

REPORT OF THE EXECUTIVE OFFICER
State Allocation Board Meeting, January 26, 2022

LOCAL AUDITS UPDATE

PURPOSE OF REPORT

To inform the State Allocation Board (Board) of local audits certified by the State Controller's Office (SCO) in the 2021 calendar year.

DESCRIPTION

An audit of a local educational agency's expenditures by an independent auditor is required within one year of a project's final expenditure report or after three years elapse from the date of the final fund release for an elementary school, or four years for a middle or high school project, whichever occurs first. The independent auditor's report on performance is required to be submitted, reviewed, and certified by the State Controller's Office (SCO). The certified copies of the performance audit reports are forwarded to the Office of Public School Construction (OPSC). This report is intended to inform the Board on the number of the audit reports certified by SCO for the 2021 calendar year, and to disclose reported audit findings.

AUTHORITY

Education Code (EC) Section 41024 states in part:

(a)(1)(5) Any project identified on a local educational agency's detailed list of expenditures pursuant to paragraph (1) that is reported complete during the 2017-18 fiscal year shall be audited as part of that local educational agency's audit for the 2018-19 fiscal year. All other completed projects shall be audited as part of the local educational agency's audit for the fiscal year in which the project is reported complete.

(c)(3) The auditor conducting the audit pursuant to this section shall notify the department of any audit exceptions identified pursuant to this section and any amounts or adjustments identified pursuant to subparagraph (C) of paragraph (1) consistent with the notification requirements established in subdivision (l) of Section 41020.

The full text of EC Section 41024 is included in Attachment A.

BACKGROUND

Current statute requires, commencing July 1, 2017, a local educational agency that receives any funds pursuant to the Leroy F. Greene School Facilities Act of 1998 (Chapter 12.5 (commencing with Section 17070.10) of Part 10 of Division 1 of Title 1) shall annually report a detailed list of all expenditures of state funds, including interest, and of the local educational agency's matching funds for completed projects until all state funds, including interest, all of the local educational agency's matching funds, and savings achieved, including interest, pursuant to Section 17070.63, are expended in accordance with the requirements of the Leroy F. Greene School Facilities Act of 1998, associated regulations, and any accompanying grant agreement signed by a local educational agency.

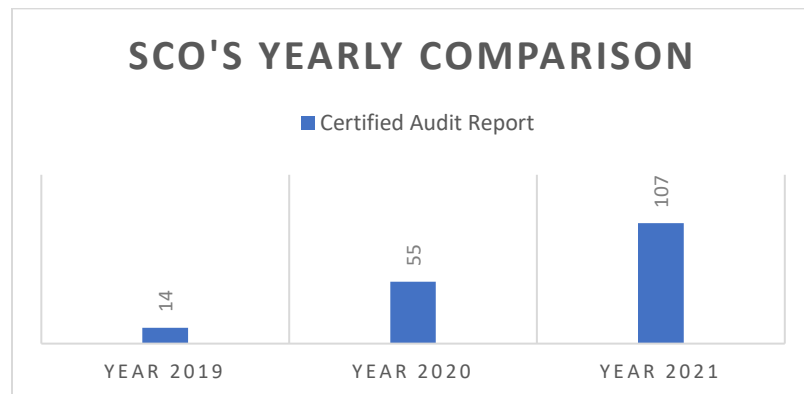
BACKGROUND (cont.)

In addition, Education Code Section 41024 requires that all School Facility Program (SFP) projects funded after July 1, 2017, have an audit conducted by a certified public accountant. The audit shall be completed within one year of project completion. The completed audit reports are submitted to the SCO for review and certification. Staff analysis below summarizes information related to certified audit reports received for the 2021 calendar year and the dollar amount associated with reported audit findings.

STAFF ANALYSIS

One hundred thirty-eight audit reports have been received by SCO in the 2021 calendar year. One hundred seven reports have been certified (see Attachment B for listing of one hundred seven reports certified in 2021) and forty-three reports have been rejected. The CPA firms has been notified about the necessary revisions/corrections that must be made for the report to be certified. Audit reports were rejected by SCO since they did not meet the reporting standards contained in the Guide for Annual Audits of K-12 Local Education Agencies and State Compliance Reporting, Appendix B or Appendix C (K-12 Audit Guide). Twenty-four reports are currently in the audit review process. Fourteen of the certified reports disclosed audit findings, with \$16,016 of ineligible costs to be returned to the State.

The information below summarizes the data for the audit reports certified by SCO on a yearly basis beginning in 2019.



	Year 2019	Year 2020	Year 2021
Certified:	14	55	107
Findings:	0	5	14
Amount to be returned:	\$0.00	\$8,342.00	\$16,016.00

STAFF ANALYSIS (cont.)

