

ADVISORY ACTIONS

ISSUE NO. 01

from the State Allocation Board
meetings held on
January 26 and February 23, 2005

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Regulations Update

State Allocation Board Implementation Committee

OPSC Reminders

STATE ALLOCATION BOARD MEETINGS*

- The March 23 meeting has been rescheduled to Wednesday, March 30, 2005
- Wednesday, April 27, 2005

IMPLEMENTATION COMMITTEE MEETINGS*

- Friday, April 8, 2005
- Friday, May 6, 2005

PROGRAM FILING PERIODS

School Facility Program (SFP) Joint Use:

- Application Submittal: June 1, 2004 – May 31, 2005
- Target SAB Date: July 27, 2005

Deferred Maintenance Program (DMP):

- Application Submittal: June 30, 2004
- Target SAB Date: December 2005

WILLIAMS SETTLEMENT LEGISLATION

School Facilities Needs Assessment Grant Program:

- On-line Certification of Eligibility must be completed for OPSC to release funds.
- Web-Based Progress Report Survey (one for the LEA) due April 29, 2005.
- Web-Based Needs Assessment Report (Form SAB 60-1) one for each eligible school due January 1, 2006.

School Facilities Inspection System:

- All LEAs must establish a school facilities inspection system in order to participate in the SFP and DMP by July 1, 2005.

Continue on page 7

*For the latest meeting dates, times and locations, check the OPSC Web site.



from the desk of Luisa Park, Executive Officer

"I'm pleased to be back!"

As many of you know by now, I have been reappointed as the Executive Officer of the Office of Public School Construction (OPSC) and State Allocation Board (SAB). I'm pleased to be back working with the Board, department, staff, school districts and school facilities representatives. Everyone has made me feel extremely welcome as I reacquaint myself with the Board and program activities that have occurred over the last seven months.

Most significantly and as a result of months of preparation and discussion at the SAB Implementation Committee meetings, we are pleased to announce that the SAB approved the regulations on January 26, 2005 to implement and administer the School Facilities Needs Assessment Grant Program and the Emergency Repair Program, which were created pursuant to Senate Bill 6, Chapter 899, Statutes of 2004 (Alpert) as part of the settlement agreement in the case of Williams v. State of California (Williams Settlement). The Board approved, at its February 23, 2005 meeting, the final remaining Williams Settlement regulatory issue regarding the "supplement, not supplant" requirement of the law.

As a result of everyone's hard work, all the statutory timelines to date have been met and the Board apportioned \$22.8 million for 2,137 schools for the School Facilities Needs Assessment Program at the February 2005 SAB meeting. Numerous Williams Settlement related Board approvals, activities, requirements and important program timelines are highlighted in a Williams Settlement Legislation Update included in this month's OPSC *Advisory Actions*. Please be certain to thoroughly view this special edition insert. Also, stay tuned to the OPSC Web site for details on our Williams Settlement legislation workshops beginning in March at various locations throughout the State.

I look forward to working together to improve the school facilities for the children of California. *I truly am pleased to be back working with all of you!*

Luisa M. Park

New Faces on the State Allocation Board

BY MARY LOU BAILEY, OPSC ANALYST

Anne Sheehan, Senator Alan Lowenthal and Senator Jack Scott are the latest to join the current State Allocation Board (SAB) members who meet monthly to apportion funds to school districts, act on appeals, and adopt policies and regulations as they pertain to the programs administered by the SAB.

The SAB is comprised of ten members; the Director of the Department of Finance (DOF), the Director of the Department of General Services (DGS), the State Superintendent of Public Instruction, one appointee by the Governor, three members of the Senate, and three members of the Assembly as follows:

- ▶ Tom Campbell, Director, DOF (traditional Chair)
Designee: Anne Sheehan, Chief Deputy Director, Policy
- ▶ Ron Joseph, Director, DGS
Designee: Rob Cook, Deputy Director, Interagency Support Division
- ▶ Jack O'Connell, State Superintendent of Public Instruction
Designee: Kathleen Moore, Director, School Facilities Planning Division
- ▶ Governor Appointee: Vacant
- ▶ Senator Bob Margett, 29th Senate District
- ▶ Senator Alan Lowenthal, 27th Senate District
- ▶ Senator Jack Scott, 21st Senate District
- ▶ Assembly Member Jackie Goldberg, 45th Assembly District
- ▶ Assembly Member Lynn Daucher, 72nd Assembly District
- ▶ Assembly Member: Vacant

The SAB meetings are held once a month and are open to the public. Details of the meetings, including times and locations, can be found on the Office of Public School Construction Web site at www.opsc.dgs.ca.gov.

HUGE SUCCESS!

Over \$270 Million Approved for the Charter School Facilities Program

BY JUAN MIRELES, OPSC PROJECT MANAGER

On February 23, 2005, the State Allocation Board (SAB) approved over \$270 million for the construction of 28 charter school projects with funds made available from Proposition 55.

Assembly Bill 14 (Chapter 935, Statutes of 2002 – Goldberg) created the Charter School Facilities Program (CSFP) as a pilot program that allowed charter schools to access State facility funding directly for the first time. Senate Bill 15 (Chapter 587, Statutes of 2003 – Alpert) made significant modifications to the CSFP to limit the total per project cost in order to maximize the number of projects funded. As a result, the OPSC is proud to announce that the SAB approved 28 out of 34 eligible charter school projects with the proceeds from Proposition 55.

