

SBE INC  
Form DEF 14A  
February 10, 2005

**SCHEDULE 14A INFORMATION**

Proxy Statement Pursuant to Section 14(a) of the Securities Exchange Act of 1934  
(Amendment No. \_\_)

Filed by the Registrant  x  
Filed by a Party other than the Registrant  o

Check the appropriate box:

- Confidential, for Use of the Commission Only (as permitted by Rule 14a-6(e)(2))
- Preliminary Proxy Statement
- Definitive Proxy Statement
- Definitive Additional Materials
- Soliciting Material Pursuant to § 240.14a-12

SBE, INC.

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(Name of Registrant as Specified In Its Charter)

Not applicable

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(Name of Person(s) Filing Proxy Statement if Other Than the Registrant)

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- No fee required.
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(6) Amount Previously Paid:

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(9) Date Filed:

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**SBE, INC.**  
**2305 Camino Ramon, Suite 200**  
**San Ramon, California 94583**

**NOTICE OF ANNUAL MEETING OF STOCKHOLDERS**

**To Be Held On March 22, 2005**

**To The Stockholders of SBE, Inc.:**

You are cordially invited to attend the Annual Meeting of Stockholders of SBE, Inc., a Delaware corporation (the "Company"). The meeting will be held on Tuesday, March 22, 2005, at 9:00 a.m. local time at the Company's offices at 2305 Camino Ramon, Suite 200, San Ramon, California 94583 for the following purposes:

- (1) To elect two directors to hold office until the 2008 Annual Meeting of Stockholders;
- (2) To ratify the selection of BDO Seidman, LLP by the Audit Committee of the Board of Directors as independent auditors of the Company for its fiscal year ending October 31, 2005; and
- (3) To conduct any other business properly brought before the meeting.

These items of business are more fully described in the Proxy Statement accompanying this Notice.

The record date for the Annual Meeting is February 10, 2005. Only stockholders of record at the close of business on that date may vote at the meeting or any adjournment thereof.

By Order of the Board of Directors

**/S/ David W. Brunton**

David W. Brunton  
Secretary

San Ramon, California  
February 15, 2005

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**You are cordially invited to attend the meeting in person. Whether or not you expect to attend the meeting, please complete, date, sign and return the enclosed proxy as promptly as possible in order to ensure your representation at the meeting. A return envelope (which is postage prepaid if mailed in the United States) is enclosed for your convenience. Even if you have voted by proxy, you may still vote in person if you attend the meeting. Please note, however, that if your shares are held of record by a broker, bank or other nominee and you wish to vote at the meeting, you must obtain a proxy issued in your name from that record holder.**

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**SBE, INC.**  
**2305 Camino Ramon, Suite 200**  
**San Ramon, California 94583**

**PROXY STATEMENT**  
**FOR THE ANNUAL MEETING OF STOCKHOLDERS**

**March 22, 2005**

**Information about this Proxy Material and Voting**

**General**

We sent you this proxy statement and the enclosed proxy card because the Board of Directors of SBE, Inc. (sometimes referred to as the "Company") is soliciting your proxy to vote at the Annual Meeting of Stockholders. You are invited to attend the annual meeting to vote on the proposals described in this proxy statement. However, you do not need to attend the meeting to vote your shares. Instead, you may simply complete, sign and return the enclosed proxy card.

The Company intends to mail this proxy statement and accompanying proxy card on or about February 18, 2005 to all stockholders of record entitled to vote at the annual meeting.

**Voting Rights and Outstanding Shares**

Only stockholders of record at the close of business on February 10, 2005 will be entitled to vote at the annual meeting. On this record date, there were 5,199,538 shares of common stock outstanding and entitled to vote.

*Stockholder of Record: Shares Registered in Your Name*

If on February 10, 2005 your shares were registered directly in your name with SBE, Inc.'s transfer agent, American Stock Transfer & Trust, then you are a stockholder of record. As a stockholder of record, you may vote in person at the meeting or vote by proxy. Whether or not you plan to attend the meeting, we urge you to fill out and return the enclosed proxy card to ensure your vote is counted.

