

Florida TaxWatch

MONITORING AND OVERSIGHT OF GENERAL OBLIGATION BONDS TO IMPROVE BROWARD COUNTY SCHOOLS: SMART PROGRAM QUARTERLY REPORT

PRESENTED TO THE BROWARD COUNTY BOND OVERSIGHT COMMITTEE
DECEMBER 19, 2022

Q1
2022-23

Dear Fellow Taxpayer

The first quarter of the 2022-23 school year marks the first quarter of Year 9 of the SMART Program. This is significant in that all SMART projects were scheduled to begin by Year 5 and be completed by the end of Year 7. We now know that the current scheduled completion date for SMART projects is closer to late 2025 or early 2026. Rising inflation, supply chain disruptions, and worker shortages are expected to continue to impact construction costs and increase the overall financial risk of the SMART Program as well.

Year 9 begins with considerable uncertainty. Since the release of our last report to the Bond Oversight Committee, Governor DeSantis removed from office and replaced four sitting school board members, four new school board members were elected, and the Superintendent's employment was terminated. The District's leadership team continues to evolve, and staff continues to try to better understand and implement the recommendations contained in the final report of the Twentieth Statewide Grand Jury.

The rising risks and critical questions that need answers should remind us all why the Bond Oversight Committee exists and how critical the role of Florida TaxWatch is. I am extremely proud that the Grand Jury recognized Florida TaxWatch for its role and actions as a trusted and constructive third party/independent fiscal watchdog and I thank our professional staff and the citizen leaders on the Bond Oversight Committee for their efforts to keep Broward County taxpayers informed on how their tax dollars are being spent. Regardless of the continuing changes and pressures, Florida TaxWatch will continue to stick to the facts and sound fiscal principles which lead to better governance and taxpayer well-being. We look forward to working with the leadership of Broward County Public Schools as the work progresses.

I am pleased to present the following report, which includes the Florida TaxWatch review of the District's *Bond Oversight Committee Quarterly Report for the Quarter Ended September 30, 2022*. Florida TaxWatch staff will be available to present our findings and recommendations at the Committee's upcoming December 19, 2022, meeting.

Sincerely,

A handwritten signature in blue ink that reads "Dominic M. Calabro". The signature is written in a cursive, flowing style.

Dominic M. Calabro
President & Chief Executive Officer

Introduction

The Broward County Public Schools' *Bond Oversight Committee Quarterly Report for the Quarter Ended September 30, 2022 ("District Quarterly Report")* provides updated information on the implementation of the District's SMART Program and the use of general obligation bond funds to purchase and install technology upgrades, purchase music and arts equipment, improve school safety and security, upgrade athletic facilities, and renovate educational facilities.

The District Quarterly Report consists of an Introduction and the following eight sections:

- Section 1 --- Technology School Board Broward County (SBBC) Schools;
- Section 2 --- Technology Charter Schools;
- Section 3 --- Music, Art, and Theater Equipment;
- Section 4 --- Athletics;
- Section 5 --- Facilities;
- Section 6 --- Budget Activity;
- Section 7 --- Supplier Diversity Outreach Program; and
- Section 8 --- Communications.

The SBBC has provided guidance to the Bond Oversight Committee (BOC) in Section 4 of Resolution 15-106 (as amended). In reviewing quarterly reports prepared by District staff, the BOC is charged with:

- Verifying the effective use of bond proceeds and compliance with the purposes set forth in the bond programs as approved by the SBBC;
- Ensuring that bond revenues are expended for the purpose set forth in the bond programs as approved by the SBBC;
- Ensuring that any deferred proposals or changes of plans are executed after appropriate approval of the SBBC;
- Validating that no bond funds are used for any teacher or administrative salaries or other school operating expense; and
- Reviewing efforts by District staff to maximize bond revenues by balancing best value, quality, and efficiency in meeting the bond programs as approved by the SBBC.

To encourage greater accountability, transparency, public support, and confidence in the use of the general obligation bond funds, and to hold the District accountable for spending decisions, Florida TaxWatch has reviewed the District Quarterly Report against the most recent SMART Program schedule and budget and is pleased to present the following report and recommendations.

School Safety & Security

The tragic and senseless murder of 14 students and three faculty/staff at Marjory Stoneman Douglas High School in February 2018 focused nationwide attention on school safety and security. The recent mass murders of 19 students and two adults at an elementary school in Texas have once again put the issue of school safety and security in the national spotlight.

In February 2019, the Twentieth Statewide Grand Jury was impaneled to examine four issues related to school safety, including “whether school officials committed --- and continue to commit --- fraud and deceit by mismanaging, failing to use, and diverting funds from multimillion-dollar bonds specifically solicited for school safety initiatives” (like the SMART Program bonds). In its final report, released in August 2022, the Grand Jury found that the SBBC “has --- through deceit, malfeasance, misfeasance, neglect of duty and incompetence --- mismanaged the SMART Program.” Four elected SBBC members were subsequently removed from office and replaced with gubernatorial appointments.

The Safety component of the SMART program includes making District schools more secure through the installation of fences, gates, and barriers around school perimeters to restrict access through single points-of-entry. Other safety improvements (e.g., fire alarms and fire sprinklers, emergency exit signage, lighting improvements, door hardware, etc.) are bundled together as part of active Primary Renovations projects.

All Single Point-of-Entry Projects Have Been Completed

After the shootings at Marjory Stoneman Douglas High School, the SBBC accelerated the release of funds so all remaining Single Point-of-Entry projects could be initiated ahead of schedule. All remaining Single Point-of-Entry projects were complete and operational before students returned to school in the Fall of 2019, bringing the total number of Single Point of Entry projects to 238.

More Fire Alarm and Fire Sprinkler Projects are Moving into the Construction and Closeout Phases

The District Quarterly Report (reference page 38) identifies the status of 189 fire alarm and fire sprinkler projects (see Table 1) that are bundled as part of Primary Renovations projects. Compared to Q4 2021-22, the number of fire alarm projects that are now in the Construction Phase has increased from 70 to 87, and the number of fire sprinkler projects that are now in the Construction Phase has increased from 50 to 69.

Table 1.

Phase	Fire Alarms		Fire Sprinklers	
	Q1 2022-23	Q4 2021-22	Q1 2022-23	Q4 2021-22
Planning	0	0	1	1
Design	6	4	6	5
Hire Contractor	1	20	2	24
Construction	87	70	69	50
Complete/Closeout	6	6	11	9
Total	100	100	89	89

Other Safety and Security Improvements That are Bundled as Part of Primary Renovations Projects are Experiencing Delays

In addition to fire alarms and fire sprinklers, there are other SMART Program safety improvements such as emergency exit signage/lighting improvements, fencing, and door hardware, that are bundled together as part of active Primary Renovations projects. In response to concerns by Committee member Demopoulos, Florida TaxWatch has done a deeper dive and reviewed the *School Spotlights* (reference pages 63 through 345) for each school to determine the status of active Primary Renovations projects with scopes of work that include one or more activities related to student safety and security.

Florida TaxWatch identified 123 such projects. Their completion is tied to the schedule for the Primary Renovations projects into which they are bundled; however, 22 of these Primary Renovations projects are “flagged” for schedule delays, three are flagged with budget issues, and the remaining 98 projects are not flagged and are presumed to be on schedule. The three schools at which Primary Renovations projects are “flagged” for budget issues are: Lauderhill Community School at Park Lakes; Morrow Elementary School; and Pembroke Lakes Elementary School. The 22 schools at which Primary Renovations projects are “flagged” for schedule delays are identified in Table 2.

NOTE: It is important to recognize and understand that the improvements related to student safety and security may be in place and operational, and that the other activities with which the safety and security improvements are bundled (e.g., re-roofing, building envelope and interior renovations, etc.) may be the reason a given Primary Renovations project is flagged for schedule issues.

Table 2.

