

*To enrich the lives of California's school children as stewards
of the taxpayers' commitment to education.*

School Facility Program

Substantial Progress and Expenditure Audit Guide

A guide to assist with program reporting requirements

September 2007

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Section 1

Reporting Requirements and SFP Audit Overview

Overview

These progress and expenditure reporting guidelines were developed by the Office of Public School Construction (OPSC) to assist school districts in meeting program reporting requirements for the School Facilities Program (SFP). Under the Leroy F. Greene School Facilities Act of 1998, the State Allocation Board (SAB) is given the authority to audit expenditure reports and district records in order to assure funds received under this act are expended in accordance with program requirements (as specified in Education Code 17076.10). The OPSC, as the SAB's administrative arm, is charged with conducting SFP progress and expenditure audits. The OPSC's oversight responsibilities focus on verifying a project funded through the SFP progresses in a timely manner, applicable state laws were followed, and expenditures made by school districts comply with the Education Code Sections 17072.35 and 17074.25 and Regulation Sections 1859.77.2 (New Construction) and 1859.79.2 (Modernization).

School districts are advised they will be required to submit two types of reports after receiving SFP funds: a Substantial Progress Checklist (SPC) and Expenditure Report (Regulation Section 1859.104). It should be noted that certain projects may require evidence of progress at more than one point in the project's life cycle. This occurs when a project receives separate design and/or separate site funding prior to receiving full project funding. Each phase of funding generates a separate requirement to submit evidence of progress within 18 months from the date the related funds were released (Environmental Hardship funding requires evidence within 12 months of the State apportionment). An *Expenditure Report* (Form SAB 50-06) and Detailed Listing of Project Expenditures are due one year from the date any funds were released to the district, or upon completion of the project, whichever occurs first. Subsequent expenditure reports are due annually until the project is complete, at which time the district shall submit a final expenditure report.

SFP Regulation Sections 1859.105, 1859.105.1 and 1859.106 specify that OPSC audit staff review substantial progress documentation and expenditure reports submitted by participating districts. All projects will be monitored by the audit staff for timely submittal of substantial progress and expenditure reports. When the SPC or Expenditure Report is submitted, a project will be audited to verify compliance with requirements set forth in Regulation Sections 1859.105 and 1859.106. Furthermore, all Environmental Hardship projects will be reviewed to assure the district has made progress in acquiring the site in accordance with Regulation Section 1859.105.1 (see Section 2, "Progress Review," page 4, for more information).

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Section 2

Substantial Progress Audit

Substantial Progress Audit Reporting Requirements

As stated in the preceding Overview, the specific type of substantial progress evidence required for a project and the timeline for submitting that evidence is determined by the phase of funding the project received. Certain projects may require evidence of progress at more than one point in their life cycle. This occurs when projects have received separate design or site monies prior to receiving full project (adjusted grant) funding. The specific requirements for each funding phase are summarized in the following table:

Substantial Progress Timelines and Required Evidence

FUNDING PHASE	EVIDENCE OF PROGRESS DUE DATE	SPECIFIC TYPE(S) OF EVIDENCE REQUIRED
Separate Design— Financial Hardship project only	18 months from date of Fund Release	One of the following: <ul style="list-style-type: none"> • Submittal of a complete Adjusted Grant funding application package (including Form SAB 50-04) to the OPSC. • Submittal of a district certification that complete plans and specifications have been submitted to the Division of the State Architect (DSA). • Submittal of a complete Separate Site funding application package (including Form SAB 50-04) to the OPSC (Regulation Section 1859.75.1). Or: <ul style="list-style-type: none"> • Submittal of a narrative of evidence, satisfactory to the SAB detailing why complete plans have not been submitted to the DSA.
Separate Site— Financial Hardship project only	18 months from date of Fund Release*	Submittal of a progress checklist (or narrative) certifying that all of the following have been achieved: <ul style="list-style-type: none"> • Obtained the final site appraisal. • Completed all California Environmental Quality Act (CEQA) requirements. • Obtained final California Department of Education (CDE) site approval. • Obtained final escrow instructions or evidence the district has filed condemnation proceedings and intends to request an order of possession of the site. Or: <ul style="list-style-type: none"> • Submittal of a narrative of evidence, satisfactory to the SAB, detailing the circumstances (beyond district control) that precluded progress from being achieved. (For separate site funding applications submitted after September 30, 2003.)

