Internal Audit Report

Performance Audit of Bond Financing, Bond Projects, and Long-range Facilities Planning Activities

February 19, 2013

Wayland E. Mueller, CPA – Internal Auditor

Internal Audit No. 2013-1
Kraft Administrative Center, 1359 E. St. Louis St., Springfield, MO 65802
www.springfieldpublicschoolsmo.org

TABLE OF CONTENTS

TRANSMITTAL LETTER 3

AUDIT PURPOSE 4

AUDIT OBJECTIVES AND RATINGS 4

BACKGROUND 5

AUDIT SCOPE AND METHODOLOGY 6

OBSERVATIONS AND RECOMMENDATIONS 7

APPENDIX: AUDIT RATING DEFINITIONS 22

Springfield Public Schools
Kraft Administrative Center

TRANSMITTAL LETTER

February 19, 2013

Board of Education
School District of Springfield R-XII
Springfield, Missouri

I have completed internal audit number 2013-1, "Performance Audit of Bond Financing, Bond Projects, and Long-range Facilities Planning Activities." The audit focused on evaluating the effectiveness of the district's controls over obtaining bond financing, monitoring bond projects, compliance with post-issuance requirements for each bond issue, and planning for future facilities needs. The scope of this audit was limited to the activities involving the monitoring of bond project spending and post-issuance compliance for the 2009 bond projects, and the long-term facilities planning activities since January 2012. The purpose of this performance audit was to provide the district with recommendations in order to improve the operating effectiveness and efficiencies of these activities.

I conducted the audit in accordance with the standards applicable to performance audits contained in *Government Auditing Standards*, issued by the Comptroller General of the United States of America. Those standards require that I plan and perform the audit to obtain sufficient, appropriate evidence to provide a reasonable basis for my findings and conclusions based on the audit objectives. I believe that the evidence obtained provides a reasonable basis for my findings and conclusions based on the audit objectives. The audit was also conducted in accordance with the International Standards for the Professional Practice of Internal Auditing issued by the Institute of Internal Auditors.

The observations and recommendations contained in this report were reviewed by the district's management, and their responses are included in this report. I appreciated management's cooperation and assistance throughout this audit.

Respectfully submitted,

Wayland E. Mueller, CPA

Wayland E. Mueller, CPA
Internal Auditor

AUDIT PURPOSE

In March 2012, the Missouri State Auditor issued Report No. 2012-16 ("**State Audit**"). In that report, the State Auditor identified fourteen findings. One area of concern identified by the State Auditor was regarding the "handling of bonds and lease financing, projects, and long-term planning."[1]

In accordance with the Internal Audit Work Plan for fiscal year 2013 as approved by the Board of Education on October 16, 2012, I reviewed the concerns noted in the State Audit, and began the process of auditing the controls implemented by the district in response to the State Audit. I developed the objectives of this audit and the audit procedures based in part on the concerns noted in State Auditor's Finding No. 3, "Bond and Lease Financing, Projects, and Long-term Planning," and on other areas I noted during my risk assessment. State Audit Finding No. 3 contains five specific findings identified as 3.1, 3.2, 3.3, 3.4, and 3.5.

AUDIT OBJECTIVES AND RATINGS

The objectives of this audit were to evaluate the activities identified below. A rating system was used to describe the effectiveness of the district's performance as related to the activities listed. Audit tests were designed to provide a reasonable basis for my rating of each activity. As described below, objectives 1-5 specifically relate to State Audit Findings 3.1-3.5. Objective 6 was an additional objective chosen as a result of my risk assessment procedures. Accordingly, the audit objectives were to:

- **Objective 1** - Evaluate the internal controls over obtaining bond financing
- **Objective 2** - Evaluate the internal controls over monitoring bond project spending
- **Objective 3** - Evaluate the internal controls over construction project change orders
- **Objective 4** - Evaluate the monitoring of compliance with prevailing wage requirements
- **Objective 5** - Evaluate the long-range facilities planning activities
- **Objective 6** - Evaluate compliance with post-issuance requirements as required by bond issues

Based on the evidence obtained during this audit, the activities listed below received the following ratings:

OBJECTIVE	STATE AUDIT FINDING	ACTIVITY	RATING*
1	3.1	Internal controls over obtaining bond financing	Effective
2	3.2	Internal controls over monitoring bond project spending	Improvement Needed
3	3.3	Internal controls over construction project change orders	Effective
4	3.4	Internal controls over monitoring compliance with prevailing wage requirements	Improvement Needed
5	3.5	Long-range facilities planning	No Rating
6	N/A	Compliance with post-issuance requirements as required by bond issues	Improvement Needed

* See the Appendix for a description of the rating system.

[1] "Management Advisory Report No. 2012-16," *Missouri State Auditor*, < www.auditor.mo.gov>, p.18, accessed on January 14, 2013.