The CSFP provides charter schools with a reservation of funding, known as a preliminary apportionment. This approval provides charter schools up to five years to receive the necessary approvals from other State entities (California Department of Education, Division of the State Architect, and the Department of Toxic Substance Control) that are required prior to converting the project to a Final Apportionment and eventual construction. In addition, during the application process and throughout the five year timeline, the California School Finance Authority (CSFA) ensures that State funding is provided only to those charter schools that are able to demonstrate continued financial stability.

To view the funding item presented to the SAB, please visit the OPSC Web site at http://www.documents.dgs.ca.gov/opsc/chart_sch/CSFP_Workload.pdf. If you have any questions regarding this program, please contact either Juan Mireles at 916.323.4470 or Barbara Kampmeiner at 916.323.2282. For questions relating to financial soundness, please contact Katrina Johantgen at the CSFA at 213.620.4467.

“Piggyback Contracts” and Building Code Compliance

BY REGINA D-SLLIBACONG, OPSC PROJECT MANAGER

Office of Public School Construction staff presented a report at the February 2005 State Allocation Board (SAB) meeting in response to concerns expressed by the SAB regarding “piggyback” contracts. The report was also in response to the Board’s request for additional information, following a related December 2004 SAB report, regarding the inspection process used by the Division of the State Architect (DSA) for modular facilities.

On the question of the legality of piggyback contracts used by some school districts to acquire and install factory-built modular building components that result in state-funded permanent schools using a contract let pursuant to Public Contract Code Section 20118, the SAB requested an Attorney General opinion on the matter.

Additionally, the DSA presented an overview of its inspection process that occurs both in-plant and on-site for modular school facilities. The DSA assured the SAB that inspectors must pass through a qualifications process before being selected by a school district to inspect the school facility projects. The DSA indicated that it is ensuring the safety of the resulting school facilities by establishing the requirements to become a DSA-approved inspector and overseeing the accountability of the inspectors. The DSA reported that if at any time an inspector fails to perform his or her duties, it can withdraw its approval of the inspector.

To learn more about this report, please view the February 2005 SAB report and watch for additional information that may be presented to the Board.

A FEW REMINDERS...

Updating Your Eligibility?

BY SHELLEY NISHIKAWA, OPSC PROJECT MANAGER

Beginning November 1st of every year, the current year California Basic Education Data Systems (CBEDS) must be utilized to update a district’s eligibility prior to submittal of new SFP funding applications. Be sure to check that you are using the latest version of the *Enrollment Certification/Projection* (Form SAB 50-01), as new legislation that affects SFP Regulations often include changes to the forms. The latest forms are available on our Web site at www.opsc.dgs.ca.gov.

Here are some things to keep in mind when completing your Form SAB 50-01 with the current CBEDS (2004/2005):

- The enrollment data reported in Part A of the form should not include students receiving nonclassroom-based instruction or juvenile court/court school students.
- Continuation High School Pupils and Special Day Class Pupils reported in Parts C and D should not be duplicated in Part A.
- School districts with less than 300 current enrollment have the option to report the previous five year average for any grade level for any year when the enrollment drops more than 50 percent from the previous year. Be sure to identify where this options was used on the Form SAB 50-01.
- If reporting a New Dwelling Unit augmentation (Part F), be sure to send in the required documentation and have the supporting documentation readily available should OPSC need further verification. For complete details regarding reporting dwelling units, please refer to our Web site.
- A district may choose to apply a historical student yield factor, rather than the Statewide average, when reporting new dwelling units. A justification study based on the previous five years data must be submitted along with the application.

For additional details regarding the completion of the form, please refer to the specific instructions of the Form SAB 50-01 or contact your OPSC Project Manager.

Amendments to the Deferred Maintenance Program Regulations Approved

BY BILL JOHNSTONE, OPSC PROJECT MANAGER

On November 24, 2004, the Office of Administrative Law approved amendments to the Deferred Maintenance Program (DMP) Regulations. One change involves a less restrictive use of like-kind materials or systems for building component replacement and the second amendment adds lead testing and abatement to the list of allowable school facility components under the DMP.

Please be advised that the *Five Year Plan* (Form SAB 40-20) has also been revised due to these amendments and reflects a revision date of 08/03. Any *Five Year Plan* submitted after November 24, 2004 will require the revised form.

For more details on these amendments and to view the regulation text, please refer to the DMP Regulation Updates as part of the DMP section on the OPSC’s Web site located at www.opsc.dgs.ca.gov.

SCHOOL FACILITY PROGRAM

60 Percent Commensurate Requirement

BY THOMAS FAIRGOOD, OPSC AUDITOR

In recent weeks several school districts have asked the OPSC Audit Team how to satisfy the 60 percent commensurate requirement that applies to every School Facility Program (SFP) new construction and modernization project. This is a good question because there are significant fiscal impacts to school districts that do not satisfy this requirement. This article will focus on the front end of the process to help avoid later consequences and ensure successful program compliance.

What is the 60 percent commensurate requirement?

It means that the *construction work in the project must be at least 60 percent of the total grant amount provided by the State and the school district's matching share, less site acquisition costs.* The *Application for Funding* (Form SAB 50-04) includes a certification by the architect of record or design professional that the requirement has been satisfied.

How does the school district satisfy the 60 percent commensurate requirement?

