, the long-range educational facility plan should include the following:

- The educational philosophy of the District, grade level patterns and program requirements;
- Present and projected enrollments;
- Special education pupil projections and classroom needs;
- Space use and state rated pupil capacity of existing facilities;
- Priority of need of maintenance, repair or modernization of existing facilities, including consideration of the obsolescence and retirement of certain facilities; and
- The provision of additional facilities.

As per New York State Education Department ("SED") guidelines, a District submitting a capital construction project for approval to the Office of Facilities Planning will be required to provide a copy of the executive summary of the District's five-year capital facilities plan.

The goal of the five-year plan is to collect, coordinate, analyze, and prioritize facility infrastructure and building program needs on a District-Wide basis. Information collected in the *Building Condition Survey* helps to prioritize the existing individual building needs, with a focus on resolving health and safety issues and prioritize the existing building needs and new facility

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needs on a District-Wide basis. As work is accomplished each year or new situations emerge, the remaining tasks are to be re-prioritized as necessary to concentrate on the critical needs.

While it is anticipated that the majority of the work identified in the five-year capital facilities plan would have been previously identified in the *Building Condition Survey*, resources that should be considered when developing or updating the plan are as follows:

- Fire Safety Inspection Report;
- AHERA (Asbestos Hazard Emergency Response Act) Plan;
- Annual Building Visual Inspection Reports;
- ADA Self Evaluations;
- School Facility Report Cards; and
- Building Environment Evaluation (An evaluation of each building that may be prepared by the Director of Facilities, the principal, or the Health & Safety Committee based on the general appearance, cleanliness, acoustics, lighting quality, thermal comfort, air quality, and space adequacy, etc.)

On an ongoing basis, the Director of Facilities meets with the Interim Assistant Superintendent for Business and the architect to discuss facility needs. The Interim Assistant Superintendent for Business identifies funds that were available in the prior year versus funds needed in the current year. Additionally, the Director of Facilities and/or members of the health and safety committee will perform a walk-through of the District facilities where necessary repairs are showcased.

Once the funding source has been determined, the Director of Facilities and the Interim Assistant Superintendent for Business and the Capital Projects Committee will meet with the District's architect to discuss facility needs and the priority of the necessary capital projects. The District's five-year capital facilities plan is prepared by the architect hired by the District and the architect and the Director of Facilities perform a thorough inspection on the District's facilities every five years. The Board has also appointed a health and safety committee consisting of administrators, staff and parents who are responsible for performing an annual visual inspection of the District's facilities. The District then utilizes the above plan and the annual visual inspection to help determine the priority of capital projects needed.

ESTABLISHMENT OF A CAPITAL PROJECT

Based upon our interviews and observations, we noted the procedures for establishing a capital project to be as follows:

When the District is considering a capital construction project that has been approved by the respective Board, the Superintendent must submit a *Letter of Intent* form to notify the coordinator of the Office of Facilities Planning that a capital project is being considered. The Office of Facilities Planning will then appoint a project manager to guide the District during the process.

In the preliminary stage, the Office of Facilities Planning will submit a response letter to the District indicating the name of the project manager, a project control number and the name of the building with directions for a complete preliminary submission of pertinent forms. The project manager will then advise the District in writing of the necessary forms and procedures to be performed. A preliminary submission needs to include, but is not limited to:

- *Application for Examination and Approval of Preliminary Plans* (Form FP-P);
- *Facilities Needs Assessment Summary*;
- *Instructional Space Review Form*;
- Scope of proposed project (including proposed revenue sources and project budget);
- *Evaluation of Existing Building Form*;
- Preliminary floor plans;
- Site plan;
- Outline Specifications; and
- State Historic Preservation Office notification for a new facility or for work performed on a building that is at least 50 years old.

Once the preliminary documents have been submitted and approval of the preliminary plans has been obtained, an application for a building permit can be submitted. Upon completion of a formal review and approval by both a project manager and an architect, a *Notice of Approval of Preliminary Plans* will be sent to the District. This notice would include the building aid units to be utilized for the project as well as any educational or construction or mechanical exceptions that would have to be corrected in the final submission documents.

