

Auditors condemn district's actions

Alum Rock School District

Report cites contract costs, weak record-keeping and lack of internal controls

By Sharon Noguchi

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SAN JOSE — In a scathing report, a state auditing agency on Friday called for “immediate intervention” in the Alum Rock Union School District to reduce

chart the progress of its work, track payments or enforce contract terms. Del Terra refused to answer questions or provide documents, auditors reported.

The audit comes as parents continue to complain about the lack of heat, ventilation, functioning bathrooms and usable playing fields in the district, which serves 11,000 students in some of San Jose’s poorest neighborhoods.

“It’s very disturbing,” Jocelyn Merz, president of the teachers union, said about the report. The union has complained for years about inattention to dilapidated facilities. “I feel like we’ve been taken advantage of.”

The report did not mention names or pinpoint wrongdoing because state school auditors are charged with reviewing weaknesses in district operations. However, its language is considered strong for the state’s Fiscal Crisis and Management Assistance Team, which is tasked with investigating troubled school districts. Auditors suggested that legal authorities follow up.

Deputy district attorney Daniel Kassabian, in the major fraud unit of the Santa Clara County District Attorney’s Office, is reviewing the report.

The audit was triggered by an anonymous tip late last year to the Santa Clara County Office of Education about \$329,000 that Alum Rock paid to Del Terra to oversee construction that had yet to begin at four schools.

The auditing team, known as FCMAT did not find that those payments violated contract provisions. But the

the risk of fraud, mismanagement and misspending.

The 150-page report paints a picture of a hapless district surrendering control of its multimillion-dollar bond construction program to a Southern California-based management firm, which failed to work in Alum Rock’s best interest.

In 3½ years, Del Terra Real Estate Services has been paid \$3.25 million to manage construction in the district. But scant documentation exists to

In fact, the audit pointed out that Del Terra’s contract calls for it to help the district organize a filing system and plan room. “It is unclear what a ‘filing system’ means without the district having the actual files to put into this system,” the understated audit said.

In their six-month investigation, auditors cited hastily-drafted contracts, sloppy and missing documentation, unexplained fees and payment for incomplete work. Hampered by high turnover, the Alum Rock administration has little institutional memory. Facilities employees lack experience, knowledge and capacity, auditors found.

“Staff provided little due diligence and oversight of Del Terra Group, and therefore would be unable to protect the district if fraudulent activities occurred,” the report read.

Those who did raise questions told auditors they faced retribution from certain school board members, which the report didn’t name, who “had a tendency to micromanage operational issues.”

From interviews and documents, investigators found “board members have used their influence over business transactions to deliberately override management’s recommendations and board policies” on construction management.

Late last year, the board majority directed staff to pay Del Terra invoices despite questions over billing and non-performance. Twice when administrators presented bid results, the board majority directed them to re-bid the projects to allow Del Terra to compete.

team widened both the time frame and the depth of its investigation based on initial findings.

Auditors criticized board members for renewing Del Terra's contract last fall to manage hundreds of millions of dollars in voter-approved bonds and suggested the district reconsider the relationship.

But Alum Rock Board President Khanh Tran said that with construction projects underway, "we can't in the middle of flight change pilots."

"I have to deliver for my community," he said. With escalating construction costs, "I just want to make sure this is done."

Del Terra president and CEO Luis Rojas did not respond to requests for comment from this newspaper.

Superintendent Hilaria Bauer referred a reporter to the district's attorney, Luis Saenz, who declined to comment.

But trustee Andrés Quintero, who has been at odds with Alum Rock's board majority, said, "this substantiates some of the concerns I have had since September." He is calling for the district to terminate its contracts with Del Terra.

Since 2008, voters in the Alum Rock district have passed \$444 million in bonds for school construction and education technology. As a result, district property owners pay one of the highest property tax rates in the county for school bond debt service.

Alum Rock lacks a system to track its multiple bond-financed construction projects and has surrendered records and documents to Del Terra, its contractor.

Several board members have received campaign donations from Del Terra, which also contributed \$30,000 to the campaign for the district's Measure I bond last year.

The state audit report recommended Alum Rock consider terminating or renegotiating contracts with Del Terra, recalculate fees paid to Del Terra, and require the firm to turn over all files to the district.

Auditors raised a red flag about other construction debt that the district took on in 2010 to rebuild San Antonio School, noting that it poses "a serious threat to the district's ongoing fiscal solvency."

Jon Gundry, who as superintendent of the Santa Clara County Office of Education requested the audit, noted that Del Terra's original contract included a fiduciary, or legal obligation to protect the financial interest of district.

"They failed to do so. They are ones who took advantage of district."

He will decide by the end of the month whether to seek a stronger oversight role in Alum Rock's finances. Otherwise, "my primary interest is to help protect the school district," he said. "My role is to step in and right the ship." *Contact Sharon Noguchi at 408-271-3775.*

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