As a general rule, school districts may include all construction expenditures stated in Education Code Sections 17072.35 and 17074.25. The main construction contract usually accounts for most of the eligible expenditures. Other eligible expenditures include, but are not limited to, the following: electrical wiring for air conditioning units, alarms, lighting, sprinkler systems, computers, and phones; landscaping; painting; fencing; playground equipment; concrete and blacktop work; plumbing; and roofing. Eligible expenditures can also include costs associated with service site, utilities, general site, and other building costs. Please remember, only those costs related to the final SFP Grant are eligible and should be listed on the *Expenditure Report* (Form SAB 50-06). Funds expended from other programs (e.g., Deferred Maintenance Program, Roofing Program, etc.) are ineligible.

Should you have questions regarding the 60 percent commensurate requirement, please contact the OPSC Audit Team at 916.322.0140.

CDE Site Approval Process Report

BY MARY LOU BAILEY, OPSC ANALYST

In response to a request by the State Allocation Board (SAB), the California Department of Education (CDE) made a presentation on the CDE Site Selection Process at the February 2005 SAB meeting.

The report addressed a question posed concerning the cost, selection and approval process for school sites. The report also detailed the CDE's responsibilities for developing standards for use by school districts in the selection of school sites (Education Code Section 17251) and for the approval of school sites for projects that request SAB funding pursuant to Education Code Section 17070.50.

For questions regarding the report or the CDE site selection process, please contact Fred Yeager, Assistant Director, CDE School Facilities Planning Division, at 916.327.7148.

DEFERRED MAINTENANCE PROGRAM

Certification of Deposits, Form SAB 40-21

BY MICHAEL KWAN, OPSC ACCOUNTANT

The *Certification of Deposit* (Form SAB 40-21) is a form that the county offices of education will complete, certify and submit to the Office of Public School Construction (OPSC) listing all districts that deposit their matching shares for the Deferred Maintenance Program (DMP).

Is the Form SAB 40-21 required this year since the county offices of education did not submit the SAB 40-21 last year?

Yes, county offices of education will need to submit their Form SAB 40-21 for this year (2003–2004) for the DMP annual apportionments approved at the December 8, 2004 State Allocation Board (SAB) meeting. This year the DMP basic grant was pro-rated at 97.97 percent of the California Department of Education (CDE) calculated maximum amount.

What will happen if I do not submit the SAB 40-21?

Per Education Code Section 17584.1(b) for districts that do not deposit the maximum apportionment amount calculated by the CDE, the governing board of a school district shall submit a report to the Legislature by March 1, with copies to the Superintendent of Public Instruction, the State Board of Education, the Department of Finance, and the SAB. In addition, the law requires that the report to the Legislature detail the reasons why funds were not transferred.

Typically, a Board item would be presented to the SAB in March, to rescind the State's share of the DMP basic grant for all districts for which the county offices of education did not submit a SAB 40-21 to the OPSC.

When do I need to submit my SAB 40-21 to the OPSC?

County offices of education were required to certify and submit Form SAB 40-21 to the OPSC by February 6, 2005, or 60 days from the December 8, 2004 SAB meeting at which the districts received their DMP basic grant apportionment.

If your form has not already been submitted, please mail the *Certification of Deposits* (Form SAB 40-21) immediately to the following address:

Office of Public School Construction
Attn: Accounting Unit
1130 K Street, Suite 400
Sacramento, CA 95814

Who can I contact on questions regarding the SAB 40-21 or the DMP?

If you have questions or need assistance in completing the Form SAB 40-21, please call Barbara Terry, Associate Accounting Analyst, at 916.445.5428, or by e-mail at barbara.terry@dgs.ca.gov. If you have questions regarding the DMP, please feel free to contact Bill Johnston, Project Manager, at 916.323.8176 or by e-mail at bill.johnston@dgs.ca.gov. A copy of Form SAB 40-21 is located on the OPSC Web site at www.opsc.dgs.ca.gov.

Williams Settlement Legislation Updates

BY BEATRIZ SANDOVAL AND LINDSAY ROSS, OPSC PROJECT MANAGERS

In the last two issues of the Office of Public School Construction (OPSC) *Advisory Actions*, we provided information on the Williams Settlement legislation that impact the OPSC and our plans to implement the legislation. In the following articles, we hope to bring you up to date on current activity.

Section 1: Updates from the January 23, 2005 SAB Meeting

Senate Bill 6 Regulations Adopted!

We are pleased to announce that the State Allocation Board (SAB) approved the regulations on January 26, 2005, to implement and administer the School Facilities Needs Assessment Grant Program (SFNAGP) and the Emergency Repair Program (ERP), which were created pursuant to Senate Bill 6, Chapter 899, Statutes of 2004 (Alpert) as part of the settlement agreement in the case of Williams v. State of California (Williams Settlement). These regulations are the result of months of discussion and presentations at the SAB Implementation Committee meetings in November, December, January and February. Two regulation sections, 1859.318 and 1859.328, were *not* adopted at the January meeting to allow for additional discussion. See the article entitled "Supplement, Not Supplant Regulations Were Adopted" that is located on the following page.

The SFNAGP and ERP provide funding to Local Educational Agencies (LEAs) for schools ranked in deciles 1 through 3 based on the 2003 Academic Performance Index (API) for those facilities that were newly built prior to January 1, 2000. Only school districts and county offices of education are considered LEAs for purposes of these programs. For charter schools, funding will be provided to the LEA that authorized the school's charter. A list of the schools meeting the API criteria can be found on the California Department of Education Web site at <http://www.cde.ca.gov/eo/ce/wc/wmsschools.asp>.