Delayed Primary Renovations Projects That Include Safety & Security Improvements	
Blanche Ely High School	Nova Middle School
Castle Hill Elementary School	Pompano Beach Elementary School
Deerfield Beach Elementary School	Pompano Beach Middle School
Embassy Creek Elementary School	Ramblewood Elementary School
Forest Hills Elementary School	Riverglades Elementary School
Griffin Elementary School	Sea Castle Elementary School
Lauderdale Lakes Elementary School	South Broward High School
Lloyd Estates Elementary School	Sunland Park Academy
Maplewood Elementary School	Village Elementary School
Miramar High School	West Hollywood Elementary School
North Lauderdale Pre K-8	Westwood Heights Elementary School

The current SMART Program budget for school safety and security improvements is \$164.7 million. A summary of school safety and security budget activity through September 30, 2022, is presented in Table 3.

Table 3.

SMART Program Safety and Security Project Budget Activity (Through September 30, 2022)								
		Original	Current	Prior Year			Current Year	
		Budget	Budget	Expenditures	Commitments	Expenditures	Expenditures	Balance
Financially Active								
	GOB Funds	\$83,188,473	\$83,012,389	\$40,322,472	\$24,492,276	\$2,308,345		\$15,889,296
	Non-GOB Funds	\$15,038,387	\$49,991,617	\$24,948,547	\$15,692,742	\$1,976,394		\$7,373,934
Completed/Meets Standards								
	GOB Funds	\$23,578,592	\$20,669,245	\$19,201,367	\$550,459	\$84,971		\$832,448
	Non-GOB Funds	\$3,748,673	\$10,989,743	\$9,573,568	\$628,811	\$140,201		\$647,163

Music, Art, and Theater

The Music, Art, and Theater Spend Portion of the SMART Program is Complete

Overall, more than 60,000 pieces of musical equipment have been ordered and delivered. A summary of the music equipment purchased through the SMART Program is provided in Table 4.

Table 4.

Music Equipment Ordered and Delivered (Final)		
	Ordered	Delivered
Elementary	47,342	47,342
Middle	3,847	3,847
High	8,303	8,303
Center	584	584
TOTAL	60,076	60,076

The District reports that all 136 kilns have been purchased and delivered to the schools. Installation of two kilns (at the same site) awaits design approval to relocate the kilns. Planned theater upgrades have been completed at all 40 schools with full or part-time theater programs.

The current SMART Program budget for music, art, and theater equipment is \$45.6 million. A summary of SMART Program budget activity through September 30, 2022, is provided in Table 5.

Table 5.

SMART Program Music, Arts, & Theater Project Budget Activity (Through September 30, 2022)							
		Original Budget	Current Budget	Prior Year Expenditures	Commitments	Current Year Expenditures	Balance
Financially Active							
	GOB Funds	\$12,010,000	\$12,304,052	\$5,745,450	\$2,993,987	\$368,501	\$3,196,114
	Non-GOB Funds	\$3,055,000	\$7,767,498	\$3,247,242	\$2,359,984	\$448,045	\$1,712,227
Completed/Meets Standards							
	GOB Funds	\$5,482,000	\$5,482,000	\$4,994,600	\$186,929	\$16,241	\$284,230
	Non-GOB Funds	\$20,518,000	\$20,069,850	\$19,896,917	\$142,503	\$9,822	\$20,608

Athletics

The Athletics Spend Portion of the SMART Program is Complete

The 15 planned track resurfacing projects at the three middle schools and 12 high schools were completed as of September 30, 2018, and the 30 planned weight room upgrades were completed as of March 31, 2021.

The current SMART Program budget for Athletics is \$6.8 million. A summary of SMART Program expenditures through September 30, 2022, is provided in Table 6.

Table 6.

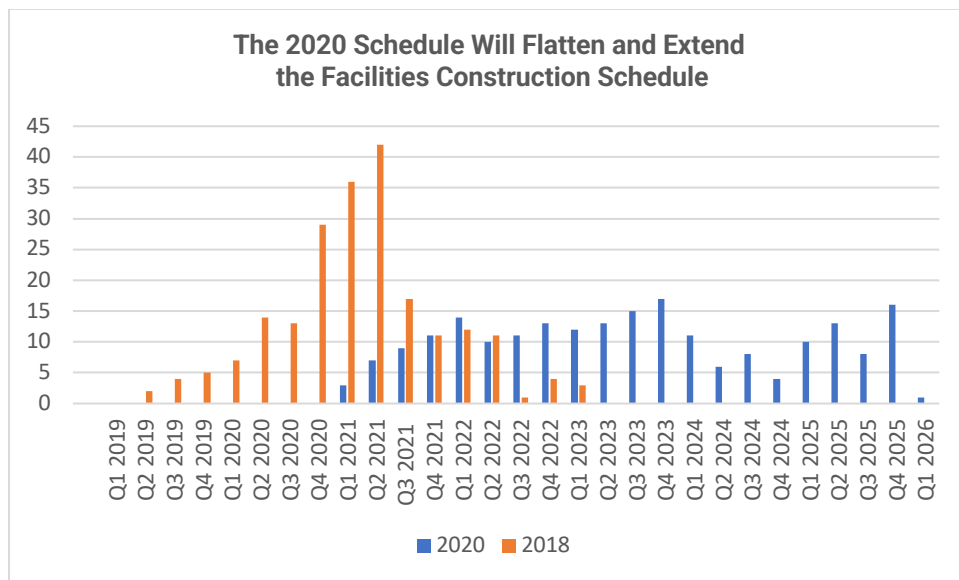
SMART Program Athletics Project Budget Activity (Through September 30, 2022)								
		Original Budget	Current Budget	Prior Year Expenditures	Commitments	Current Year Expenditures	Balance	
Financially Active								
	GOB Funds	\$30,000	\$30,000	\$17,939	\$9,698	\$778	\$1,585	
	Non-GOB Funds	\$0	\$9,593	\$5,232	\$2,653	\$261	\$1,447	
Completed/Meets Standards								
	GOB Funds	\$7,343,360	\$6,518,351	\$6,506,634	\$7,179	\$176	\$4,362	
	Non-GOB Funds	\$126,640	\$215,463	\$203,652	\$582	\$311	\$10,918	

Renovations

The most recent (Schedule 2020) revision to the construction schedule acknowledges that nearly all projects have been flagged and deemed at risk of schedule delays with potential budget impacts and reflects completion of most planned facility construction projects in late 2025, with remaining projects completed in Spring 2026 (a delay of an additional three years).

Figure 1, which overlays the 2020 Schedule with the previous (2018) schedule, shows that the 2020 Schedule will flatten and extend the facilities construction schedule, extending the completion dates for more than 140 planned Primary Renovations projects by more than two years.

Figure 1.

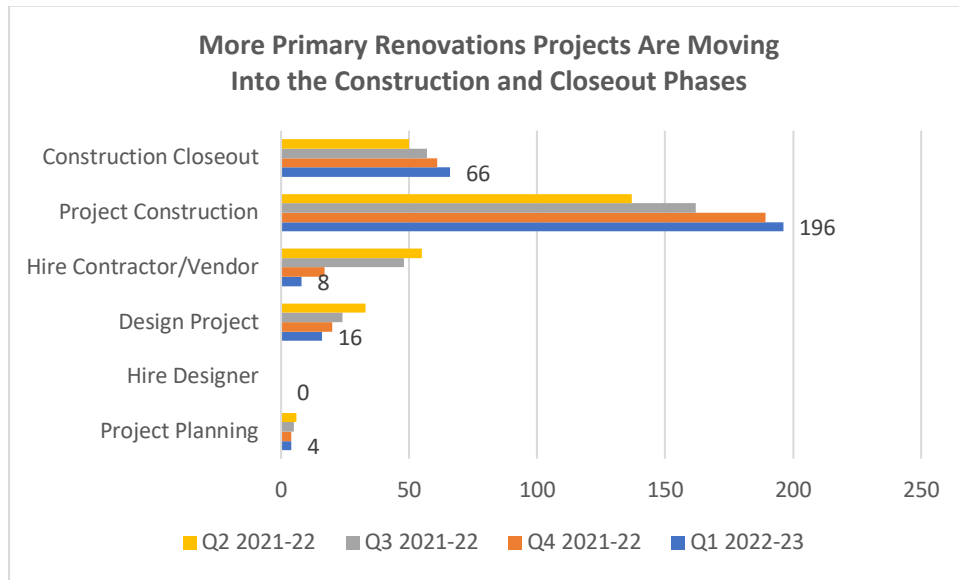


More Primary Renovations Projects are Moving Into the Construction Phase

The District reports that there are currently 196 Primary Renovations projects under active construction, and another 66 Primary Renovations projects either completed or in the process of being closed. The status of the Primary Renovations projects over the past four quarters is shown in Figure 2.

