



REPORT OF THE BOND PROGRAM MONITOR [Activities May 2 – July 3, 2024]

JULY 5, 2024

Affiliated Monitors, Inc.

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Introduction

The concept of independent oversight of the Los Angeles Community College District’s Bond-funded construction program is not new. The idea began more than a decade ago, initially conceived as an Office of Inspector General (“IG”). In 2018 the District amended the oversight program, creating the Office of the Bond Program Monitor (“BPM”). The contract for the role of BPM, like other BuildLACCD contracts in excess of one-million dollars is bid out and awarded on a five-year basis. The first BPM contract was awarded in 2019 to the professional services firm of Exiger. In the summer of 2023, Exiger sold its practice group which held the BPM contract with the District to accounting firm CohnReznick. Upon approval by the LACCD Board of Trustees, CohnReznick administered the contract from July 1, 2023 through January 1, 2024, the date of agreed termination of services.

On May 2, 2024, Affiliated Monitors, Inc. (“AMI”) was selected by the Los Angeles Community College District (“LACCD” or “the District”) to serve as the BPM on a one-year interim basis. The role of the BPM is to function as an impartial invigilator responsible for helping to ensure the District’s multi-billion-dollar capital program funded by Propositions A, AA, J, CC and LA is performing with the utmost integrity.

The BPM serves as the eyes and ears of the District’s stakeholders – the District Board of Trustees, the Chancellor, BuildLACCD, DCOC, LACCD faculty, students and staff, contractors, consultants and the citizens of greater Los Angeles – to identify and respond to allegations of fraud, waste, and abuse, and/or violations of laws, regulations and rules occurring within the District’s Bond Construction Projects. In monitoring for misconduct such as corruption, bid-rigging, collusion, manipulation of bids, conflicts of interest, and other forms of fraud, waste, and abuse, as well as violations of laws and regulations, the Monitor has certain enumerated powers, including the power to take complaints from anyone with information about failures of integrity occurring within the Bond Construction Program at any of the District’s nine college campuses.

When AMI assumed the BPM role in early May 2024, the District had gone without a BPM for more than five months and nothing remained of the prior BPM’s infrastructure. Since the signing of the contract, the BPM has focused on establishing an all new Office of the BPM, including the requisite policies, procedures, processes, infrastructure, systems and protocols that serve to underpin a robust and independent monitoring structure capable of addressing the size and complexity of the District’s Bond Construction Program.



Executive Summary

In the first sixty days of serving as the BPM, among other activities, AMI has conducted an investigation involving a bidding matter; designed and built a website specific to the Office of the BPM; vetted third-party providers of whistleblower hotlines and constructed and activated a multi-channel whistleblower complaint system; met and conferred with District and BuildLACCD officials; drafted policies, procedures and standards for the operation of the Office of the BPM and the investigations it conducts; issued monthly updates to the District Chancellor; participated in regular meetings with stakeholder groups including the District Citizen’s Oversight Committee (DCOC), the District’s Board of Trustees Facilities Master Planning and Oversight Committee (FMPOC), and BuildLACCD’s monthly Roundtable for the PMO and College Project Directors; begun reviewing District policies and procedures relevant to the Bond Construction Program (BCP); and issued seven recommendations (See Section VII) for improvements to controls related to the greater District BCP.

AMI has been pleased with the reception it has received from District personnel and BuildLACCD stakeholders and intends to continue to build and strengthen relationships between the Office of the BPM and the greater District and its constituents. The BPM is pleased to provide this report of its activities in this first 60-day period.

I. Summary of Activities of the Bond Program Monitor May 2 – July 3, 2024

Website, Hotline and Communication Efforts

To reach the widest possible audience and to help provide information about the BPM, AMI registered the domain name, LACCDBondProgrammonitor.org. Within days of signing the contract with the District, AMI both created a unique email address, Monitor@lacedbondprogrammonitor.org and secured a post office box to which anyone may send a complaint, concern or correspondence to the Office of the BPM: 1200 S Brand Blvd., #401, Glendale, CA 91204. By the second week, the BPM had a temporary announcement posted on the website providing the public with basic information on how to contact the BPM with any complaints or concerns via email and/or the physical mailing address.

