

Report for the Office of the Independent Monitor

**333 South Beaudry Avenue, 18th Floor
Los Angeles, California 90017**

Los Angeles Unified School District

Modified Consent Decree

Section 10 – Facilities

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Office of the Independent Monitor (OIM) Review of Section 10 – Facilities
Modified Consent Decree (MCD)

INTRODUCTION

During the 2006-2007 school year, Disability Access Consultants, Inc. (DAC) was contracted by the Office of the Independent Monitor (OIM) to conduct a verification audit of the Los Angeles Unified School District's (LAUSD) progress toward their obligations under Section 10 of the Modified Consent Decree (MCD) which states:

Paragraph 76: All new construction and renovation or repairs by the District shall comply with Section 504 and the Americans with Disabilities Act, 42 U.S.C. § 12101 et seq.

Paragraph 77: The District shall within 5 years enter into binding commitments to expend at least \$67.5 million dollars on accessibility renovations or repairs to existing school sites consistent with Section 504 and the Americans with Disabilities Act.

Paragraph 78: The District shall appropriate, make available, and expend up to \$20 Million dollars from the Measure K Board's leveling fund for task orders related to requests for program accessibility under IDEA and Section 504.

The District tracks and reports activities and efforts in a document referred to as the MCD Access Compliance Tracking Log or MCD Tracking Log for remodeling and renovations to meet the obligations in Paragraph 77. Expenditures for accessibility renovations or repairs described in Paragraph 78 are reported by LAUSD in the Minor Facilities Renovations Log. New construction is required to be compliant and expenditures do not apply to Paragraph 77 for accessibility renovations or repairs.

To fulfill the Independent Monitor's (IM) charge for verifying the accuracy of the District's data reported on the MCD Tracking Log, as well as measuring the District's progress toward meeting the requirements of Section 10, DAC conducted the following activities:

1. Desk audits of expenditures reported on the MCD Tracking Log provided by the District to the OIM to determine the accuracy of listed expenditures and assess whether the applicable scope of work related to access compliance work for both the 67.5 million dollar (67.5 M) and the 20 Million dollar (20 M) projects.
2. Site inspections of newly constructed facilities to determine compliance with applicable accessibility standards.
3. Site inspections of a selected sample of remodeled or renovated facilities to determine compliance with accessibility standards.

The verification audit consisted of two primary components, a desk audit and a field audit. The projects selected for the audit sample were selected from projects that the District reported on the MCD Tracking Log (Appendix A). The MCD Tracking Log used for the audit of the 67.5 M projects was titled "2006-Q1 MCD Access Compliance Tracking Log – March 31, 2006" that was provided by the District to the OIM on May 8, 2006. Projects selected for the 20 M projects were selected from the Minor Facilities Renovations (IDEA & Section 504) Projects List (Appendix B) with a date of April 2006 with a notation that data was compiled on May 5, 2006.

The desk audit consisted of a document review for the purposes of verifying the scope of work and associated financial expenditures reported by the District for those projects utilizing a notice to

proceed (NTP) date after May 16, 2003. The May 16, 2003 date was established as the date for binding commitment by LAUSD and serves as a start date for expenditures.

The field audit consisted of site inspections to verify whether work reported as completed on the MCD Tracking Log and was completed and was compliant with accessibility standards. Sites selected for the field audit were selected from the desk audit sample.

The standards utilized to measure compliance with accessibility included the Americans with Disabilities Accessibility Guidelines (ADAAG) and Title 24 of California Building Code (CBC) and Division of State Architect (DSA) requirements as required by ADAAG and Title 24.

This report presents the methodology and findings of the desk and field audits based on available documentation. Due to the lack of documentation provided by the District, this report may have limitations regarding generalization to areas beyond the documentation provided. Findings may change based upon additional documentation and clarification.

This report includes:

- Desk audit of 67.5 M projects
- Desk audit of 20 M projects
- Field audit of 67.5 M projects
- Field audit of 20 M projects
- Field audit of new construction

Supplemental documents are included in the Appendices:

- 2006-Q1 MCD Access Compliance Tracking Log – March 31, 2006 (Appendix A)
- Minor Facilities Renovations (IDEA & Section 504) Projects List (Appendix B)
- Desk Audit Documents Received for 67.5 M Projects – Table 1 (Appendix C)
- Desk Audit Documents Received for 20 M Projects – Table 2 (Appendix D)
- Desk Audit Data Verification for 67.5 M Projects (Appendix E)
- Desk Audit Data Verification for 20 M Projects (Appendix F)
- Site Visit and Desk Audit Information – Table 5 (Appendix G)
- Glossary of Terms (Appendix H)
- Accessibility Reports of Site Visits (Appendix I)

In addition, a case study is presented to highlight the process of the verification audit. Recommendations are also provided to assist with data collection and to facilitate more accurate reporting by the District.

ACCESSIBILITY DEFINITION

In order to enhance the accuracy and reliability of items reported on the MCD Access Compliance Tracking Log, the OIM and the Office of the General Counsel collaborated on a definition of “accessibility.” The accessibility standards that were incorporated and defined in the definition were designated to be the Americans with Disabilities Act Accessibility Guidelines (ADAAG) and Title 24 of the California Building Code (CBC). ADAAG is the accessibility standard for the ADA and Title 24 is the accessibility standard for California. The ADA requires that if a state has accessibility standards that provide a greater level of accessibility, then the state standards (Title 24) is used in coordination with the ADAAG standards. The California Division of State Architect uses California standards for the approval of applicable remodeling, renovation and new construction. The accessibility requirements for Section 504 are incorporated within and do not exceed the ADAAG standards. Thus, the utilization of ADAAG and Title 24 meets the intent and requirements of the ADA and Section 504 as described in the MCD.