*Beneficial Owner: Shares Registered in the Name of a Broker or Bank*

If on February 10, 2005 your shares were held in an account at a brokerage firm, bank, dealer, or other similar organization, then you are the beneficial owner of shares held in "street name" and these proxy materials are being forwarded to you by that organization. The organization holding your account is considered the stockholder of record for purposes of voting at the annual meeting. As a beneficial owner, you have the right to direct your broker or other agent on how to vote the shares in your account. You are also invited to attend the annual meeting. However, because you are not the stockholder of record, you may not vote your shares in person at the meeting unless you request and obtain a valid proxy from your broker or other agent.

**Issues to be Voted On**

There are two matters scheduled for a vote:

Election of two directors; and

Ratification of BDO Seidman, LLP as independent auditors of the Company for its fiscal year ending October 31, 2005.

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## **Voting Procedure**

You may either vote "For" each of the nominees to the Board of Directors (the "Board") or you may abstain from voting for any nominee you specify. For the other matter to be voted on, you may vote "For" or "Against" or abstain from voting. The procedures for voting are fairly simple:

### *Stockholder of Record: Shares Registered in Your Name*

If you are a stockholder of record, you may vote in person at the annual meeting, or vote by proxy using the enclosed proxy card. Whether or not you plan to attend the meeting, we urge you to vote by proxy to ensure your vote is counted. You may still attend the meeting and vote in person if you have already voted by proxy.

- To vote in person, come to the annual meeting and we will give you a ballot when you arrive.

- To vote using the proxy card, simply complete, sign and date the enclosed proxy card and return it promptly in the envelope provided. If you return your signed proxy card to us before the annual meeting, we will vote your shares as you direct.

### *Beneficial Owner: Shares Registered in the Name of Broker or Bank*

If you are a beneficial owner of shares registered in the name of your broker, bank, or other agent, you should have received a proxy card and voting instructions with these proxy materials from that organization rather than from SBE, Inc. Simply complete and mail the proxy card to ensure that your vote is counted. To vote in person at the annual meeting, you must obtain a valid proxy from your broker, bank, or other agent. Follow the instructions from your broker or bank included with these proxy materials, or contact your broker or bank to request a proxy form.

## **Number of Votes**

On each matter to be voted upon, you have one vote for each share of common stock you own as of February 10, 2005.

## **Voting By Proxy**

If you return a signed and dated proxy card without marking any voting selections, your shares will be voted "For" the election of each of the nominees for director and for the ratification of BDO Seidman, LLP as independent auditors of the Company for the fiscal year ending October 31, 2005. If any other matter is properly presented at the meeting, your proxy (one of the individuals named on your proxy card) will vote your shares using his best judgment.

## **Cost of Proxy Solicitation**

We will pay for the entire cost of soliciting proxies. In addition to these mailed proxy materials, our directors and employees may also solicit proxies in person, by telephone or by other means of communication. Directors and employees will not be paid any additional compensation for soliciting proxies. We may also reimburse brokerage firms, banks and other agents for the cost of forwarding proxy materials to beneficial owners.

## **Receipt of Multiple Proxy Cards**

If you receive more than one proxy card, your shares are registered in more than one name or are registered in different accounts. Please complete, sign and return **each** proxy card to ensure that all of your shares are voted.

**Revocation of Proxy**

You can revoke your proxy at any time before the final vote at the meeting. You may revoke your proxy in any one of three ways:

- You may submit another properly completed proxy card with a later date;
  - You may send a written notice that you are revoking your proxy to SBE, Inc.'s Secretary at 2305 Camino Ramon, Suite 200, San Ramon, California 94583; or
  - If you are a stockholder of record, you may attend the annual meeting and vote in person. Simply attending the meeting will not, by itself, revoke your proxy.
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## **Stockholder Proposals**