Initially, the District's architect submits the pertinent documents with the Office of Facilities Planning. Once the approval and the building permit have been obtained, the architect will establish a request for proposal for prospective bidders. The District may not advertise for public bids until the Office of Facilities Planning has reviewed and approved the plans and specifications. Additionally, the Office of Facilities Planning must approve all revisions to construction drawings and specifications after they are submitted for obtaining a building permit. These changes may be in the form of a *Change Order* after the bids have been accepted and contracts have been awarded, and throughout the course of the actual construction work.

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Projects Which do not Require a Building Permit

The following cases do not require a building permit:

- Site development - including earth moving, finished grading and planting, fencing and paving will not require a building permit. However, irrigation projects shall be submitted for a building permit. Additionally, site development which is in conjunction with a building project, and for which plans and specifications are submitted together with those for the building project, will be reviewed and a building permit issued for the whole project;
- Bleacher and grandstand projects which involve only the installation of pre-engineered, factory-built equipment. Similar projects with enclosed areas such as a press box, concession stand, or storage rooms will require a building permit;
- Playground projects which involve only the installation of pre-engineered factory-built equipment. However, playgrounds which involve on-site construction of various features and structures will require a building permit;
- Special structures, such as pre-engineered flag poles and towers which are less than 100 feet in height. Structures more than 100 feet in height will require a building permit; and
- Small buildings or storage structures which are less than 350 square feet and do not include mechanical systems do not require a building permit, however they are part of the District's annual fire safety inspections.

Once the bid has been submitted by the architect, the contractors will perform a site visit for the upcoming capital project where they will have the opportunity to ask questions on the particular capital project. The District utilizes the expertise of the architect to help determine the lowest responsible bidder. If the bids result in an amount higher than the architect's estimate, then the architect may redo the request for proposal or if a contractor does not submit all the pertinent bid documents, the contractor will be disqualified from the bid process. Once the bid has been awarded following the normal bidding process, then the contractor sends a submission package in which the Director of Facilities and the architect review for completion. If the contractor has not sent all the pertinent documents, the contractor will be disqualified. Finally, the architect is responsible for providing the District with a written plan for each proposed capital project that describes the criteria and specifications for each capital project.

The Interim Assistant Superintendent for Business reviews the District's eligible aid on the SED's website and discusses the information and prospective capital projects with the Director of Facilities, the architect, the Capital Projects Committee and the Board, so that capital project plans can be developed. Once the plans have been approved by the Board, the Interim Assistant Superintendent for Business and the Director of Facilities provide the architect with a list of the approved capital projects so the architect can prepare cost estimates for the capital projects. Once the District has obtained the voter approval, the District files a *Letter of Intent* form to SED to receive a project number to begin the capital project. The architect also submits an *Application for Apportionment of Building Aid* signed by the Board and the Superintendent.

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CONTRACT FORMATION

Based upon our interviews and observations, we noted the procedures for contract formation to be as follows:

Construction contracts entered into by a District and every amendment to the contract entered into by a Board should be approved by the Commissioner of Education.

Once the bid is awarded the architect sends an award letter to the Interim Assistant Superintendent for Business who will place the recommendation on the Board agenda for approval. Once the approval has been obtained, a construction contract will be drafted by the school architect. The contractor must submit all the pertinent documents before the contract work is to be performed which are as follows:

- Insurance Certificate (that usually lists the District and the architect as the additional insured parties);
- Signed performance bond, a payment bond and maintenance bond, if applicable;
- Specimen drawings; and
- A sample of materials/installation procedures (may be sent to the architect).

The insurance certificate usually covers general liability, automobile liability, excess/umbrella liability, workers' compensation and employee liability and New York State disability insurance. A performance bond represents the guarantee of the work to be performed for the respective capital project. The performance bond protects the District that in the event that the contractor left the construction project, the District will be able to obtain a substitute contractor. A payment bond guarantees that a contractor will pay suppliers, laborers and subcontractors for labor and materials. A maintenance bond is sometimes utilized by contractors and construction companies to guarantee against defects for a specific time period following a project's completion.

