

# **BOC BMP/LDP COMPUTER TASK FORCE REPORT**

**February 22, 2016**

**TO: LAUSD School Construction Bond Citizen's Oversight Committee**

**cc: Timothy Popejoy, Joseph Buchman, Thomas Rubin**

**FROM: BOC BMP/LDP Computer Task Force**

**RE: BMP and LDP instructional computer purchases**

## **A. Introduction**

This is the report of a task force formed by the Los Angeles School District Citizens' Bond Oversight Committee ("BOC) to advise it concerning District proposals submitted to the BOC from time to time for bond funding of instructional computers through the District's Board Member Priority and Local District Priority (BMP/LDP) programs.

The formation of the BOC BMP/LDP Computer Task Force (the "Task Force") was announced by the BOC's Chair at the BOC's November 19, 2015 Meeting. The Chair said that the objective of the Task Force would be "to develop a thoughtful and detailed response" to the following question:

What are the considerations and criteria that should guide the BOC's recommendations with respect to proposed BMP and LDP classroom computer purchases?

The Task Force is composed of five members of the BOC: Steve English (the Task Force Chair), Scott Folsom, Elizabeth Lugo, Stuart Magruder and Quynh Nguyen. Since it was formed, it has met three times, most recently on February 5, 2016.

The Task Force meetings usually lasted several hours, and in addition to lengthy discussions among the Task Force members, they included

- Presentations by and discussions with District and BOC staff members, particularly, the BOC's Consultant, BOC Counsel, the District's manager of BMP/LDP Program Fund Sources, and the District's Director of Capital Funds Compliance; and

- Reviews and discussions of various legal authorities, documents, particularly, relevant provisions of the California Constitution, statutes, regulations, ballot measures, the Memorandum of Understanding between the District and the BOC, and other materials assembled by the BOC's Consultant.

Four of the Task Force members have substantial experience with the District's history and practices in relation to the information technology programs in the classroom, having previously served on the BOC's Information Technology Task Force assigned to study's the District's proposals for implementation of Phase 2 of the Common Core Technology Project in 2013. In addition, one of the Task Force Members, Quynh Nguyen, has served for over a year on the District's Instructional Technology Initiative Task Force and before that on the Board of Education's Ad Hoc Committee on the Common Core Technology Project.

This report was written by the Task Force Chair. While it accurately reflects the Task Force's recommendations, the individual members of the Task Force do not necessarily concur in every aspect of the report, except as expressly stated herein.

#### B. Summary of Task Force Conclusions

The Task Force does not recommend either the blanket approval or the blanket rejection of technology supported learning or parent-engagement projects proposed for bond funding through the BMP/LDP program. Rather --as with any project proposed for bond funding-- the BOC and its members should make whatever inquires of the District they deem necessary to satisfy themselves that a proposed project to purchase instructional computer equipment has been brought to the BOC only after careful consideration and planning. Still, the BOC should give due deference to the discretion that has been lodged with the Board Member and Local District offices under the BMP/LDP programs and appreciate that the objective of those programs is to promote flexibility and responsiveness through the decentralized apportionment of modest funds to small projects.

Also the Task Force recommends that in considering such BMP/LDP projects that come before it, the BOC and its members should consider whether such projects

- ✓ Have been requested by the school to be affected and described in a plan developed by that school, and
- ✓ Have adequate provision for training and continuing technical support.

And they should weigh these characteristics favorably when they are present.

These recommendations are stated more fully in Section H of this report.

### C. Overview of the BMP/LDP Program

The Board Member Priority program traces back to Proposition BB and the “Proposition BB Board Member Matching Grant” program.<sup>1</sup> It continued through Measures K and R and into Measure Y:

[R]ecognizing that the Local Board members have a unique understanding of the needs at the schools within their Local Districts...[i]dentification and approval of these projects is to be at the direction of the Local Board Member with assistance of the Local District Staff.

Allocations to the BMP/LDP programs are currently made pursuant to the School Upgrade Program (SUP), which serves as a master plan for allocating the District’s bond funds to bond-fundable projects. The SUP is adopted by the Board of Education, and periodically updated, in consultation with the BOC. Under the SUP the amounts allocated for distribution through the BMP/LDP programs total about 1% of the District’s authorized but unspent bond funds.<sup>2</sup> Typically, BMP/LDP funds are used for the following kinds of projects:

- Secure school entry systems
- Security lighting
- Carpet and floor covering replacement
- Security fencing
- Gym changing room lockers
- Safety netting at athletic fields
- Audio/visual projects
- Interior and exterior painting

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<sup>1</sup> Board of Education Report No. 8, October 20, 1997.