To be considered for inclusion in next year's proxy materials, your proposal must be submitted in writing by October 18, 2005, to the Secretary of SBE, Inc., 2305 Camino Ramon, Suite 200, San Ramon, California 94583. If you wish to submit a proposal that is not to be included in next year's proxy materials or nominate a director, you must do so by not later than the close of business on the 90<sup>th</sup> day nor earlier than the close of business on the 120<sup>th</sup> day prior to the first anniversary of the preceding year's annual meeting of stockholders (no earlier than November 22, 2005 and no later than December 22, 2005, as currently scheduled); provided, however, that in the event that the date of the annual meeting of stockholders is advanced more than 30 days prior to or delayed by more than 30 days after the anniversary of the preceding year's annual meeting of stockholders, notice by the stockholder to be timely must be so delivered not earlier than the close of business on the 120<sup>th</sup> day prior to such annual meeting of stockholders or the 10<sup>th</sup> day following the day on which public announcement of the date of such meeting is first made. Stockholders wishing to submit any such proposal are also advised to review Rule 14a-8 under the Securities Exchange Act of 1934 and the Company's Bylaws, which contain additional requirements about advance notice of stockholder proposals and director nominations.

## **Counting of Votes**

Votes will be counted by the inspector of election appointed for the meeting, who will separately count "For" and (with respect to proposals other than the election of directors) "Against" votes, abstentions and broker non-votes. Abstentions will be counted towards the vote total for each proposal, and will have the same effect as "Against" votes. Broker non-votes have no effect and will not be counted towards the vote total for any proposal.

If your shares are held by your broker as your nominee (that is, in "street name"), you will need to obtain a proxy form from the institution that holds your shares and follow the instructions included on that form regarding how to instruct your broker to vote your shares. If you do not give instructions to your broker, your broker can vote your shares with respect to "discretionary" items, but not with respect to "non-discretionary" items. Discretionary items are proposals considered routine under the rules of the New York Stock Exchange ("NYSE") on which your broker may vote shares held in street name in the absence of your voting instructions. On non-discretionary items for which you do not give your broker instructions, the shares will be treated as broker non-votes.

## **Votes Required To Approve Each Proposal**

- For the election of directors, the two nominees receiving the most "For" votes (among votes properly cast in person or by proxy) will be elected. Broker non-votes will have no effect.
- To be approved, the proposal to ratify BDO Seidman LLP as independent auditors of the Company for the fiscal year ending October 31, 2005 must receive a "For" vote from the majority of shares present either in person or by proxy. If you "Abstain" from voting, it will have the same effect as an "Against" vote. Broker non-votes will have no effect.

## **Quorum Requirement**

A quorum of stockholders is necessary to hold a valid meeting. A quorum will be present if a majority of the outstanding shares are represented by stockholders present at the meeting or by proxy. On the record date, there were 5,199,538 shares outstanding and entitled to vote. Thus at least 2,599,769 shares must be represented by stockholders present at the meeting or by proxy to have a quorum.

Your shares will be counted towards the quorum only if you submit a valid proxy vote or vote at the meeting. Abstentions and broker non-votes will be counted towards the quorum requirement. If there is no quorum, a majority of the votes present at the meeting may adjourn the meeting to another date.



**Results Of The Voting At The Annual Meeting**

Preliminary voting results will be announced at the annual meeting. Final voting results will be published in the Company's quarterly report on Form 10-Q for the second quarter of the fiscal year ending October 31, 2005.

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## **Proposal 1**

### **Election Of Directors**

The Board is divided into three classes. Each class consists, as nearly as possible, of one-third of the total number of directors, and each class has a three-year term. Vacancies on the Board may be filled only by persons elected by a majority of the remaining directors. A director elected by the Board to fill a vacancy in a class shall serve for the remainder of the full term of that class, and until the director's successor is elected and qualified. This includes vacancies created by an increase in the number of directors.

The Board presently has five members. There are two directors in the class whose term of office expires in 2005. If elected at the annual meeting, each of these nominees would serve until the 2008 annual meeting and until his successor is elected and has qualified, or until his earlier death, resignation or removal. It is the Company's policy to encourage nominees for directors to attend the Annual Meeting. All of the nominees for election as a director at the 2004 Annual Meeting of stockholders attended the 2004 Annual Meeting of Stockholders.

The following is a brief biography of each nominee and each director whose term will continue after the annual meeting.