When compared to Q4 2021-22, Figure 2 shows a decrease in the number of active Primary Renovations Projects in the Design Phase (20 to 16); a decrease in the number of active Primary Renovations Projects in the Hire Contractor/Vendor Phase (17 to 8); and an increase in the number of active Primary Renovations Projects in the Project Construction Phase (189 to 196). All of these numbers are moving in the right direction. Florida TaxWatch considers this to be a good sign since project delays have occurred most frequently in the Design Phase. In addition, the number of Primary Renovations projects in the Construction Closeout Phase has increased from 61 to 66.

Figure 2.



The Number of Primary Renovations Projects Flagged for Schedule Delays has Remained Steady¹

Schedule flags reflect a risk of or inability to meet the planned milestone date for progressing to the next phase in the process. Schedule flags are removed once the project has regained the time and is back on its planned schedule. With the adoption of the 2020 Schedule, the list of projects flagged for schedule-related issues (i.e., delays) was effectively “wiped clean.” The District identified 42 Primary Renovations projects (reference page 29) that, at the end of the reporting period, are experiencing schedule delays and 46 Primary Renovations Projects that are ahead of schedule.

Of the 42 Primary Renovations projects that are delayed, contract work for 32 projects has already been completed and the owner (District) has requested additional work (reference page 29). This delays the issuance of a Certificate of Occupancy (Form 110B), which is generally issued when a project reaches “substantial completion.”² The remaining ten projects are experiencing delays due to contractor errors and omissions, contractor delays, unforeseen conditions, and material shortages and supplier delays (reference page 41).

¹ In the Q4 2021-22 District Report, the District flagged 37 Primary Renovations projects as being delayed. In its review of the *School Spotlights*, Florida TaxWatch identified 126 Primary Renovations projects as being flagged for schedule issues. This prompted the District and AECOM to revisit this issue, during which they discovered that a “technology glitch” occurred, resulting in a miscount of flagged projects. A subsequent review of amended *School Spotlights* by Florida TaxWatch identified 42 Primary Renovations projects flagged for schedule issues.

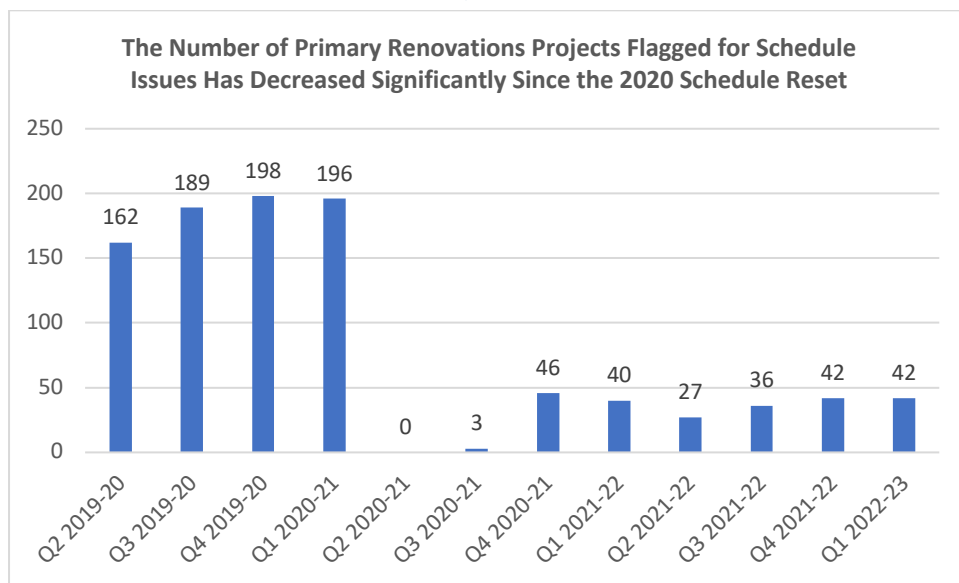
² “Substantial completion” occurs when the owner can make use of the building or occupy the building or portion thereof, where only minor work remains. Substantial completion has been met when only minor, corrective, or warranty work remains for the project.

RECOMMENDATION 1

It is unclear why the District (owner) would require additional work for Primary Renovations projects whose contract work has been completed. This delays receipt of a Florida Department of Education Form 110B (Certificate of Occupancy) pending completion of the additional work required by the District. Florida TaxWatch recommends the District brief the Bond Oversight Committee on the reasons for the additional work for these 32 Primary Renovations projects at the December 19, 2022 meeting.

Figure 3 shows that, since the 2020 Schedule Reset (Q2 2020-21), the number of Primary Renovations projects flagged for schedule issues had been greatly reduced.

Figure 3.



Fewer Primary Renovations Projects are at Greater Risk of Additional Redesign or Other Changes

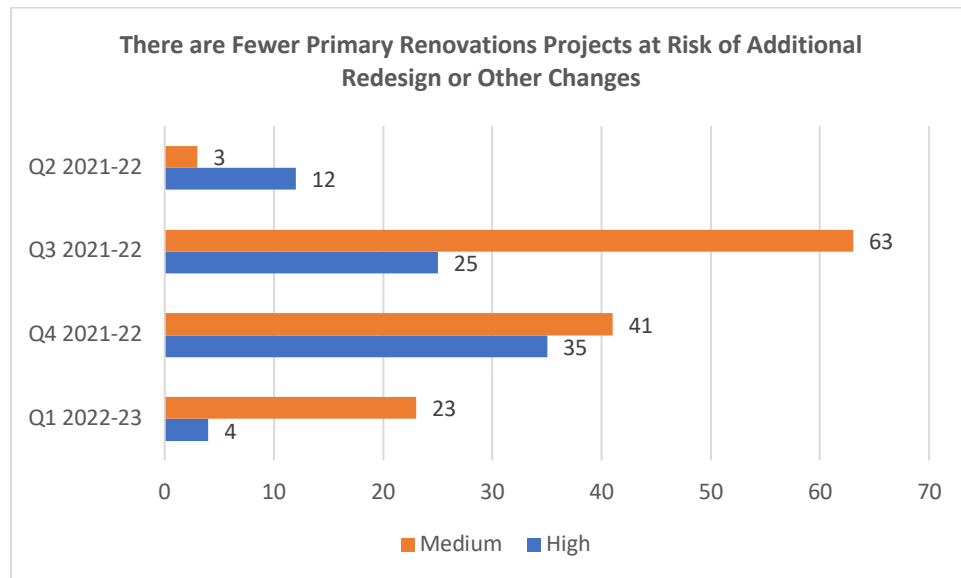
The *School Spotlight* forms have been revised to include an additional indicator of risk. Fashioned after a traffic signal, each *School Spotlight* includes the following assessments of risk (reference page 62):

- **Red** --- reflects a high level of risk and can cause budget and/or schedule impact to the project. A resolution has not yet been determined or put in place;
- **Yellow** --- reflects a medium level of risk and may cause an impact to the project budget and or schedule, with a resolution planned and in process; and
- **Green** --- reflects a low level of risk with little/o impact to the project budget and/or schedule but is being tracked.