School Facilities Needs Assessment Grant Program

The program requires LEAs to perform a one-time comprehensive assessment of the facilities for each eligible school site and develop a plan to repair or replace the facilities to accomplish this. The assessment will include:

- Facility Inventory
- Estimated Costs for 5-years to Maintain Functionality of the School Buildings
- Remaining Life of Major Building Systems
- Necessary Repairs

Although some of the required data may be provided by LEA staff, the LEA must obtain the services of qualified individual(s) to obtain a large portion of the assessment data. Qualified individual(s) may not be employee(s) of the LEA, and must have or be supervised by individual(s) with the general knowledge of school facility construction, maintenance, and operations, and either:

- An architect, engineer or general contractor licensed under California law; or
- Three years experience with cost estimation and life-cycle analysis

Inspectors may use the Needs Assessment Report Worksheet that is available on the OPSC Web site to collect data. However, the assessment information will ultimately be compiled and submitted to OPSC via the On-Line Needs Assessment Submittal

Program that is currently being developed. The On-Line Needs Assessment Submittal Program consists of three components:

Certification of Eligibility – This is used to verify whether each of the schools in deciles 1 through 3 was newly constructed prior to January 1, 2000. Any school that was built after this date is ineligible for SFNAGP and ERP funding. Funds will be released for those schools that were constructed prior to January 1, 2000, once OPSC has received the signed certification page.

Web-Based Progress Report Survey – This form provides a summary of the progress made toward completing the assessments and must be completed and submitted to the OPSC by April 29, 2005. Only one progress report will be submitted for the LEA.

Web-Based Needs Assessment Report (Form SAB 60-01) – This defines what the assessment must contain at minimum. LEAs must complete the assessment for each eligible school and submit the information to OPSC via this Web-based version of the form by January 1, 2006.

If any funds remain after the Needs Assessment Report (Form SAB 60-01) has been completed, the funds may be used toward the cost of completing any of the repairs identified in Part V of the assessment. By January 1, 2007, the LEA must report on the use of SFNAGP funds by completing and submitting an Expenditure Report (Form SAB 61-02). This report will be LEA-wide.

Please keep in mind the key dates above for the SFNAGP and refer to Regulation Sections 1859.300 through 1859.319 for additional information.

The Emergency Repair Program

This program provides funding to reimburse LEAs for the cost of repairing building systems or structural components that pose a health and safety threat to students and staff at eligible school sites. The same schools that are eligible for SFNAGP funding are eligible for ERP funding. Funds will be made available annually through the Budget Act and the program will operate on a reimbursement basis.

As a reimbursement program, LEAs must complete and make payment for the repair or replacement costs prior to submitting a request for funding, the Application for Reimbursement and Expenditure Report (Form SAB 61-03). In addition to the application, the LEA must include sufficient documentation to substantiate the presence of a health and safety threat. This may include, but is not limited to:

- Photos showing the condition of the project prior to the repair work being performed
- Signed copy of an Interim Evaluation Instrument identifying the health and safety threat
- Copy of complaint(s) made by parents, students, or staff referencing the problem
- Copy of inspection report by qualified individual(s) or firm(s)

The application processing timeline is anticipated to be similar to that of the School Facility Program (SFP). The OPSC will begin accepting ERP applications once the regulations for the program have been approved by the Office of Administrative Law, which is anticipated to be in March or April of 2005. For additional information on the ERP, please refer to Regulation Sections 1859.320 through 1859.330. On the OPSC Web site you will find draft copies of forms and regulations for your review.

Good Repair Is Now Defined

One objective of Senate Bill 550, Chapter 900, Statutes of 2004 (Vasconcellos), which is also part of the Williams Settlement legislation, is to ensure that public schools are in "good repair", meaning the facilities are clean, safe and functional. The OPSC was charged with developing an interim tool for measuring good repair until a permanent standard is adopted in statute. The OPSC created the Interim Evaluation Instrument (IEI) for this purpose. The IEI is designed to allow individuals to identify items that would not be considered clean, safe or functional based on a visual review by persons without technical expertise or with minimal familiarity with school facilities. The IEI is available to assist school districts or county offices of education in determining whether a facility is in good repair. In addition, the IEI may be used to complete the facilities portion of the Student Accountability Report Card or to help COEs with oversight responsibilities. The IEI can be found on the OPSC Web site. The completed IEIs are to be retained for school district or county office of education records and are not submitted to the OPSC.

Other Programs Affected By Williams

The Williams Settlement legislation is far reaching. In addition to the new programs created, existing programs administered by the OPSC have also been affected. The SAB approved amendments to the SFP Regulation Section 1859.81 to ensure that funds received through the SFNAGP and ERP are not considered available contribution for SFP financial hardship projects. In addition, amendments have been made to the SFP and Deferred Maintenance Program (DMP) regulations as a result of Education Code Section 17070.75(e), which was added pursuant to Senate Bill 550. This statute requires that LEAs establish a school facilities inspection system by July 1, 2005 as a condition of participation in the SFP and the DMP. The purpose of the inspection system is to ensure that schools are kept in good repair. To meet this requirement, LEAs will be required to certify that an inspection system has been established when signing the following SFP and DMP forms:

- Application for Funding (Form SAB 50-04)
- Application for Joint-Use Funding (Form SAB 50-07)
- Application for Charter School Preliminary Apportionment (Form SAB 50-09)
- Deferred Maintenance Five-Year Plan (Form SAB 40-20)

Section 2: Updates from the February 23, 2005 SAB Meeting

Supplement, Not Supplant Regulations Were Adopted

The SAB did not take action on these two sections of the regulations at the January meeting to allow time for further discussion. The statute requires that funding provided under these programs must be used to supplement, not supplant existing funds for the maintenance of school facilities. Further, it states that LEAs must exercise due diligence in the maintenance of school facilities. If a LEA is found to be in violation of these requirements, the SAB may deny future funding.

