Memorandum

July 31, 2013

To: Chief Business Officers
   Facilities Directors
   Other Interested Parties

From: Frederick E. Harris, Assistant Vice Chancellor
       College Finance and Facilities Planning

Subject: Chancellor’s Office Oversight of State Funded Capital Outlay Projects

Please accept this memo as a reminder of state and district compliance responsibilities for reporting scope changes on state funded capital outlay projects. The Chancellor’s Office has again been required to defend an “out of process” scope change of a state funded project to the Joint Legislative Budget Committee (JLBC). An “out of process” scope change involves a project that violates one or more legislative reporting requirements. It is deemed a gross violation which not only endangers the funding for the project in question, but brings into question funding for all projects and our office’s administration of all state funded projects. Such an “out of process” violation automatically rises to the attention of both the Department of Finance AND the Legislature.

There is an ongoing need to reiterate the reporting requirements and procedures of the State Public Works Board and the Legislature for changes in project scope. In that regard we want to once again remind districts of the importance of adhering to the scope of capital outlay projects as defined in the approved Final Project Proposal, and that frequent communication with your Chancellor’s Office facilities specialist is essential to ensure successful management and completion of your state capital outlay project.

The most recent case of an “out of process project” involved a district that proceeded with a major scope change on a project without proper notification to the Chancellor’s Office, Department of Finance and the Legislature BEFORE commencing work. Specifically, the district changed a modernization project to a new “replacement” building (i.e. drop and replace) without any previous notification. We caught the change when reviewing the project’s working drawings.
Unfortunately, the DOF and the JLBC are now seeing these “out of process” issues as a trend for the community colleges since this is not the first time concerns have been raised about districts adherence to the state approved scope of capital outlay projects. In 2007, three projects came to the attention of the JLBC as having proceeded with scope changes without proper notification to the Legislature before work had commenced. The specific concerns with those projects were:

1. Failure to follow the process
2. Significant reduction in program space without justification
3. Schedule delays increase cost and contribute to scope reduction

While it may seem that four out of several hundreds of projects in six years is not a significant number, the expectation of the Department of Finance and the Legislature is that districts will follow the state capital outlay process for reporting scope changes on all projects, every time, and without exception.

Background
The Chancellor’s Office Facilities Planning Unit has managed 522 projects totaling approximately $3.5 billion over the last decade. An additional 80 capital outlay budget change proposals (COBCP) were sent to the Department of Finance for review and approval for funding consideration in 2014-15. We also have received approximately 50 additional capital outlay proposals for funding consideration in 2015-16.

The volume of capital outlay projects that are managed by the Chancellor’s Office have been truly daunting. While we certainly share the JLBC’s concern regarding appropriate oversight and project management, especially regarding the four projects that were brought to the attention of the JLBC, we know that the issues with these projects are not typical, and that the balance of the hundreds of projects with which we are entrusted are successfully managed with appropriate and required oversight. However, to ensure that issues like these will not occur again, we want to review with you the following information.

What is meant by Scope and Scope Change?
California Government Code, Section 13332.11(b) requires that:

“No substantial change shall be made from the preliminary plans or working drawings as approved by the State Public Works Board and the Department of Finance without written approval by the Department of Finance.”

Project "scope" is expressed as a combination of the educational or support program objectives and the square footage or systems required to meet those objectives. It is defined by the district and the Chancellor’s Office in accordance with state standards. The official scope is expressed in the Final Project Proposal (FPP) and the budget language associated with legislative approval and funding of the project. Once the scope has been state approved, the district is responsible for assuring that the scope is consistent throughout the project, not significantly increasing or decreasing.

If the FPP scope is approved by the Board of Governors, the FPP becomes a COBCP and is submitted to the Department of Finance (DOF) for consideration of funding in the Governor’s Budget. Upon enactment of the State Budget the project’s scope, cost and schedule become state approved. Therefore, the FPP is a request by the district for state funding, and the state approval of the scope and funding are the formal acceptance by the state and commitment of both parties of the district’s request.
Changes in scope are defined as:
- Reconfiguration of room spaces
- Reassignment of room functions between space types
- Changes in program purposes
- Changes in building design or location

Scope changes must be approved by DOF prior to commencing work on the changes to working drawings or preliminary plans. If major changes are being considered by the district, DOF may require notification to the Legislature and request approval of revised preliminary plans by PWB. This approval must be granted before the district can make any expenditure to redesign the project or to revise the plans. DOF determines whether a proposed change is substantial and therefore a scope change based on review of the facts on a case-by-case basis and in consideration of legislative intent.