The BPM then launched an effort to design and build the LACCDBondProgrammonitor.org website with full functionality including an About Page, Frequently Asked Questions (FAQs), reference materials relevant to the BCP, enhanced contact information to reach the Office of the BPM, direct access to an online complaint/whistleblower portal, as well as a toll-free telephone hotline number.



To identify a third-party whistleblower hotline platform that could accommodate the multi-channel access the BPM believes is warranted for the BCP, and to include both an anonymous telephone line as well as a web-based portal, the BPM identified, interviewed and solicited bids from four vendors. Requirements for the winning vendor included not only functionalities and multi-channel options, but one that would only store data from the calls and submissions on US data servers, and could meet stringent privacy standards consistent with US HIPAA, FERPA¹, PPRA² and relevant California State privacy regulations, as well as holding cybersecurity certifications to help ensure the safety and security of the data the BPM receives through complaint channels. The BPM ultimately selected a vendor, FaceUp, who specializes not only in school systems, but offered a range of additional complaint channels and a multiplicity of languages. The platform also allowed us to customize the online form and hotline, tailoring it specifically to the BCP. A scannable QR code and a mobile app also provide access to the anonymous hotline, allowing a range of access and use options to contact the BPM and file a complaint, express a grievance, or otherwise raise a concern about the Bond Construction Program.

The BPM's dedicated website, LACCDBondProgrammonitor.org, went live with full functionality on June 19, 2024. The site provides District employees, contractors, external stakeholders and the general public with information and links on how to contact the BPM with any complaints or concerns involving the District's Bond Construction Program via a dedicated online form, stand-alone toll-free telephone hotline, Email address, Mobile app, QR code, and physical mailing address.

Currently, the hotline reporting channels offer English & Spanish language options, but the web-form and telephone hotline have the option to add up to 100+ languages. So, if a population is identified as not being served by the two current language options, we can add a new language any time, literally with the press of a button. A request to the campus-level PMOs will be made, surveying whether they are aware of any contractors or subs with work forces speaking other languages that may need to be accommodated.

The BPM notified the DCOC, BuildLACCD, and District's Chancellor, CFO, Office of General Counsel, and Contracts departments of the BPM website and reporting channels. Efforts are now underway by the BPM to have printed signs created which will be placed on the fences of all campus projects. Additionally, flyers (with QR code) will be distributed at the campus locations. The BPM will request that the individual campus sites add a link to the BPM site so that those familiar with projects on a specific campus don't need to know about BuildLACCD in order to reach the BPM.

¹ Family Educational Rights and Privacy Act, 20 U.S.C. § 1232g; 34 CFR Part 99

² Protection of Pupil Rights Amendment (PPRA), 20 U.S.C. § 1232h, 34 CFR Part 98



Report of the Activities of Bond Program Monitor (May 2 – July 3, 2024)



TOC Guide Bond Program Monitor Complaint Hotline: ☎ 1-833-444-7568

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LACCD Bond Program Monitor Website

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This is the website of the Independent third-party Bond Construction Program Monitor ("BPM" or "Monitor"). Affiliated Monitors, Inc. ("AMI") was selected by the Los Angeles Community College District ("LACCD" or "the District") to serve as the impartial investigator responsible for helping to ensure the District's multi-billion dollar capital program funded by Propositions A, AA, J, CC and LA is performing with the utmost integrity.

Mikhail Gordon,
Bond Program Monitor

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Establishing the Office of BPM

Commensurate with the work to build-out communication channels, the BPM has undertaken efforts consistent with District Board Policy 6740 and the District’s RFQ for the Office of the BPM to develop internal rules and procedures for the conduct of investigations, and implement policies,



objectives and priorities for the conduct of investigations into misconduct; establish a systemized approach to oversight of the Bond Construction Program; develop a methodology for gathering and reviewing all relevant documentation related to projects, project expenditures, procurement, progress, completion, and management of activities occurring within the Bond Construction Program; and implement the necessary processes for the successful operation of the Office of BPM.