BACKGROUND

On November 3, 2009, the voters of the School District of Springfield R-12 approved a bond issue for $50 million. According to the ballot language, the voters approved the general obligation bonds for the "purpose of (1) air conditioning school buildings, (2) making improvements to Hillcrest High School and other school facilities, to include acquiring, improving, repairing and renovating existing buildings, (3) acquiring title to school facilities by paying off lease obligations, and (4) furnishing and equipping school buildings." From May 15, 2010 through March 1, 2011, the District issued six different bond issues that combined to total $50 million. The original issue amounts for these six bond issues were:

	Original Issue Amount
Issue of May 15, 2010 Series A	$ 10,067,000
Issue of May 15, 2010 Series B	12,183,000
Issue of September 9, 2010 Series C	7,554,000
Issue of September 9, 2010 Series D	3,600,000
Issue of September 9, 2010 Series E	7,596,000
Issue of March 1, 2011 Series A	9,000,000
	$ 50,000,000

Throughout this report, the projects funded by these six bond issues are collectively referred to as the "**2009 bond projects**." With the addition of proceeds from bond premiums, FEMA reimbursements, and estimated interest revenue earned on bond proceeds, as of November 30, 2013, the District estimated a total budget of $53,934,588 for the 2009 bond projects over the life of the projects. Spending on the projects began in fiscal 2010, and is projected to be completed in early fiscal 2014.

In addition to the six bond issues listed above, on March 28, 2012 the District issued the 2012 Series general obligation refunding bonds for the purpose of refunding the $30 million principal balance of the 2003 Series general obligation bonds. The proceeds from the 2012 Series are held in escrow and will be used to repay the 2003 Series bonds on March 1, 2013. The District also entered into a lease/purchase agreement for $3,060,069 on August 31, 2010 for the purpose of financing the acquisition of 31 buses. The original issue amounts for these debts were:

	Original Issue Amount
Issue of March 28, 2012	$ 28,265,000
Lease Purchase agreement dated August 31, 2010	$ 3,060,069

AUDIT SCOPE AND METHODOLOGY

This audit included evaluating the first five activities described in the "**Audit Objectives and Ratings**" section for the period beginning in fiscal 2010, through November 31, 2012. During this period, the district issued all 6 bond issues related to the 2009 bond projects. Also during this period the district spent $46.1 million, or 85% of the expected total spending on the projects. The sixth activity evaluated was the district's compliance with post-issuance requirements, and included the time period from fiscal 2010 through December 31, 2012. The audit included tests of controls, inquiries of district employees, examinations of records, and other audit procedures considered necessary to form the basis of my conclusions.

I conducted the audit in accordance with the standards applicable to performance audits contained in *Government Auditing Standards*, issued by the Comptroller General of the United States. Those standards require that I plan and perform the audit to obtain sufficient, appropriate evidence to provide a reasonable basis for my findings and conclusions based on the audit objectives. I believe that the evidence obtained provides a reasonable basis for my findings and conclusions based on the audit objectives. The audit was also conducted in accordance with the International Standards for the Professional Practice of Internal Auditing issued by the Institute of Internal Auditors.

The audit is considered a performance audit. As defined by *Government Auditing Standards*, "performance audits provide objective analysis to assist management and those charged with governance and oversight in using the information to improve program performance and operations."[2] For this audit, the programs being assessed are the district's activities involving obtaining bond financing, the monitoring of bond projects spending and monitoring of change orders, the monitoring of compliance with prevailing wage requirements, long-range facilities planning activities, and post-issuance compliance activities.

[2] "Government Auditing Standards, December 2011 Revision," *U.S. Government Accountability Office (GAO)*, http://www.gao.gov/assets/590/587281.pdf , p. 17, accessed on January 14, 2013.

OBSERVATIONS AND RECOMMENDATIONS

OBJECTIVE 1 - Evaluate the internal controls over obtaining bond financing

Audit Rating - EFFECTIVE

In State Audit finding No. 3.1, the State Auditor recommended the district "discontinue using an underwriter who also acts in a dual capacity as financial advisor."[3] An inherent conflict of interest exists when the bond underwriter also acts as the district's financial advisor. Since the issuance of the State Audit Report, the district has addressed this risk in two ways. First, the district has designated in-house experts to serve in the role as financial advisors on all bond financing matters. Secondly, as specified in the proposal for underwriting services accepted by the Board on August 28, 2012, the district's underwriter will not be acting as a financial advisor to the district. Due to a recent change to Rule G-23, as established by the Municipal Securities Rulemaking Board (MSRB), an underwriter is prohibited from serving in the dual capacity of financial advisor effective November 27, 2011. In my opinion the district has adequately addressed the concerns listed in State Audit finding No. 3.1 through the designation of qualified staff to serve in the financial advisor role, and through the clarification of the underwriter services to be provided in accordance with the most recent underwriter proposal.

In addition to examining the issue mentioned above, I performed other audit procedures related to the district's process of obtaining bond financing, which included inquiries of district management, reviewing Board meeting minutes, and reviewing bond issuance documents. Based on these procedures, I noted no findings, and this activity received the "**EFFECTIVE"** rating.

[3] "Management Advisory Report No. 2012-16," *Missouri State Auditor*, < www.auditor.mo.gov>, p.23, accessed on January 14, 2013.