#### **Nominees for Election for a Three-year Term Expiring at the 2008 Annual Meeting**

##### **Daniel Grey**

Mr. Grey, 50, has served our President and Chief Executive Officer since January 1, 2005. From May 2001 through December 2004, Mr. Grey served as our Senior Vice President Sales and Marketing. From January 2000 until May 2001, Mr. Grey was the Senior Vice President of Sales for SBS Technologies, a provider of embedded computing systems. From 1999 to January 2000, Mr. Grey was Vice President of Sales for LAN Media Corporation, a provider of wide area network connectivity solutions later acquired by SBE. Mr. Grey was the Western Regional Sales Manager for Performance Technologies, Inc. from 1996 to 1999. From 1989 to 1996, Mr. Grey served as the Director of Western Sales for SBE.

##### **Ronald J. Ritchie**

Mr. Ritchie, 64, has served as a director since 1997 and as Chairman since 2004. From October 1999 to date, Mr. Ritchie has served as president of Ritchie Associates, a business and management consulting firm. From October 1999 to June 2002, Mr. Ritchie also served as director of PixTech, Inc., a provider of field emission displays to worldwide customers, and he served as interim Chief Executive Officer of PixTech from August 2001 to June 2002. Mr. Ritchie served as Chairman of the Board of VXI Electronics, Inc., a supplier of power conversion components, from February 1998 until its acquisition by Celestica Inc. in September 1999. Mr. Ritchie was President and CEO of Akashic Memories Corporation, a firm supplying thin film hard disk media to manufacturers of disk drive products, from November 1996 to January 1998. From May 1994 to November 1996, Mr. Ritchie also served as President of Ritchie Associates. From August 1992 to April 1994, Mr. Ritchie was President and Chief Operating Officer of Computer Products, Inc., a supplier of power conversion components and system applications for the computer and networking industry. Prior to August 1992, Mr. Ritchie held President or senior executive positions at Ampex Corporation, Canaan Computer Corporation, Allied Signal Corporation and Texas Instruments.

**The Board Of Directors Recommends  
A Vote In Favor Of Each Named Nominee.**

#### **Directors Continuing in Office Until the 2006 Annual Meeting**

**William B. Heye, Jr.**

Mr. Heye, 66, joined the Company in November 1991 as President, Chief Executive Officer and a member of the Board. Mr. Heye retired from his position as President and Chief Executive Officer on December 31, 2004. From 1989 to November 1991, he served as Executive Vice President of Ampex Corporation, a manufacturer of high-performance scanning recording systems, and President of Ampex Video Systems Corporation, a wholly-owned subsidiary of Ampex Corporation and a manufacturer of professional video recorders and editing systems for the television industry. From 1986 to 1989, Mr. Heye served as Executive Vice President of Airborn, Inc., a manufacturer of components for the aerospace and military markets. Prior to 1986, Mr. Heye served in senior management positions at Texas Instruments, Inc. in the United States and overseas, including Vice President and General Manager of Consumer Products and President of Texas Instruments Asia, Ltd., with headquarters in Tokyo, Japan.

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**Directors Continuing in Office Until the 2007 Annual Meeting****Marion M. (Mel) Stuckey**

Mr. Stuckey, 66, has served as a director since December 2003. Since 2003, Mr. Stuckey has served as Chief Executive Officer of the DECAF Company LLC, a high-tech polymer company. Since 2001, Mr. Stuckey has served as Chief Executive Officer of CEO Jumpstart LLC, a management consulting firm. From 1983 to 2001, Mr. Stuckey was the Chairman of the Board and Chief Executive Officer of Fourth Shift Corporation, a provider of supply chain and customer management software. From 1978 to 1982, Mr. Stuckey was the President of the CPI subsidiary of Control Data Corporation. From 1962 to 1978, Mr. Stuckey held various IBM positions precedent to being named the Northern California and Nevada Manager for IBM Corporation.

**John Reardon**

Mr. Reardon, 44, was appointed as director by unanimous vote of the Board on February 10, 2004. Mr. Reardon has served as President and member of the Board of Directors of The RTC Group, a technical publishing company since 1990. In 1994, Mr. Reardon founded a Dutch corporation, AEE, to expand the activities of The RTC Group into Europe. Mr. Reardon continues to serve on the Board of Directors of One Stop Systems, a computing systems and manufacturing company. Mr. Reardon was selected by the San Diego's Directors Forum as the Director of the Year for Enhanced Economic Value for 2005.