METHODOLOGY AND DISCUSSION

Desk Audit and Field Audit

Projects selected for the desk audit were selected from the MCD Tracking Log of 67.5 M projects and a list of 20 M projects. Projects for the 67.5 M sample included in the verification audit were selected from the MCD Access Compliance Tracking Log. The Tracking Log that was utilized was titled "2006-Q1 MCD Access Compliance Tracking Log – March 31, 2006" (Appendix A). The tracking log that was utilized for the 20 M projects (Appendix B) is titled "Minor Facilities Renovations (IDEA & Section 504) Projects- Division of Special Education April 2006 (data compiled May 5, 2006)."

The 2006-Q1 MCD Access Compliance Tracking Log utilized to verify the 67.5 M expenditures contained a total of 699 projects. Of the 699 projects reported on the MCD Access Compliance Tracking Log, only thirty-seven (37) projects were reported as completed on the MCD Tracking Log. The MCD Tracking Log reported the following totals for the 699 projects:

- Estimated total program costs of \$125,810,215.13
- Program total encumbrances of \$2,016,914.27
- Expenditures totaling \$14,632,852.09

Projects selected for the 67.5 M portion of the audit were selected from the MCD Tracking Log. A sample of fifty-one (51) projects at forty-nine (49) school sites was selected (Appendix A). Two (2) school sites each had two projects.

Projects selected for the 20 M portion of the audit were selected from the Rapid Renovation Project List provided by the District. A sample of seventeen (17) projects at fifteen (15) school sites (Appendix B) was selected as the audit sample. Of the seventeen (17) projects, sixteen (16) were indicated as completed. The project selected that was not indicated as completed noted an estimated completion date of January 2006 and indicated significant expenditures.

The total number of projects selected for the desk audit of 67.5 M and 20 M projects was sixty-eight (68) projects at sixty-four (64) school sites.

The projects identified by LAUSD as being included in the 20 M "on-demand" funding were reviewed for compliance with ADAAG and Title 24. It is understood that 20 M projects may not fully comply with all applicable accessibility standards. It was assumed that these "on-demand" projects needed to be completed as soon as possible in order to provide program accessibility for individual students and therefore may not always have been completed in accordance with the required standards of federal and state accessibility codes.

DAC engaged in several meetings with OIM staff, LAUSD personnel from the Facilities Services Division, other selected LAUSD staff and the Office of General Counsel (OGC). Meetings, conferences, correspondence, e-mails and phone calls were conducted for the purposes of data collection and to establish a streamlined process for data collection with the least impact to the District. The request for documents needed for the audit process was provided in one document, instead of requesting documents on an as needed basis. This method was initiated to assist the District in an efficient manner to produce documents.

Meetings with the OGC were conducted to facilitate the data collection process and to clarify the District's definition of accessibility renovations and repairs. In response to inquiries by the OIM in about the criteria used by the District for determining how projects or components of projects

qualify for the access compliance commitments of the MCD, the District provided a draft definition on October 9, 2006.

Desk Audit

The projects selected for the initial desk audit document request consisted of sixty-eight (68) total projects selected from both the 67.5 M projects and the 20 M projects. Fifty-one (51) of the projects selected were from the 67.5 M category and seventeen (17) from the 20 M category for “on-demand” program accessibility renovations.

The projects selected for review were representative of all categories of projects. The size of the sample reviewed is sufficient for examining the accuracy of the District’s MCD Tracking Log. The sample is considered sufficient because it consists of a significant sample of work reported to be completed and includes a representative sample all program types and local districts. It is noted that if all records requested would have been provided, the audit process would have been expedited and the results in all probability would be different from the results reported.

Projects were sampled that were indicated as completed, had a significant amount of associated expenditures or an earlier completion date. Of the sample of fifty-one (51) projects at forty-nine (49) sites for the 67.5 M projects, thirty-seven (37) were indicated by LAUSD to be completed and an additional ten (10) sites had significant expenditures. The two (2) projects selected for the fire alarm sample were in the design and planning phases and indicated only estimated program costs with no expenditures.

Sampling strategies for the desk audit included a review of the MCD Access Compliance Tracking Log for 67.5 M projects and the Minor Facilities Renovation Log for 20 M projects. Other sampling strategies included a review of applicable portions of the District process and documentation for construction, remodeling, renovation and repairs.

Projects were selected based on several factors that include, but are not limited to: estimated costs, reported actual costs, construction start and completion dates and program type. In several instances, projects with line items from the MCD Access Compliance Tracking Log that were unclear or had apparent irregularities or possible reporting errors were also selected.

The MCD Access Compliance Tracking Log for 67.5 M projects is composed of five different project types and includes:

- Class Size Reduction Program
- FEMA Earthquake Damage Repair Program
- Local District Maintenance and Operations Program
- Fire Alarm Upgrade Program
- Relocatable Housing Unit Program

It is unclear as to what portion of the five areas relate to renovations and remodeling to remove accessibility barriers at school sites. For example, the scope of work attached to projects at times used terms such as, “earthquake repair for access compliance” or “relocatable housing units for access compliance” or “class size reduction for access compliance”.