FUNDING PHASE	EVIDENCE OF PROGRESS DUE DATE	SPECIFIC TYPE(S) OF EVIDENCE REQUIRED
Separate Site— Environmental Hardship project only	12 months from the apportionment date, or anniversary of conversion from Separate Site Financial Hardship, and on each subsequent anniversary if necessary.	Submittal of one of the following: <ul style="list-style-type: none"> • A progress checklist (or narrative satisfying the same criteria set forth for Separate Site (Financial Hardship) funding. • A request for an extension (which is supported in written letters of concurrence from the Department of Toxic Substances Control and the CDE). • Other reasonable evidence of effort the district has made to acquire the site (Regulation Section 1859.75.1).
Adjusted Grant	18 months from date of Fund Release†	Submittal of a progress checklist (or narrative) certifying one of the following: <ul style="list-style-type: none"> • Seventy-five percent of site development work necessary prior to construction is complete. • Ninety percent of the construction work in the plans and specifications is under contract. • Fifty percent of the construction work in the plans and specifications is complete (Regulation Section 1859.105(a). Or: <ul style="list-style-type: none"> • Submittal of a narrative of evidence, satisfactory to the SAB, detailing the circumstances (beyond district control) that precluded progress from being achieved.

*If toxic substance issues are delaying site preparation progress, the district may convert the site apportionment to an environmental hardship apportionment. Environmental hardship projects may request annual extensions with appropriate substantiation.

†The progress reporting requirement for adjusted grant funding can be suspended if one of the following occur before the reporting deadline:

- The district submits a Notice of Completion for the project. If more than one construction contractor is involved in the project, a Notice of Completion is required for each construction contract.
- The district submits an Expenditure Report (Form SAB 50-06), which shows that the project is at least 90 percent complete.

If a district receives Separate Design, Separate Site, and Adjusted Grant apportionments, it will be required to submit evidence of progress for each of these types of funding. For each type, the school district will receive up to two substantial progress reminder letters. For all SFP apportionments, except Separate Site apportionments for Environmental Hardships, school districts will receive the letters at 12 and 15-month intervals after the related funds have been released. For Environmental Hardship projects, the OPSC will send the letters at 8 and 10-month intervals after funds have been apportioned. Each reminder letter will have an attached Substantial Progress Checklist (SPC).

Submitting a complete and acceptable SPC will fulfill the requirement to submit a narrative of evidence (progress report), as required in Regulation Section 1859.104.

Districts may submit a narrative in the form of a letter, but are encouraged to use the SPC to help insure completeness and accuracy. In cases where a funding application serves as evidence of progress, no narrative is required, but a SPC may still be submitted as a mechanism to alert the OPSC audit staff that the funding application has been submitted.

Progress Review

Within 60 days of receiving a timely SPC (or narrative), the OPSC is required to review the evidence submitted. The district will be notified if OPSC staff intends to recommend to the SAB that the evidence does not demonstrate substantial progress. If the OPSC does not respond to the district within the 60-day timeline, substantial

progress will be considered to be approved. The OPSC may elect to perform an in-depth progress review on certain projects. In such cases, additional documentation will be requested to substantiate certifications made on an SPC (or narrative). The documentation that may be required is summarized in the following table:

Additional Substantial Progress Evidence for In-Depth Reviews

TYPE OF FUNDING RECEIVED	ADDITIONAL DOCUMENTATION THAT MAY BE REQUESTED
Separate Design—Financial Hardship	DSA notice of receipt of plans or printout of project tracking screen from the DSA website (in cases where the district has certified DSA submittal on the SPC).
Separate Site—Financial Hardship	<ul style="list-style-type: none"> • Final site appraisal letters. • Documentation of CEQA compliance (State clearinghouse approval letter, Negative Declaration, Categorical Exemption, etc.). • Final escrow documents. • Copy of final CDE site approval letter.
Separate Site—Environmental Hardship	<ul style="list-style-type: none"> • Same evidence requested for Separate Site Financial Hardship. • Copies of letters from CDE and DTSC confirming that the district is making reasonable progress towards acquiring a site.
Adjusted Grant	<ul style="list-style-type: none"> • Copies of construction contracts. • Copies of progress billings, certificate/application for payment with attached Continuation sheet (Schedule of Values). • Cost estimate.

Substantial Progress Audit Response

If it has been determined through the Substantial Progress Audit that substantial progress has not been made, or the district has neglected to submit a progress report, the audit staff will take the following actions (per Regulation Section 1859.105):

- » A letter will be sent to the district within 60 days of receipt of the district’s SPC (or narrative), or within 60 days of the substantial progress deadline if no SPC has been received, informing the district that the SAB’s substantial progress requirement has not been met.
- » The letter will request final expenditure reports (Form SAB 50-06 and Detailed Listing of Project Expenditures) and supporting contracts, agreements, warrants, and invoices from the district. The request will stipulate that this documentation will be due within 60 days.

If the district has not failed substantial progress, but still wishes to close the project (i.e., rescind or reduce to costs incurred), it may request this in writing. The OPSC will respond with a letter requesting that the district submit the final expenditure reports and supporting invoices within 60 days.