Florida TaxWatch reviewed the *School Spotlight* for each school in the Q1 2022-23 District report to identify those Primary Renovations projects that have been assigned a high level (red) or medium level (yellow) of risk. As shown in Figure 4, Primary Renovations projects at only four schools (Cypress Bay High School, Sea

Castle Elementary School, Silver Shores Elementary School, and Sunland Park Academy) were assigned a high level of risk. This is a significant reduction when compared to Q4 2021-22 (35 high risk projects). Likewise, the number of Primary Renovations projects assigned a medium level of risk in Q1 2022-23 (23) was lower than the number of Primary Renovations projects assigned a medium level of risk (41) in Q4 2021-22. Florida TaxWatch considers this mitigation of additional risk to be significant (in a good way) and worthy of discussion with the Bond Oversight Committee.

Figure 4.



RECOMMENDATION 2

Florida TaxWatch recommends the District brief the Bond Oversight Committee at its December 19, 2022 meeting on the measures that were taken to significantly reduce the number of Primary Renovations projects assigned high and medium levels of risk.

The SBBC has Approved the Delegation of Authority for the Superintendent to Approve Certain Change Orders

Change orders undergo review by the Change Order Review Process (CORP) to make sure they are fair and reasonable and to identify the reasons for the changes. Several rounds through CORP may be necessary to gain the necessary approvals. Once CORP approves a change order, it then goes to the SBBC for approval. Florida TaxWatch has previously recommended that, based upon the average length of time required to navigate the change order process (192 days), the SBBC should delegate authority to the Superintendent to approve change orders up to \$25,000.³

³ According to District staff, approximately 85 percent of all change orders are below the \$25,000 threshold.

During Q1 2022-23, the SBBC approved Policy 8000, which delegated authority to the Superintendent to approve change orders, subject to the following limitations (reference page 39):

- The Superintendent is authorized to approve all change orders up to \$5,000, provided the cumulative total of all change orders for a specific project has not reached the cumulative limits identified below.
- The Superintendent is authorized to approve change orders above \$5,000 and up to \$25,000, provided the cumulative total of all change orders for a specific project has not reached the cumulative limits identified below. All change orders above \$5,000 will be reviewed by the District's Change Order Review Process (CORP) and a recommendation will be provided to the Chief Facilities Officer prior to any authorization by the Superintendent.
- For construction projects \$3 million or less, the cumulative limit of authority is three percent of the original construction contract amount.
- For construction projects above \$3 million, the cumulative limit of authority shall be three percent of the first \$3 million of original construction contract amount, plus one percent of the balance of the original construction contract amount over \$3 million, up to a maximum of \$250,000.
- When the cumulative total of all change orders on a project has exceeded these established ceilings, all subsequent change orders will require prior SBBC approval, except in emergency cases as declared by the Superintendent, or where the change order in question would be in the form of a credit, thereby reducing the Adjusted Contract amount.
- After approval of change orders by the Superintendent, notice shall be provided to the SBBC in a monthly report, outlining such approvals. Although all change orders will be confirmed by the SBBC at the project closeout, this does not preclude change orders that exceed the cumulative limits from requiring prior Board approval.

Change Orders Resulting from Consultant Errors and/or Omissions Have Cost Broward Taxpayers More Than \$4.68 Million

As projects move from the Design Phase to the Construction Phase, the District tracks change orders as they occur and reports their relative impact. Florida TaxWatch was unable to find in the Q1 2022-23 any specific information on the number of change orders approved in Q1, their costs to the taxpayers, or the reasons for the change orders. The District did, however, include cumulative information on change orders which, presumably addresses all SMART Program change orders approved through September 30, 2022 (reference page 40).

Most change orders are the result of unforeseen conditions; however, of the more than \$8.95 million in change orders that required additional funds, \$4.33 million was due to unforeseen conditions. The majority of the remaining change orders (\$4.68 million) were due to consultant error (\$2.05 million) or consultant omission (\$2.63 million). At the September 27, 2021, meeting, BOC members made clear their expectations that any misspent funds be recovered by the District.

RECOMMENDATION 3

Florida TaxWatch recommends the District identify in its Q2 2022-23 Report (and subsequent reports) to the Bond Oversight Committee an updated and current list of change orders approved during the reporting quarter.

RECOMMENDATION 4

Florida TaxWatch recommends District staff brief the Bond Oversight Committee at its December 19, 2022 meeting on (1) the reasons for so many change orders being due to consultant errors or omissions; and (2) the status of efforts to recover funds paid to consultants for their errors or omissions.

Building Department Delays During the Design Phase Persist

Much has been written about the delays experienced in the Design Phase, which Florida TaxWatch has previously referred to as the “pig in the python.” At the September 27, 2021, BOC meeting, Ms. Langan (AECOM) explained that the 2018 schedule (shown in orange in Figure 1) was based on the assumption that design documents would be reviewed twice by the Building Department before approval. The actual number of building department reviews of design documents was trending at nine or ten reviews, which would have pushed back the completion of the planned renovations into 2027. The 2020 Schedule, which envisions the completion of the planned renovations in late 2025 or early 2026, assumes five building department reviews. BOC members have expressed and reiterated their opposition to the 2020 Schedule reset and any subsequent resets because “that obscures how far behind some of these projects really are.”

Revisions to the *School Spotlight* for each school (reference pages 63 through 345) now permit the taxpayer to better visualize and understand the amount of time that any given Primary Renovations project spends in the Design Phase. During its review of the District’s Q3 2021-22 Report, Florida TaxWatch looked at the amount of time each Primary Renovations project that has progressed beyond the Design Phase spent in the Design Phase (as identified on each school’s *School Spotlight*). Florida TaxWatch calculated a range of from one quarter to 22 quarters, or from three months to more than five years. Florida TaxWatch calculated a median value of 8.0 quarters, or up to 24 months. This means that 50 percent of the Primary Renovations projects spent more than 24 months in the Design Phase.

With only 20 SMART Program Primary Renovations projects yet to progress out of the Design Phase, it may be too late to take meaningful steps to reduce the number of “back and forths” between design firms and the Building Department and the resulting delays; however, the problems and inefficiencies identified by Florida TaxWatch and by the Twentieth Statewide Grand Jury require immediate corrective actions.

RECOMMENDATION 5

Florida TaxWatch recommends the District brief the Bond Oversight Committee at its December 19, 2022 meeting on steps taken by the Building Department to reduce the number of “back-and-forths” between design firms and the Building Department.

Primary Renovations Projects Continue to Experience Budget-Related Issues

Budget issues reflect a need for School Board approval of an increase in funding based on bid and/or change order results. When the School Board approves the necessary budget increase, the Budget flags are removed from the school's *School Spotlight*. The District identified Primary Renovations projects at five schools (reference page 48) flagged for Budget issues in the District's Q1 2022-23 Report. The budgets for these five projects totaled more than \$19.69 million.

It is Unclear Whether the District is Continuing to Hold Vendors Accountable

Florida TaxWatch has included recommendations in previous reports to the Bond Oversight Committee that the District identify actions taken to enforce the terms and conditions of contracts with design firms, vendors, and contractors. The Q3 2021-22 Facilities Report includes a "running list" of financial penalties that have been collected from firms for delays (reference page 46). The District reported that it had recovered \$765,450 in penalties from an unspecified number of architects/engineers who experienced delays in the Design Phase. Florida TaxWatch was unable to find in the District's Q4 2021-22 Report an updated and current "running list" of financial penalties that have been collected from firms for Design-related delays. The same can be said for the District's Q1 2022-23 Report.

RECOMMENDATION 6

Florida TaxWatch recommends the District identify in its Q2 2022-23 Report (and subsequent reports) to the Bond Oversight Committee an updated and current running list of financial penalties that have been collected from firms for Design-related delays.