We believe the following factors have contributed to successful audit processes and audit reports which contained minimal audit findings:

- 1) The required grant agreement provides detailed and transparent guidance for the reporting of eligible expenditures, including appendices detailing specific types of eligible and ineligible expenditures.
- 2) OPSC staff participation in the K-12 Audit Guide development committee and collaboration with representatives from the SCO, California Department of Education, Education Audit Appeals Panel, and CPA firms in developing required audit procedures to be published in the K-12 Audit Guide
- 3) As subject matter experts, OPSC staff have provided continual technical assistance and answers to inquiries regarding the audits to CPAs, local educational agencies, and consultants through emails and phone calls throughout 2021.
- 4) Continued outreach and training provided by OPSC staff. This year OPSC facilitated its training through a series of virtual training on the School Facility Program and the audit process. OPSC's virtual training is a great alternative to the traditional form of training. It replicates the face-to-face training using online web-based platforms in real-time. The live interaction also includes virtual Q&A (Questions and Answers). Additionally, OPSC made some slight enhancements to the K12 FAQ (Frequently Asked Questions) that can be found on OPSC website. The virtual training and past workshops that includes California CPA Foundation, the Small School Districts Association (SSDA), and the Coalition for Adequate School Housing (CASH) have provided education, training, and guidance related to the audit process.

RECOMMENDATION

Acknowledge the report.

The State Allocation Board acknowledged this Report on January 26, 2022.

ATTACHMENT A

AUTHORITY

Education Code Section 41024 states:

(a) (1) Commencing April 1, 2017, a local educational agency that receives any funds pursuant to the Leroy F. Greene School Facilities Act of 1998 (Chapter 12.5 (commencing with Section 17070.10) of Part 10 of Division 1 of Title 1) shall annually report a detailed list of all expenditures of state funds, including interest, and of the local educational agency's matching funds for completed projects until all state funds, including interest, all of the local educational agency's matching funds, and savings achieved, including interest, pursuant to Section 17070.63, are expended in accordance with the requirements of the Leroy F. Greene School Facilities Act of 1998, associated regulations, and any accompanying grant agreement signed by a local educational agency. A local educational agency's detailed list of expenditures shall identify expenditures on a project-by-project basis, reflect completed projects that were reimbursed within that fiscal year, and shall clearly indicate the list of projects that have been completed.

(2) For purposes of this section, the determination that a project is complete shall be in accordance with the regulations adopted pursuant to the Leroy F. Greene School Facilities Act of 1998 (Chapter 12.5 (commencing with Section 17070.10) of Part 10 of Division 1 of Title 1).

(3) The total amount of interest earned on the state funds shall be reported on the final expenditure report upon completion of a project. For the purposes of determining the total amount of interest earned on the state funds, interest shall be considered to accrue from the time state funds are deposited in the local educational agency's account until the time the local educational agency submits the final expenditure report to the Office of Public School Construction.

(4) Commencing April 1, 2017, a local educational agency participating in the school facilities program shall ensure that it retains all financial accounts, documents, and records necessary for an audit of completed projects pursuant to Section 16026 of Title 5 of the California Code of Regulations. For purposes of this paragraph and in compliance with any applicable state and federal standards, a local educational agency may maintain records electronically.

(5) Any project identified on a local educational agency's detailed list of expenditures pursuant to paragraph (1) that is reported complete during the 2017–18 fiscal year shall be audited in accordance with the audit guide required by Section 14502.1 for the 2018–19 fiscal year. All other completed projects shall be audited in accordance with the audit guide required by Section 14502.1 for the fiscal year in which the project is reported complete.

(6) The audit described in this section shall be completed within one year of project completion as determined by Section 1859.104 of Title 2 of the California Code of Regulations.

(b) (1) Commencing with audits of the 2018–19 fiscal year, the Controller shall include instructions in the audit guide required by Section 14502.1 that include, but are not necessarily limited to, procedures for determining all of the following:

(A) Whether funds identified by a local educational agency on its detailed list of expenditures pursuant to paragraph (1) of subdivision (a) have been expended in accordance with the requirements of the Leroy F. Greene School Facilities Act of 1998 (Chapter 12.5 (commencing with Section 17070.10) of Part 10 of Division 1 of Title 1), associated regulations, and any

accompanying grant agreement signed by a local educational agency. Any funds not expended in accordance with these requirements shall be disallowed and considered an audit finding.