When a finding of no substantial progress is made, and the district reports project expenditures within the specified 60 days, an expenditure audit will be performed and the project will be closed to costs incurred. If the district does not submit a final expenditure report within 60 days, but previously submitted a Form SAB 50-06 and Detailed Listing of Project Expenditures, the project will be closed to costs incurred based on the expenditure report(s) on file. If the district does not submit a final expenditure report within 60 days and no previous expenditure reports were filed, the project will be rescinded and all funds previously released to the district, plus any interest accrued on the State’s funds, must be returned to the State. When the project is being reduced to costs incurred, the district must submit supporting documentation for any amount spent

or encumbered on the project within 60 days of the project being reduced to costs incurred, or the amount due will be collected through a school fund apportionment offset. Once the closeout and collection process is complete, the appropriate number of pupils will be added back to the district's baseline eligibility.

Rescinded projects will have the entire pupil count that was previously deducted and assigned to the project, returned to the district's baseline eligibility. When projects are reduced to costs incurred, the per pupil grants not utilized in the amount reported on the expenditure reports will be returned to the district's baseline eligibility. To determine the number of students to be returned to the district's baseline eligibility, the project's total grant amount (district and State share), excluding site acquisition costs, will be divided by the number of students applied towards the project to obtain a dollar amount applied to each student. The amount reported by the district on the expenditure reports, excluding costs funded from a site acquisition apportionment, will be divided by the dollar amount applied to each student to produce the number of students assigned to the project. The difference between the pupils originally assigned to the project less the number of students assigned to the eligible expenditures when the project is reduced to costs incurred is the number of pupils added back to the district's baseline eligibility. Please see example below:

Project Totals:

Total Grant Amount (district and State share):.....\$208,000.00
 Number of Pupils Assigned:.....40
 Total Reported on Expenditure Reports:.....\$ 65,000.00

Calculations:

Total Grant Amount divided by Number of Pupils Assigned equals Grant Amount per Pupil:

$$\frac{\$208,000.00}{40 \text{ Pupils}} = \$5,200.00 \text{ per Pupil}$$

$$\frac{\$65,000.00}{\$5,200.00 \text{ per Pupil}} = 12.50 \text{ Pupils; however, pupils applied to a project must be rounded to the appropriate whole number (13 in this example).}$$

$$40 - 13 = 27 \text{ Pupils added back to district's baseline eligibility}$$

Section 3

Expenditure Audit

Expenditure Audit Reporting Requirements

School districts are required to submit an *Expenditure Report* (Form SAB 50-06 and a Detailed Listing of Project Expenditures) one year after receiving the initial fund release for the project. Subsequent expenditure reports are due annually until the project is complete [Regulation Section 1859.104(a)].

Ten months after a project's initial fund release, audit staff will remind the district in writing that an expenditure report is due within one year of the project's initial fund release date. If the district does not submit the Form SAB 50-06 and Detailed Listing of Project Expenditures, the audit staff will advise the SAB that the district has not complied with the annual reporting requirements as stated in Regulation Section 1859.104.

If the district has complied with the expenditure reporting requirements, the audit staff will track fund release dates and district expenditure report dates to determine when the project is ready for the Final Expenditure Audit. The project is placed on the expenditure audit workload list when it is complete; a project is considered complete when either of the following occurs:

- » The final Form SAB 50-06 indicating 100 percent of the project is complete and the Detailed Listing of Project Expenditures are submitted by the district; or
- » Three years for an elementary school (grades K–6) project, or four years for a middle school (grades 7–8) or high school (grades 9–12) project, have elapsed since the date of the final fund release pursuant to Regulation Section 1859.104(a)(1)(B).

The OPSC has two years from the 100 percent complete report submittal date, or three or four years (as applicable) after the final fund release date to commence the final expenditure audit. Once the district is notified that an expenditure audit has started, the audit staff has six months to complete the audit, unless the district has been notified in writing that the audit is still under review for any reason. If the audit staff does not begin the final expenditure audit within two years of receiving the final expenditure report, no expenditure audit will be performed and all expenditures reported shall be deemed appropriate (see Regulation Section 1859.106).

Expenditure Audit Reporting Requirements—Specific Guidelines

When a school district submits the required Form SAB 50-06 and a Detailed Listing of Project Expenditures, it is important for the district to have all information as accurate as possible. Specifically, the Form SAB 50-06 should reflect the sum of the State's share of the grant, the district's share of the grant plus any additional district expenditures and any interest earned. Project savings will be recognized if project expenditures are less than the State's share of the grant, plus district's share of the grant, plus interest earned, less total project expenditures (see "Project Savings," page 17, for more details on audit of project savings). If there are multiple Forms SAB 50-06 on file for a project, the final Form SAB 50-06 must include all expenditures reported previously, plus expenditures incurred in the current reporting period.