<sup>2</sup> Of remaining Measure Y and Q funds \$35 million is allocated to Board Member Priority Projects, and \$35 million is allocated to Local District Office Projects. In comparison, the total School Upgrade Program budget is \$7.852.9 million, with the original SUP allocations including \$4,293.3 million for Major Renovations and \$938.8 million for Critical School Repair.

- Window security grills
- Computer or other technology supported classroom learning projects
- Computer supported parent-engagement projects, i.e., computers for parent centers.

These last two categories are the focus of this report; for convenience we refer to them collectively as “instructional computer projects” or “technology supported learning programs.”<sup>3</sup> Since July 2012 there have been 40 BMP/LDF instructional computer projects (39 BMP-only and one joint BMP/LDP). Allocations to these projects have totaled about \$1.7 million, or about \$41,000 per project.

While there are variations in detail, each Board Member and Local District Director, generally follows the same process in the allocation of BMP or LDP funds. It proceeds as follows:

1. Board Members and Local District Superintendents review their available funding and determine the types of programs they wish to fund and the range of funding they intend to allocate to specific types of projects.
2. Board Members and Local District Superintendents issue a “call for projects” to the schools, explaining the allowable uses for such funds and, in some cases, Board Members’ priorities for use of such funds. In addition to their responses to these requests, individual principals and other school personnel often submit *ad hoc* applications. And Board Members and Local District Superintendents sometimes generate projects on their own initiatives.
3. Board Member and Local District staff vet the applications, visit schools and meet with principals and other staff.
4. As required, Board Member and Local District staffs met with Facilities Service Division (FSD), Information Technology Division (ITD), and other staff, such as District Legal Counsel, to gather information on schools and proposed projects, obtain and validate estimates of costs and schedules, and determine if the proposed bond expenditures are consistent with legal requirements and District policy.

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<sup>3</sup> Projects within this collective category include: laptop computers (including carts in some cases), desktop computers, tablet devices such as iPads and Chromebooks and carts, color printers, projectors, media carts, ELMO cameras (used to project a document on screen through a digital projector), computer labs, including computers, furniture, and electric power, and computer stations in parent centers.

5. The proposed expenditures are presented to District management prior to being included in the Board Report and submitted to the BOC.
6. FSD staff alerts BOC staff of proposed IT expenditures prior to presentation at BOC Agenda meeting; BOC staff follows up as appropriate.
7. The BMP/LDP project list is finalized and presented to the BOC at the BOC Agenda Meeting.

The BOC's Consultant, Tom Rubin, who collected the information summarized in this section, briefed the Task Force on the importance of the BMP/LDP program to the Members of the Board of Education. According to Mr. Rubin, they favor this program because they, their staff, and Local District staff are in close touch with the schools in their Districts and receive constant feedback from principals, teachers, school staff, students, parents, and neighbors as to school needs for repair and improvements. Through the BMP/LDP program, smaller projects can be approved relatively quickly, saving months to years from the time it takes to go through the full normal process. This is important for Board Members because it allows them and the Local Districts to take direct action to address small but critical and diverse needs at the schools in their areas, thus enhancing school-community engagement, and because it allows them to advance their own initiatives, e.g., family centers, on a limited scale.

#### D. Specific Questions Addressed

Shortly after the Task Force was formed, Mr. Rubin developed a series of questions to be investigated in connection with the work of the Task Force. Those questions are as follows:

1. Is the use of School Construction Bond funds for instructional computers and related devices and software in accordance with State Law?
2. If allowed under law, what legal limitations might exist on the use of such bond-funded devices, including taking them off-campus?
3. Can bond funds be used for software and, if so, what types of software?
4. Can bond funds be used for replacement of instructional computers, or only for original purchase?
5. Do the LAUSD School Construction Bond Ballot Measures specifically authorize the use of their funds for instructional computers and related expenditures?
6. What were the voters told about such uses during the elections?