A substantial number of access compliance projects for fire alarm upgrade projects for the installation of strobe lights are included in the MCD Tracking Log by the District. It is noted that these projects were not reported as completed. However, due to the large proportion of expenditures reported on the MCD Tracking Log for classroom strobe lights (\$66,250,275.00), two (2) specific fire alarm upgrade projects were also selected for review.

Field Audit

Twenty-one (21) sites were selected for the field audit. Twenty (20) of the projects selected for the field audits were reported as completed. One site (1), Sutter MS had an estimated completion date of 12/1/05 and was selected due to the estimated completion date and a significant amount of reported expenditures. Sites selected for the field audit sample were selected from the larger desk audit sample for the purpose of verifying that the scope of work indicated was completed, that the work was related to accessibility and that the construction, and renovations or remodeling were compliant in accordance with ADAAG and Title 24 of the CBC. Four (4) of the twenty-one (21) projects were new schools that were completed and were selected to verify the District's compliance with accessibility standards and requirements for new construction.

The field audit serves two primary functions. The first function was to verify the accuracy of the MCD Tracking Log by determining whether the work reported as completed was indeed completed and reported expenditures could be verified as being expended. The second function was to determine if the work completed was compliant in accordance with ADAAG and Title 24 of the CBC. The field audit projects were selected primarily from those projects that were reported as having been completed in the MCD Tracking Log.

Although twenty-one (21) sites were selected for the field audit, only nineteen (19) were inspected because two (2) of the projects that were selected were later reported by District staff that they were not completed and were not proceeding or were cancelled. Thus, the sites inspected for the field audit consisted of nineteen (19) school sites, with twelve (12) projects selected from the 67.5 M projects and three (3) from the 20 M projects. In addition, four (4) new school sites were selected in order to determine if the District complied with the provision under Section 10 which requires that all new construction comply with accessibility standards. More detailed information is contained in Appendix G –Site Visit Summary and in Appendix I – Accessibility Reports of Site Visits.

Desk Audit Data Collection

Data collection consisted of attempting to obtain the necessary documents for the desk audit and field audit from the District. Data collection occurred between June 2006 and March 2007.

There were a number of difficulties in obtaining the documents requested from LAUSD. Repeated attempts were made to collect documents with minimal success. As a result of these difficulties, several meetings and phone conferences were conducted with LAUSD personnel and the OIM to establish and clarify procedures for collecting documents, as well as to determine how the District identified projects as access compliance programs for the MCD. These discussions led to the development of several lists and checklists for facilitating document collection. In December 2006, a final document checklist was developed by the OIM in collaboration with the District that clearly identified the necessary documents requested for projects under both the 67.5 M and 20 M programs. It was also anticipated that the checklist would serve as a method for streamlining the data collection process. To facilitate data collection, LAUSD personnel suggested that the creation of a secured website by LAUSD would assist LAUSD to provide a better method for LAUSD to provide requested documentation. LAUSD started posting a limited number of the requested documents on the website.

Although the District did provide some of the requested documents, the completion of the desk audit and field audit proved challenging because a significant number of the requested documents were either not produced in a timely manner or were not produced at all. Initially, the District received latitude on document format and the data collection process to avoid interruption of District activities. Timelines for the acquisition of documents from the District were extended on several occasions.

The availability of relevant data is essential for the verification of expenditures and work completed. Appendix C (Table 1- Documents Received for the 67.5 M Projects) and Appendix D (Table 2 - Documents Received for the 20 M Projects) provides tables delineating documents that were requested and the documents that were received by the OIM. The tables demonstrate the limited amount of documentation provided by LAUSD in the 67.5 M category of projects. Document acquisition was improved for the 20 M category. It is recognized that fewer documents are required for the 20 M projects and there are fewer projects in the 20 M category. District personnel note that these projects require a less formal process and therefore some documents are not required. One particular document that was not usually available from these "on-demand" projects completed by internal crews was a final inspection.

The District has a detailed procedure for requesting Minor Facilities Renovations dated February 9, 2005 (Reference Guide No. REF-1446) issued by the LAUSD Division of Special Education that clearly outlines the procedure to request "on demand" renovations related to program accessibility for students covered under IDEA and Section 504. The development and dissemination of Reference Guide No. REF-1446 may have improved the document process for the 20 M projects.

Early in the document acquisition process, DAC met with the OIM and District personnel to agree upon a framework to receive the requested documents in a method that would not provide a negative impact upon LAUSD staff and facilitate a timely and comprehensive process. During the meeting, the District noted that all of the requested documents would be available in electronic format. However, this was not the case.

Prior to the last attempt in March 2007, the OIM provided the District with document checklists for the 67.5 M and 20 M projects in order to clearly identify the necessary documents for the audit. It was agreed at the meeting that LAUSD would provide a rationale if documents listed on the checklist were not provided or provide information regarding an alternate format of the document or an alternate name for a similar document.

Many challenges were noted in obtaining the necessary documents. During September 2006, DAC conducted four days of on-site data collection at both central and local District offices. During this visit, District personnel notified DAC and the OIM that some documents were unavailable due to the files being stored in a vault in a different location and would require an extended period of time to retrieve the documents. In addition, the District indicated that some records were being scanned by an external vendor and were not yet available. During a visit to a Local District Maintenance and Operations (M&O) site, we were notified that the inspector of records (IOR) reports were unavailable as they were being stored at the Inspector's home. Due to the lack of electronic documents, DAC attempted to review hard copies of files that were available.