The Detailed Listing of Project Expenditures should reflect all expenditures for the project by warrant numbers, warrant dates, warrant payees, warrant amounts, and specific descriptions of the expenditures,

as required on the Form SAB 50-06. The description of expenditures must provide sufficient detail for the audit staff to verify all project expenditures are applicable to the project and that the expenditures have been recorded in the proper cost categories.

Report the eligible expenditures for the project that encompass the State and district matching share. Also, if the district augmented the project beyond the State and district share, please include these costs on the same report, but identify them as being solely district funded.

When a district bids multiple projects together, a Form SAB 50-06 and Detailed Listing of Project Expenditures will be required for each SFP application submitted.

Preliminary Expenditure Audit

All Expenditure Reports will be subject to an initial expenditure audit prior to 100 percent completion which consists of a review of the Form SAB 50-06 and Detailed Listing of Project Expenditures to assure:

- » The form is filled out correctly (i.e., form signed by the district representative; correct application number).
- » The “percent completed” box is filled in.
- » There is a date construction actually began.
- » The Notice of Completion of project is provided (if applicable).
- » Each project cost reported includes the warrant date, vendor name, warrant number, warrant amount and a brief description for each expenditure.

Expenditure Audit

An expenditure audit will be performed on all complete projects. It is important that the total expenditures are reported for each project. A verification will be made of the amounts reported for the district’s share, State’s share, interest earned, etc. If the project attained any savings, interest reported for the project will be verified.

The Detailed Listing of Project Expenditures will be verified to assure costs are categorized correctly based on the description/purpose. The expenditures reported for each project category are compared to historic averages to identify possible problem areas. If the expenditures fall outside the expected parameters, additional documentation will be requested from the district to verify that the expenditures were not reported in error.

The review also consists of verifying that the various certifications made by the districts are appropriate. Districts that are unable to substantiate program certifications may be subject to material inaccuracy penalties prescribed in Regulation Section 1859.104.1. The project audit will be accomplished by requiring districts to submit documentation as appropriate, such as, but not limited to, specific warrants, contracts and/or agreements related to construction, inspection, construction tests, and architectural services, or other supporting documentation substantiating certifications made on the Forms SAB 50-04 and 50-05. The audit staff has the discretion to perform on-site Expenditure Audits and Post-Occupancy Audits in order to verify district’s claims. For more detail on eligible and ineligible SFP expenditures see “Allowable Expenditures under the SFP,” page 13, and “Ineligible SFP Expenditures,” page 16.

Modernization projects will be reviewed to assure modernization funds are not being used to increase the new building area except in the case of replacement area of like kind, or if required by the federal Americans with Disabilities Act (ADA), or by the DSA handicapped access requirements. Modernization projects will also be reviewed to assure modernization funds are not being used for site costs, with the exception of replacement, repair or additions to existing site development. The audit review will establish that the

removal of hazardous or solid waste costs, established by the DTSC, did not exceed 10 percent of the combined adjusted grant and the district matching share for the project. If the modernization funding grant was used to modernize leased facilities, the audit review will verify that funds were used only for work on facilities owned by another school district or county office of education. Fifty-year-old modernization projects will be audited using the standards for regular modernization projects, with the exception that utility costs may be deemed allowable. Utility costs for water, sewage, gas, electric, and communication systems may be allowed as prescribed in Regulation Section 1859.78.7.

New construction projects will be reviewed to ensure the scope of the project did not change from that originally approved for state funding.

Post-occupancy reviews may be performed to verify the district performed the work as requested in the *Application for Funding* (Form SAB 50-04). For new construction projects, the number of classrooms built will be compared to the number of classrooms requested on the Form SAB 50-04. If the project is a Use of Grants project, verification of the type of project constructed will be made, including identifying the use of any savings achieved on the project. For modernization projects, the architect's cost estimate will be reviewed and compared to the actual work done in the modernization of particular facilities.

In addition, the audit staff will verify the following specific certifications made by the district on the Forms SAB 50-04 and 50-05:

- » The district deposited the minimum amount required by law into the Routine Restricted Maintenance Account [Education Code Section 17070.75(b)].
- » The district contracted for construction vendors as required by the State's Public Contract Code.
- » The district met all relevant Disabled Veteran Business Enterprise (DVBE) requirements.
- » The district used the Qualifications Appraisal standards, as outlined in Government Contract, Code Section 4526, when contracting with the architect, construction managers, and engineers.
- » The State's prevailing wage requirements were met.
- » The district complied with the State's Public Contract Code requirements governing Force Account labor.
- » The district matching funds have been expended by the district for the project, deposited in the County School Facility Fund, or will be expended by the district prior to the Notice of Completion for the project.
- » The district entered into a binding contract(s) for at least 50 percent of the construction included in the plans applicable to the state funded project prior to signing the Form SAB 50-05.¹

In-Depth Final Expenditure Audit for Site Purchases

New construction projects may be eligible for site acquisition funds under the SFP. For projects receiving funds for a site purchase, audit review will include the verification and examination of site expenditures and a determination if the site grant was appropriate and met provisions set forth in Regulation Sections 1859.74, 1859.74.1, and if applicable, 1859.74.2 and 1859.75.1. Projects initially approved under the LPP for planning and/or site and later converted to SFP projects will be audited using the SFP guidelines.