OBJECTIVE 2 **- Evaluate the internal controls over monitoring bond project spending**

Audit Rating – IMPROVEMENT NEEDED

In the State Audit, the State Auditor concluded that "the district did not adequately monitor the 2006 bond project costs,"[4] resulting in the 2006 bond proceeds being overspent by $1.84 million. Specifically, the State Audit identified that quarterly bond reports prepared for the Board of Education were not always accurate, complete, or prepared timely.

Since 2010, when the overspending of the 2006 bond projects was identified by the district, the district has implemented changes in how bond projects are monitored. The 2009 bond projects are the first bond projects since the 2006 projects, and therefore I focused my audit testing on the district's management of the 2009 bond projects.

Some of the key controls utilized in monitoring spending on the 2009 bond projects include:

- Contractor applications for payment are reviewed by Project Managers, the Director of Business Operations, and an Accounting Analyst prior to submission for payment through the district's accounts payable process.
- Bond project update reports are prepared quarterly and are presented to the Board of Education.
- Monthly bond project update reports are prepared by an Accounting Analyst and are reviewed by the Chief Financial Officer, Director of Business Operations, and Director of Finance.
- The Director of Business Operations, the Project Managers, and the Accounting Analyst meet regularly to discuss the progress of each project and the status of each project's budget.

The quarterly bond reports provided to the Board include a breakdown by project of the project budgets and actual spending, as well as a description of the status of each project. The quarterly bond reports are usually presented to the Board by the Director of Business Operations, whose duties include overseeing construction and major repair projects. The Director of Business Operations reports to the Chief Financial Officer. The first quarterly bond report for the 2009 bond projects was presented at the October 5, 2010 study session. The timing of all quarterly report presentations for the 2009 bond projects are as follows:

Quarter Ending		Date Presented to the Board
9/30/2010	→	10/5/2010
12/31/2010	→	1/18/2011
3/31/2011	→	4/19/2011
6/30/2011	→	7/12/2011
9/30/2011	→	10/18/2011
12/31/2011	→	1/24/2012
3/31/2012	→	5/1/2012
6/30/2012	→	8/28/2012
9/30/2012	→	10/16/2012

[4] "Management Advisory Report No. 2012-16," *Missouri State Auditor*, < www.auditor.mo.gov>, p.19, accessed on January 14, 2013.

Since the Board is responsible for ensuring bond proceeds are spent efficiently and effectively, receiving these quarterly reports in a timely manner is extremely important. As shown in the table above, all presentations of the quarterly bond reports for the 2009 bond projects were performed timely. The June 30, 2012 quarterly report was not presented until August 28, 2012 because the Board only met once in the month of August.

In addition to the quarterly reports, at the inception of the 2009 Bond Projects, monthly bond reports were also prepared for management's use. The format of the monthly report is identical to the format of the financial section of the quarterly report. The report is prepared by an Accounting Analyst, and is distributed to the Chief Financial Officer, Director of Business Operations, and Director of Finance.

To assess the system of controls, my audit included reviewing the quarterly and monthly bond reports prepared for the 2009 bond projects, interviewing management, examining contracts, examining contractor's applications for payment, and reviewing Board policies and Board meeting minutes. Based on the work I performed, the system of monitoring bond projects spending received the "**IMPROVEMENT NEEDED**" rating. Monitoring activities include significant controls and processes that are in place to provide reasonable assurance that spending on bond projects is effectively managed. However, I have identified two areas where improvements can be made. These are reported as findings 2.1 and 2.2.

Finding 2.1 – Clarity of Westport Project Funding

- Criteria – Project budget amounts on the quarterly bond report should include all contract amounts. Although some project costs may be funded by sources other than bond proceeds or investment earnings from these proceeds, presenting the entire project budget promotes a more complete understanding of the financial impact of each bond project.

- Condition – The financial sections of the quarterly bond reports do not include information about how the total Westport construction contract will be funded. The narrative section of the quarterly bond reports include the total contract amount of $11.7 million, but the project budget in the financial section only reflects the amount that will be paid using the 2009 bond projects budget. Other than the initial Board approval of the $11.7 million contract, board meeting minutes indicate no further discussions of how the additional Westport project costs will be funded.

- Cause – The quarterly bond reports are designed to document the spending of the 2009 bond proceeds, bond premiums, and interest earnings. As a result, the additional contract amount for the Westport project was purposefully omitted from the financial section of the quarterly bond reports.

- Effect – According to the October, 2012 quarterly bond report (for the period ending September 30, 2012), the Westport project construction budget was $8.9 million. However, the signed construction contract is for $11.7 million. The amount reported as encumbered for the project at September 30, 2012 was $1.8 million, but the total remaining contract balance was $4.7 million, resulting in a $2.9 million difference between the amount reported as encumbered, and the actual amount that should have been encumbered. The financial section of the October, 2012 report shows the available budget for the entire Westport project to be $473,975 (Available Budget = Project Adjusted Budget – Expenditures through FY '12 – FY '13 Expenditures – Encumbrances). However, if the entire remaining balance on the contract was encumbered, the available budget for the project would actually be **negative** $2.4 million.