Overall, many of the files that were reviewed from the 67.5 M category lacked documents that were requested. Documents requested included, but were not limited to a detailed scope of work, a notice to proceed, substantial completion reports, inspector of records reports, final request for payment forms and/or IFS expenditure reports. Furthermore, some projects selected were group projects where multiple school sites are placed under the same contract and in the same project with unclear documentation of which funds were applied specifically to each school. In some instances, payment request forms separated costs by schools but did not provide details of the specific work completed. Some selected projects also included work for additional projects at the school site not related to access compliance work. In many cases, project documents lacked the specificity to separate expenditures related to the access compliance components of such projects.

The last attempt to secure the documents requested consisted of obtaining documents from the District's website. After a substantial number of requests, the District stated they would prefer to post the requested documents on a secure website to allow for a faster and more efficient data

acquisition. LAUSD was to provide a completed document checklist for each site on the website. Many sites posted on the website either contained no document checklist, a blank document checklist, and/or a document checklist missing an explanation for missing documents. Subsequently, only a portion of the requested documents were posted on the District website. The OIM requested that the District include a document checklist with each project file requested. The District was also instructed to provide an explanation as to why documents were not provided or if alternate documents were available that may serve the same purpose, but may be classified differently. This also produced minimal results. In most instances, the documents were not provided. In many cases, the District did not provide an explanation when documents were not provided. In some cases, documents were not provided at all. It was also difficult to determine the date of the notice to proceed to apply expenditures that occurred in accordance with the established binding commitment date of May 16, 2003.

Field Audit Data Collection

The field audits were conducted by DAC trained and experienced inspectors certified by the International Code Council (ICC) in accessibility, usability and plan examination. Field audit inspections consisted of examining the completed scope of work, when available, for renovations, repairs, and new construction as reported by the MCD Access Compliance Tracking Log. Field inspections were conducted to determine if work completed met the accessibility standards to comply with the Americans with Disabilities Act Accessibility Guidelines (ADAAG) and Title 24 of the California Building Code (CBC). It is noted that in many instances, DAC lacked the required documentation to clearly identify the scope and location of work. ADA transition plans for each site were also requested by the OIM. However, the District provided DAC with limited A.1 plans and reported that these A.1 plans were the District ADA transition plans.

There are instances where the detailed scope of work or A.1 plans were not provided. At one site (1) it was acknowledged by the OAR that plans were not approved and that the construction should not have occurred. Inspectors spoke to school personnel, such as the plant manager, to identify renovations, remodeling or repairs for access compliance work. Furthermore, when the scope of work was unclear or categorized vaguely in the MCD tracking form with terms such as Modernization or Access Compliance, inspectors examined some common areas, path of travel, restrooms and parking.

Four (4) new schools were also inspected to verify whether samples of new construction met the compliance standards as mandated by federal law and Section 10 of the MCD in accordance with Paragraph 76. The site inspections were not intended to be a complete school inspection of all areas of the school site. Findings from the site visits are summarized in Table 5 – Site Visit Summary (Appendix G) and in the Accessibility Reports (Appendix I). Selected areas and items that were sampled at school sites and noncompliant items, including photographs, are reported in the accessibility site reports identified in Appendix I. It is important to note that the accessibility reports outline noncompliant work, with the exception of a few compliant areas that were observed at school sites visited. The accessibility reports are not complete reports of all items and elements at a school site, but report on the sampling of the work inspected at the school site on the date designated.

FINDINGS

The findings are based on the documentation and information provided by the District. Due to the limited documents provided by the District, findings may change as additional documents are provided.

67.5 M Projects

Utilization of the data provided MCD Tracking Log for 67.5 M projects did not produce verifiable data in a significant number of cases. Overall, the results of the verification audit of the MCD Tracking Log found inaccuracies and inconsistencies in the record keeping and reporting of access compliance work.

Overall, the lack of documentation provided by the District created significant challenges in the ability to verify the expenditures as reported by the MCD Tracking Log. Despite numerous requests for data, discussions with District personnel and the streamlining of a process for providing documentation, the majority of projects audited lacked significant documentation with evidence of verifiable expenditures. Subsequently, this lack of documentation also presented significant challenges in conducting field audits.

The desk audit for the fifty-one (51) projects selected from the 67.5 M program could not verify the reported expenditures for projects reviewed (Appendix E, Table 3). The total estimated project cost as reported by MCD tracking form for the projects sampled was \$10,267,824.35. The total project expenditures reported by the MCD Tracking Form was \$7,850,993.36. The desk audit provided potential evidence of expenditures for \$1,946,658.33 of the access compliance work reported. Exact expenditures were not able to be verified due to lack of requested documentation. The verification of additional qualified expenditures may increase with the acquisition of requested documents, such as IFS reports. Due to the lack of requested documentation, some expenditures that appeared to have been expended were included in the "verified" expenditures as "possible or probable" expenditures based on payment request forms, invoices or other appropriate documentation. At times it was difficult to correlate the expenditure with an access compliance component of a project. It is understood that the District applies expenditures for soft costs and program costs, in addition to hard costs. It is also understood that a renovation or remodeling project may trigger DSA and federally related requirements for accessibility.

Overall, based on the findings of the desk audit, the MCD Tracking Log does not appear to be an accurate reflection of the expenditures related to the 67.5 M access compliance program. Two primary factors are noted as presenting difficulties in the verification of expenditures. The first is the limited detail found for the scope of work reported on the MCD Tracking Log and in other documentation. Without specific details related to the scope of work it is difficult to ascertain and verify that the project renovations, remodeling or construction was for accessibility related work. Second, the lack of financial documents with clear evidence of expenditures for accessibility related work presents difficulty in the verification of such costs, especially when considering that some projects consisted of a group of schools, and/or included work additional to access compliance.