At its February meeting, the SAB approved amendments to the SFNAGP and ERP Regulations to define these requirements. The amendments included adding Sections 1859.318 (SFNAGP) and 1859.328 (ERP), as well as amending Section 1859.325, the Expenditure Report (Form SAB 61-02) and the Application for Reimbursement and Expenditure Report (Form SAB 61-03). A LEA must comply with these sections as a condition of spending left over SFNAGP funds or to be eligible to receive reimbursement from the ERP. The intent of the language is to ensure LEAs are making an effort to keep all schools in good repair by depositing or budgeting specific levels of funding for deferred, routine and regular maintenance and using those funds on current or planned maintenance projects.

Needs Assessment Apportionments Made

The SAB apportioned \$22,808,990 for 2137 schools for the School Facilities Needs Assessment Program (SFNAGP) at the February 2005 SAB meeting. Prior to receiving SFNAGP funds, the LEA must complete and submit to the OPSC the on-line *Certification of Eligibility*. Funds will be released for those schools that were constructed prior to January 1, 2000, once the OPSC has received the signed certification page. For more information about the requirements of the SFNAGP, including timelines and reporting requirements, refer to the article on the preceding pages entitled "Senate Bill 6 Regulations Adopted!" and consult the SFNAGP Regulations Sections 1859.300 through 1859.319.

The OPSC Web site is a great source of information as it is updated frequently for announcements and information regarding the Williams programs.

Important Notice...

Eligibility for the School Facility Needs Assessment Grant Program and Emergency Repair Program may be impacted by your recent deposit to receive Deferred Maintenance funding for the 2003/2004 Fiscal Year. If the district did not deposit an amount equal to the State's matching share, the district will not be able to expend any remaining funds on needed repairs from the School Facility Program Needs Assessment grant or participate in the Emergency Repair Program for a specified period of time (refer to Regulation Sections 1859.318 and 1859.328 for additional information). The State's Deferred Maintenance Program matching share amount for the 2003/2004 Fiscal Year is available for viewing under <http://www.opsc.dgs.ca.gov/Programs/DMP.htm> on the OPSC Web site.

Annual Reporting of Unused Sites

BY JIM CASEBOLT, OPSC PROJECT MANAGER

In May 2005, the Office of Public School Construction (OPSC) plans to mail to school districts the annual *Certification of Unused Sites* (Form SAB 423). All districts are required to report, using the Form SAB 423, to the State Allocation Board any site that is owned by a district that is not being used for school construction or for school purposes (see Education Code Sections 17219 through 17224). The unused sites are subject to a fee on properties that are not used within five years from the date of acquisition for elementary school districts (grades K–8) and seven years for high school districts (grades 7–12). It is very important that districts verify the information on the Form SAB 423, sign, date, and return it to the OPSC, even if the school district has no unused sites.

If a district has changes to the data provided on the Form SAB 423, such as a new unused site, sale of a district-owned site, or a request to have the fees waived or reduced, the district must complete a *Modification of Unused Sites Status* (Form SAB 424) for each unused site where a modification has taken place. The Form SAB 424 can be found on the OPSC Web site at www.opsc.dgs.ca.gov.

Both the Form SAB 423 and, in the cases of modification, the Form SAB 424 must be returned to the OPSC no later than June 30, 2005.

Should you have any questions, please contact Jim Casebolt, Unused Site Program Project Manager, at 916.322.0999 or jim.casebolt@dgs.ca.gov.

Labor Compliance Program Grant Update

BY BARBARA KAMPMEINERT, OPSC PROJECT MANAGER

Many districts have been anxiously waiting for the return of the supplemental grant to assist with the costs of implementing and enforcing a Labor Compliance Program (LCP). The Office of Public School Construction (OPSC) is pleased to report that the regulations allowing districts to receive the LCP grant became effective on December 20, 2004. As a result, a funding item was presented to the February 23rd State Allocation Board (SAB) meeting to apportion the LCP funds for those projects subject to the requirements but had previously received a School Facility Program (SFP) apportionment when the LCP supplemental grant was not available.

As of January 2005, SFP projects processed to the SAB have included the LCP supplemental grants provided the district completed sections 16 and 17 of the *Application for Funding* (Form SAB 50-04) or if the appropriate certifications were submitted to the OPSC as part of the application review process.

If your district has a previously funded project that meets the LCP requirements for which a certification was not sent to the OPSC and LCP funds were never apportioned, please contact your OPSC Project Manager for assistance. For more specific information on the LCP requirements please go to <http://www.opsc.dgs.ca.gov/ResourceInformation/LCP.htm> or to the Department of Industrial Relations Web site at <http://www.dir.ca.gov/lcp.asp>.