Districts will be eligible for approved hazardous material removal work and associated DTSC oversight fees up to 50 percent of the appraised as a clean site value of the property or the maximum established by the SAB due to unforeseen circumstances (see Regulation Sections 1859.74.2, 1859.74.3, 1859.74.4, and 1859.75.1). For all sites requiring DTSC review, the audit staff will obtain invoices from the district in order

¹ Only contracts for construction may be included in the 50 percent calculation. For example, architect, engineering, and construction management contracts may not be included in the 50 percent calculation. In the case of "at risk" construction management contracts, the contract values may be included in the 50 percent calculation. In order for construction management firms to be truly "at risk," the firm must secure a bond for the project and be responsible for any costs incurred and/or penalties if the job is not completed timely.

to verify the costs reported for the Response Action (RA). The Phase One Environmental Site Assessment and Preliminary Environmental Assessment costs are distinct from the RA costs, and are not considered part of the project's 50 percent "cap" established by the SAB for site cleanup. The expenditure audit may result in an increase/decrease of the additional grant amount for hazardous material removal, remediation costs, and DTSC oversight fees pursuant to Regulation Section 1859.106. Due to recent Regulation changes, those projects where the *Application for Funding* (Form SAB 50-04), is received on or after January 1, 2004, additional costs beyond the cap are subject to adjustment whether or not the additional grants for hazardous waste removal were requested on the Form SAB 50-04. In order to verify compliance with the requirements of the Toxics Regulations and to assure all costs reported for this grant were indeed for hazardous waste removal, the audit staff will obtain invoices from the district for all costs reported for any Additional Grants for Hazardous Waste Removal. Additionally, for both Hazardous Waste Removal and Environmental Hardship Grants, the audit staff will verify that all fees and cleanup costs are related to the site for which the expenditures are being reviewed.

Relocation assistance expenditures will also be audited based on criteria set forth in Title 25, California Code of Regulations Section 6000, et seq. Additional documentation such as contracts, invoices, appraisal reports, court documents, legal contracts, legal billings, etc., will be requested from the district and a thorough review of these expenditures will be performed. The relocation expenditures are approvable if they are reasonable and necessary for purchasing fixtures and equipment, personal property, new machinery/equipment and the installation of improvements at the replacement residence or business location of the displaced tenants and/or property owners as stated in Regulation Section 1859.74(a)(1) (see "Allowable Expenditures under the SFP," page 13, for more detail).

Joint-Use Project Audit

The type of joint-use project will differentiate the appropriate audit criteria used. For Type 1 and Type 2 joint-use projects, the audit staff will verify that contracts were executed on or after April 29, 2002 and that the project was approved by the DSA and CDE.

Type 1 joint-use projects will increase the size or extra cost associated with any of the following proposed facilities in the SFP new construction project,² beyond that necessary for school use:

- » Multipurpose room
- » Gymnasium
- » Childcare facility
- » Library
- » Teacher education facility

Type 2 joint-use projects will either reconfigure an existing school building or construct new school building,³ and will provide facilities to be used for any of the following:

- » Multipurpose room
- » Gymnasium
- » Childcare facility
- » Library
- » Teacher education facility
- » Pupil academic achievement facility⁴

² See Regulations Section 1859.122.

³ See Regulations Section 1859.122.1 and 1859.122.2.

⁴ Pupil Academic Achievement may be grandfathered in if the plans are accepted by the Division of the State Architect for review and approval prior to January 1, 2004.

The audit staff will also verify that utility costs, service site costs, and offsite costs, if applicable, are part of the new construction project and not the joint-use project.

The agreements between the district and the joint-use partner(s) will be verified to ensure that the agreement has at least the following provisions:

- » Shared responsibility between the joint-use partners and school district involved (does not include the SAB).
- » Shared responsibility for funding of the operational costs of the project after the project is complete.
- » Specifying the responsibilities regarding the operation and staffing of the project.
- » Identify specific criteria to ensure the safety of the pupils during regularly scheduled school hours.
- » Specifying the joint-use facility will be made available for at least 20 hours per week.
- » The school district demonstrates that the facility will be used to the maximum extent possible for both school and community purposes.