**Information Regarding the Board of Directors and its Committees***Independence of the Board of Directors*

As required under the Nasdaq Stock Market ("Nasdaq") listing standards, a majority of the members of a listed company's board of directors must qualify as "independent," as affirmatively determined by the board of directors. The Board consults with the Company's counsel to ensure that the Board's determinations are consistent with all relevant securities and other laws and regulations regarding the definition of "independent," including those set forth in pertinent listing standards of Nasdaq, as in effect time to time.

Consistent with these considerations, after review of all relevant transactions or relationships between each director, or any of his or her family members, and the Company, its senior management and its independent auditors, the Board affirmatively has determined that all of the Company's directors are independent directors within the meaning of the applicable Nasdaq listing standards.

*Board Committees*

The Board has three committees: an Audit Committee, a Compensation Committee, and a Nominating and Governance Committee. The following table provides membership and meeting information for fiscal 2004 for each of the Board committees:

Name	Audit	Compensation	Nominating and Governance
Mr. Daniel Grey			
Mr. Marion M. (Mel) Stuckey	X*	X	X
Mr. John Reardon	X	X*	X
Mr. Ronald J. Ritchie	X	X	X*
Mr. William B. Heye, Jr.			
Total meetings in fiscal year 2004	6	6	2

\* Committee Chairperson

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Below is a description of each committee of the Board. Each of the committees has authority to engage legal counsel or other experts or consultants, as it deems appropriate to carry out its responsibilities. The Board has determined that each member of each committee meets the applicable rules and regulations regarding "independence" and that each member is free of any relationship that would interfere with his or her individual exercise of independent judgment with regard to the Company.

*Audit Committee.* The Audit Committee of the Board oversees the Company's corporate accounting and financial reporting process. For this purpose, the Audit Committee performs several functions. The Audit Committee evaluates the performance of and assesses the qualifications of the independent auditors; determines and approves the engagement of the independent auditors; determines whether to retain or terminate the existing independent auditors or to appoint and engage new independent auditors; reviews and approves the retention of the independent auditors to perform any proposed permissible non-audit services; monitors the rotation of partners of the independent auditors on the Company's audit engagement team as required by law; confers with management and the independent auditors regarding the effectiveness of internal controls over financial reporting; establishes procedures, as required under applicable law, for the receipt, retention and treatment of complaints received by the Company regarding accounting, internal accounting controls or auditing matters and the confidential and anonymous submission by employees of concerns regarding questionable accounting or auditing matters; reviews the financial statements to be included in the Company's Annual Report on Form 10-K; and discusses with management and the independent auditors the results of the annual audit and the results of the Company's quarterly financial statements. Three directors comprise the Audit Committee: Messrs. Stuckey, Reardon and Ritchie. The Audit Committee has adopted a written Audit Committee Charter that is attached as Appendix A to these proxy materials.

The Board annually reviews the Nasdaq listing standards definition of independence for Audit Committee members and has determined that all members of the Company's Audit Committee are independent (as independence is currently defined in Rule 4350(d)(2)(A)(i) and (ii) of the Nasdaq listing standards). All members of the Audit Committee meet Nasdaq's audit committee financial sophistication requirements. The Company does not have an "audit committee financial expert" (as defined in the rules of the Securities and Exchange Commission (the "SEC")) serving on the Audit Committee but the Board believes that the background and financial sophistication of its members are sufficient to fulfill the duties of the Audit Committee. Nasdaq does not currently require that audit committees include an "audit committee financial expert."