7. How are projects proposed for and recommended for BMP and LDP funding before they come before the BOC?
8. What is District policy on the use, funding, useful life, and replacement of instructional computers and related expenditures?
9. What is District policy on the use of BMP and LDP funding?
10. What is the role of the BOC in the review of projects coming before it recommends BMP and LDP Construction Bond funding?
11. What is the role of the BOC in the establishment of District policy on this subject?
12. What options does the BOC have if it disagrees with a District policy or its application?
13. Is it legal, under State statute and the Internal Revenue Code, to use long-term bonds to pay for short-lived assets such as instructional computers?
14. What is the District policy on the use of long-term debt to pay for short-lived assets?
15. Has the District utilized long-term debt to pay for short-lived assets?
16. What is the useful life for instructional computers?
17. For what period of time does the District utilize classroom computers?
18. How many instructional computers does the District now have? How many of these were bond-funded?
19. How many instructional computers cannot be accounted for? What is the District's recent record on instructional computer loss?
20. For those where the method of loss is known or strongly suspected, how are instructional computers most at risk?
21. What are the expenditures to date, and existing commitments, for bond-funded instructional computers, going back to those approved after the beginning of the Common Core Technology Project (now Instructional Technology Initiative) in 2012, including non-CCTP/ITI bond-funded projects?
22. What are the BMP/LDP authorized expenditures to date, going back to and including the 2012/13 school year, in total and for instructional computer and related expenditures?

From the formation of the Task Force through early January 2016, Mr. Rubin researched these questions and provided written responses, which were in turn reviewed by the Task Force members and discussed with him during the Task

Force meetings. His detailed responses to each question are attached in the Appendix to this report.

While the Consultant's responses to the 22 questions listed above were highly valued by the Task Force, the members did not limit their fact finding to the information contained there. Most notably the Task Force was also advised by the BOC's counsel, who attended all of the meetings, and it directly questioned District staff, particularly from the offices responsible for coordination of the BMP/LDP Program proposals and bond expenditure compliance, about matters of interest to the Task Force members.

#### F. Summary of Task Force Discussions

The Task Force's discussions were grounded in the Memorandum of Understanding between the District and the BOC (the "MOU") and more specifically in Section 7 of the MOU which describes in pertinent part the BOC's responsibilities to recommend for or against a proposed expenditure of bond funds:

The Committee has the responsibility and authority to recommend against the expenditure of bond funds when...a project or family of projects appears to be **impermissible or imprudent.** [emphasis added]

Accordingly, the Task Force discussions were centered on the question of whether bond fund expenditures for instructional computers through the BMP and LDP programs were generally "impermissible or imprudent." These discussions were informed by the BOC's experience with prior proposals of this type.

The Task Force understood the term "**impermissible**" to mean "contrary to law," and hence it devoted substantial attention to the legal authorities relevant to this subject. In this effort it was substantially aided by the BOC's independent counsel, and it reviewed with counsel the several provisions of the California Constitution, the California Statutes, and Federal Law which bear upon the use of bond proceeds. It also reviewed, with counsel, the text of the voter-approved bond measures that would fund the projects in question. In these reviews, the Task Force found the following provisions to be particularly significant:

Article 13A, Sec. 1(b) of the California Constitution provides that school bond funds may be used for, among other things, "*the furnishing and equipping of school facilities*" [emphasis added] and it provides that when school boards draw up a list of projects to be funded with bond funds, they should consider

“information technology needs” in addition to student safety and class size reduction.

Since 1997, all of the LAUSD bond measures have specifically provided that bond funds could be used for computer and communications projects. For example, Measure Y provides that funds will be used for “equipment necessary to provide internet and intranet access for students and teachers” and for “hardware and software for information-technology applications.”<sup>4</sup> All of these measures were approved by substantial super-majorities of the electorate.<sup>5</sup>

In its review, the Task Force did not find any reliable indications to the effect that bond-funded purchases of instructional computer equipment by LAUSD were *per se* impermissible or contrary to law. On the contrary, as noted above, there were substantial indications that such expenditures are legal.

The Task Force also considered whether, notwithstanding the technical legality of bond-funded expenditures for computer equipment, the voting public had notice that it was authorizing these expenditures. The Task Force recognized that this was not merely a question of legal notice, but rather a practical consideration, since it might be argued that the BOC could find certain types of technically legal expenditures “impermissible” or “imprudent” if they were contrary to public expectation of what the funds would be used for.

Several members of the Task Force reported that in connection with the public controversy involving the District’s proposed Common Core Technology Project (“CCTP”) various members of the public have told them that they did not understand that bonds funds could be used for instructional computer purchases and that these members of the public believed that such purchases were illegal.

On this point the Task Force was also informed that voter guides distributed by the district stated that the funds would be used for, among other things, “equipment necessary to provide internet access for students and teachers” and for “hardware and software for information-technology applications.”<sup>6</sup> Also, the District

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<sup>4</sup> See Appendix, response to Question 6.

<sup>5</sup> Prior to the passage of State Proposition 39 in 2000, all tax increases for bond measures had to be approved by a two-thirds majority; post Proposition 39, the requirement was a 55% majority for school construction bonds. Proposition BB was approved by 71.12% of the voters in 1997, Measure K by 68.08% in 2002; Measure R by 63.70% in 2004, Measure Y by 66.09% in 2005, and Measure Q by 68.94% in 2008.