Delays and Elevated Risk Levels at the "Big 3" Schools Have Diminished

In its review of the District's Q3 and Q4 2021-22 Reports, Florida TaxWatch found the District's summary of the status of Primary Renovations projects at the "Big 3" schools to be misleading and incomplete, and recommended that future District reports provide a concise, complete, and balanced summary that is consistent with, and not in conflict with, information contained on the *School Spotlight* for each school. In response to Florida TaxWatch's recommendations, the District's summary of the status of Primary Renovations projects at the "Big 3" schools is more informative (reference pages 29 and pages 32-36). The status of the Primary Renovations projects at the "Big 3" schools is as follows:

- **Blanche Ely High School** --- the District reports that the school has updated its roofing, HVAC systems, concessions area and outdoor dining area. The Primary Renovations project is 100 percent and closeout/inspection paperwork is in progress (reference page 33). What the District fails to include, as reflected on the *School Spotlight* (reference page 80) is that the Primary Renovations project, although 100 percent complete, has been flagged for schedule delays because of contractor delays. The schedule on the *School Spotlight* suggests that Construction Closeout is scheduled to be completed during Q4 of calendar year 2022. Although the risk level of the Primary Renovations project has decreased from "high" in the Q4 2021-22 report to "no risk" in the Q1 2022-23 report, there is no explanation as to why the risk level for additional redesign or other changes is no longer high.

- **Northeast High School** --- the District reports that the Primary Renovations are 87 percent complete, with planned improvements at buildings 1, 85, and 86 are complete. The following improvements are in progress:
 - Building 2 --- 86 percent complete;
 - Building 3 --- completion scheduled for May 2023;
 - Building 4 --- 90 percent complete, with completion scheduled for Q1 of calendar year 2023;
 - Building 5 --- 85 percent complete, with completion scheduled for Q1 of calendar year 2023; and
 - Building 6 --- 95 percent complete.

The new classroom addition is 25 percent complete. Construction of the substructure is complete and the walls are scheduled to be erected in November 2022, after curing. There are no schedule or budget flags, and the risk of additional redesign or other changes is low to none.

- **Stranahan High School** --- the District reports that contracted Primary Renovations are 100 percent complete; however, change orders are under review for additional roofing drainage; roofing structural changes; building 6 kiln room; and structural issues at buildings 17 and 18. There are no schedule or budget flags, and the risk of additional redesign or other changes is low.

RECOMMENDATION 7

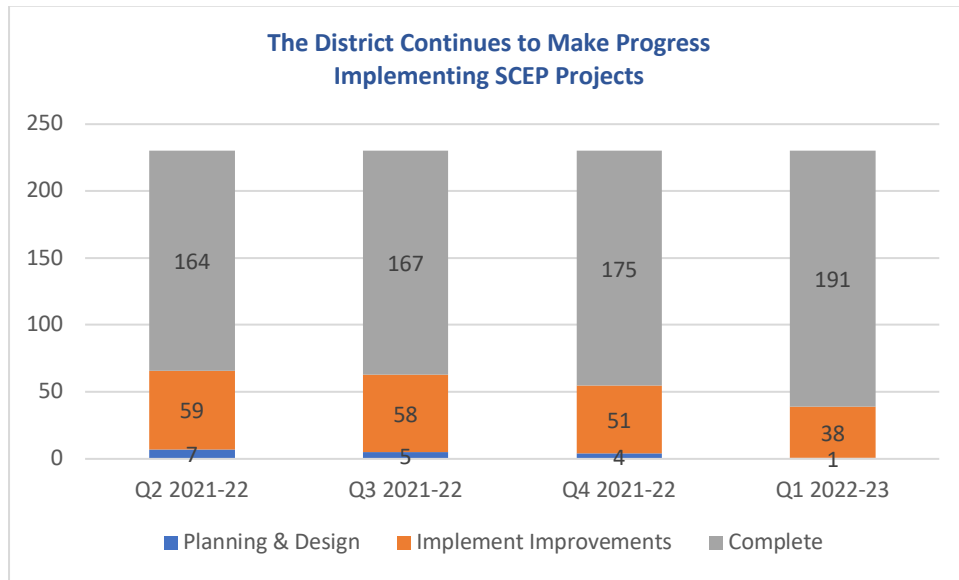
Florida TaxWatch recommends that the District brief the Bond Oversight Committee at its December 19, 2022 meeting why the Primary Renovations project at Blanche Ely High School, although 100 percent complete, has been flagged for contractor delays, and why the risk level for additional redesign or other changes is no longer high.

School Choice Enhancement Program Projects are Underway or Complete at 230 Schools

School Choice Enhancement Project (SCEP) projects are budgeted at \$100,000, and the scope of the capital project (e.g., electronic marquees, shade structures, playgrounds, etc.) is determined by a vote of the teachers, staff, and parents of students at the school.

As of September 30, 2022, the number of SCEP projects in the Planning Phase decreased from four to one. The second phase (Implementation) includes selection and procurement. There are currently 38 schools in the second phase, down from 51 in Q4 2020-21. The third phase (Completion) occurs when all items have been delivered and installed. There are 191 schools with completed SCEP projects, up from 175 in Q4 2021-22. As shown in Figure 5, the number of SCEP projects that are in the Planning and Design Phase has decreased over the past four quarters and the number of Completed projects has increased.

Figure 5.



The current SMART Program budget for facility renovations is \$1.242 billion. A summary of SMART Program expenditures for facility renovation through September 30, 2022, is provided in Table 7.

Table 7.

SMART Program Renovations Project Budget Activity (Through September 30, 2022)							
		Original Budget	Current Budget	Prior Year Expenditures	Commitments	Current Year Expenditures	Balance
Financially Active							
	GOB Funds	\$486,507,875	\$503,010,027	\$249,688,668	\$146,753,742	\$18,776,588	\$87,791,029
	Non-GOB Funds	\$64,965,969	\$452,169,404	\$158,385,669	\$186,580,929	\$19,147,269	\$88,055,537
Completed/Meets Standards							
	GOB Funds	\$143,170,700	\$145,677,862	\$129,857,190	\$5,923,148	\$1,081,426	\$8,816,098
	Non-GOB Funds	\$37,450,867	\$134,502,848	\$120,836,531	\$5,098,629	\$949,874	\$7,617,814

Technology

The Technology Spend Portion of the SMART Program is Complete

As of June 30, 2018, the planned SMART technology deployment has been fully completed for all 230 SBBC schools. The planned charter school SMART Program technology projects were completed as of March 31, 2017.

The District reports that all SBBC schools now comply with the District's standard of 1 computer for every 3.5 students. With the additional computers purchased with SMART Program funds, the District-wide average ratio of students to computers is now 2:1. A summary of SMART Program Technology purchases for traditional SBBC and charter schools is provided in Table 8.

Table 8.

School Technology Purchases (Final)			
Items	SBBC Schools	Charter Schools	Total
Student Laptops	64,455	5,086	69,541
Teacher Laptops	13,333	1,417	14,750
Desktops	5,051	1,712	6,763
Tablets	523	3,099	3,622
Computer Carts Trays	1,066	316	1,382
Wireless Access Points	13,166	0	13,166
Category 6 Cable Drops	12,738	0	12,738
Digital Classrooms	0	1,347	1,347
Accessories & Peripherals	0	3,394	3,394

Additional infrastructure upgrades have been made at the District's Technical Support Services Center (TSSC) to support the additional demand for improved network capacity, reliability, and security. The following TSSC infrastructure upgrades (to support upgrades for school networks and computer expansion) have been completed:

- Implement a new "Next Generation Firewall" at the District's Internet perimeter;
- Improve the speed and capacity of the systems that manage and balance the Internet traffic pattern and load distribution;
- Upgrade the application-specific load balancing system;
- Improve the reliability of critical network services and systems;
- Improve the speed and capacity of the core network;
- Replace the out-of-service tape back-up system with a virtual back-up tape solution;
- Replace the existing automatic call distribution system with one that will be integrated into the District's current voice application system;
- Relocate and build storage for offsite disaster recovery;
- Replace disk storage that supports the Enterprise Resource Planning (ERP) system;
- Implement enhanced content filters;

- Build firewall internet capacity;
- Update data network infrastructure;
- Address the immediate need for additional storage space;
- Upgrade systems that support the Student Information System and Data Warehouse;
- Provide additional capacity to support Internet growth and security requirements;
- Replace/upgrade back-up to an enterprise solution;
- Provide additional hardware to support centralized management tools Local Area Network endpoints (laptops/desktops); and
- Replace UPS devices and computer batteries at all schools and District sites as needed.