Since this review was based on a sample of the overall projects reported, the inaccuracies and inability to verify these expenditures prohibit the ability to accept the overall reported expenditures of the MCD Tracking Log as accurate. In addition, in some instances where expenditures and a completion date had been reported on the MCD Tracking Log, District personnel informed DAC and the OIM that these projects were either not completed, and/or construction never began, and requested to strike the entries from the MCD Tracking Log, even though expenditures had been reported by LAUSD. This finding also questions the accuracy and reliability of the data reported by the MCD Tracking Log.

The desk audit identified a number of discrepancies and irregularities, including, but not limited to:

1. Large expenditures for a short period of time (i.e., work indicating a start date of 5/24/04 and a reported completed date of 6/4/04 for over 1.4 M dollars)
2. Completion dates indicated that are prior to the start dates

3. Estimate amounts evidenced in the document review that did not concur with the amount reported on the tracking form
4. Inconsistent reports from District personnel regarding the requirements for the completion of a final punchlist
5. Fire alarm strobe light program estimates that appear disproportionate to the overall actual expenditures (\$66,250,275.00 for “estimated expenditures” not actual expenditures for 373 fire alarm projects out of a total of \$125,810,215.13 for 699 total projects)
6. Projects not prioritized for barrier removal to improve accessibility and do not consider federal or state requirements for prioritizing accessibility
7. Limited detail regarding the scope of work (verification of work completed and expenditures is difficult when the scope of work is not clearly defined)
8. Expenditures not in proportion to the scope of work

Fire Alarms

Two (2) projects were sampled initially to review the estimated expenditures for fire alarm upgrade projects. Both projects are in the design and planning phases and thus provided only estimated costs and therefore no documentation of expenditures was provided. These sites were selected due to the disproportionate number of estimated expenditures applied to the 67.5 M program. The estimated amount for expenditures for fire alarms projects is \$66,250,275.00 out of total access compliance estimated expenditures of \$125,810,215.13. Thus, over half of the projects listed for access compliance are fire alarm upgrade projects. Furthermore, per the MCD Tracking Log, it appears that the District has applied a standard estimate for the fire alarm upgrade by school level, irregardless of size. For example, elementary schools were all estimated to cost \$129,412.50, middle schools \$249,900.00 and high schools \$499,800.00.

The documents provided include estimates for the application process with the Division of the State Architect (DSA). The scope of work states “classroom strobe lights” and is not representative of expenditures, as all funds indicated are estimated expenditures, not encumbrances or actual funds expended. The amounts the District allocated to fire alarms is not only significantly disproportionate to the overall total amounts estimated for accessibility, but it also does not follow any prioritized barrier removal process. For example, the ability to get to and into a classroom or using a restroom is generally given a higher priority by Districts in their ADA Transition Plan. ADA Transition plans are required by the Americans with Disabilities Act (ADA)¹ and by the DSA². Requirements of an ADA Transition Plan include not only the identification of the barrier to accessibility, the method or methods proposed to remove the barrier, the overall designated responsible person to implement the plan and the schedule for barrier removal.

20 M Project Findings –Desk Audit

The total estimated project costs for all projects reported on the Rapid Renovation Tracking Log to is \$7,134,544.00. The total project expenditures reported by the MCD Tracking Form for all projects was \$1,855,373.00.

The desk audit for the seventeen (17) projects selected from the 20 M “on-demand” program could not verify all of the reported expenditures (Appendix E). For the seventeen (17) projects selected, the Tracking Log estimated costs were reported as \$705,887.26. The total expenditures verified for the projects selected were \$524,132.65 (Appendix F – Table 4) for “on-demand” projects. Four (4) of the seventeen (17) projects reviewed matched reported expenditures reported by the MCD Tracking Log verified expenditures. Overall, the results of the desk audit for 20 M expenditures indicate that the Rapid Renovation Tracking Log does not appear to be an accurate reflection of

¹ Federal code of Regulations reference: 28 CFR 35.105-35.107, 35.150(c) and (d)

² DSA Policy 00-01 and Government Code 4451(f) of the California Code of Regulations

the expenditures related to the 20 M access compliance program. However, with additional documentation, the amount verifiable expenses may increase. Since this review was based on a sample of the overall projects reported, the inability to verify expenditures prohibit the ability to accept the overall reported expenditures as accurate.

Although the documentation received for the 20 M “on-demand” program was considerably more accurate than the 67.5 M projects, some discrepancies were noted and include, but not limited to:

1. Discrepancies between the reported estimated amounts of the MCD Tracking Log and documentation reviewed
2. Discrepancies between the reported expenditure amounts of the MCD Tracking Log and the documentation reviewed

Field Audit

With the absence of the requested documents, field verification work that was completed at school sites was difficult. Furthermore, when the scope of work states modernization and lacks subsequent detail, it is very difficult, if not impossible, to know what work to verify and what expenses to verify.