If the joint-use project is a Type 1 or Type 2 (part of a qualifying SFP modernization project), then the district has the same timeframe as that of a regular SFP project to meet the substantial progress requirements (see Section 2, “Substantial Progress Audit Reporting Requirements,” page 3). If the joint-use project is a Type 2, not part of a qualifying SFP modernization project, the district has one year to submit DSA and CDE approved plans and DSA approved specifications to the OPSC, otherwise the project will be rescinded. If this one year requirement is met, the project will be subject to the 18-month substantial progress requirement.

The audit also verifies that any expenditures above the State and joint-use partner’s matching share was funded by the joint-use partner(s) applicant school district. Districts must ensure that if the district combines the joint-use project with a regular SFP expenditure project, all costs are pro-rated between the various projects.

A verification will be made to ensure that any funds contributed towards the joint-use project to match the State funds (by either the joint-use partner and/or any other district source) would not have otherwise been available to the district or the SAB.

Critically Overcrowded Schools

If the district receives an advanced site and design apportionment, and if the district does not convert to a SFP project within the 4 years given to the district to submit a Form SAB 50-04, or 5 years if the district is granted a 12 month time extension to submit a Form SAB 50-04, the project will be rescinded or closed to costs incurred. If the district does not convert to a SFP project, expenditure reports must be submitted to close the project to costs incurred. If no expenditure reports are submitted, the Critically Overcrowded School (COS) project will be rescinded and all State funds, plus interest accrued, will be reimbursed to the State. When expenditure reports are submitted, the COS project will be reduced to costs incurred.

When a COS project converts to a SFP project, it will be subject to all SFP progress and auditing standards. A substantial progress report will be required at 18 months from the date the SFP funds were released. Annual expenditure reports will be required beginning one year from the date of the first fund release until the project is complete. The project is also considered complete when 3 years elapse from the date of the final fund release for an elementary project, or 4 years for a middle or high school project, at which time final expenditure reports must be submitted. Once complete, the project will be audited using the SFP expenditure audit criteria.

Charter Schools

Similar to a COS project, when a charter school project converts to a SFP project, it will be subject to all SFP progress and auditing standards. A substantial progress report will be required at 18 months from the date the SFP fund release was made. Annual expenditure reports will be required beginning one year from the date of the first fund release until the project is complete. The project is also considered complete when 3 years elapse from the date of the final fund release for an elementary project, or 4 years for a middle or high school project, at which time final expenditure reports must be submitted. Once complete, the project will be audited using the SFP expenditure audit criteria (see requirements in Article 14 of the regulations).

Labor Compliance

Districts are required to have a Labor Compliance Program (LCP), approved by the Department of Industrial Relations, for construction contracts with a Notice to Proceed dated on or after April 1, 2003 as stated in Assembly Bill (AB) 1506.

For SFP projects subject to AB 1506, the district must submit at the time of the OPSC audit the following:

- » Copies of all of the Notices to Proceed
- » Copies of all of the Department of Industrial Relations approval letters (including initial, extended, and final approval letters, if applicable) through the life of the project.
- » If applicable, a copy of the third party provider contract that is project specific. "Blanket" contracts are not acceptable unless an addendum or exhibit specifies the school name(s).

The district must also be prepared to submit the following upon request:

- » All bid invitations and contracts that contain language pertaining to compliance with Labor Code Section 1770 through 1780.
- » Evidence that a pre-job conference was conducted with the contractor to confirm that the district enforced the requirements set forth in Labor Code Sections 1770 through 1780.
- » Evidence of payroll for all contractors and subcontractors.

Labor Code Section 1771.7 provides that a district may elect to contract with an outside entity, or use its own employees to implement and administer the LCP. If the district intends to use its employees, it must meet the requirements as detailed in the Public Contract Code and account for the following:

- » The name of the district employee performing the LCP duties.
- » The salary and benefits of the employee including transportation costs.
- » A specific breakdown of hours spent by project.

Costs incurred to initiate, enforce, and maintain the district's LCP should be pro-rated by project and reported on the Detailed Listing of Project Expenditures.

Separate Design and Site Apportionments

Expenditures made with grant money provided by a separate design or site apportionment, pursuant to Regulation Section 1859.81.1, should be for costs appropriate to design or site, respectively.

For example, if the school district has received a separate apportionment for design, then the school district should only spend that grant for costs related to design. Allowable design expenditures are listed under “SFP Allowable Expenditure – II. Planning Costs,” page 15. In some situations, it may be necessary for the district to incur some other planning-related site costs such as site testing and appraisals. These expenditures would be allowed under both design and site apportionments. Purchasing sites with design funding, however, is prohibited.