Once the contractor has submitted all the pre-construction documents, a meeting will be scheduled with the architect, the respective contractors and the Director of Facilities. Discussion items at the meeting include the expectations of the capital project, procedures to be followed, and the process for *Change Orders* and any request for information. The Director of Buildings and Grounds may also provide the contractor with a list of contact numbers and maps of the floor plans. The Director of Facilities and the architect will schedule future meetings.

Additionally, the architect usually requires primary contractors to submit construction-phase schedules which are then discussed, modified and coordinated at the initial job meeting which takes place prior to construction. The general contractor or main contractor lays out a phase schedule and the other contractors also lay out their phase schedules. The general contractor will then review the phase out schedules and determine if adjustments are necessary and to ensure milestones exist as to when certain stages of work will be completed.

The architect visits the construction site periodically to track the work performed against the plans and specifications and time constraints. The Director of Facilities and the architect will conduct regular meetings to review the progress of work performed. The Director of Facilities presents any progress information to the Board which may be verbalized or presented in a written report.

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In cases where a work or cost dispute occurs, a *Request for Information* is submitted by the respective contractor to the architect who will provide the information and direct the contractor to perform the work. The contractor's signed agreement also states a clause that a penalty will be owed to the District if the contractor fail to complete the capital project. If the work dispute continues, the architect will notify the Director of Facilities. The final step will be to contact the bonding company that issued the performance bond whereby the bonding company is placed on notice. The District then pays any residual amounts owed to the bonding company who must in turn provide a substitute contractor.

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CAPITAL PROJECT ADMINISTRATION

Based upon our interviews and observations, we noted the procedures for administering capital projects to be as follows:

After final plans and specifications for a capital construction project are approved by the Office of Facilities Planning, two copies of the *Notification of Building Project Form* ("SA-4") worksheet is sent to the Office of State Aid and the original of the form is maintained by the Office of Facilities Planning. This form indicates whether or not all or part of the project is eligible for building aid. This form records information furnished by the District regarding approved methods of financing (capital reserves, bonds, or BANs, or budgetary appropriations) and related dollar amounts and cost estimates for the construction work. The Office of State Aid then utilizes the information on the SA-4 worksheet to compile the actual SA-4 form, a copy of which will be sent to the District.

There are two instances when the SA-4 can be revised, at the time the contracts are signed (prior to the filing of the *Request for Building Project Data Form SA-139* ("SA-139") form with the Office of State Aid and at the time that the *Final Building Project Report* is sent to the Office of Facilities Planning.

Upon receipt of the SA-4 worksheet, the Office of State Aided Programs submits a SA-139, a copy of the SA-4 form, and a copy of the new *Request for Revision of Financial Information Revision Form* ("FP-FI") to the District. After construction contracts are signed, the school district must complete the SA-139 form. No state aid payments can be calculated or generated without this financing and cost information. If it is apparent at that time that the total cost of the project exceeds the authorized financing that was reported on the SA-4 form, or if any method of financing has changed, then the Office of Facilities Planning must be requested to revise the financial information. Additionally school districts will then need to enter into a Grant Disbursement Agreement with the Dormitory Authority of the State of New York ("DASNY") and provide DASNY with documentation substantiating the costs for which reimbursement is sought before the SED certified amounts can be reimbursed by DASNY.

During the course of the capital project, there are job meetings conducted every one to two weeks whereby the meeting starts with a review of the last meeting of the prior week to discuss the progress of the existing capital project and any new conditions found and additional costs. Progress reports may also be completed along with minutes of the meeting. The Director of Facilities visits all construction sites regularly for observation and to address issues with the architect. The architect's responsibilities include visiting the construction site at various intervals to determine the progress and quality of the work being completed. The architect must certify any payments due to the contractor before the payment can be processed by the District.

Building principals are responsible for conducting fire drills during construction to familiarize students and staff with revised emergency plan procedures. The Director of Facilities and the health and safety committee will review for any safety violations to ensure that *Certificate of Occupancy* requirements are continuously maintained. The architect, the Director of Facilities also continuously inspect and observe the construction site to ensure compliance with certain items such as noise abatement, ventilation and air quality. Additionally, the District evaluates each project independently and written notices are posted only when deemed necessary to ensure health and safety.