Twenty-one (21) sites were selected for field audits for both the 67.5 M and 20 M “on-demand” projects. Although twenty-one (21) sites were selected for the field audit, only eighteen (18) were inspected because two (2) of the projects that were selected were later reported by District staff that they were not completed and were not proceeding or were cancelled. Thus, the field audit consisted of a sample of eighteen (18) school sites, with twelve (12) projects selected from the 67.5 M projects and three (3) from the 20 M projects. In addition, four (4) new school sites were selected in order to determine if the District complied with the provision under Section 10 which requires that all new construction comply with accessibility standards. More detailed information is contained in Appendix G – site visit summary and in Appendix I – Accessibility Reports of Site Visits.

All sites were reported as completed, except for Sutter MS which reported an estimated completion date of 12/1/05 and had a significant amount of expenditures. The on-site inspections were not complete inspections of all areas of the school site, but were samples of remodeling, renovation and new construction, but were representative of samples of work reported as completed per the MCD Tracking Log.

Due to the lack of a defined scope of work and no ADA transition plans at a significant number of sites, it was difficult to determine areas that were remodeled or renovated at existing sites. For sites with undefined and/or vague scopes of work, inspectors spoke with school personnel to determine recently remodeled or repaired work for access compliance.

Noncompliant findings observed and documented during site inspections are reported in Appendix I – Accessibility Reports of Site Visits. It is important to emphasize that the list of noncompliant work is not meant to be comprehensive inspections of the school sites and represents only examples of work completed. Due to the volume of the site inspection reports, which contain photographs, reports are available in Appendix I. Appendix G – Site Visit Summary - provides a summary of findings and documents related to the site visits for the field audit

Of the sites inspected, DAC was able to verify the completion of work as reported by the MCD Tracking Log for seven sites (7). Partially completed work was found at three (3) sites and two (2) sites had work currently under construction that had been reported as completed in 2004 and 2005. Based upon the work inspected at the sites selected for the audit, a significant amount of the

work inspected did not meet the compliance standards in accordance with the ADA and Title 24 of the California Building Code.

Noncompliant items are reported by school site in more detail in Appendix I. A general summary of findings from the field audit of school sites is included in Table 5-Site Visit and Desk Audit Information. General findings for the school sites sampled for inspection include:

Parking

Work related to parking renovations were found to be noncompliant at a significant number of the schools inspected. Areas of noncompliance include striping of parking spaces and access aisles. Additionally, the placement of such spaces and access aisles required individuals with disabilities to travel behind cars or through vehicular traffic. In some instances, crosswalks were not provided on the path of travel from the accessible parking spaces to the facility. Curb ramps were also an area of frequent noncompliance, with some curb ramps projecting into vehicular traffic.

Rest Rooms

Rest rooms were also frequently noncompliant at schools inspected. Examples of observed noncompliant items include: placement of toilets, urinals, lavatories, dispensers (paper and soap), nonaccessible hardware on bathroom compartments and noncompliant installation of grab bars. In some instances, the restrooms lacked sufficient clear floor space and did not provide the necessary required space for accessibility and may require significant redesign and remodeling to correct.

Ramps, Fountains, and Other

Frequent areas of noncompliance found with ramps are the lack of handrail extensions, ramp dimensions and slope.

Several of the drinking fountains observed did not comply with the required high-low design. In some instances, compliant high-low fountains were incorrectly installed and did not provide the required clearance for utilization or were protruding objects.

DAC also inspected newly installed bleachers reported as accessible by the MCD Tracking Log. The bleachers installed are not accessible by design. School personnel reported that students with wheelchairs are accommodated by leaving the lower row of bleachers closed. Although this may serve as an accommodation, compliant seating requires at least one companion seat provided next to each accessible wheelchair seating place. Bleachers designed for accessibility provide the opportunity for individuals with disabilities in wheelchairs to be seated next to nondisabled peers. These seats must also contain the appropriate signage.

20 M Project Findings –Field Audit

Projects under the 20 M “on-demand” accessibility program were inspected for compliance with ADAAG and Title 24. Three (3) schools were selected for inspection with the primary scope of work consisting of ramp and restroom renovations. It is important to note that due to the nature of this program, the OIM may accept noncompliant work if the District can show cause that the renovations could not be completed as compliance and must demonstrate that the noncompliant work resulted in the program accessibility for students with disabilities.

The work inspected at the three (3) sites failed to comply with the accessibility standards. It is important to also note that work completed under the 20 M “on-demand” accessibility program is often completed by District and local District Maintenance and Operations personnel. As per reported District procedures, work completed by in-house maintenance and operations personnel does not require final inspections.

Ultimately, the proof of burden for determining the District's compliance with its obligations for the MCD is that work completed must result in the improved program accessibility for students with disabilities. Although the work of the three sites inspected did not meet all accessibility standards, it appears that these renovations may have resulted in the increased program accessibility for students with disabilities. However, the District is required to provide a rationale on a case-by-case basis for "on-demand" projects that do not meet accessibility standards. In the three schools inspected, there is no evidence to support the need to complete noncompliant work.

The District has detailed procedures for requests for "on-demand" projects that include specific information to improve accessibility for students as related to IDEA or Section 504. The process appears to provide a more standardized procedure for requesting accommodations for individual student needs. The scope of work is frequently documented in the request and appears to relate to requests for improved accessibility.

New School Construction

DAC conducted site inspections at four (4) recently constructed schools in order to measure the District's compliance with Section 10, Paragraph 76, which requires the District to comply with accessibility standards of ADAAG and Title 24 of the CBC for new construction. The inspections of the four (4) school sites are not considered comprehensive and findings are a reflection of a sample of work completed in selected areas of the school. Noncompliant findings are reported by school site in Appendix I.