The BPM was surprised to discover that the former professional services firm that had served as BPM to the District, Exiger, had left no BPM program structure in place; no reports, templates, written policies, procedures or processes had been retained. As the BPM developed the necessary standards and protocols, it identified a gap in the District’s program: there is no institutional knowledge or historical archive to reference and demonstrate continuity for the BCP oversight role. Raising this to the Chancellor and the District’s Office of General Counsel, the BPM has begun work in conjunction with the Office of General Counsel to begin collecting and centralizing all relevant historical documents having to do with the oversight of the District’s Bond Construction Program, including, but not limited to the early efforts by District Inspectors General, and those who fulfilled roles similar to the BPM under other descriptions. The central repository will be held by the District and administered by the District’s IT department, with data governance overseen by the GC’s office and BPM. The repository is intended to remain for as long as the BCP exists, and some years beyond, and is to be added to and built-upon regardless of who serves as BPM. *See Recommendation R-1 below.*

Meeting and Confering with Key Stakeholders

In order to build rapport with stakeholders, make the BPM presence known around the District, and to gather information which helps to inform the BPM’s investigative efforts and work-plan, the BPM initiated a series of informational meetings. Additionally, the BPM arranged to regularly attend certain monthly/bi-monthly stakeholder meetings.

For the purposes of establishing regular communications, the BPM has held meetings with the District Chancellor, Dr. Rodriguez, the District’s Vice Chancellor & Chief Facilities Executive, Dr. Smith, District CFO, Jeanette Gordon, as well as communicating with the District Citizens Oversight Committee (DCOC), BuildLACCD Roundtable (the fora for college campus PMOs), and the FMPOC. A calendar of meetings the BPM will attend monthly, bi-monthly and quarterly was agreed, with the regular planned attendance of the BPM at DCOC, FMPOC, and Roundtable meetings. Similarly, the structure and frequency of reports to the Chancellor were agreed upon, with monthly synopsis reports to be delivered by the BPM, and more substantive reports to be shared with the District Board of Trustees (BOT) and DCOC which are to be provided by the BPM on July 3, 2024; October 3, 2024; and a yet to be determined date in January, 2025.



The BPM also held a virtual meeting with the prior BPM, Diedre Power with Cohn Reznick to discuss historical averages of complaints made to the Office of BPM and the channels through which those complaints were made. The BPM learned from discussions with Cohn Reznick that there were no open investigations of pending matters when Cohn Reznick ceased to serve as BMP in December, 2023.

See Section XIII below for further outreach and communication efforts undertaken by the BPM during this reporting period.

The website of the BPM provides District employees, contractors, external stakeholders and the general public with information and links on how to contact the BPM with any complaints or concerns involving the District's Bond Construction Program via a dedicated online form, stand-alone toll-free telephone hotline, Email address, Mobile app, QR code, and physical mailing address

II. Number of Complaints Received This Period

No complaints of any type were received by the Office of the BPM between May 2, 2024 and July 3, 2024.

III. Number of Investigations Opened This Period

The Office of the BPM opened one new investigation in the month of May, 2024. The investigation relates to potential bid-rigging. The BPM has issued requests for information through the District Office of General Counsel, conducted interviews of key individuals, reviewed relevant documentation and provided its draft findings to the Chancellor and General Counsel on June 4, 2024. Fact-gathering continued during the month of June and the BPM anticipates providing its final report to General Counsel during the first week of July, 2024.



IV. Number of Investigations Closed/Resolved This Period

No investigations have been closed or resolved this period.

V. Number of Investigations Currently On-Going

One investigation remains open at this time.

VI. Number of Matters Referred to Prosecutorial Authorities

No matters from the BPM's office have been referred to prosecutorial authorities during this reporting period.

VII. Number of Prosecutions, Convictions, Recoveries from Referred Matters

No prosecutions, convictions, or recoveries from past or referred matters from the BPM's office occurred during this reporting period.

VIII. Number of Matters Referred for Civil or Administrative Remedy

No matters from the BPM's office were referred for civil or administrative remedy during this reporting period.

IX. Trends or Patterns Identified

At this time, no specific patterns of activity, or negative trends related to the District's Bond Construction program have been identified.

X. Assessment Activities Conducted This Month



No formal assessments were initiated this period. Formal assessments are currently scheduled by the Office of the BPM to commence in July, 2024.

However, the BPM has reviewed a number of District policies and has identified several items for which it has provided, or is in-process of providing, recommendations for enhanced controls or improvements. These recommendations are captured below in Section XII. Each recommendation is numbered as it is added to the list. Recommendations will be updated accordingly on subsequent status reports, building a library of suggested actions and implementation efforts, and capturing when recommendations are completed.