(B) That savings achieved, including interest, pursuant to Section 17070.63, are used for other high priority capital outlay purposes identified by the local educational agency or returned to the Office of Public School Construction, and are used in accordance with the requirements of the Leroy F. Greene School Facilities Act of 1998 (Chapter 12.5 (commencing with Section 17070.10) of Part 10 of Division 1 of Title 1), associated regulations, and as specified in any accompanying grant agreement.

(C) Adjustments to the grant amounts received by a local educational agency for site acquisition costs based upon the local educational agency's final approved expenditures as required pursuant to Sections 1859.105 and 1859.106 of Title 2 of the California Code of Regulations.

(D) If there are any unspent funds associated with the completion of a Charter School Facilities Program project that must be returned to the Office of Public School Construction as required pursuant to Section 1859.169.1 of Title 2 of the California Code of Regulations.

(E) If there are any unspent funds associated with the completion of a Career Technical Education Facilities Program project that must be returned to the Office of Public School Construction as required pursuant to Section 1859.199 of Title 2 of the California Code of Regulations.

(F) If there are any unspent funds associated with the completion of a project, where the local educational agency received hardship funding as described in Sections 1859.81, 1859.81.1, 1859.81.2, and 1859.81.3 of Title 2 of the California Code of Regulations, that must either be returned to the Office of Public School Construction or expended consistent with the requirements pursuant to Section 1859.103 of Title 2 of the California Code of Regulations.

(G) Adjustments to the grant amounts received by a local educational agency associated with the substantial progress requirements reflected in the program reporting requirements pursuant to Section 1859.104 of Title 2 of the California Code of Regulations.

(2) Any amounts or adjustments identified pursuant to subparagraphs (C) to (G), inclusive, of paragraph (1) shall be identified within a local educational agency's audit, but shall not be considered an audit finding for purposes of this section.

(c) (1) The auditor conducting the audit pursuant to this section shall file the audit with the Controller within 60 days of the completion of the audit. The Controller shall be allowed access to audit working papers. Adjustments pursuant to paragraph (2) of subdivision (b) shall not be appealable to the Education Audit Appeals Panel pursuant to this section.

(2) Within 60 days of the receipt of the certified audit, and after determining that the audit conforms with the reporting standards contained in the audit guide, the Controller shall do both of the following:

(A) Provide the department a copy of the certified audit.

(B) Notify the Office of Public School Construction of any audit findings pursuant to this section and any amounts or adjustments identified pursuant to clause (iii) and provide the Office of Public School Construction with a copy of the certified audit identifying the amounts to be adjusted if, as a result of the audit conducted in accordance with the requirements of subdivisions (a) and (b), the auditor determines any of the following:

(i) A local educational agency has unspent funds for the project not identified as savings pursuant to Section 17070.63 that shall be returned pursuant to subparagraphs (C) to (G),

inclusive, of paragraph (1) of subdivision (b), and any accompanying grant agreement signed by a local educational agency.

(ii) A local educational agency is subject to an increase or decrease in funds provided pursuant to subparagraphs (C) to (G), inclusive, of paragraph (1) of subdivision (b), and any accompanying grant agreement signed by a local educational agency.

(iii) A local educational agency did not expend funds in accordance with the Leroy F. Greene School Facilities Act of 1998 (Chapter 12.5 (commencing with Section 17070.10) of Part 10 of Division 1 of Title 1) and any accompanying grant agreement signed by a local educational agency.

(3) Upon receipt of the certified audit, the Office of Public School Construction shall present any grant adjustments required pursuant to clauses (i) and (ii) of subparagraph (B) of paragraph (2) for a specified project to the State Allocation Board for an adjustment to the project apportionment. Funds identified for purposes of clauses (i) and (ii) of subparagraph (B) of paragraph (2) shall be apportioned from, or returned to, the appropriate funds, as established in the State Treasury pursuant to Section 17070.40 or 17070.41, as applicable. If a school district is required to return unspent funds, the fund source for returned funds shall be the county school facilities fund established pursuant to subdivision (a) of Section 17070.43.

(4) A local educational agency may appeal the audit finding pursuant to the timelines and process established in subdivision (d) of Section 41344. The procedures set out in subdivision (d) of Section 41344.1 do not apply to the audit required by this section.

(5) The Office of Public School Construction shall ensure that the local educational agency has corrected the audit finding by implementing a required penalty payment of funds equal to the amount of funds disallowed in the audit finding pursuant to the process specified in subdivision (d).

(d) (1) If, as the result of the audit, a local educational agency is required to pay funds pursuant to clause (iii) of subparagraph (B) of paragraph (2) of subdivision (c), the Office of Public School Construction shall recover the funds from the local educational agency.

(2) If the local educational agency has submitted an appeal to the Education Audit Appeals Panel pursuant to subdivision (d) of Section 41344, the Office of Public School Construction shall not recover funds until following the determination of the appeal.