<sup>6</sup> See Appendix, response to Question 6.



information distributed to the public mentioned the use of bond funds for IT projects, as did some paid advertising from the campaign committees, and there was press coverage of bond funding of IT projects. Some of the voter information materials distributed by the District included photographs of students using instructional computers prominently displayed, presumably because this was deemed to be a matter of interest to the voters.

The Task Force also considered that, aside from the election materials, there was no available information that would show the extent to which voters believed or did not believe that bonds funds could be used for instructional computer purchases.

Thus, while the anecdotal evidence mentioned above was not disregarded, it could not --by itself-- serve as a basis for finding that bond funds should not be used for this purpose. Moreover, it should be considered that the election materials taken together could be reasonably seen, by some, as a *promise* by the District to spend some of the bond funds on instructional computer equipment, and that many voters may have relied on that promise in voting for the measures. Others might argue, however, that these indicators were not so clear or prominent as to give fair warning.

Concerning the term “**imprudent**” as it appears in Section 7.6 of the MOU, the Task Force used the following description of that term, which was suggested by counsel, as a point of reference:

An act is imprudent if it is rash, unadvised, incautious, heedless or reckless. Therefore, imprudence is something about which reasonable men and women should be able to agree and take the necessary steps to avoid.

With this understanding in mind, the Task Force then reviewed various possible objections to the use of bond funds for the purchase of instructional computer equipment. The goal of this review was to see if the objections were founded on reasonable differences of opinion between knowledgeable observers, or were instead so serious as to qualify such purchases as “rash, unadvised, incautious, heedless or reckless” and “something about which reasonable men and women should be able to agree and take the necessary steps to avoid.”

The Task Force did not find any of the possible objections that might be raised against the use of bond funds for instructional computers to be so strong as make such purchases *under any circumstances* “imprudent” within the meaning of the

MOU. But there was general agreement that such purchases could be imprudent if not carefully planned. This consideration, which of course applies to all types of projects, has particular salience for Task Force Members and the BOC. The recent difficulties experienced by the District with computer related projects has sensitized us to the risks and consequences of poor planning in this area. To be clear, the Task Force is not aware of any specific instances of improperly planned BMP/LDP program computer related proposals. Nevertheless, the Task Force did not rule out the possibility that such proposals might come before the BOC in the future.

#### G. Learning from LAUSD's Recent Experience with Information Technology Projects

There are many lessons to be learned from the difficulties the District has encountered, and to some extent resolved, in connection the planning and implementation of its recent CCTP and MiSiS programs. A comprehensive analysis of the causes of those difficulties is, of course, well beyond the Task Force's resources and assignment. Nevertheless, the BOC has had the opportunity to observe those difficulties and the recoveries from them that are currently underway. And the Task Force's assignment involves, in some ways, the subject matter involved in those difficulties, namely the application of new information technologies in school and school district environments. So situated, the Task Force saw that there are some basic lessons from the CCTP and MiSiS experience that can be applied as considerations and criteria to guide the BOC's recommendations with respect to proposed BMP and LDP instructional computer purchases. We recognize that beyond the lesson we discuss here, there are many other lessons to be learned from the District's recent experiences, and that the ones we discuss here may not be the most important for the District or the BOC. Still, to the Task Force, they seem to be the lessons most clearly applicable to our assignment.

In late 2014, the Mr. Rubin, reporting on the District's Information Technology Projects, identified "lack of ownership and user buy-in" as a substantial cause of the difficulties encountered by the District in its efforts to implement the CCTP and MiSiS.<sup>7</sup> This view has also been expressed by the independent evaluators

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<sup>7</sup> Thomas A. Rubin, *LAUSD Information Technology Concerns: A Report to the Bond Oversight Committee*, October 30, 2014, report page 23, "pdf" page 260:

[http://www.laschools.org/bond/meeting-archives/download/agendas/2014/October\\_30\\_2014\\_BOC\\_Packet.pdf](http://www.laschools.org/bond/meeting-archives/download/agendas/2014/October_30_2014_BOC_Packet.pdf)

retained by the District to review those projects.<sup>8</sup> To further document the importance of this consideration, Mr. Rubin has collected a number of citations to relevant studies and discussions of this subject and they are set forth below in the note below.<sup>9</sup>

Similarly, in his 2014 report Mr. Rubin identified the lack of user training and continuing support as a substantial cause of the difficulties encountered<sup>10</sup>. This view has also been expressed by the independent evaluators retained by the District to review those projects<sup>11</sup>.