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In order for a capital construction project to be eligible for building aid, it must meet the following minimum criteria:

- The building involved in the project must be used for instruction of students (that is, it must have a state-rated capacity) or the building must be a school bus facility;
- The work must be bonafide capital construction--not maintenance or repair work;
- The construction contracts must total at least \$10,000 (exclusive of incidental costs);
- The project must have received approval by the Commissioner and a Building Permit prior to advertising for bids. (*Chapter 315 of the Laws of 1990*); and
- The project must have been properly authorized, generally by a vote of the taxpayers.

However, when the District needs to revise a SA-4 form, it should send the completed FP-FI form directly to the appropriate project manager in the Office of Facilities Planning. The Office of State Aided Programs will initiate, receive and review all other forms needed to claim building aid such as the SA-139 form or SA-23 form. Form SA-23 is referred to as a *Request for Building Aid Estimate* whereby a school district completes to help determine the indebtedness needed for a capital project.

The Interim Assistant Superintendent for Business monitors the revenues and expenses related to the capital projects in *Finance Manager* and in an *Excel* spreadsheet. The Interim Assistant Superintendent for Business monitors the building aid received from the various state aid reports for the District. Building aid documentation is then maintained on file.

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CHANGE ORDER PROCEDURES

Based upon our interviews and observations, we noted the change order procedures to be as follows:

Change orders reflect costs incurred as a result of changes to a project after the project has been approved by the Commissioner of Education and after the contract has been awarded. Change orders can arise from many circumstances including unforeseen conditions during construction, design errors or omissions or a school district requesting changes to the project after approval.

A change order is used to officially make changes to a signed contract for capital construction to add or delete certain portions of the work, or otherwise change a condition or the amount of the contract. A change order may be awarded to a contractor without competitive bidding, however, an important change cannot be made that varies the original plan or is of such importance as to constitute a new undertaking. A change order cannot expand the scope of work, or represent a basic departure from work already included in the contract.

The most common improper change orders presented to the Office of Facilities Planning is one expending unencumbered funds. Most often this occurs near the end of a project and the proposed change order introduces types of work that were not included in the original plans and specifications. Change orders for such work will not be approved for building aid. However, if a list of desirable items was included in the original plans and specifications as "Additional Alternates", change orders to these alternatives would be approved.

A *Change Order* form needs to be submitted to the Office of Facilities Planning which needs to be signed by the Board President, the architect and the contractor. A *Change Order Certification* is then certified by the Superintendent and the architect and submitted with the *Change Order* to the Office of Facilities Planning. The SED project control number and the name of the project manager needs to be present on each *Change Order* and the scope of the work and why its being done should also be submitted to the Office of Facilities Planning.

Change orders which exceed the bidding threshold of \$35,000 must include, on the *Change Order Certification*, an explanation of why it is in the best interest of the school district and the public to award a change order instead of putting the work out to a public bid.

The Office of Facilities Planning will approve all change orders that are compliant with the New York State Uniform Fire Prevention and Building Code, however, those that lack sufficient detail to be properly evaluated will be returned. *Change orders* that clearly depart from the original scope of the project, as well as those that exceed competitive bidding thresholds, may be approved for code compliance but disapproved for building aid. In emergency situations, a District may be able to justify the expense of a large *Change Order* disapproved for building aid.

Typically, the contractor initiates the change order process then the architect visits the site to inspect the condition which will be reported to the Director of Facilities. If deemed necessary, the architect then prepares a *Change Order Log* and the architect prepares a *Change Order Form* (A1A Document G701) which is signed by the Board President, the architect and the contractor indicating the reason for the change, the base contract price and the revised contract price after the *Change Order*.

CONTRACT CLOSE-OUT PROCEDURES

Based upon our interviews and observations, we noted the District's contract close-out procedures to be as follows:

The architect and Director of Facilities will determine if the facility post construction is safe and ready to be utilized for public usage by performing a final walk-through inspection. The contract closeout phase occurs when the capital project is substantially completed. A *Certification of Substantial Completion* is a document prepared by the architect on the basis of inspection which states that the work or a designated portion of the work is substantially completed in accordance with contract documents as of a particular date. This also establishes the date of substantial completion with respect to the responsibilities of the entity and the contractor for security, maintenance, utilities, damage to the work, and insurance.