Site Visit and Desk Audit Information

The site visits to the selected sites found areas of noncompliance in renovated, remodeled and newly constructed school sites. A summary of the findings from the site visits and related information from the desk audit is contained in Table 5 in Appendix G.

Case Study Findings –Coeur D'Alene Elementary School

A case study is included to further highlight the process of the verification audit as well as to show an example of the inconsistency of findings and record keeping encountered during the audit. Coeur D'Alene was selected because of the documents available for review as well as its inclusion in the field audit sample. This case study further emphasizes the importance of conducting site inspections for validating the document review and verification of completed and compliant construction. Further detail regarding the case study is contained in Table 5 and in the Site Visit Data.

The purpose of this case study is to provide additional insights into the management and oversight of access compliance construction programs. It is important to note that this review consisted of all documentation received, and may not be an analysis of all documentation for this project. Due to the limited amount of documents received for all projects audited, it must also be noted that this example is not intended for generalization.

Desk Audit Findings – Coeur D'Alene Elementary School

The desk audit consisted of an examination of all document received for verification of the accuracy of the data reported by MCD Tracking Log. The following data was reviewed for verification: project and DSA application numbers, scope of work, construction start and completion dates, estimated and expended costs, and completion of work. The scope of work reported by the MCD Tracking Log for Coeur D'Alene consists of renovations for restrooms, parking and fountains. The MCD Tracking Log reports estimated costs of \$54,134.29 and total expenditures of \$45,198.02. The scope of work is reported as completed on 1/18/05.

The document review could not verify the accuracy of the data reported by the MCD Tracking Log. For instance, the desk audit was able to identify a contract award of a total of \$38,000.00 and total expenditures of this same amount. The review also found several possible inconsistencies of data reported by the MCD Tracking Log for the following:

1. Inconsistent project number listed on the MCD Tracking Log (11.04793) with a different project number listed on all documents reviewed (11.0410433). This appears to be an error of the MCD Tracking Log since DSA application numbers, and the start and completion dates matched between the MCD Tracking Log and documents reviewed.
2. Recommendation to Award Contract for a total contract amount of \$38,000.00 dated 9/14/04
3. Contractor request for payment form and payment request form listed as "final" for a total of \$34,200.00 dated 1/6/05
4. Report of Completion and Recommendation of Acceptance form with total IFS expenditures for \$38,000.00 with a final completion date of 1/18/05, approved by the District on 2/7/05.

The document review also observed several possible inconsistencies in the process of management and oversight for completing access compliance work. These observations are important and may provide insights into the process and practices of the facilities program.

1. Several notices from the IOR stating: "that plans for this project were revised without getting approval from DSA and required an approved change order" (Official Notice - 12/20/04; Semi-monthly Report 1 – 12/31/04; Semi-monthly Report 2 – 1/15/04; and Project Condition Bulletins – 2/4/05)
2. IOR punch list dated 1/11/05 listing numerous items of noncompliance in restrooms and parking renovations
3. DSA-6 form signed and dated by IOR on 1/14/05, listing the following remaining work required for completion included accessible parking; toilet stalls, door thresholds; privacy partitions; ramp landings and re-submittal of plans to DSA
4. DSA-6A/E states that all work is 100% completed as of 1/14/05. The categories of accessible parking, restrooms, and signage are indicated as 100% completed. This form was approved by the District on 4/21/05.
5. Report of Completion and Recommendation of Acceptance form dated 1/18/05, indicating a final completion date of 1/18/05.
6. Inter-Office Correspondence dated 1/19/05 from the Supervising Construction Inspector, indicating the IOR had updated the punch list to find all punch lists had been completed.
7. IOR Project Condition Bulletins noting noncompliant work and code violations dated 2/4/05.

Field Audit Findings – Coeur D'Alene Elementary School

The inconsistencies noted above are better understood when examining the results of the field audit (Appendix I). The field audit was able to review the areas of work identified by the scope reported by the MCD Tracking Log. However, the site inspection was not able to verify work completed as noted in the MCD Tracking Log and documents reviewed. At the time of the inspection, both sets of restrooms reported as completed were closed and under significant construction. In addition, the construction for the drinking fountain had not yet begun. The site inspection also found numerous areas of noncompliant work completed in the parking lot. These findings do not support the documents reviewed that indicated completed work. These findings are consistent with the IOR reports that work was either not completed and/or compliant. Furthermore, the IOR Project Conditions Bulletins reported numerous code violations approximately three weeks after the reported completion date. It is noted in the contract that the completion date to avoid liquidated damages of \$250.00 per day was 1/18/05. The District OAR and architect signed the project as completed with no corrective action needed.

This case study points out several issues that must be considered in verifying the accuracy of the MCD Tracking Log. As was observed by the desk audit, inconsistencies are noted of the estimated and expended costs between the MCD Tracking Log and documents reviewed. However, several documents reviewed reported completion of work and a final sign-off by District personnel indicating that all work was completed and compliant with accessibility standards. The review also noted the IOR repeatedly issued reports of noncompliant work and the requirement to re-submit change orders for DSA approval. There appears to be a District procedure for measuring compliance with accessibility standards. However, it is uncertain how despite the IOR's notices of noncompliance and non-completed work, the final completion form was signed off by District personnel and the final payment authorized.

Again, the field audit demonstrates the importance and necessity for conducting site inspections since a review of documents in this case appeared to indicate work was completed and compliant. Since these findings contradict the findings of the document review and point out numerous inconsistencies in the MCD Tracking Log, this raises considerable questions over its accuracy, substantially limiting the ability for determining the District's progress toward meeting its obligations under Section 10 of the MCD.