A January 2021 independent audit of the SBBC's compliance with its purchasing policies and requirements related to the purchase of technology devices concluded that, although the purchase of technology devices comports with the Technical Advisory Committee's recommendations and specifications and meets budgetary requirements, the reliability of the equipment purchased was called into question.

*"The SBBC purchase of Lenovo equipment (laptops and tablets) ultimately prove not to hold their initial quality several months after actual usage by students and teachers... The evidence of over 10,000 support tickets adds more credence to the notion of SBBC procuring more robust equipment going forward."*⁴

The current SMART Program budget allocates \$68.5 million to purchase computer devices and hardware for SBBC schools and charter schools, and to fund upgrades at the Technology and Support Service Center (TSSC) necessary to support the additional computer devices and hardware. A summary of SMART Program budget activity through September 30, 2022, is provided in Table 9.

Table 9.

SMART Program Technology Project Budget Activity (Through September 30, 2022)							
		Original Budget	Current Budget	Prior Year Expenditures	Commitments	Current Year Expenditures	Balance
Financially Active							
	GOB Funds	\$11,000,000	\$11,000,000	\$10,933,757	\$51,995	\$13,211	\$1,037
	Non-GOB Funds	\$0	\$0	\$0	\$0	\$0	\$0
Completed/Meets Standards							
	GOB Funds	\$38,489,000	\$36,825,538	\$36,807,636	\$2,335	\$10,937	\$4,630
	Non-GOB Funds	\$42,343,000	\$37,900,084	\$37,898,472	\$0	\$0	\$1,612

⁴ HCT Certified Public Accountants and Consultants, LLC, "The School Board of Broward County, Florida, Bid #16-059E – IT Technology Devices Agreed-Upon Procedures Report," January 22, 2021.

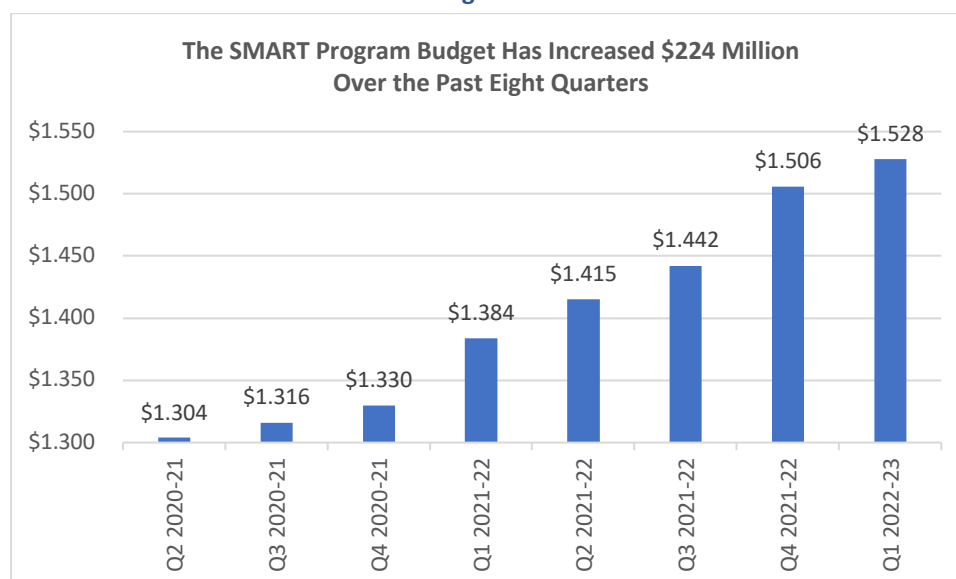
Budget Activity

The SMART Program Total Budget has Increased to \$1.528 Billion

The District Quarterly Report provides expenditure information for financially active projects as well as projects that have been completed. The 2020 Schedule includes SMART Program activity through the end of calendar year 2025 and possibly into 2026, which necessitates a longer financial outlook. As previously recommended by Florida TaxWatch, the District has included in the Q1 2022-23 Report SMART Program budget allocations for years nine (FY 2022-23) through 11 (FY 2024-25). The previous allocations of \$151.6 million in reserve funds for years 10 and 11 have been realigned into year 9 to align with the award of construction projects. These funds will carry over with the projects until completion in year 11.

The SMART Program total budget has increased from \$1.506 billion in Q4 2021-22 to \$1.528 billion in Q1 2022-23, a net increase of about \$21.7 million (see Figure 6). This represents an increase of about \$541.0 million over the original budget of \$987.4 million (\$800 million GOB funds plus \$187.4 million in existing capital resources). Over the past two fiscal years, the SMART Program budget has increased by \$224 million (see Figure 6).

Figure 6.



SMART Program expenditures increased from \$868,137,786 in Q4 2021-22, to \$913,457,926 in Q1 2022-23, an increase of about \$45.3 million. The District reports a SMART Program balance (current budget minus commitments and expenditures) of \$222.6 million at the end of Q1 2022-23. Beginning in Q4 2018-19, quarterly SMART Program expenditures more than doubled, reflecting a significant increase in facility renovations. Since then, quarterly expenditures have remained at sustained elevated levels, averaging about \$48.8 million per quarter, or about \$16.3 million per month.

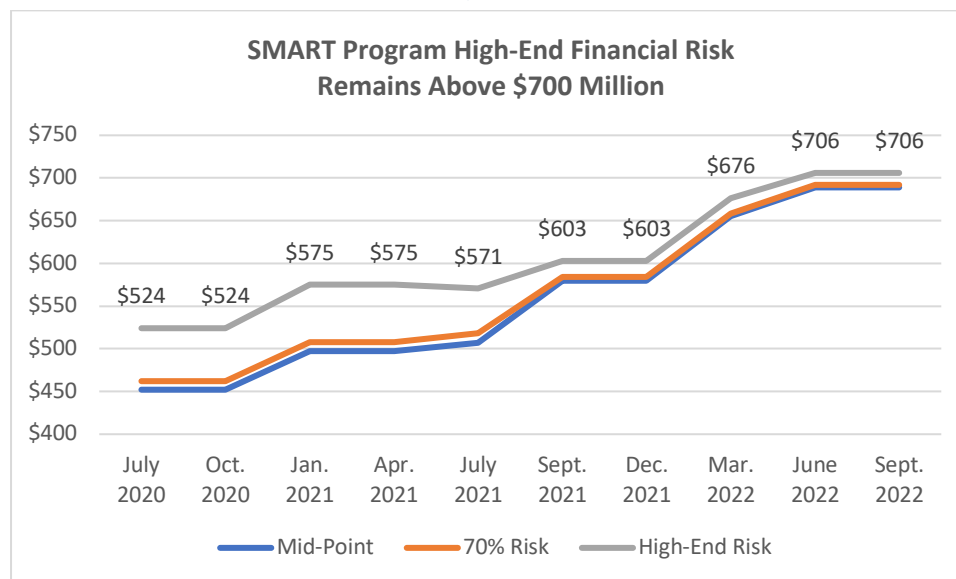
With an unspent balance (current budget minus expenditures) of about \$614.0 million, if the District continues to spend at the current rate of \$16.3 million per month, the District will exhaust the remaining unspent SMART Program funds in about 38 months, or near the end of calendar year 2025. This aligns more closely with the 2020 Schedule for planned facility construction. In previous reports, Florida TaxWatch has expressed concern that, at the current spend/burn rate, the District may exhaust the remaining unspent SMART Program funds well before the planned facilities construction projects have been completed. Recalculating the spend/burn rate using Q4 2018-19 as the baseline, this concern appears to have been alleviated.