The Chancellor’s Office by law cannot support any significant changes in scope after preliminary plans are approved unless DOF authorizes such changes. The district is advised to be absolutely certain of the scope prior to submitting preliminary plans. Accordingly, no significant changes should be made prior to bidding the construction contract without first informing the Chancellor’s Office of the change. It is incumbent on the district to set an accurate scope and budget and then exercise control during the project in accordance with the Final Project Proposal and the state budget act language.

**Reporting Requirements**
A major component of project administration and oversight is the regular communication between the Chancellor’s Office and the district. The DOF is also informed by our office regularly on project specific issues, and advice and guidance is often sought from DOF when problems arise.

**Project Administration**
Government Code Section 13332.11 outlines the reporting requirements for state capital outlay projects and provides the statutory framework for project management and oversight. State project administration incorporates several milestones over the life of a project such as:

- Encumbrance and release of preliminary plan funds
- Approval of preliminary plans
- Encumbrance and release of working drawing funds
- Approval of Working Drawings
- Encumbrance of construction funds providing the authority to proceed to bid/rebid
- Release of construction funds providing the authority to award bid
- Encumbrance and release of Group II equipment funds
- Approval of scope and/or cost changes at any stage (if necessary)
- Reversion of funds (Chancellor’s Office/DOF initiated action)

**Project Closeout**
State administrative regulations require that all projects financed with state bonds comply with Project Closeout procedures. The main objectives of the closeout procedures are to ensure the following:

1. The project is complete with all state funds claimed and all disputes regarding project costs, if any, resolved;
2. The project scope is consistent with that approved by the Department of Finance and the Legislature;
3. FUSION has been updated to show final project costs per the JCAF 32 and final Quarterly Report;
4. The final JCAF31 in FUSION is consistent with the project as depicted in the district’s certified Space Inventory; and
5. The district followed Public Contract laws and regulations in the construction of the project.

Districts are required to provide the following documentation at project closeout to show that the project scope is consistent with that approved by the Department of Finance and the Legislature:

1. DSA6 Forms - (DSA6; DSA6 A/E; and DSA-168);
2. Revised JCAF 31 showing final project space;
3. Side-by-Side comparing JCAF 31 at approval of working drawings and the project as shown in the district’s space inventory;
4. Space Inventory Report 17 page(s) for the project building(s) from the district’s latest certified Space Inventory;
5. Revised JCAF 32 showing final project costs;
6. Final Quarterly Report;
7. Notice of Completion; and
8. Final list of equipment purchased.

Audit Test
There is a required test for the audit of the 2012/13 fiscal year that requires all contract district auditors to review a sample of Proposition 1D project expenditures shown on state reimbursement claim forms paid by the state during the audit period to determine if the expenditures:

- Were made according to the established front-end criteria and processes (approved COBCP and Equipment list);
- Were consistent with all legal requirements; and
- Achieved the intended outcomes.

The auditors will verify dates of expenditures on the reimbursement claim forms using invoices or other source documents. They will also compare dates on source documents to dates listed on the related form DF14D, and conclude whether these expenditures were accurately reported, appropriate, incurred for the project, and paid by the district.

It is important that you contact your Chancellor’s Office facilities specialist each time your project reaches one of these important milestones, if not before, if changes are occurring. This will prevent incomplete submittals and ensure timely processing of your project. Missing or incomplete information can delay your project and jeopardize funding.

In closing, the Chancellor’s Office Facilities Planning Unit manages hundreds of capital outlay projects that typically span eight fiscal years. It is an arduous responsibility and only works well when the district actively participates in the process with us. The Facilities Planning Unit staff on your behalf report to DOF, the Public Works Board and the Legislative Analyst’s Office on the status of your projects complying with government oversight requirements. It is important that you familiarize yourself with the above mentioned processes and reporting requirements and contact your Chancellor’s Office facilities specialist if you have any questions during the course of your project.
The Chancellor’s Office takes its statutory obligations and appropriate oversight responsibilities very seriously. Over the years, we have attained a very impressive track record of obtaining funding for the system and then successfully managing the capital outlay projects that are funded. Our continued success depends a great deal on you. With appropriate project management, oversight and communication, we can continue our combined success. If you have any questions or would like to discuss this memorandum further, please contact your Chancellor’s Office facilities specialist.