*Compensation Committee.* The Compensation Committee of the Board reviews and approves the overall compensation strategy and policies for the Company. The Compensation Committee reviews and approves corporate performance goals and objectives relevant to the compensation of the Company's executive officers and other senior management; reviews and approves the compensation and other terms of employment of the Company's Chief Executive Officer; reviews and approves the compensation and other terms of employment of the other executive officers; and administers the Company's stock option and purchase plans, pension and profit sharing plans, stock bonus plans, deferred compensation plans and other similar programs. Three directors comprise the Compensation Committee: Messrs. Stuckey, Reardon and Ritchie. All members of the Company's Compensation Committee are independent (as independence is currently defined in Rule 4200(a)(15) of the Nasdaq listing standards).

*Nominating and Governance Committee.* The Nominating and Governance Committee of the Board is responsible for identifying, reviewing and evaluating candidates to serve as directors of the Company (consistent with criteria approved by the Board), reviewing and evaluating incumbent directors, recommending to the Board for selection candidates for election to the Board and making recommendations to the Board regarding the membership of the committees of the Board. Our Nominating and Governance Committee charter can be found on our corporate website at [www.sbei.com](http://www.sbei.com). Three directors comprise the Nominating and Governance Committee: Messrs. Stuckey, Reardon and Ritchie. All members of the Nominating and Governance Committee are independent (as independence is currently defined in Rule 4200(a)(15) of the Nasdaq listing standards).



The Nominating and Governance Committee believes that candidates for director should have certain minimum qualifications, including being able to read and understand basic financial statements, being over 21 years of age and having the highest personal integrity and ethics. The committee also intends to consider such factors as possessing relevant expertise upon which to be able to offer advice and guidance to management, having sufficient time to devote to the affairs of the Company, demonstrated excellence in his or her field, having the ability to exercise sound business judgment and having the commitment to rigorously represent the long-term interests of the Company's stockholders. However, the committee retains the right to modify these qualifications from time to time. Candidates for director nominees are reviewed in the context of the current composition of the Board, the operating requirements of the Company and the long-term interests of stockholders. In conducting this assessment, the committee considers diversity, age, skills, and such other factors as it deems appropriate given the current needs of the Board and the Company, to maintain a balance of knowledge, experience and capability. In the case of incumbent directors whose terms of office are set to expire, the Nominating and Governance Committee reviews such directors' overall service to the Company during their term, including the number of meetings attended, level of participation, quality of performance, and any other relationships and transactions that might impair such directors' independence. In the case of new director candidates, the committee also determines whether the nominee must be independent for Nasdaq purposes, which determination is based upon applicable Nasdaq listing standards, applicable SEC rules and regulations and the advice of counsel, if necessary. The committee then uses its network of contacts to compile a list of potential candidates, but may also engage, if it deems appropriate, a professional search firm. The committee conducts any appropriate and necessary inquiries into the backgrounds and qualifications of possible candidates after considering the function and needs of the Board. The committee meets to discuss and consider such candidates' qualifications and then selects a nominee for recommendation to the Board by majority vote. To date, the Nominating and Governance Committee has not paid a fee to any third party to assist in the process of identifying or evaluating director candidates. To date, the Nominating and Governance Committee has not received any director nominations from stockholders of the Company.

The Nominating and Governance Committee will consider director candidates recommended by stockholders. The Nominating and Governance Committee does not intend to alter the manner in which it evaluates candidates, including the minimum criteria set forth above, based on whether the candidate was recommended by a stockholder or not. Stockholders who wish to recommend individuals for consideration by the Nominating and Governance Committee to become nominees for election to the Board may do so by delivering a written recommendation to the Nominating and Governance Committee at the following address: SBE, Inc., 2305 Camino Ramon, Suite 200, San Ramon, California 94583. Submissions must include the full name of the proposed nominee, a description of the proposed nominee's business experience for at least the previous five years, complete biographical information, a description of the proposed nominee's qualifications as a director and a representation that the nominating stockholder is a beneficial or record owner of the Company's stock. Any such submission must be accompanied by the written consent of the proposed nominee to be named as a nominee and to serve as a director if elected.

#### *Meetings of the Board of Directors*

The Board met seven times during the last fiscal year. Each director attended 75% or more of the aggregate of the meetings of the Board and of the committees on which he served, held during the period for which he was a director or committee member, respectively. In addition, as required under Nasdaq listing standards, the Company's independent directors meet in regularly scheduled executive sessions at which only independent directors are present.