During Q1 2022-23, the SBBC approved six SMART Program budget amendments totaling \$21.67 million. Since inception of the SMART Program, the SBBC has approved 301 SMART Program budget amendments with a net increase of \$540.1 million.

SMART Program Financial Risk Remains Unchanged from June 2022

It has been previously understood that higher rates of inflation, higher roofing and mechanical/electrical/fire protection costs, and items that were excluded from the original scopes of work would increase the costs of SMART Program construction projects. The most recent (September 2022) assessment of financial risk prepared by Atkins⁵ is unchanged from the June 2022 assessment (see Figure 7). Atkins estimates the SMART Program financial risk will range from a low (mid-point risk) of \$689 million to a high (high end risk) of \$706 million, with a most likely estimate (70 percent risk) near \$692 million.

Figure 7.



With 85 percent of the SMART projects under contract, Atkins believes its running construction budget (RCB) base provides a more accurate risk assessment. Atkins notes that any opportunity for potential reduction in future costs is now minimized, since the Design Phase is nearly completed and project costs

⁵ Atkins North America is an outside firm hired by the District to help control SMART Program costs.

have been estimated, and the market shows no signs of greatly increased competition (that could decrease future pricing). Other cost factors that have influenced the risk results include:

- Actual roofing costs that are well above the initial established budgets;
- Cumulative impact of higher-than-budgeted inflation;
- Scope creep;
- Higher current/actual prices and estimates for classroom additions; and
- Material supply chain disruptions.

SMART Program Reserve Funding is Insufficient to Cover the Most Likely or High Risk Financial Scenario

Florida TaxWatch considers the issue of financial risk to be the greatest concern and controlling project costs and mitigating the additional financial risk to be the greatest challenge facing the District as SMART project implementation moves forward. The District originally set aside \$225 million (reserve) to mitigate potential funding risks in the SMART Program. In March 2020, the District authorized the issuance of \$250 million in Certificates of Participation (COPs) to provide supplemental funding for SMART Program risk, \$211 million of which was placed into the SMART Program reserve. In July 2020, the SBBC approved a new SMART Program Project Manager/Owner's Representative (PMOR) contract which had a budget impact of \$47.2 million. This amount was added to the District's reserve, increasing the total SMART Program reserve to \$483.2 million.

In September 2021, the SBBC placed in reserve an additional \$29 million to replace Building 1 at Markham Elementary School and \$46 million to cover expected SMART Program increases in FY 2023-24 and FY 2024-25, bringing the total amount of funds in reserve to \$558 million. After the fourth and final tranche of general obligation bonds was sold, the SBBC added the cumulative bond premiums (\$133 million) to the SMART Program reserves, increasing the total amount of reserve funds to \$691 million.

This amount is sufficient to meet only the low (mid-point risk) scenario of \$689 million. Additional reserve funding will be required to cover the additional financial risk associated with the most likely estimate (70 percent risk) of \$692 million and the high end (100 percent) risk scenario of \$706 million.

Subtracting the total amount for SBBC-approved items from the total SMART Program reserves yields a current balance of reserve funds in the amount of \$139 million (reference page 14). This amount is about \$12.6 million less than the amount of additional reserve funds (\$151.6 million) identified in the SMART Program budget (reference page 349) for years 9 (current year) through 11 (FY 2024-25).

Hard and Soft Costs Remain Unchanged

Bond Oversight Committee members have, on more than one occasion, requested a breakdown of "hard costs" versus "soft costs" of SMART projects. "Hard costs" include tangible expenses that are directly related to the physical construction or implementation of the project's scope, and include such costs as materials, equipment, labor and supervision, etc., and typically make up about 65-75 percent of total budget. "Soft costs" include expenses that are indirectly related to the physical construction or

implementation of the project's scope, and include such costs as architect and engineering fees, program management fees, furniture and fixtures, general and administrative costs, etc., and typically make up 30-35 percent of total budget.

As previously recommended by Florida TaxWatch, the District's Q1 2022-23 Facilities Report includes a breakdown of hard and soft costs for 41 schools at which construction activities had reached substantial/final completion. Although hard costs typically make up 65-70 percent of a project's total budget, the hard costs for the 41 schools identified (reference page 49) range from 62 percent (West Broward High School) to 91 percent (Forest Hills Elementary School). Although soft costs typically make up 30-35 percent of a project's total budget, the soft costs for the 41 schools identified range from 9 percent (Forest Hills Elementary School) to 38 percent (West Broward High School).

In previous reports, Florida TaxWatch has questioned why the hard and soft costs for the schools at which construction activities had reached substantial/final completion are outside the identified cost percentage ranges. The District reports that while the project budgets were developed with approximately 30 percent of the costs being soft costs, funds that remain unspent at the project's completion are then swept back to the SMART Program Reserve, which lowers the soft cost percentage.

Supplier Diversity & Outreach

The Supplier Diversity Outreach Program Report includes data specific to the participation of, and committed funding to, Minority/Women Business Enterprises (M/WBE), ethnic-owned business enterprises (EBEs) and small business enterprises (SBEs). This permits the reporting of historically underutilized businesses, in addition to M/WBEs, as previously recommended by Florida TaxWatch.

The District Has Fallen Behind on its Goal to Award 30 Percent or More of SMART Program Contracts to E/S/M/WBE Certified Companies

The District reports an E/S/M/WBE commitment of \$11.86 million during Q1 2022-23. This represents 42 percent of the total \$28.4 million in contracts awarded during the quarter. Through September 30, 2022, the District reports purchase orders to E/S/M/WBEs totaling \$420.16 million. This represents a cumulative E/S/M/WBE commitment of 27.1 percent of the reported \$1.48 billion total cumulative spend. Of this \$420.16 million E/S/M/WBE commitment:

- \$11.7 million has been awarded to E/S/M/WBE firms for Safety projects;
- \$0 has been awarded to E/S/M/WBE firms for Music and Arts projects;
- \$12,699 has been awarded to E/S/M/WBE firms for Athletics projects;
- \$408.44 million has been awarded to firms for Renovation projects; and
- \$0 has been awarded to E/S/M/WBE firms for Technology projects.

The District reports that, as of the end of Q1 2022-23, there were 477 active E/S/M/WBE certified companies that provide commodities (supplies), construction, professional services, and business services to District schools. This represents a reduction of 12 companies from Q4 2021-22. The 477 E/S/M/WBE certified companies are fairly evenly divided by gender, with 235 (49 percent) female-owned companies and 242 (51 percent) male-owned companies. Of these 477 active E/S/M/WBE certified companies:

- 157 (32.9 percent) are African-American owned companies;
- 167 (35.0 percent) are Hispanic-American owned companies;
- 20 (4.2 percent) are Asian-American owned companies;
- 54 (11.3 percent) are non-minority SBEs; and
- 79 (16.6 percent) are women-owned WBEs.

The District Needs to Continue Efforts to Increase Awards to Businesses Owned by African-Americans, Non-Minority SBEs, and Caucasian Women

Table 10 compares the cumulative SMART Program spend with E/S/M/WBE (prime) certified companies to the 2015 Disparity Study and the aspirational Target Goals outlined in the District's Policy 3330.⁶ Table 10 shows a fairly close alignment between the District's cumulative spend and the Disparity Study; however, the District is far short of meeting the aspirational Target Goals for African-American owned businesses and Asian-Pacific American owned businesses outlined in the District's Policy 3330.

⁶ Policy 3330 was adopted to remedy the ongoing effects of identified marketplace discrimination that continues to adversely affect the participation of Emerging/Small/Minority and/or Women Business Enterprises (E/S/M/WBE) in all solicitations and awards of contracts for the purchase of services, goods, or supplies.

Table 10.