IMPORTANT REMINDER

Timeline for Filing SFP New Construction Funding Applications

BY LINDSAY ROSS, OPSC PROJECT MANAGER

Please keep in mind when planning your projects that there is a timeline for filing a School Facility Program (SFP) new construction funding application to the Office of Public School Construction (OPSC). As a result of the regulation changes that became effective **July 2004**, applications for new construction funding must be accepted by the OPSC *prior to occupancy* of any classroom in order to be eligible for an apportionment. If a district enters into a construction contract before filing an application for new construction funding and occupies one or more of those classrooms, all classrooms constructed as part of that contract become ineligible for new construction funding.

Please contact your OPSC Project Manager for more information regarding these regulation changes that may affect your ability to seek SFP funding.

Modular Manufacturer Declares Bankruptcy

BY LIZ CHEYNE, OPSC PROJECT MANAGER

The Office of Public School Construction (OPSC) was recently made aware that a large southern California based modular classroom manufacturer, has declared bankruptcy. This may cause projects to be re-bid or left unfinished, creating budgetary and project timeline problems. Districts should also check contract language carefully to check for surety protection.

The OPSC is working with the Division of the State Architect (DSA) to provide information on how to proceed with projects containing classrooms from this manufacturer. The following directions will assist you with the process:

1. **If the district has submitted a Form SAB 50-05, Fund Release Authorization, based on a contract with the manufacturer that subsequently filed bankruptcy, the 18 month time limit on apportionment will not be in jeopardy. The district will be required to obtain a DSA approved revision of plans using another manufacturer; no change of scope will be accepted.**
2. **If the district currently has plans that have been submitted to the DSA, which have not been stamped, the DSA will return the plans, direct the district to revise the plans accordingly, and resubmit to DSA.**
3. **If the plans have been stamped out and approved by the DSA and the project has not received State Allocation Board approval, the district must obtain a revision from DSA. Provided that all revisions are directly related to the substitution of a product from the bankrupt manufacturer, the DSA will not require a re-submittal.**

Please note that a revision to plans will take less time to process in DSA than a re-submittal. Also, please be advised that the DSA may have concerns regarding scope change on revisions to plans. Changes not limited to substitution "in kind" for the bankrupt manufacturer's products may require re-submittal.

If your district currently has a School Facility Program project that has been impacted by this or a similar situation, please contact your OPSC Project Manager.

If the plans for your project have been submitted to the DSA and have not yet been approved, please also contact your DSA Regional Office.

Annual Adjustment to School Facility Program Grants

BY VICKIE CASINO, OPSC ACCOUNTANT

The State Allocation Board (SAB) approved an adjustment in the School Facility Program (SFP) grants as provided by law, based on the change in the Class B Construction Cost Index from January 2004 to January 2005. The change represented an increase in the grant amounts of 11.26 percent and shall apply to all SFP applications approved for funding on or after January 1, 2005. All applications presented for funding approval at the January 26, 2005 included this adjustment.

	PREVIOUS GRANT EFFECTIVE JANUARY 1, 2004	ADJUSTED GRANT EFFECTIVE JANUARY 1, 2005
New Construction		
Elementary	\$6,040	\$6,720
Middle	\$6,388	\$7,107
High	\$8,363	\$9,305
Modernization		
Elementary	\$2,609	\$2,903
Middle	\$2,760	\$3,071
High	\$3,613	\$4,020

Education Code Sections 17072.10 and 17074.10 authorize the SAB to adjust the per unhoused-pupil grant for new construction and modernization. The SFP Regulation sections that provide for these adjustments are Sections 1859.71 and 1859.78.

In October 2004, the SAB approved a regulatory amendment that became effective in late February 2005. This amendment modified the regulation by deleting reference to a specific Class B Construction Cost Index and gave the Board flexibility in selecting the most appropriate index to accurately reflect school construction costs in California. The apportionments approved at the January and February 2005 SAB meetings were not final. As a result, an item will be presented to the Board at its March meeting to address which Class B Construction Cost Index to use for the 2005 SFP apportionments.

For a complete listing of the annual adjustments, please refer to the OPSC Web site at www.dgs.ca.gov/opsc. Please feel free to give your OPSC Project Manager a call if you have any questions regarding the annual adjustments and your SFP projects.

School Groundbreakings and Openings

BY CHRISTINE SANCHEZ, OPSC PROJECT MANAGER

Whether it's a the first turning of the soil at a groundbreaking or the dedication ceremony for a brand new facility, one common vision has been achieved... a new school for the children of California!!

The Office of Public School Construction would like to congratulate the following districts for their new school groundbreakings and dedication ceremonies.

SCHOOL DISTRICT	COUNTY	PROJECT	GROUND BREAKING
Coachella Valley Unified	Riverside	East Coachella Elementary School	February 2005
SCHOOL DISTRICT	COUNTY	PROJECT	DEDICATION DATE
Santa Maria Bonita	Santa Barbara	David J. Sanchez, Sr. Elementary School	June 2004
Santa Maria Bonita	Santa Barbara	Tommie Kunst Jr. High School	July 2004
Santa Maria Bonita	Santa Barbara	Liberty Elementary School	July 2004
Los Angeles Unified	Los Angeles	City Terrace Elementary School Addition	January 2005
Los Angeles Unified	Los Angeles	East Valley New Continuation High School #1	January 2005
Beaumont Unified	Riverside	Brookside Elementary School	February 2005

To help us highlight your celebrations, please reference the adjacent table for the necessary data, and submit the information with your project's School Facility Program application number to the Office of Public School Construction, attention **New School Dedications and Groundbreakings**.