Furthermore, separate site acquisition apportionments should only be used for expenditures listed under “SFP Allowable Expenditure – I. Site Costs,” page 14.

Allowable Expenditures under the SFP

The statutory language governing the SFP apportionments is very broad in scope for both new construction and modernization projects. Statutory language for new construction, such as “*a grant for new construction may be used for any and all costs to adequately house new pupils...*”, and for SFP modernization, such as “*a modernization apportionment may be used for an improvement to extend the useful life of or to enhance the physical environment of the school...*”, indicate there is a lack of defined cost allowances when determining eligibility of some project expenditures. This section, “Allowable Expenditure under the SFP”, will offer guidelines for determination of eligible expenditures. As a general rule, any project cost will be allowed, with limitations in some cases, which can reasonably be attributed to the project in accordance with applicable regulations and law.

Education Code Section 17072.35 provides direction relative to what new construction grants may be used for:

“A grant for new construction may be used for any and all costs necessary to adequately house new pupils in any approved project, and those costs may only include the cost of design, engineering, testing, inspection, plan checking, construction management, site acquisition and development, demolition, construction, acquisition and installation of portable classrooms, landscaping, necessary utility costs, utility connections and other fees, equipment including telecommunication equipment to increase school security, furnishings, and the upgrading of electrical systems or the wiring or cabling of classrooms in order to accommodate educational technology. A grant for new construction may also be used to acquire an existing government or privately owned building, or a privately financed school building, and for the necessary costs of converting the government or privately owned building for public school use.”

Other pertinent regulations contained in Article 8 (of the SFP regulations) provide further information relative to appropriate uses of SFP new construction funding which should be referred to during the course of a final expenditure audit.

Education Code Section 17074.25 provides guidelines relative to eligible SFP modernization expenditures and states:

“A modernization apportionment may be used for an improvement to extend the useful life of, or to enhance the physical environment of, the school. The improvement may only include the cost of design, engineering, testing, inspection, plan checking, construction management, demolition, construction, the replacement of portable classrooms, necessary utility costs, utility connection and other fees, the purchase and installation of air-conditioning equipment and insulation materials and related costs, furniture and equipment, including telecommunication equipment to increase school security, fire safety improvements, playground safety improvements, the identification, assessment, or abatement of hazardous asbestos, seismic safety improvements, and the upgrading of electrical systems or the wiring or cabling of classrooms in order to accommodate educational technology. A modernization grant may not be used for costs associated with acquisition and development of real estate or for routine maintenance and repair.”

Education Code Section 17074.10(d) also specifies the Legislature did not intend modernization funding be used on administrative and overhead costs.

Other regulations contained in Article 8, New Construction and Modernization Grant Determinations), provides further information relative to appropriate uses of SFP modernization funding that will be referred to during the course of a final expenditure audit.

Allowable Expenditures under the SFP—Specific Guidelines

Districts are advised the SFP does not have set fee schedules or allowances for the categorized project expenditures. The SFP, with few exceptions, has no limitations on the fees associated with architects or construction managers, etc. However, the districts are responsible for completing the project as certified on the *Application for Funding* (SAB 50-04). Furthermore, there are no set allowances for project components other than those noted below.

The following general guidelines shall be utilized in reviewing an SFP new construction or modernization project (assume it is a non-financial hardship project). With some exceptions, as noted, allowable project expenditures are as follows:

SFP Allowable Expenditures

I. Site Costs (Not Applicable to Modernization):

- A. Purchase Price of Property—An allowable expenditure provided the site was not previously funded under the Lease-Purchase Program, and the expenditure reported is the lesser of the appraised value (submitted within six month of a complete SFP funding application) or actual purchase price. The costs for toxics cleanup and removal, as well as DTSC oversight fees associated with the cleanup are allowable expenditures. Excess DTSC costs and costs for Hazardous Waste Removal beyond the 150 percent of the appraised value cap, or the cap established by the SAB for unforeseen circumstances, must be funded by the district or from overall project savings; no additional apportionments will be made to fund these costs.
- B. Appraisal Fees
- C. Escrow Fees
- D. Survey Costs
- E. DTSC Phase One Environmental Assessment Fees, Response Action costs, and Preliminary Endangerment Assessment Fees
- F. Relocation Assistance—Allowable expenditures as long as expenditures conform to Title 25, California Code of Regulations, Section 6000, et seq. Any reasonable and necessary relocation costs for purchasing fixtures and equipment, personal property, new machinery/equipment and the installation of any improvements at the replacement residence or business location may be included as eligible relocation expenditures. Specifically, these costs include: rental assistance; last resort housing costs; down-payment assistance; any costs the district is required to pay through a court finding such as goodwill, cost of land, etc.; moving expenses; “in-lieu” of business expenses; business moving costs; furniture and equipment costs if the business is unable to relocate; and reasonable relocation consultant fees.
- G. Development of Phase One Environmental Assessment and Preliminary Endangerment Assessments
- H. Legal Fees associated with:
 - 1. The review of site acquisition documents.
 - 2. Site condemnation or relocation proceedings.
 - 3. The review of the SFP project-related lease agreements.
 - 4. The review of the SFP project-related contracts between districts and contractors, architects, construction managers or engineers.
 - 5. The review of the SFP project-related bid documents and bid responses.
- I. Litigation costs within the parameters of the total SFP grants.
- J. California Environmental Quality Act, or CEQA, expenditures as long as they are not for services rendered by district personnel.