The close out process begins with procedures to ensure the contractor has met all of the contractual requirements including satisfactory completion of punch lists (an official detailed listing of items that need to be corrected), repaired, or added to bring the nearly completed facility in compliance with the contract, submittal of accurate record drawings, warranties, operation and maintenance manuals, final lien waivers, final accounting and settling the account.

There are three steps of the contract closeout phase that include:

1) **Closeout Procedures**

- You must obtain the following documents:

- Contractor/subcontractor warranties;
- Checklist of all warranties and operating and maintenance manuals required by the contract showing verification that these items have been received;
- Punch list showing satisfactory completion or resolution of all items;
- All applications for payment and final accounting documents;
- Design evaluation;
- Certificate of Substantial Completion from the architect; and
- Correspondence with contractors and manufacturers.

2) **Final Accounting**

- The Director of Facilities and the architect review the allowances against the change orders to ensure that the change orders have not exceeded allowance amounts stipulated in the respective contract; and
- The Director of Facilities and the architect track all payments including the final payment certified by the architect. The total payments are compared to the total contract price to ensure that all obligations have been met.

3) **Project Evaluation**

- Initially, the architect and the Director of Facilities generate punch lists to ensure that all items required to be corrected have been performed; and
- A final inspection and walk through are performed.

FILING OF FINAL BUILDING PROJECT REPORTS

Based upon our interviews and observations, we noted the procedures for filing the *Final Building Project Reports* to be as follows:

The *Final Building Project Report* is required by Education Law and serves the very important purpose of assuring a school district that it will be properly reimbursed with state building aid. The report should provide all financial transactions of the capital project in order to determine the total building aid allocated to the capital project. A *Final Building Project Report* is required for every project involving an instructional building or transportation facility. It is not required for other types of projects which are not eligible for building aid, pursuant to *Section 3602 of the Education Law*.

The *Final Building Project Report* must be filed with the Office of Facilities Planning, when an approved capital construction project is completed, all obligations have been paid, and the construction account has been closed. The *Final Building Project Report* must show the source of all authorized monies spent on the project, as well as the exact amount of all expenditures. This includes the contract amounts reported earlier to the Office of State Aid but also includes any change orders that were added or deleted. The report should include any incidental expenditures such as legal, architectural or engineering fees, Board expenses, site development costs, or furniture and equipment included in the scope of the project.

If a project involves both additions and alterations, expenses must be reported under the appropriate categories. Initial reimbursement is made on the basis of estimated costs shown on the *Application for Examination and Approval of Final Plans and Specifications* (Form FP-F) which accompanies the plans and specifications submitted for the approval by the Commissioner of Education. This information, along with the data submitted to the Office of State Aid forms the basis for the interim state aid payments.

After the *Final Building Project Report* is submitted, it is reviewed and processed. The eligible expenses in both the construction category and the incidental category are determined and the totals are forwarded to the Office of State Aided Programs where adjustments will be made, if necessary to the future building aid payments for the particular project.

The receipt of a final *Certification of Substantial Completion* form "starts the clock" in regard to when a *Final Building Project Report* is due. Failure to submit a *Final Building Project Report* before the deadline will result in the loss of all building aid for the project. If there are extenuating circumstances, such as litigation, a school district may receive an extension of up to one year from the Office of Facilities Planning for the required date of filing the *Final Building Project Report*.

The *Final Building Project Report* must include the following:

- The *Certification of Substantial Completion* for each project regardless of whether or not it has already been submitted to SED. The report cannot be processed until this form is received;

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- *Change Orders* – A *Final Building Project Report* cannot be processed unless all *Change Orders* are submitted and approved including certification pages for approval;
- The FP-F1 to ensure the SA-4 amounts on all projects for the total allocation for each project has not been exceeded. If totals have been exceeded, the completed FP-F1 form must be attached to each report, along with proper supporting documentation such as Board authorization to expend the extra funds on the project or voter authorization; and
- If site work is incidental to construction then it is to be reported on the *Final Building Project Report*.