SUMMARY AND CONCLUSIONS

Between May 2006 and May 2007, DAC conducted a verification audit to determine if the District is complying with its obligations under Section 10. Facilities of the MCD. The verification audit consisted of a desk and field audit, for the purposes of verifying the accuracy of the May 2006 MCD Tracking Log. This verification also includes determining if the work completed was compliant with accessibility standards as mandated by Section 504 and ADA. Overall, the verification audit found many inconsistencies and inaccuracies from the MCD Tracking Log. The inability to verify the scope of work and the majority of expenditures reported by the District, the utilization of the MCD Tracking Log for the purpose of determining the District performance with its obligations under Section 10 can not be endorsed for making generalized determinations.

The desk audit contained a total of fifty-one (51) selected projects from the 67.5 M existing facilities program, and seventeen (17) from the 20 M "on-demand" program. As a result of this review, DAC could not verify the accuracy of the expenditures as reported by the MCD Tracking Log for either the work reported under the \$67.5 M or the 20 M projects. In addition, DAC could not verify the completion of all access compliance work reported as completed by the MCD Tracking Log. In instances where documentation was provided and available for review, many of the documents lacked a detailed scope of work, final inspector results and/or financial (IFS) documentation. DSA approval was not available on several projects.

The limited documentation available and difficulty in obtaining such records may be indicative of systemic procedural problems in the record keeping of construction projects. In addition, after the collection of data had begun, District personnel acknowledged that some projects reported as having been reported as completed in the 67.5 M category had in fact not proceeded with construction. This further raises concerns about the validity and reliability of the MCD Tracking Log. The inability to verify the accuracy of such data was primarily due to three primary factors:

1. The inaccurate reporting of work completed and expenditures on the MCD Tracking Log
2. The limited documentation provided by the District
3. The lack of clear and specific documentation provided by the District necessary to verify the actual scope of work and expenditures related to access compliance

The field audit consisted of nineteen (19) site inspections to determine if newly constructed work and work completed for the \$67.5 M and 20 M programs met compliance with the accessibility

standards of Section 504 and ADA. Twenty-one (21) of the reported completed projects were selected, but only nineteen (19) could be inspected due to the fact that work was not completed. The results of the field audit found the majority of completed work inspected was not compliant with accessibility standards. The significant amount of noncompliant work found during the inspection of the \$67.5 M and 20 M projects as well as newly constructed schools may be indicative of systemic problems within the LAUSD facilities program in its management of such projects. Furthermore, the high rate of non-compliance also raises questions regarding the process intact for oversight and management of construction, since industry standards require the inspection and authorization from program managers that construction is compliant with accessibility standards. There also appears to be a lack of an overall prioritized plan for barrier removal, as required by an ADA Transition Plan and Self-Evaluation.

An important requirement of the MCD is to remove accessibility barriers and increase accessibility for individuals with disabilities by renovating and remodeling existing sites. The importance and relevancy of the required ADA Transition Plan is apparent when remodeling or renovating existing facilities to remove accessibility barriers. The ADA transition plan is a mandated plan that identifies the accessibility barrier, the proposed method or methods for barrier removal and the projected schedule for barrier removal. The ADA Transition Plan is an integral part of remodeling and renovation efforts to remove accessibility barriers.

It is also difficult to determine what portions of expenditures and projects meet the intent of improving accessibility in remodeling and renovation projects. It is unclear as to how projects labeled as "class size reduction for access compliance and "earthquake repair for access compliance" applied to removal of barriers in renovation and remodeling. The projects include the word "access compliance" but are not clear as to the intent to remove barriers to accessibility in accordance with the MCD. Additional clarification is needed to determine the accessibility portions of these projects for remodeling or renovation qualify as expenditures for the purposes of the MCD.

RECOMMENDATIONS

The following are recommendations and items that may have implications on the District's ability to fulfill their requirements under the MCD include, but are not limited to:

1. Revisions to the process of reporting items on the MCD Tracking Log
2. Revisions to the format of the MCD Tracking Log
3. Clarification of what items are reported on the MCD Tracking Log and documentation that the renovation or remodeling results in the removal of an accessibility barrier at an existing site
4. Improved record keeping and consistency for reporting expenditures
5. A review of the accessibility items prioritized for renovation or remodeling, as the May 2006 tracking log has a significant amount of expenditures planned for fire alarms and not for items that allow students access to and within the school site
6. Review of Division of Facilities procedures as they relate to accessibility and the oversight of procedures that relate to renovation, remodeling and construction of accessible buildings
7. Inspection of completed work to determine compliance with accessibility standards
8. Expenditures for noncompliant work will need to be discussed to determine the qualification of such expenditures for MCD reporting requirements.

APPENDICES

Appendix A: 2006 – Q1 MCD Access Compliance Tracking Log

Appendix B: Minor Facilities Renovations (IDEA & Section 504) Projects List

Appendix C: Table 1 – Desk Audit Documents Received for 67.5 M Projects

Appendix D: Table 2 – Desk Audit Documents Received for 20 M Projects

Appendix E: Table 3 – Desk Audit Data Verification Table for 67.5 M Projects

Appendix F: Table 4 – Desk Audit Data Verification Table for 20 M Projects

Appendix G: Site Visit and Desk Audit Information

Appendix H: Glossary of Terms

Appendix I: Accessibility Reports of Site Visits