XI. Policies Reviewed

- The BPM reviewed BuildLACCD policies related to the issuance of mobile devices to District personnel. *Please see Recommendations below in Section XII.*
- The BPM reviewed past and current District RFPs for the PMO role.
- The BPM reviewed the process of requiring non-disclosure agreements to sitting committee members responsible for reviewing bids in response to District/BuildLACCD-issued RFPs. *Please see Recommendations below in Section XII.*
- The BPM reviewed LACCD Board of Trustees Board Policy 7700 regarding Whistleblower Protection. Please see the discussion in Section XII regarding a recommendation to enhance written guidance for whistleblowers within the District and BuildLACCD program.
- Based on a use case brought to the BPM’s attention, the BPM had cause to seek any District use policies relating to BuildLACCD and District personnel use of AI-generated content for District/BuildLACCD purposes. No written policy was identified. *Please see Recommendations below in Section XII.*
- The BPM reviewed AP 6600, Capital Construction and Bond Program Cost Principles, dated January 24, 2023; and Index B-30 Reference, LACCD Proposition A/AA and Measure J Cost Principles, dated February 10, 2012.
- The BPM began a preliminary review of specific construction projects identified as being ‘problematic’ for a variety of reasons e.g., delays, disputes, etc.



XII. Significant Problems or Impairments and Recommendations for Remediation

As the BPM makes recommendations, they are added to a rolling list provided in each monthly report to the Chancellor. Only recommendations that fall under legal privilege are omitted. Each recommendation is numbered as it is added to the list, a status provided with the month it was initially made, and any specific efforts requested by the District and undertaken by the BPM are identified.

R-7. The BPM has come to understand that the work product of Architecture & Engineering (“A&E”) firms retained by BuildLACCD for the purposes of designing new buildings for the District’s college campuses has been frequently identified as inferior. It is understood that the California Division of State Architecture (“DSA”) has informed Dr. Smith that relative to other school districts, BuildLACCD A&E contractors’ work product is frequently found wanting. Dr. Smith stated that he has observed that A&E contractors, especially since the Covid pandemic, have ceased working in offices, electing to work from home or remotely. Further, these A&E firms seemingly allow junior or inexperienced architects and engineers to develop the drawings and plans for District Bond-funded projects with little to no oversight by senior A&E professionals. When A&E contractors do show up on District job sites or work on drawings, they are reportedly frequently putting in only half days. The work product resulting from these practices is reported to have negatively impacted many BuildLACCD projects, with problems cascading out to contractors responsible for the actual implementation of said drawings/plans.

Recommendation: The BPM recommends that for the purposes of encouraging higher quality work from its A&E providers, the District add new provisions to all future contracts with architectural and/or engineering firm: (a) requiring any A&E firm that is awarded a contract with the District be obligated to (a) maintain an office on or near the location of the project; (b) maintain an active full-time presence by one or more professionals at said office no fewer than three days a week; and (c) commit to a senior architect/engineer reviewing and signing-off on all drawings/plans prior to submission to BuildLACCD.

Status: *New [June 2024]*

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R-6. The BPM has heard from District officials, the current PMO, and has observed for itself that the District Bond Construction program continues to experience problems with certain contractors and sub-contractors. In some instances, from the BPM’s experience, the contractors/subs failing to adequately perform or who are currently in dispute with the District are those who have historically



failed to meet expectations, missed contractual obligations, or otherwise under-delivered. Some are understood to have engaged in unwarranted cost escalation or attempted excessive changes/revisions. The BPM has discussed the challenges of these problematic contractors at a high level with Dr. Smith.

Recommendation: The BPM recommends that the District consider implementation of a contractor suspension and debarment list (“black-list”). Contractors who are terminated from projects, fail to perform, or otherwise exhibit a lack of trustworthiness, quality, and/or fitness to satisfactorily perform BuildLACCD contracts should be deemed ineligible to apply for any future projects. There already exists a legal and contractual basis upon which to implement such a list. In some instances, eligibility may be reinstated after two years, or in more egregious cases, a contractor could be barred indefinitely. The BPM recommends the Office of General Counsel review current District contractual terms and conditions relevant to its BuildLACCD contractors, as well as applicable public procurement regulations and consider the feasibility of creating such a black-list. Creating such a list would require formal administrative procedures; need to be based on clear rules and on the principles of fairness and accountability, transparency, good judicial practice, and uniformity to ensure due process and fairness. The list would be subject to periodic independent review by the BPM, or other oversight function.