Final Building Project Reports for new projects are due six months after the submission of the final *Certification of Substantial Completion* form. The law allows a one year extension from the six months or a total of eighteen months to submit. The District's architect completes the *Certification of Substantial Completion* form and notifies the Director of Facilities that the capital project has been completed to his satisfaction. The Director of Facilities notifies the Finance Manager who is responsible for completing and filing the *Final Building Project Report*. The final expenditures are compared to the general ledger expenditures for accuracy and once the *Final Building Project Report* is completed, the *Affidavit of Clerk of Board of Education* must be signed and dated by the District Clerk before filing. Additionally, all pertinent documents are filed with the *Final Building Project Report*.

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MAINTENANCE OF FACILITIES

Based upon our interviews and observations, we noted the procedures for maintenance of facilities to be as follows:

The District has maintenance workers and head custodians available to perform repairs or maintenance if needed. The District utilizes written work orders called *Blue Sheets* which are usually generated at the building level by either the principal, head custodian or a department head. The work order is routed first to the head custodian to determine if it can be handled at the building level. If it is determined that the work order will need support from a maintenance mechanic or the grounds department, the Director of Facilities will then be notified through interoffice mail.

The Director of Facilities reviews the work order and if the work order requires service from a vendor, the Director of Facilities will be notified via an email or telephone call and will arrange for the services to be performed.

The District's maintenance department communicates District-Wide via two way radio with hand held units and a 40 watt repeater at the High School and another smaller repeater at the Lloyd Harbor School to improve radio coverage between the buildings.

The Director of Facilities generates group emails to all head custodians and maintenance workers and the Head Groundsman (and sometimes to the Administrative Council) about individual and District-Wide issues such as changing flags at half staff, changes in building energy management systems, or to prevent freeze ups during an extraordinarily cold period.

The Director of Facilities also submits emails or may indicate during site visits to the respective staff preventative maintenance such as ensuring materials are available for scheduled items like HVAC air filter changes which is performed twice a year. Additionally, unit ventilators are opened up, coils are cleaned, and motors are lubricated and generally serviced every summer by the custodians. When heavy rain is expected, the Director of Facilities directs the head custodians to walk the roofs looking for debris and clearing roof drains.

On a semi-annual basis maintenance is performed on all roof top exhaust fans. Every few months, the Director of Facilities reminds the maintenance workers and the head custodians about fire safety inspection items to avoid issues such as extension cords, blocked rescue window exits and items stored in places where it does not belong. Twice a year the Director of Facilities submits reminders about fire safety rules and regulations to the principals to share with the teachers about what is and what is not acceptable.

Lastly, during the winter season, every boiler room is visited and surveyed by either a maintenance worker or a head custodian before the start of school each morning. Additionally, the Director of Facilities submits reminders regularly to check the operation of emergency lighting.

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FINDINGS AND RECOMMENDATIONS

Based on our interviews, observations and detailed testing, we provide our findings and recommendations to further strengthen the District's internal controls as they pertain to the capital projects outlined above.

It should be noted that these recommendations are provided to assist management in improving the accounting and internal controls and procedures as they relate to the District's capital projects. It is important to note that our findings and recommendations are directed toward improvement of the system of internal controls and should not be considered a criticism of, or reflection on, any employee of the District.

Based on our interviews and observations, our findings and recommendations are as follows:

Procedure Performed: We reviewed the District's policies, procedures and practices with regards to capital projects.

Finding: We noted the District has not developed and adopted a *Change Order* policy that establishes guidelines for changing or canceling an existing construction contract and for authorizing change order directives. Although not required, this policy is recommended by the Office of the State Comptroller.

Recommendation: We recommend the District develop and adopt a *Change Order* policy as recommended by the Office of the State Comptroller to help strengthen the controls surrounding change orders such as timeliness of informing the Board and change order directives to include who approves the commencement of the work to be performed.

For the detailed testing performed, our procedures, findings and recommendations are as follows:

Five Year Capital Facilities Plan

Procedure Performed: Reviewed the District's Five Year Capital Facilities Plan for evidence of proper filing and verification of the following:

- Valid *Certificate of Occupancy* on building locations;
- *Building Condition Survey* performed on the building locations;
- Safety rating of the school facilities;
- Fire drills conducted during construction period; and
- Annual visual inspection conducted and filed timely;
- Fire Drills conducted as per Education Law Article 17 §807.