Use of Funds from the Sale and/or Lease of Surplus Property

BY BRYAN BREAKS, OPSC AUDIT SUPERVISOR

With tight budgets being more and more common place, districts are looking for alternatives to finance General Fund expenditures. Although only occasionally considered in the past, one source being explored more frequently is the proceeds from the sale or lease of property.

Education Code Section 17462, except as specified, limits the use of the proceeds from the sale or lease of surplus property for capital outlay or for cost of maintenance of school district property. The exception is when the State Allocation Board and the governing board of the district determine that the district has no anticipated need for additional sites, building construction, or major deferred maintenance need for five years following the sale or lease of a site. Under these circumstances, proceeds may be deposited in the General Fund of a district for any General Fund purpose. However, the law also includes a consequence for this type of action. The district would be prohibited from participation in any State funded facility programs for a period of five years.

If a district is interested in more details in the use of capital funds for General Fund purposes, please contact Bryan Breaks, Audit Supervisor, at bbreaks@dgs.ca.gov or 916.445.3156.

OPSC Reminders...

ANNUAL UNUSED SITES REPORTING

- Certification of Unused Sites (Form SAB 423) due June 30, 2005.
- Modification of Unused Sites Status (Form SAB 424) for each site with a modification due June 30, 2005.

INTEREST EARNED REPORT (FORM SAB 180)

- Due quarterly (March 31, June 30, September 30 and December 31) from each county for all districts that earned interest from the Leroy F. Greene Lease-Purchase Program.

AS OF FEBRUARY 23, 2005

Proposition Funds Put to Work

PROGRAM	BOND ALLOCATION	APPORTIONED	RELEASED/CONTRACTED
PROPOSITION 55			
New Construction	\$ 4,960,000,000	\$ 0	\$ 0
Modernization	2,250,000,000	705,839,772	390,039,192
Charter School	300,000,000	276,810,763	0
Critically Overcrowded Schools	2,440,000,000	1,887,970,777	0
Joint Use	50,000,000	0	0
Total Proposition 55	\$ 10,000,000,000	\$ 2,870,621,312	\$ 390,039,192
PROPOSITION 47			
New Construction	\$ 6,250,000,000	\$ 5,834,602,313	\$ 5,411,712,412
Modernization	3,300,000,000	3,284,152,543	3,218,134,313
Charter School	100,000,000	97,034,156	0
Critically Overcrowded Schools	1,700,000,000	1,681,356,272	16,324,182
Joint Use	50,000,000	39,562,840	14,347,331
Total Proposition 47	\$ 11,400,000,000	\$ 10,936,708,124	\$ 8,660,518,238
Grand Total	\$ 21,400,000,000	\$ 13,807,329,436	\$ 9,050,557,430

Status of Funds

PROGRAM	BALANCE AVAILABLE AS OF FEBRUARY 23, 2005
PROPOSITION 55	
New Construction	\$ 4,946.0
Charter School	
DTSC/Relocation	13.1
Hazardous Material	2.6
CSFA Admin Fee	7.5
Energy	14.0
Small High School	20.0
Modernization	1,529.4
Energy	5.8
Small High School	5.0
Critically Overcrowded Schools	
15% COS Unrestricted Fund	283.0
Available	269.0
Joint Use	50.0
Total Proposition 55	\$ 7,462.9
PROPOSITION 47	
New Construction	\$ 333.7
Charter School	0.5
Energy	8.3
Modernization	9.6
Energy	3.9
Critically Overcrowded Schools	
Reserved	18.6
Joint Use	10.3
Total Proposition 47	\$ 384.9
Grand Total	\$ 7,510.3

REGULATIONS UPDATE

Typically, emergency regulatory tracts take approximately 30–45 days to become an effective emergency regulation after they are approved by the State Allocation Board (SAB) and prior to filing with the Office of Administrative Law. Non-emergency regulatory tracts take 120–180 days from the date the SAB approves the agenda item until the regulation(s) become effective.

The following regulation amendments were approved at the January 26, 2005 State Allocation Board meeting.

EMERGENCY

SFP Joint Use

BY RACHEL WONG, OPSC PROJECT MANAGER

In response to a previous State Allocation Board (SAB) request, the Office of Public School Construction (OPSC) staff presented proposed regulatory amendments at the January 2005 SAB meeting for the Joint-Use School Facility Program.

The Board approved the proposed regulations to define an “existing school site” as well as clarify that the annexation of land as an addition to an existing school site must be completed and the new site must be owned by the district prior to the district requesting School Facility Program funds.

The proposed regulations will also revise the requirement that the Joint-Use agreement be signed prior to the date the new construction application is approved by the SAB.

The SAB authorized the OPSC to submit these regulations on an emergency basis to the Office of Administrative Law (OAL) in hopes that they will be effective for the upcoming funding cycle. The OPSC will post the new regulations on the OPSC Web site as soon as they become effective.

The final filing date for the next Joint-Use funding cycle is May 31, 2005. There is an estimated \$62 million available for qualifying joint-use projects that will be presented at the July 2005 SAB meeting. For eligibility criteria and other pertinent information regarding the Joint-Use Program, you can locate this on the OPSC Web site at www.documents.dgs.ca.gov/opsc/PDF-Handbooks/SFP_Hdbk.pdf or contact Rachel Wong at rwong@dgs.ca.gov or 916.445.7880.