*Stockholder Communications with the Board of Directors*

The Company has adopted a policy for stockholder communications with the Board. Persons interested in communicating with any particular director, the independent directors or the Board as a whole may address correspondence to the intended recipient, in care of SBE, Inc. at 2305 Camino Ramon, Suite 200, San Ramon, California 94538. If no particular director is named, letters will be forwarded, depending on the subject matter, to the Chair of the Audit, Compensation, or Governance and Nominating Committee.

**Code Of Ethics**

The Company has adopted the SBE, Inc. Code of Business Conduct that applies to all officers, directors and employees. All of the Company's employees must carry out their duties in accordance with the policies set forth in the Code of Business Conduct and with applicable laws and regulations. The Code of Business Conduct contains a separate Code of Ethics that applies specifically to the Company's Chief Executive Officer and senior financial officers. The Code of Business Conduct and Code of Ethics is available on our website at [www.sbei.com](http://www.sbei.com). If the Company makes any substantive amendments to the Code of Business Conduct or grants any waiver from a provision of the Code to any executive officer or director, the Company will promptly disclose the nature of the amendment or waiver on its website.

**Report of the Audit Committee of the Board of Directors<sup>1</sup>**

The Audit Committee has reviewed and discussed the audited financial statements of the Company for the year ended October 31, 2004. The Audit Committee has also discussed the audited financial statements with management and BDO Seidman, LLP, the Company's independent auditors.

The Audit Committee has discussed with BDO Seidman, LLP the matters required to be discussed by Statements on Auditing Standards No. 61. The Audit Committee has also discussed with BDO Seidman, LLP the auditor's independence from the Company and its management including the matters in the written disclosures required by the Independence Standards Board Standard No. 1 (Independence Discussions with Audit Committees). The Audit Committee has also received the letter from BDO Seidman, LLP required by the Independence Standards Board Standard No. 1.

Based on the foregoing review and discussions with management and BDO Seidman, LLP, the Audit Committee has recommended to the Board, and the Board approved, the inclusion of the audited financial statements in the Company's Annual Report on Form 10-K for the year ended October 31, 2004, to be filed with the SEC. The Audit Committee and the Board also have recommended, subject to stockholder approval, the selection of the Company's independent auditors for the year ending October 31, 2005.

**Audit Committee Members:**

Marion M. (Mel) Stuckey (Chairman)

John Reardon

Ronald J. Ritchie

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<sup>1</sup> The material in this report is not "soliciting material," is not deemed "filed" with the SEC, and is not to be incorporated by reference into any filing of the Company under the Securities Act of 1933 or the Securities Exchange Act of 1934, whether made before or after the date hereof and irrespective of any general incorporation language in any such filing.

**Proposal 2**

**Ratification Of Selection Of Independent Auditors**

The Audit Committee of the Board has selected BDO Seidman LLP as the Company's independent auditors for the fiscal year ending October 31, 2005 and has further directed that management submit the selection of independent auditors for ratification by the stockholders at the Annual Meeting. BDO Seidman LLP has audited the Company's financial statements since 2003. Representatives of BDO Seidman LLP are expected to be present at the Annual Meeting. They will have an opportunity to make a statement if they so desire and will be available to respond to appropriate questions.

Neither the Company's Bylaws nor other governing documents or law require stockholder ratification of the selection of BDO Seidman LLP as the Company's independent auditors. However, the Audit Committee of the Board is submitting the selection of BDO Seidman LLP to the stockholders for ratification as a matter of good corporate practice. If the stockholders fail to ratify the selection, the Audit Committee of the Board will reconsider whether or not to retain that firm. Even if the selection is ratified, the Audit Committee of the Board in its discretion may direct the appointment of different independent auditors at any time during the year if they determine that such a change would be in the best interests of the Company and its stockholders.

**Independent Auditors' Fees**

The following table represents aggregate fees billed to the Company for fiscal years ended October 31, 2004 and 2003, by BDO Seidman, LLP, the Company's principal accountant. Certain amounts from fiscal 2003 have been reclassified to conform to new presentation requirements.

**Fiscal Year Ended  
(in thousands)**