Status: *New [June 2024]*

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R-5. The BPM has identified that there is no current policy or procedure that ensures when a key employee of BuildLACCD or a contractor/sub-contractor to the Bond Construction program leaves employment or a project that the data, files, and other physical and electronic information in their possession is collected and retained for accountability and reference purposes.

Recommendation: The BPM recommends that a new policy and procedure be drafted that (a) identifies job titles or roles that are deemed essential or key to BuildLACCD and/or construction projects; (b) develops a process based on this list of job titles and initially, the current individuals holding filling these positions, whereby laptops, emails and personal eFolders on District systems are saved by District IT and archived and indexed appropriately, identifying the content as that belonging to the former employee/contractor; and (c) creates a process that enables the District to take formal possession of any physical files belonging to the departing employee/contractor. The files must be maintained under non-destruction orders, appropriately indexed and archived, or scanned and electronically archived, depending on the volume of information.

Status: *New [June 2024]*

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R-4. In reviewing how the District handles the process of requiring non-disclosure agreements to sitting committee members responsible for reviewing bids in response to District/BuildLACCD-issued RFPs, the BPM identified a critical gap in accountability. The BPM understands that District staff email NDAs to seated committee members tasked with drafting high-dollar/high-profile RFPs and subsequently reviewing submissions, selecting a short-list of qualified bidders, interviewing and ultimately awarding a contract. However at present, the District has no formal requirement that requires RFP committee members to return their signed NDA *prior* to being officially seated on a committee. Rather, an individual is seated to a committee and then asked to sign an NDA. If they fail to comply and return the NDA, weeks, if not months may go by before they are reminded to submit their NDA back to the District. In the meantime, the committee member may be privy to highly confidential information and discussions without having agreed to the NDA. This poses a risk to the District and potentially fails to hold committee members accountable.

Recommendation: The BPM recommends the development of a new rule and process requiring that NDA's related to BuildLACCD RFPs be issued *prior* to any work commencing by a convened committee. No work should proceed by such a committee until all NDAs have been collected. This rule would extend to any re-convened committees as well. For every re-convening effort, new NDAs shall be collected prior to the committee commencing their new work or project.

Upon initial issuance, any executed NDA's not returned within seven working days by any RFP committee member for any RFP issued by the District for the purposes of BuildLACCD, should result in the immediate suspension of the committee members' participation in that committee. All access to subsequent information involving the relevant RFP by the suspended committee member should be restricted.

Status: *Pending action [May 2024]*

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R-3. In May 2024, the BPM became aware of the BuildLACCD PMO having issued at least three mobile devices to District personnel that were paid for by the District. These devices were not approved by District IT or BuildLACCD IT. Moreover, the District was neither told about, nor approved the issuance of these devices, despite being billed for them by the PMO.

Recommendation: The BPM recommends that the District issue a strict written policy prohibiting issuance of mobile devices to District employees for use in District business by the PMO, or any other BuildLACCD contractor. If the policy contemplates rare exceptions to the rule, it must then provide for a process by which contractors and sub-contractors to BuildLACCD are required to seek approval from the District prior to issuing any mobile device to District personnel.

Status: *Pending [May 2024]*



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R-2. The BPM identified that BuildLACCD personnel have been using District equipment and the District network to access, and in at least one instance use, artificial intelligence-assisted chatbots with virtual assistant features (OpenAI’s ChatGPT). On at least one occasion, the BPM identified that ChatGPT-generated content was used for District business. The BPM was informed by the respective IT departments of BuildLACCD and the District that the use of ChatGPT and similar AI software is not on the approved list of the District’s systems and software. Accessing ChatGPT and similar such sites online are also not on the IT department’s approved list of safe sites. The BPM identified that at present, BuildLACCD does not have a written policy prohibiting, or articulating when, if ever, AI-generated content may be used for District business or purposes.

Recommendation: The BPM recommends that a new policy be drafted in conjunction with the District’s Office of General Counsel, District IT, and BuildLACCD IT addressing if and when there is an appropriate use of AI in District business. Such policy should include any prohibitions on the use of assistive AI such as ChatGPT or similar; a process for seeking approval for unique use cases; and disclosure requirements if and when such assistive AI technologies are to be utilized for District business.