EMERGENCY

Williams Settlement Legislation

BY BEATRIZ SANDOVAL AND LINDSAY ROSS, OPSC PROJECT MANAGERS

On January 26, 2005, the State Allocation Board adopted emergency regulations to implement and administer the School Facilities Needs Assessment Grant Program and the Emergency Repair Program. In addition, the Board

modified the School Facility Program and Deferred Maintenance Program regulations as a result of the Williams legislation. For complete details, please refer to the articles on page 4 of Issue No. 01–2005 of the *OPSC Advisory Actions*.

The following regulation amendment was approved at the February 23, 2005 State Allocation Board meeting.

EMERGENCY

Williams Settlement Legislation

BY BEATRIZ SANDOVAL AND LINDSAY ROSS, OPSC PROJECT MANAGERS

On February 23, 2005, the State Allocation Board adopted emergency regulations to define the supplement, not supplant requirements of the School Facilities Needs Assessment Grant Program and the Emergency Repair Program. For complete details, please refer to the articles on page 4 of Issue No. 01-2005 of the *OPSC Advisory Actions*.

To view additional information regarding these regulatory amendments, please view the OPSC Web site at www.opsc.dgs.ca.gov.

For any of your questions, please contact your OPSC Project Manager.

Implementation Committee

MAVONNE GARRITY, INTERIM ASSISTANT EXECUTIVE OFFICER, STATE ALLOCATION BOARD

At the previous meetings...

The following topics were discussed at the February 11th and March 4th meetings of the State Allocation Board (SAB) Implementation Committee.

WILLIAMS SETTLEMENT LEGISLATION UPDATES

At the February 11, 2005 State Allocation Board Implementation Committee meeting, there was further discussion on the supplement, not supplant requirements of the School Facilities Needs Assessment Grant Program and Emergency Repair Program. The regulatory language was presented at the February 23, 2005 State Allocation Board meeting for approval. For complete details, please refer to the articles on page 4 of Issue No. 01–2005 of the *OPSC Advisory Actions*.

CRITICALLY OVERCROWDED SCHOOLS FINAL APPORTIONMENT ELIGIBILITY

Proposed regulatory amendments were presented at the February 11th and March 4th meetings of the Implementation Committee to implement Assembly Bill (AB) 2950, Chapter 898, Statutes of 2004 (Goldberg), that impacts the Critically Overcrowded School (COS) Program Final Apportionment eligibility justification.

For COS preliminary apportionments from the Kindergarten-University Public Education Facilities Bond Act of 2002, AB 2950 stipulates that as an alternative to the traditional five year projection process utilizing the Cohort Survival Enrollment Projection, a district may use current California Basic Educational Data System enrollment, compared against the district's school building capacity. Alternatively, districts that are reporting eligibility under a High School Attendance Area (HSAA) basis may use either the actual or a five-year projection of the pupil residency data, compared against the district's school building capacity.

The discussions centered on the eligibility calculation options available for districts reporting by HSAA residency, including the proposed methods to identify the district's total new construction eligibility in order to avoid a duplication of pupil reporting.

For further details, you may refer to the Implementation Committee section of the OPSC Web site where the Committee discussion items and minutes are posted under Agenda History.

The proposed regulations pertaining to AB 2950 will be presented at the March 2005 SAB meeting.

SMALL HIGH SCHOOL PILOT PROGRAM

Discussion began at the March 4th SAB Implementation Committee meeting to develop proposed regulations to implement AB 1465, Chapter 894, Statutes of 2004 (Chan).

AB 1465 creates a pilot program that will, beginning on January 1, 2006, provide additional funding under the School Facility Program for the purposes of constructing new Small High Schools. The bill provides for

the reconfiguration of existing high schools into smaller schools of two or more that would foster higher academic performance and success in a small high school environment. A "Small High School", for purposes of this bill, is defined as a high school with an enrollment of 500 pupils or less.

AB 1465 set aside a total of \$25 million for Small High School projects; \$20 million for new construction and \$5 million for modernization. The program will provide specified additional grant funding for eligible projects. The Committee discussion focused on the portion of funding that will be provided from the \$25 million, the need for a conceptual project approval, and the possible selection/ranking criteria for new construction within the statutory requirements.

The program will continue through December 31, 2007, unless a later statute is enacted that deletes or extends that date, or until all funds are exhausted. The law requires State agency academic and cost studies after the program completion.

The Committee will continue its discussion regarding AB 1465 at its April 8th meeting.

Watch for...

The following topics will be discussed at a future Implementation Committee meeting. You may log onto the OPSC Web site at www.opsc.dgs.ca.gov/SAB/Imp_Calendar.htm to view the agenda for the next committee meeting and determine items of interest are scheduled.

SMALL HIGH SCHOOL PILOT PROGRAM

Discussion on proposed regulations necessary to implement AB 1465, Chapter 894, Statutes of 2004 (Chan). For more information on this new law, please refer to the "2004 Legislation Update" article on page 3 of the December 2004 (Issue No. 05-2004) *OPSC Advisory Actions* newsletter.

The next meeting...

The SAB Implementation Committee meeting will be held on Friday, April 8, 2005 (9:30 a.m. – 3:30 p.m.) at the Legislative Office Building, Room 100 at 1020 N Street in Sacramento.