It appears that the District has substantially absorbed these lessons and is getting better in its approach to the planning and implementation of information technology projects. After an unfortunate beginning to MiSiS implementation, the District has made MiSiS into a workable system that is satisfying more and more of its requirements and continuing to improve and add capabilities. Most recently, the District's Educational Technology Grant program (aka "Pearson Awards") incorporated the ownership, user training and support lessons into its project design by requiring schools to address these considerations when applying for grants for specific projects under that program.

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<sup>8</sup> See e.g., Report of Arnold Viramontes to Ramon Cortines, December 4, 2015, Observation Findings 1.3 and 4.3.

<sup>9</sup> <http://www.information-age.com/it-management/skills-training-and-leadership/273871/it-projects-require-end-user-buy-in>  
<http://projectmanagement-courses.blogspot.com/2011/04/importance-of-end-users-in-it-projects.html>  
<http://www.sigchi.org/chi97/proceedings/paper/sw-obf.htm>  
[http://www.businessperform.com/articles/change-management/buy-in\\_to\\_change.html](http://www.businessperform.com/articles/change-management/buy-in_to_change.html)  
<http://blog.nerea.com/uncategorized/the-importance-of-the-key-user-in-a-crm-project-tips-and-tricks.html>

<sup>10</sup> *op. cit.*, page 24 & 261.

<sup>11</sup> American Institutes for Research (AIR), *Evaluation of the Common Core Technology Project*, September 2014, pp. 36, 50, 54  
(<http://achieve.lausd.net/cms/lib08/CA01000043/Centricity/domain/21/announcements/CCTP%20Interim%20Report.pdf>).

Technical support for implementation and operations is addressed in detail in the "District Technical Support" section, pp. 52-59.

## H. Task Force Recommendations

Based on the discussions, facts and considerations summarized above, the Task Force has two recommendations in which all of the Task Force Members concur, with respect to the technology supported learning or parent-engagement projects proposed for bond funding through the BMP/LDP program:

### *1. No Blanket Approval or Rejection*

The Task Force does not recommend that such proposals be either categorically approved or rejected. For one of the five Task Force members, however, there is a presumption against approval which might be overcome in particular cases. Still, all members agree that --as with any project proposed for bond funding-- the BOC and its members should make whatever inquiries of the District they deem necessary to satisfy themselves that a proposed project to purchase instructional computer equipment has been brought to the BOC only after careful consideration and planning.

With respect to BMP/LPD projects generally, the BOC should recognize that the BMP/LPD *programs* have been structured to be particularly sensitive to the needs and conditions at individual school sites so that the most pressing of those particular needs can be addressed through the targeted expenditure of very modest funds relative to the size of the District's capital budget. Thus, the BOC should appreciate the sensitivity of the Board Member and Local District offices to local concerns and give due deference to the discretion that has been lodged with those offices under the BMP/LDP programs. The BOC should also appreciate that the objective of those programs is to promote flexibility and responsiveness through the decentralized apportionment of modest funds to small projects.

### *2. Consideration of Project Origination and Plans for Support*

It is beyond the purview of the Task Force to make comprehensive recommendations as to how the District's technology supported learning programs should be selected, planned, and administered. Nevertheless, we have become aware that, at least for individual school site programs, it is generally recommended that there be genuine ownership or buy in with respect to the program at the school and that there be adequate provision for continuing training and support, and we would encourage the District, including Board Members and Local District Superintendents, to apply these criteria to the selection, planning and administration of all of the District's technology supported learning programs

where appropriate. And with respect to our assigned focus on BMP/LDP projects, we recommend that the BOC should consider whether such projects

- ✓ Have been requested by the school to be affected and described in a plan developed by that school (with the understanding that the extent and level of detail of the plan should be appropriate to the proposed level of expenditure), and
- ✓ Have adequate provision for training and continuing technical support.

And we recommend that the BOC weigh these characteristics favorably when they are present.

Further, we propose that for each technology supported learning or parent-engagement program proposed for bond funding through the BMP/LDP program, BOC staff report to the Committee whether the foregoing characteristics are reflected in the project plan.

In conclusion we respectfully request that the BOC accept this report and adopt its recommendations.

We wish to thank the BOC and District staff members who devoted many hours to providing the information we needed in our work. And we are grateful for the opportunity to advise the BOC on this question of importance to the District, its students, teachers, support and administrative staff, parents and taxpayers.

Report Submitted by  
The Chair of the BOC BMP/LDP Computer Task Force