- Recommendation – To provide the Board with the most complete information, the quarterly bond reports should show the entire $11.7 million construction budget for the Westport project. As of September 30, 2012, $2.4 million of this contract is expected to be funded by a source not specified on the quarterly bond reports. Based on the latest project completion schedule, the Westport project is expected to be completed in July 2013. Considering this anticipated completion date, management should ensure the Board is aware of the additional $2.4 million in project costs that must be funded in the current fiscal year. If necessary, management should present funding alternatives to the Board, or advise the Board if amending the Capital Projects Fund budget will be necessary.

- Management's Response - While the Board was made aware of the budget shortfall at the 12/13/11 board meeting when the Board approved the Westport construction contract, we have now implemented changes to the 12/31/12 quarterly bond report that reflect the shortfall. When the project was approved it was estimated to create a $3.3 million shortfall. Through savings on the various bond projects the shortfall is now estimated at $1.0 million.

Finding 2.2 – June 30th Quarterly Bond Reports

- Criteria – Quarterly bond reports should be timely, accurate, and comparable.

- Condition – The quarterly bond reports prepared for quarters ending June 30th did not include the year-end adjustments for accounts payable at June 30th.

- Cause – In an effort to provide timely reports to the Board, the quarterly bond reports are prepared before all of the year-end accounts payable adjustments have been identified. Due to the time lag in the receipt of invoices and applications for payment, the district cannot realistically prepare a completely accurate report of bond project spending for the last quarter of the year until the year-end financial closing procedures have been performed and year-end accounts payable balances have been determined.

- Effect – The spending information documented on the quarterly reports for the periods ending June 30th and September 30th may be confusing, since the spending totals do not reconcile from one report to another. The differences noted from my review of the June and September quarterly reports are as follows:

	6/30/2011 Report	9/30/2011 Report	Variance
EXPENDITURES THROUGH 6/30/2011	$ 18,864,424	$ 20,527,522	$ 1,663,098

	6/30/2012 Report	9/30/2012 Report	Variance
EXPENDITURES THROUGH 6/30/2012	$ 34,432,014	$ 38,572,976	$ 4,140,962

- Recommendation – To improve consistency and clarity in reporting the amount of bond project spending as of the end of the fiscal year, I recommend management consider one of these two options:

  1) First, management could prepare an amended June 30th quarterly bond report for the Board after the year-end closing procedures have been completed. The amended report would highlight the changes that were made once all adjustments for year-end accounts payable were identified.

  2) Management could choose instead to present all quarterly reports on the cash-basis of accounting, in which only amounts that have been **paid** are included as "expenditures" on the report. Choosing this option would simplify the process and eliminate the need to prepare an amended June 30th report.

- Management's Response - We will begin preparing amended June 30th quarterly bond reports after the accruals are completed each year.

OBJECTIVE 3 **- Evaluate the internal controls over construction project change orders**

Audit Rating – EFFECTIVE

In the State Audit, the State Auditor recommended that the district "monitor change orders, give consideration to bidding when substantial project changes are needed, and ensure change orders are approved timely."[5] In the State Audit, it was noted that one project had change orders that in total equaled over 8% of the original contract amount. Considering the State Auditor's concerns about change orders, I examined the change orders for the 2009 bond projects through November 30, 2012.

The combined total construction contract change orders for all of the 2009 bond projects as of November 30, 2012 was $581,126. This represents 1.76% of the total original contract balances of $33,087,704. As displayed below, the range of change order percentages for the projects was 0% to 3.69%. All of the 2009 bond projects have change order percentages well below the 8% level that was mentioned in State Auditor's Finding No. 3.3. Although seven of the projects are still in progress, and additional change orders may be required, the current results indicate that management's efforts to monitor and minimize change orders are effective.

PROJECT	ORIGINAL CONTRACT	TOTAL CHANGE ORDERS	CHANGE ORDER %	STATUS AS OF 11/30/2012
Boyd Air Conditioning	$ 1,222,000	$ 38,181.00	3.12%	COMPLETED
Jarrett Air Conditioning	2,047,755	43,992.00	2.15%	COMPLETED
Phelps Air Conditioning	895,000	32,984.79	3.69%	Feb 2013 Estimated Completion Date
Reed Air Conditioning	1,936,000	54,757.00	2.83%	COMPLETED
Robberson Air Conditioning	1,319,300	42,759.00	3.24%	COMPLETED
Rountree Air Conditioning	1,282,800	45,420.00	3.54%	Dec 2012 Estimated Completion Date
Sunshine Air Conditioning	1,037,500	13,610.00	1.31%	Dec 2012 Estimated Completion Date
Tefft Air Conditioning	491,200	-	0.00%	Feb 2013 Estimated Completion Date
York Air Conditioning	1,206,000	9,592.00	0.80%	COMPLETED
Glendale Bleachers	410,253	873.00	0.21%	COMPLETED
Glendale Electrical	651,290	15,341.00	2.36%	COMPLETED
Glendale/Kickapoo Stadium Lighting	345,567	1,115.00	0.32%	COMPLETED
Hillcrest	5,942,700	103,261.97	1.74%	Mar 2013 Estimated Completion Date
Jeffries	2,766,849	32,094.00	1.16%	Jan 2013 Estimated Completion Date
Westport	11,533,490	147,145.00	1.28%	July 2013 Estimated Completion Date
TOTAL	$ 33,087,704	$ 581,125.76	1.76%	

Although the district's efforts to monitor change orders received the "**EFFECTIVE**" rating, I have identified two opportunities to strengthen the district's processes. These are identified as findings 3.1 and 3.2.