(3) A local educational agency may use any local fund source to pay the disallowed amount pursuant to clause (iii) of subparagraph (B) of paragraph (2) of subdivision (c) so long as there is no legal prohibition regarding the use of those funds for this purpose.

(4) A local educational agency may request from the Office of Public School Construction a repayment plan within 90 days of receiving the final audit report, or within 30 days of withdrawing or receiving a final determination regarding an appeal pursuant to subdivision (d) of Section 41344 and subdivision (b) of Section 41344.1, as applicable. The Office of Public School Construction and the Director of Finance, or their designees, jointly shall establish a plan for payment. The payment plan shall be established in accordance with the following:

(A) If the executive officer of the Office of Public School Construction and the Director of Finance, in consultation with the department, concur that repayment of the disallowed amount in the current fiscal year would constitute a severe financial hardship for the local educational agency, they may jointly approve a plan of equal annual payments over a period of up to eight years. The plan may include interest on each year's outstanding balance at the rate earned on the state's Pooled Money Investment Account during that year. The executive officer of the Office of Public School Construction and the Director of Finance jointly shall establish this plan.

At the time the local educational agency is notified, the Controller also shall be notified of the plan by the executive officer of the Office of Public School Construction. The Controller shall withhold the annual amount established pursuant to the plan from the local educational agency's principal apportionment or Education Protection Account payments.

(B) Notwithstanding subparagraph (A), if the executive officer of the Office of Public School Construction and the Director of Finance, in consultation with the department, concur that repayment of the disallowed amount over an eight-year period would require the local educational agency to request an emergency apportionment pursuant to Article 2 (commencing with Section 41320) of, and Article 2.5 (commencing with Section 41325) of, Chapter 3, they may approve a plan of equal annual payments over a period of up to 20 years. The plan shall include interest on each year's outstanding balance at the rate earned on the state's Pooled Money Investment Account during that year. The Controller shall withhold the annual amount established pursuant to the plan from the local educational agency's principal apportionment or Education Protection Account payments.

(C) If a payment plan submitted pursuant to this section is not approved by the executive officer of the Office of Public School Construction and the Director of Finance, in consultation with the department, or is not requested by the local educational agency, the executive officer of the Office of Public School Construction shall invoice the local educational agency for the entire disallowed amount. If the local educational agency does not remit payment for the invoice within 120 days of issuance, the executive officer of the Office of Public School Construction shall request that the Controller withhold the entire disallowed amount from the local educational agency's principal apportionment or Education Protection Account payments.

(D) (i) Funds recovered by the executive officer of the Office of Public School Construction or withheld by the Controller pursuant to this section shall be deposited into the appropriate state school facilities fund, as established in the State Treasury pursuant to Section 17070.40 or 17070.41, as applicable.

(ii) Funds remitted to the Office of Public School Construction by a local educational agency from local fund sources, as authorized by paragraph (3), shall be deposited into the appropriate state school facilities fund, as established in the State Treasury pursuant to Section 17070.40 or 17070.41, as applicable.

(e) As used in this section, "audit or review" and "local educational agency" shall have the same meaning as the terms are defined in paragraphs (1) and (2) of subdivision (e) of Section 41344.

(f) The State Allocation Board shall not waive all or any part of this section, any grant agreement or provisions of a grant agreement signed by a local educational agency that receives any funds pursuant to the Leroy F. Greene School Facilities Act of 1998 (Chapter 12.5 (commencing with Section 17070.10) of Part 10 of Division 1 of Title 1), or any regulation adopted that implements a provision of this section.

(g) In any appeal filed pursuant to Section 41344 and this section, the Office of Public School Construction, the Department of Finance, and the department may timely move to intervene as a party.

(h) If the Office of Public School Construction chooses not to intervene in an appeal, the administrative law judge conducting the hearing, or the Education Audit Appeals Panel, may request that the Office of Public School Construction issue and file in the appeal an objective interpretation of any applicable law, regulation, or term of the grant agreement within 30 days of the request or such longer period as the administrative law judge or the Education Audit Appeals Panel deems reasonable. The Office of Public School Construction's filing shall not argue or seek to resolve issues of fact, but may state how a particular law, regulation, or grant

agreement term applies to competing factual contentions. The agent of the Office of Public School Construction shall be precluded from acting as a party once a request pursuant to this subdivision is made.

(i) Notwithstanding subdivision (a), this section shall not apply to any school facilities project that was apportioned before July 1, 2017.

(Amended by Stats. 2020, Ch. 110, Sec. 10. (SB 820) Effective September 18, 2020.)