Status: *Pending [May 2024]*

R-1. The BPM has identified that there is a lack of institutional knowledge and record-keeping involving BPMs and others who have served in similar oversight roles of the Bond Construction Program. Currently, there is no requirement for those who fulfill the role of BPM to provide copies of their files – electronic and paper – and for those items to be indexed and uploaded to a central repository. This makes accountability and historical knowledge impossible and creates a gap in accurate record keeping. The District has paid for the reports, analysis, templates, written policies, procedures and processes created or generated by these entities/individuals and is therefore entitled to them.

Recommendation: The BPM recommends the creation of a centralized District-controlled SharePoint repository for all Bond Program oversight activities. Collection of all historical relevant materials from those who served in District Bond Construction Program Inspector General, BPM, or similar oversight roles should be initiated. Subsequently, a contractual provision should be drafted for inclusion in all future BPM contracts that the third-party serving in the BPM role be obligated to provide a copy of their produced documents to the District if not during, then upon conclusion of the contract. Rules of data governance should be drafted in coordination with the Office of General Counsel and include specific roles and privileges (Read/Write/Access), as well instructions for sharing, indexing, and data retention/destruction. Investigative reports would be redacted for appropriate



whistleblower protections and/or stored separately with the Office of General Counsel, where existing protocols protect the identity of whistleblowers.

Status: *In-Process [May 2024]*. The BPM is actively working with the Office of General Counsel to identify and gather historical data for the purposes of and begin to build the repository.

XV. Areas of Forthcoming Review and Audit

A quarterly work plan with schedule of areas of review is currently being drafted as part of the BPM's greater annual plan. The work plan is scheduled to be presented to the Chancellor during the second week of July, 2024.

XVI. Follow-Up Requests Received from the Board of Trustees

No requests from the District Board of Trustees have been received during this reporting period.

XIII. BPM Meetings Held with District Officials, Leaders & Stakeholders **During this period, the BPM has attended District meetings and met with officials and stakeholders from across the District's Bond Construction Program:**

- The BPM has held several meetings with the LACCD Chancellor, Dr. Francisco Rodriguez. Monthly standing calls have been scheduled.
- The BPM has met with Dr. Ruben Smith, Vice-Chancellor/Chief Facilities Executive of BuildLACCD. Monthly standing calls have been scheduled.
- The BPM has held several conversations with District CFO Jeanette Gordon.
- The BPM has regularly communicated with the District's Office of General Counsel.
- The BPM met with the BuildLACCD Program Director and PMO Executive Edwin Van Ginkel.
- In May, the BPM toured the BuildLACCD offices to get acquainted with departments.
- The BPM met with John Van Whervin, Deputy Program Director of Operations for BuildLACCD.



- The BPM met with Ian Erhardt, Associate Vice Chancellor of Capital Construction.
- The BPM worked with Maricela Gomez, BuildLACCD Communications Director to ensure the relevant page of BuildLACCD’s website reflected the new communications channels for contacting the BPM. Updates to the BuildLACCD site were completed June 21, 2024.
- The BPM attended the District Citizen Oversight Committee (DCOC) June 14, 2024, from Noon – 2:00 PM.
- The BPM attended the FMPOC meeting on June 26, 2024 5:00 – 6:45 PM.
- The BPM met with a number of college campus presidents and leadership from BuildLACCD.
- The BPM has communicated- and attempted to schedule a meeting- with the KPMG Director, Erika Alvord, responsible for the Bond Performance Audit team.

XVIII. Forthcoming Meetings with District Board of Trustees, Committees, or Other Stakeholders

- The BPM will attend the BuildLACCD Roundtable Meeting, scheduled for July 15, 2024
- The BPM will be meeting with campus-level PMOs during the month of July, 2024.
- The BPM will be attending the DCOC meeting on August 23, 2024

The BPM maintains an open-door policy and welcomes all District Board Members, members of the DCOC and stakeholders from across the District and the Build program to reach out with questions, concerns, recommendations, or just to say ‘hello.’ The Office of the BPM looks forward to helping ensure the continued integrity of the District’s Bond Construction Program.

Respectfully submitted,

Mikhail Gordon

Mikhail Gordon
LACCD Bond Program Monitor