Finding 3.1 – Change Order Approvals

- Criteria – The process to approve change orders should be consistently followed and the authorization to sign the change orders on behalf of the district should be clearly assigned. Board Policy DJA specifies that the Superintendent and/or the Director of Financial Services are "authorized to issue purchase orders or sign contracts on behalf of the Board of Education which do not exceed $75,000." Although not specifically mentioned in this policy, the policy supports the assertion that change orders less than or equal to $75,000 do not require Board approval.

[5] "Management Advisory Report No. 2012-16," *Missouri State Auditor*, < www.auditor.mo.gov>, p.24, accessed on January 14, 2013.

However, as a matter of practice, management routinely submits contracts to the Board for approval, even if the contract total is less than or equal to $75,000.

- Condition – I examined the signed change orders for eight of the 2009 bond projects. As of November 30, 2012 the combined total project budgets for these eight projects equaled $31,254,017, or 82% of the combined budgets for the air conditioning and construction projects funded by the 2009 bonds. Based on my testing of the change orders, I noted that all change orders were reviewed and approved in a timely manner. However, the change orders were not always presented to the Board for approval. While Board approval is not required for all change orders, the district has made it a practice to present all contracts to the Board for approval. Based on this practice, the Board may mistakenly believe they are receiving information on all contracts, when in reality not all contracts are being presented to them. Out of 52 change orders reviewed, 29 were not presented to the Board for approval.

  In addition, for all 52 change orders I examined, the Director of Business Operations signed the contracts on behalf of the district. Board Policy DJA specifies that only the Superintendent or Director of Financial Services can sign contracts. Due to a restructuring of job duties and a change in job titles several years ago, the Director of Financial Services position no longer exists. Instead, the district has a Chief Financial Officer and a Director of Finance. Based on the current organizational chart and reporting structure, a logical inference can be made that the Chief Financial Officer is authorized to sign contracts. However, the board policy has not been updated to reflect this.

- Cause – District practices concerning change orders are largely based on prior experiences rather than on Board policies. Based on my inquiries, no one was certain why contracts less than $75,000 are being presented to the Board. Also, Board policies have not evolved as quickly as district practices.

- Effect – The Director of Business Operations actively oversees construction projects, and as part of his duties he reviews and signs construction change orders. However, Board Policy DJA does not grant him the authority to sign contracts. Therefore, with regard to signing change orders, Board Policy DJA is not being followed. Also, since prior management practice has been to provide the Board with contracts to approve regardless of size, Board members may mistakenly believe they are approving all contracts, when in fact the Board does not approve every contract.

- Recommendations – The district should review practices regarding the requirements for Board approval of contracts, and implement a consistent policy for seeking Board approval. The district should also determine who is authorized to sign change orders on behalf of the district. Also, the district should take steps necessary to correct the wording in Board policies when job titles and job duties change. Whenever job titles or job duties change, the impact on Board Policies should be considered, and the Board Policies should be revised as necessary.

- Management's Response - The District will implement a policy for seeking board approval of change orders including who has authorization to sign the change orders. Board Policy job titles and duties will be updated through the current Board Policy review that is currently in process.

Finding 3.2 – Change Order Monitoring

- Criteria – A meaningful analysis of change orders includes comparing total project change orders to the original contract cost. A common technique is to calculate the percentage of total change orders to the original contract amount.

- Condition – The quarterly bond reports provided to the Board provide information on original construction contract amounts, and the total dollar value of change orders through the end of the last fiscal quarter. While this information is helpful, an improved presentation of the change orders would also include a description of the total change orders as a percentage of the original contract.

- Cause – The type of information provided in the quarterly reports reflects management's attempts to provide all relevant information to the Board. The change order percentage was not identified by management as a necessary part of the report.

- Effect – Without a standard, benchmark, or goal to compare with the actual district change order activity, the Board has limited information to judge the effectiveness of the district's efforts to monitor change orders.

- Recommendation – For each project the quarterly bond reports should include a description of the percentage of total change orders to original contract amounts. In addition, management should develop a goal that is communicated to the Board that specifies a reasonable change order percentage. Based on this goal the Board can more readily evaluate management's performance in monitoring project costs.

- Management's Response - We have implemented the percentage of total change order requests in the 12/31/12 quarterly bond report. We are researching to determine a reasonable change order percentage standard and will bring that to the board.

