

**Santa Maria-Bonita School District Response to the
2006-07 Santa Barbara County Civil Grand Jury Report:
*Certificates of Participation in Public Finance: Is More Scrutiny Needed?***

FINDINGS

1. **We disagree with this finding.** Lease financing regulations require that the county superintendent of schools and the county auditor be notified of School Board action to proceed with the sale of COPs. Additionally, these regulations require that “the district cause the notice of sale to be published in a financial publication generally circulated throughout California or reasonably expected to be disseminated among prospective bidders.” The district is required to provide repayment schedules and the county superintendent and county auditor may comment publicly at a subsequent school board meeting on the district’s ability to repay the lease payments. Standard public notice of meeting agendas for our agency has, in the past, resulted in public comment from interested parties when the Board’s public consideration and discussion of the issuance of a COP was proposed.
2. **We disagree with this finding.** The lease financing process results in the consulting and financing firms involved in the sale of COPs conducting title searches to validate all aspects of the lease/sublease property guaranteeing the transaction. The State of California Department of Toxic Substances Control issues environmental approval for school facilities construction prior to any approval and/or funding for construction projects school districts wish to undertake. These required actions provide the suggested “assurances”.
3. **We disagree with this finding.** In the case of public school districts, the state school building program does not provide funding for specific types of buildings/facilities/projects/purposes occasionally needed by school districts. Due to the costs of construction, repayment of any such debt will likely require a 20-30 year period, regardless of local source. In the event that projects funded by COPs are short term in nature, the natural period of repayment would desirably be of shorter duration, if possible. In some circumstances, the most prudent choice for the agency is to refinance one or more COPs which could extend the repayment period out to a longer term.
4. **We partially disagree with this finding.** Absent documented incidents of wrongdoing regarding the issuance or use of COP proceeds, it is speculative to suggest that the current situation is inadequate to protect the public interest without the presence of restrictive regulations.
5. **We agree with this finding.** Any construction project to be done on land owned by a school district is solely under the jurisdiction of the State of California and the district can do anything that is approved by the Division of the State Architect. There is a requirement to notify the local Fire Department for any fire sprinkler or fire/safety issues. However, beyond the possibility of easement issues, there is no jurisdictional permit or plan-check at the local municipal or county level.

RECOMMENDATIONS

1. **This recommendation will not be implemented because it is not warranted.** Regulations for lease financing direct that: a) notice be given to the county superintendent of schools and the county auditor for possible public comment on COP repayment terms, and b) public notice of sale of COPs be published in a financial publication circulated throughout California or reasonably expected to be disseminated among prospective bidders. Additionally, standard public notice through our normal, legally required process of public posting of meeting agendas has been sufficient in the past to solicit public comment from interested individuals. Local media coverage of such planned actions also serves to inform the public of the potential sale of COPs in the district.
2. **This recommendation will not be implemented because it is not warranted.** The lease financing process to issue and sell COPs has “assurances” of title completed by the entities involved in the sale and security of the COPs to validate the documents related to the lease/sublease security property. The State of California Department of Toxic Substances Control requires extensive environmental testing, and if needed, fully approved remedial action for any school facilities construction to occur.
3. **This recommendation will not be implemented because it is not reasonable.** Our agency has had COPs for both short and long term projects. It is our preference that all COPs be issued as the recommendation states, only for short term projects. However, given that the state does not provide funding for all types of buildings/facilities/projects/purposes school districts might have to build or use, and since General Obligation and/or Revenue Bonds are not always possible to obtain or readily available for use, any non-legally required or voluntary restriction on COPs would have the effect of potentially limiting the agency in its ability to fulfill its stated and universally accepted mission to serve the public.
4. **This recommendation has been implemented.** All COPs issued by our agency have been used for their specific stated purpose. The oversight of the Capital Facilities Corporation, as well as the district Board of Education, ensures that this recommendation is honored.
5. **This recommendation will not be implemented because it is not warranted.** All school construction projects, regardless of funding source, are governed and directed under the sole approval and authority of agencies of the State of California. While there is a requirement to notify the local Fire Department for approval of fire/safety issues, aside from any easement issues which might be present with a local municipality or county, these local entities have no jurisdictional authority over school construction projects.