Finding: No exceptions were found as a result of applying these procedures.

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Approval Requirements

Procedure Performed: Reviewed capital projects for proper authorization and to verify the following:

- Voter approval existed relating to the capital projects;
- Board approval existed for the capital projects; and
- Capital project expenditures did not exceed the voter approved/and Board approved amount.

Finding: No exceptions were found as a result of applying these procedures.

Capital Project Expenditures

Procedure Performed: We obtained a sample of fifteen (15) cash disbursements from the District's expenditure detail report to verify the following:

- The expenditure charged was an allowable cost as per contracts;
- The expenditure charged did not exceed the original bid;
- The architect has certified the related expenditure;
- The expenditure was properly authorized and approved;
- The expenditure was properly recorded, coded and tracked within *Finance Manager*; and
- Capital projects budgets were not overspent.

Finding: No exceptions were found as a result of applying these procedures.

Change Order Compliance

Procedure Performed: We obtained a sample of eight *Change Orders* from a listing of change orders to verify the following:

- The work to be performed as per *Change Order* was not already included in the respective contract;
- The total amount of the *Change Orders* did not exceed 5% of the base bid (Standard Industry Percentage);
- Multiple *Change Orders* did not occur that could result in cost overruns and schedule delays;
- The *Change Order* amount did not exceed the allowance authorization amount indicated in the respective contract; and
- The actual *Change Order* form was authorized and signed by the architect, the contractor and the Board before the work was performed.

Finding: No exceptions were found as a result of applying these procedures.

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Contract Administration

Procedure Performed: We obtained a sample of contracts related to the capital projects to verify the following:

- A current signed contract existed on file between the District and the contractor;
- The contractor submitted the necessary pre-construction documents such as the insurance certificate naming the District and the architect as the additional insured and containing adequate insurance coverage; also submitting the performance and payment bonds;
- Evidence existed to support the review and supervision during construction such as job meeting minutes, progress reports, inspections and material and equipment delivery schedules and any architect's correspondence concerning inspections and progress of construction work;
- The contractor submitted the proper close-out documents pertaining to capital projects that had been deemed completed by the architect. Such documents included, but was not limited to, warranty documentation, inspection and acceptance records, spare supplies, as-built drawings, a *Consent of Surety to Final Payment* form, any two-year maintenance bonds and a *Release of Liens* from the contractor or subcontractor, if applicable.

Finding: We noted three instances where the warranty documentation could not be located in the close out documentation for work performed by contractors.

Recommendation: We recommend the District ensure that all necessary documentation be obtained and filed in the closed out document file related to the District's capital projects.

Final Building Project Reports

Procedure Performed: We obtained the *State Aid Building Project Status Report (SA777)* pertaining to the District's capital projects and inquired about capital projects that were recently completed to verify the following:

- The *Final Building Project Report* has been filed timely. Inquired of reasons why not filed timely, if applicable.
- The *Final Building Project Report* contained a *Certification of Substantial Completion* form;
- The *Certification of Substantial Completion* form was signed and dated by the architect, indicating the date of the final inspection and architect's seal;
- The superintendent's signature and date existed for additional assurances;
- The affidavit was signed by the District clerk.
- The *Change Orders* were submitted, including *Change Order Certification* forms to the Office of Facilities Planning with final building project report.

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Finding: Although we noted one final building project report was filed with the Office of Facilities Planning, we also noted the final building project report was not submitted to the Office of State Aid.

Recommendation: We recommend the District monitor the SA777 report issued by NYSED, when applicable, to ensure all completed projects have been fully submitted to NYSED. Subsequent to our review, we noted the above final building project report has since been submitted to the Office of State Aid.

CORRECTIVE ACTION PLAN

The District is required to prepare a corrective action plan in response to any findings contained in the internal audit reports. As per Commissioner's Regulation §170.12, a corrective action plan, which has been approved by the Board, must be submitted to the State Education Department within 90 days of the receipt of a final internal audit report.

The approved corrective action plan and a copy of the respective internal audit report should be sent to the following address:

New York State Education Department
Office of Audit Services, Room 524 EB
89 Washington Avenue
Albany, New York 12234