OBJECTIVE 4 - Evaluate the monitoring of compliance with prevailing wage requirements

Audit Rating – IMPROVEMENT NEEDED

In the State Audit, the State Auditor recommended with Finding No. 3.4 that the district "establish policies and procedures to ensure prevailing wage rates are paid on all required projects including adequate supporting documentation to substantiate rates paid."[6] After receiving the recommendation, the district implemented new procedures. While improvements have been made since the March 2012 release of the State Audit, based on the results of my audit, the district received the "**IMPROVEMENT NEEDED**" rating for prevailing wage compliance monitoring activities. I have identified one area for improvement, which is described in finding 4.1.

Finding 4.1 – Documentation of Prevailing Wage Monitoring Process

- Criteria – Chapter 3 of the Code of State Regulations prescribes requirements for prevailing wage compliance monitoring for public works projects, which includes public school construction projects. According to 8 CSR 30-3.010, as a public body, the district "shall make examinations of the payroll and other records of each contractor or subcontractor as may be necessary to assure compliance with the provisions of the law."

- Condition – In response to the State Auditor's Finding No. 3.4, the district developed procedures to monitor contractors' and subcontractors' prevailing wage compliance. Beginning in late fiscal 2012, Project Managers began verifying the pay rates of randomly selected workers listed on certified payroll reports. Since the district only began this verification procedure in late fiscal 2012, the total number of verifications available for review in my audit was small. Out of the 11 verifications forms I reviewed, the number of workers verified per pay application ranged from 3-9. The total number of workers listed on the certified payroll reports for a single pay application ranged from approximately 18 to 82. Based on my observations of the verifications completed, I noted that the Project Managers chose workers from a variety of contractors and subcontractors. However, the documentation of resolutions to potential issues of noncompliance was inconsistent.

- Cause – Prior to receiving the recommendation from the State Auditor in March 2012, management was unaware of the extent of monitoring of prevailing wage compliance required by state statute and regulations.

- Effect – According to the Missouri Department of Labor, "failure to comply with the requirements of the Prevailing Wage Law can result in civil action, including an injunction stopping work on a project, and in criminal fines of up to $500 and up to six months imprisonment for each day there is a violation."[7]

---

[6] "Management Advisory Report No. 2012-16," *Missouri State Auditor*, < www.auditor.mo.gov>, p.24, accessed on January 14, 2013.
[7] "Public Bodies Guidebook," *Missouri Department of Labor and Industrial Relations*, <http://www.labor.mo.gov/DLS/Forms/LS-62-AI.pdf>, accessed on January 14, 2013.

- Recommendation – To ensure the district is meeting the requirements as prescribed by state statute and regulations, management should perform additional analysis and/or seek a legal opinion to determine if the current procedures adequately address the district's legal responsibilities to monitor prevailing wage compliance of contractors and subcontractors. Prevailing wage monitoring procedures should be documented and the resolution of potential instance of noncompliance should be thoroughly documented. In addition, for each construction project, I recommend management utilize the "Missouri Public Work Check-Off List" (Form PW-5), as developed by the Missouri Department of Labor and Industrial Relations Division of Labor Standards. According to the Missouri Department of Labor, this form is intended to help the district ensure each project complies with the laws of the state.

- Management's Response - Management agrees with the suggestion to modify the internal prevailing wage verification form to show follow-up and resolution to any discrepancies. Regarding the recommendation to utilize the PW-5 form, management suggests development of a District check-off list based on what District staffing levels can perform. State representatives have acknowledged that we are already doing more than most other entities.

OBJECTIVE 5 **- Evaluate the long-range facilities planning activities**

Audit Rating – NO RATING

In the State Audit, the State Auditor noted that "written comprehensive long-range plans for new construction, renovation, and space management have not been developed."[8] Beginning in January 2012, the Long-range Planning Committee was formed. The nine-member committee is comprised of senior management and one project manager. While the district has implemented efforts to address the concerns noted in the State Auditor's finding number 3.5, assessing the effectiveness of the district's long-range facilities planning is not possible to do at this point. Long-range planning, by its nature, involves unforeseen variables and a long time horizon. As such, my audit procedures are unable to provide a reasonable basis for forming an opinion on the district's long-range facilities planning activities.

[8] "Management Advisory Report No. 2012-16," *Missouri State Auditor*, < www.auditor.mo.gov>, p.22, accessed on January 14, 2013.

OBJECTIVE 6 - Evaluate compliance with post-issuance requirements as required by bond issues

Audit Rating – IMPROVEMENT NEEDED

As a governmental entity issuing tax-advantaged bonds for the purpose of funding capital projects, the district has an obligation to meet specific ongoing requirements of federal tax and securities laws. In addition to meeting the requirements necessary to issue the debt, the district is also obligated to comply with post-issuance requirements. For the purpose of this audit, I focused on evaluating the district's compliance with post-issuance requirements related to:

- Arbitrage and rebate calculations
- Continuing disclosures

Based on recent IRS guidance, issuers of tax-advantaged debt were encouraged to adopt written procedures to aid in monitoring post-issuance compliance. The goal of establishing these written procedures is to help prevent, detect, and resolve noncompliance on a timely basis. In February 2012, the Board approved the "Tax and Securities Law Compliance Procedure" as prepared by the district's bond counsel. This document provides a good foundation for management and is a useful tool to help ensure compliance with tax and securities laws.