Supplier Diversity Cumulative Spend Analysis (FY 2014-15 to Present)			
Ethnicity & Gender	Disparity Study	Target Goals	Cumulative Spend (Prime)
African-American	7.54%	19.00%	4.90%
Hispanic-American	59.89%	54.00%	60.90%
Native-American	0.00%	0.00%	0.00%
Asian-Pacific American	2.40%	5.00%	0.23%
Women Business Enterprise	30.17%	17.00%	32.51%
Small Business Enterprise	0.00%	5.00%	1.47%

Table 11 shows the total cumulative spend by ethnicity and gender. African-American-owned companies make up almost one-third of the E/S/M/WBE certified companies, yet have been awarded only 7.0 percent of the contracts. Hispanic-American-owned companies make up just more than one-third of the E/S/M/WBE certified companies and have been awarded 81.0 percent of the contracts. (Caucasian) women-owned companies make up 16.0 percent of the E/S/M/WBE certified companies and have been awarded 7.0 percent of the contracts.

Table 11.

E/S/M/WBE Total Commitment by Ethnicity and Gender		
Ethnicity & Gender	% of E/S/W/MBEs	% of Work Awarded
African-American	32.7%	7.0%
Hispanic-American	35.1%	81.0%
Native-American	0.0%	0.0%
Asian-Pacific American	4.5%	3.0%
Non-minority SBE	11.7%	1.0%
Women Business Enterprise	16.0%	7.0%

RECOMMENDATION 8

Florida TaxWatch recommends the District brief the Bond Oversight Committee at its December 19, 2022 meeting of its efforts to recruit African-American, Non-Minority, and Women-owned firms.

Communications

The District's Q1 2022-23 Report highlights continued efforts to promote the SMART Program. In response to previous concerns by Florida TaxWatch and Bond Oversight Committee members that the District was not doing enough to communicate to the taxpayers the construction delays and the reasons for the delays, the District has ramped up its efforts to notify the public of the new schedule and projected completion dates for SMART Program construction projects in their communities.

School-based initiatives include the launch of a "Back to School (B2S)" campaign to help reintroduce students and parents to the SMART Program as they start the new school year. In support of this initiative, the District:

- Created an electronic flyer with information on the program, the SMART website, and SMART social media channels.
- Published an "explainer video" to guide constituents through the new features of the SMART website.

The flyer and explainer video have been shared on social media, making it more easily accessible to parents, staff, and students. Both communication materials were also distributed via ParentLink and Blackboard. In addition, the SMART Communications Team shared the explainer video with advisory boards and committees to play during their meetings.

Community-based initiatives include partnering with community newspapers to reach a greater audience and help spread the work being done by the SMART Program in each community, and linking the SMART Program website to municipal websites, making SMART Program information more accessible to the public.

The District has reached out to each municipality within Broward County to request that they feature their "SMART Space" on their municipal website. Each SMART Space has information covering highlights, individual schools, School Choice Enhancement Program (SCEP) status, and a photo gallery. To date, 16 cities/towns have now linked their SMART space to their website.

The District has reached out to local/community newspapers to share news of the SMART Program enhancements being completed throughout the district. These partnerships with community papers help to bring community awareness of the SMART Program improvements occurring at local schools.

Efforts to enhance the SMART Program website (e.g., adding new features, more blogs, etc.) continue, as do efforts to engage and educate communities about the construction activities at their schools.

Looking Ahead

With the release of the Final Report of the Twentieth Statewide Grand Jury and the subsequent removal and replacement of four elected SBBC members, the election of four new SBBC members, and the termination of the Superintendent's employment, it would be an understatement to say that the District faces a considerable amount of uncertainty as it continues its implementation of the SMART Program.

The Twentieth Statewide Grand Jury's findings notwithstanding, the District continues to make progress in implementing the SMART Program. The Technology, Music and Arts, and Athletics spend portions of the SMART Program have been completed. More than 90,000 computing devices have been purchased, bringing the ratio of students-to-computers to 2:1, better than the adopted standard of 3.5 students per computer. Numerous "back office" upgrades to the Technology Support Services Center have been implemented to support these new devices. The District has upped its investment in the Arts, with the purchase of more than 60,000 pieces of musical equipment, more than 130 kilns, and theater program upgrades at 39 schools. Athletic tracks have been resurfaced at 15 schools and 30 high schools have received new weight rooms.

As shown in Figure 5, the number of Primary Renovations projects that have been flagged for schedule delays has decreased significantly and has remained at lower numbers since the 2020 schedule reset. In addition, fewer Primary Renovation projects are at medium or high risk of additional redesign or other scope changes.

Despite this progress, the District will face several challenges going forward. The first challenge is controlling costs. Florida TaxWatch considers controlling project costs and mitigating the additional financial risk to be the greatest challenge facing the District as SMART Program implementation moves forward. When we talk about "financial risk," we are talking about the potential for increases to the SMART Program budget and projected costs.

The SMART Program budget has increased from \$987.4 million to \$1.528 billion, an increase of about \$541 million over the original budget. Every dollar above the \$987.4 million originally allocated to the SMART Program represents a dollar of additional risk, and comes from capital millage, impact fees, state funds (e.g., Public Education Capital Outlay), and other sources, which have specific restrictions and spending limitations, or which were intended to be spent on other projects.

After increasing significantly over the past several reporting quarters, the potential financial risk has remained level during Q1 2022-23, with outcomes ranging from a low (mid-point risk) of \$689 million to a high (high end risk) of \$706 million, with a most likely estimate (70 percent risk) near \$692 million. The District has set aside \$691 million in reserve to mitigate the SMART Program's financial risk, which will only cover the low risk scenario. The District will very likely be required to increase the amount of money placed into reserve.

The second challenge is maintaining the schedule and scopes of work. The 2020 Schedule reset projects the completion of the planned facilities construction projects late in calendar year 2025 or early in calendar

year 2026, approximately three years after the planned completion milestones in the 2018 schedule. Florida TaxWatch thinks it is unrealistic to think the planned facilities construction projects will remain on schedule absent immediate actions by the SBBC to reduce the amount of time between contract award and authorization to proceed; reduce the multiple trips to the building department required before approval is received; and reduce the amount of time required to approve change orders.

The third challenge is resetting the expectations of Broward County taxpayers, who are learning that, with the adoption of the 2020 Schedule, the completion dates for many of the Primary Renovations projects at schools where they work or where their children attend school will be pushed back several years. The District has acknowledged the need to communicate the 2020 Schedule to the public and to help them understand what has happened and to reset their expectations going forward.

A final challenge is addressing the perception by the business community that the District is not a compelling place to do business. The District continues its efforts to ensure participation by Minority/Women Business Enterprises (M/WBE), ethnic-owned business enterprises (EBEs) and small business enterprises (SBEs) that provide commodities (supplies), construction, professional services, and business services to District schools. The District has dropped below its goal to award 30 percent or more of SMART Program contracts to E/S/M/WBE certified companies. Hispanic-American owned businesses are over-represented and African-American owned businesses, non-minority-owned, and Women-owned businesses are under-represented. Although effort has been made to increase attendance at and participation in pre-bid meetings by African-American owned firms, more effort will be required to address these inequities.

In this report, Florida TaxWatch has offered recommendations to help guide the Bond Oversight Committee in its oversight of the implementation of the SMART Program, and to ensure that public's right-to-know how the taxpayer-approved General Obligation Bond funds are being spent is well-served. Florida TaxWatch looks forward to presenting the results of its review to the Committee and the public, and to providing continued support and guidance as the Bond Oversight Committee continues its effective oversight of SMART Program implementation.

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As an independent, nonpartisan, nonprofit taxpayer research institute and government watchdog, it is the mission of Florida TaxWatch to provide the citizens of Florida and public officials with high quality, independent research and analysis of issues related to state and local government taxation, expenditures, policies, and programs. Florida TaxWatch works to improve the productivity and accountability of Florida government. Its research recommends productivity enhancements and explains the statewide impact of fiscal and economic policies and practices on citizens and businesses.

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