Based on my audit, the district's compliance with post-issuance requirements received the "**IMPROVEMENT NEEDED**" rating. Although important controls are in place, I have identified two opportunities for management to improve operational controls over meeting continuing disclosure requirements. These are identified as findings 6.1 and 6.2. No findings were identified related to compliance with arbitrage and rebate calculations.

Finding 6.1 – Incomplete and Missing Submissions of Continuing Disclosure Documents

- Criteria – As part of the process of issuing bonds through a public offering, the district must sign an agreement for each bond issue obligating the district to make certain information available annually through the life of the bonds. This agreement is commonly known as the "Continuing Disclosure Undertaking." The purpose of these continuing disclosures is to make pertinent information that arises after the issuance of a bond publicly available. For this audit I examined the Continuing Disclosure Undertakings of the 6 bond issues under the scope of this audit. These agreements require that no later than 180 days after the end of the district's fiscal year (December 27th), the district must:

    1) provide to the Municipal Securities Rulemaking Board ("MSRB"), through the Electronic Municipal Market Access ("EMMA"), the **audited financial statements** of the district for the prior fiscal year; and

    2) provide to the MSRB, through EMMA, **updated financial and operating data** that includes information on the debt structure of the district and property tax information of the district.

- Condition – The annual continuing disclosure submissions for the years ending June 30, 2010 and June 30, 2011 as filed with MSRB through EMMA do not include the financial and operating data component (item number 2 listed above), which could be considered a default under the Continuing Disclosure Undertaking. In addition, as of December 31, 2012, while EMMA submissions have been made for the Series 2010B, Series 2010C, and Series 2011 bond issues, no submissions of continuing disclosure documents have been made for the Series 2010A, Series 2010D, or Series 2010E bond issues for the year ending June 30, 2012.

- Cause – Prior to the adoption of the new "Tax and Securities Law Compliance Procedure" in February 2012, management was unaware that disclosures in addition to the audited financial statements were necessary.

- Effect – Compliance with tax and securities laws can be a complex process and violations could limit the district's access to the municipal market in the future and could even result in the loss of the tax exempt status of issued bonds. As described in Securities and Exchange Commission (SEC) Rule 15c2-12, as amended in 2010, underwriters shall not purchase or sell municipal securities from an issuer unless the underwriter has "reasonably determined" that an issuer will provide certain annual financial information. The SEC further states that "if the underwriter finds that the issuer or obligated person has on multiple occasions during the previous five years failed to provide on a timely basis continuing disclosure documents," it would be "very difficult for the underwriter to make a reasonable determination that this issuer or obligated person would provide such information under a continuing disclosure agreement in connection with a subsequent offering."[9] Therefore, if underwriters are unable to reasonably determine that the district will comply with future continuing disclosure requirements, the district's access to the municipal market could be impaired in the future.

- Recommendation – According to best practices recommended by the Government Finance Officers Association (GFOA), governments are "encouraged to incorporate robust disclosure practices in order to enhance their credibility in the marketplace, foster liquidity for the securities and demonstrate a solid disclosure track record that will be viewed favorably by investors, credit rating agencies and the public."[10] In my opinion, the district's "Tax and Securities Law Compliance Procedure" as adopted in February 2012 contains the elements essential to maintaining a "robust" system for complying with continuing disclosure requirements. However, in addition to these new procedures, I recommend that management:

    1) includes continuing disclosure submissions to EMMA as an item on the Finance Department's year-end checklist.

---

[9] "Amendment to Municipal Securities Disclosure," *SEC 17 CFR Parts 240 and 241*, [Release No. 34-62184A; File No. S7-15-09], http://www.sec.gov/rules/final/2010/34-62184a.pdf, p.92, accessed on January 14, 2013.
[10] "Understanding Your Continuing Disclosure Responsibilities," *Government Finance Officers Association*, October 15, 2010, <http://www.gfoa.org/index.php?option=com_content&task=view&id=1588>, accessed on January 14, 2013.

2) annually present to the Board an "Information Item" to inform Board members that the continuing disclosure submissions have been made for all outstanding bond issues, and that the submissions contain all required information. Management should also consider adding this Information Item to the Board's annual calendar so the Board knows when to expect the presentation and to serve as a reminder to management to ensure complete and timely submissions. If an annual calendar of recurring Information Items and Action Items does not exist, management should consider preparing one.

3) considers the need to file with the MSRB a notice of failure to provide annual financial information, since some of the required information was not filed on or before the date specified in the continuing disclosure undertakings, in accordance with SEC Rule 15c2-12.

- Management's Response - The finance department has updated the year end checklist to include the "updated financial and operating data" with the audited financial statements that are required to be submitted to EMMA. The Bond Compliance Officer will report to the Board each year once the submissions are completed. The District will put this presentation on their annual calendar. The District will also file with the MRSB a notice of failure to provide annual financial information.

Finding 6.2 – Late Submissions of Continuing Disclosures

- Criteria – As part of the process of issuing bonds through a public offering, the district must sign an agreement for each bond issue obligating the district to make certain information available annually through the life of the bonds. This agreement is commonly known as the "Continuing Disclosure Undertaking." The purpose of these continuing disclosures is to make pertinent information that arises after the issuance of a bond publicly available. For this audit I examined the Continuing Disclosure Undertakings of the 6 bond issues under the scope of this audit. These agreements require that **no later than 180 days after the end of the district's fiscal year (December 27th)**, the district must:

    1) provide to the Municipal Securities Rulemaking Board ("MSRB"), through the Electronic Municipal Market Access ("EMMA"), the audited financial statements of the district for the prior fiscal year; and

    2) provide to the MSRB, through EMMA, updated financial and operating data that includes information on the debt structure of the district and property tax information of the district.

- Condition – For the Series 2010A, Series 2010B, Series 2010C, Series 2010D, and Series 2010E bond issues, the annual continuing disclosure submissions for the years ending June 30, 2010 and June 30, 2011 as filed with MSRB through EMMA were submitted on December 29, 2010 and December 29, 2011, respectively. All of these submissions were two days late.

- Cause – Prior to the adoption of the new "Tax and Securities Law Compliance Procedure" in February 2012, management was aware of the requirement to file continuing disclosure documents with MSRB, but thought the due date was six months after year-end, instead of 180 days after year-end.

- Effect – Compliance with tax and securities laws can be a complex process and violations could limit the district's access to the municipal market in the future and could even result in the loss of the tax exempt status of issued bonds. As described in Securities and Exchange Commission (SEC) Rule 15c2-12, as amended in 2010, underwriters shall not purchase or sell municipal securities from an issuer unless the underwriter has "reasonably determined" that an issuer will provide certain annual financial information. The SEC further states that "if the underwriter finds that the issuer or obligated person has on multiple occasions during the previous five years failed to provide on a **timely** basis continuing disclosure documents," it would be "very difficult for the underwriter to make a reasonable determination that this issuer or obligated person would provide such information under a continuing disclosure agreement in connection with a subsequent offering."[11] If underwriters are unable to reasonably determine that the district will comply with future continuing disclosure requirements, the district's access to the municipal market could be impaired in the future.

- Recommendation – According to best practices recommended by the Government Finance Officers Association (GFOA), governments are "encouraged to incorporate robust disclosure practices in order to enhance their credibility in the marketplace, foster liquidity for the securities and demonstrate a solid disclosure track record that will be viewed favorably by investors, credit rating agencies and the public." [12] In my opinion, the district's "Tax and Securities Law Compliance Procedure" as adopted in February 2012 contains the elements essential to maintaining a "robust" system for complying with continuing disclosure requirements. However, in addition to these new procedures, I recommend that management:

    1) includes continuing disclosure submissions to EMMA as an item on the Finance Department's year-end checklist; and

    2) annually presents to the Board an "Information Item" to inform Board members that the continuing disclosure submissions have been made for all outstanding bond issues, and that the submissions contain all required information. Management should also consider adding this Information Item to the Board's annual calendar so the Board knows when to expect the presentation and to serve as a reminder to management to ensure complete and timely submissions. If an annual calendar of recurring Information Items and Action Items does not exist, management should consider preparing such a calendar to help ensure timely submissions of continuing disclosure documents.

    1) considers the need to file with the MSRB a notice of failure to provide annual financial information, since some of the required information was not filed on or before the date specified in the continuing disclosure undertakings, in accordance with SEC Rule 15c2-12.

- Management's Response - The finance department has updated the year end checklist to include the December 27th deadline for EMMA submission. The Bond Compliance Officer will report to the Board each year once the submissions are completed. The District will put this presentation on their annual calendar. The District will consider filing with the MRSB a notice of failure to provide annual financial information.

---

[11] "Amendment to Municipal Securities Disclosure," *SEC 17 CFR Parts 240 and 241*, [Release No. 34-62184A; File No. S7-15-09], http://www.sec.gov/rules/final/2010/34-62184a.pdf, p.92, accessed on January 14, 2013.
[12] "Understanding Your Continuing Disclosure Responsibilities," *Government Finance Officers Association*, October 15, 2010, <http://www.gfoa.org/index.php?option=com_content&task=view&id=1588>, accessed on January 14, 2013.

APPENDIX: AUDIT RATING DEFINITIONS

EFFECTIVE – Operational, financial, and compliance controls evaluated are adequate, appropriate, and effective to provide reasonable assurance that risks are being managed and objectives are being met. Any findings of control deficiencies are minor, and the risks associated with these findings are insignificant.

IMPROVEMENT NEEDED – Generally, the controls evaluated are adequate, appropriate, and effective to provide reasonable assurance that risks are being managed and objectives are being met. However, findings of control deficiencies, either in design or function, are noted for which the risks associated with these findings are more than inconsequential. Further deterioration in these controls could, but might not, result in failure to adequately prevent a material loss or to ensure functional objectives are met.

INEFFECTIVE – Controls evaluated are not adequate, appropriate, or effective to provide reasonable assurance that risks are being managed and objectives are being met. Urgent corrective action is necessary to correct the control deficiencies identified.