II. Planning Costs

- A. Architect's Fee for Plans
- B. DSA Plan Check Fee
- C. CDE Plan Check Fee
- D. Energy Analysis Fee
- E. Preliminary Site Tests
- F. Consultant Fees—Allowable expenditure, as long as expenditures are related to the project.
- G. Advertising for Construction Bids
- H. Construction Management—not at risk
- I. CEQA associated costs
- J. Costs incurred to initiate, enforce and maintain a LCP, which may include school district "third party providers" costs, district's own Force Account labor costs, or construction manager costs.

III. Construction Costs⁵

- A. Utility Services [see Regulation Section 1859.76(c) for more information]. Fifty-year-old Modernization projects are also eligible to receive funding for utility costs (see Regulation Section 1859.78.7).
- B. Off-Site Development [see Regulation Section 1859.76(b) for more information].
- C. Service Site Development [see Regulation Section 1859.76(a) for more information].
- D. General Site Development
- E. Building Construction
- F. Modernization Costs—Allowable expenditures including the following, but subject to the limitations in "Ineligible SFP Expenditures," page 16, items C through F:
 - 1. Any new building area included in a modernization project which replaces "like kind" area.
 - 2. New site development expenditures for replacement, repair or additions to existing site development work.
 - 3. Removal of hazardous waste the DTSC has declared unsafe which does not exceed ten percent of the total modernization project cost.
- G. Construction Management Fees—if the Form SAB 50-05 certification was made by the district on or before December 31, 2003.)
- H. "At risk" Construction Management fees—reviewed on a case-by-case basis to determine whether the CM firm is truly "at risk."⁶
- I. Demolition Costs—Allowable expenditure if the cost is attributable to replacement of "like kind" building area for modernization projects (see Regulation Section 1859.79.2(a)), no cost limitations for new construction projects.
- J. Force Account Labor—Allowable if it complies with the Public Contract Code and is specific to the project (note: may also be a planning cost).
- K. Interim Housing—Allowable expenditures with no cost limitations for modernization projects. Also eligible for new construction projects that are additions to an existing site where classrooms temporarily are inaccessible or unsafe to house students.
- L. Unconventional Energy
- M. Construction Tests
- N. Inspections
- O. Furniture and Equipment—if included in a construction contract (such as built-in equipment for central kitchen, etc.)
- P. Construction Supervision/Security
- Q. Energy Conservation Costs.

⁵ The items listed in Section III, Construction Costs are included in meeting the 50 percent requirement for the *Fund Release Authorization* (Form SAB 50-05).

⁶ For a CM firm's contract to be deemed "at risk", the CM firm must secure a bond for the project and be responsible for any costs incurred and/or penalties if the job is not completed in a timely manner.

IV. Other Allowable Costs⁷

- A. Furniture and Equipment that meets all of the following criteria:
1. Lasts more than one year.
 2. It is typically repaired rather than replaced.
 3. It is an independent unit (rather than being incorporated into another unit item).
 4. The cost of tagging and inventory is a small percentage of the item cost. It exceeds the minimum dollar value of capitalization threshold established by the local education agency.

V. Joint-Use Project Expenditures

PROJECT TYPE	ELIGIBLE FOR SITE ACQUISITION?	ELIGIBLE FOR SITE DEVELOPMENT?
Type 1	No, as part of the joint-use project. Yes, as part of the new construction project.	Must be part of the new construction project.*
Type 2	No, as part of the joint-use project. Yes, as part of the new construction project.	Must be part of the new construction project.* Yes, for Service Site and Utilities. No off-site costs allowed.

* Site development will be allowed in project if work shown to be germane only to joint-use project.

Ineligible SFP Expenditures

The following costs shall be disallowed during an SFP final expenditure audit:

1. Administrative and overhead, unless related to eligible Labor Compliance Program costs (see “Labor Compliance,” page 12).
2. District force account labor which does not comply with the Public Contract Code.
3. Modernization expenditures for:
 - a) New building area which does not replace building area of “like kind.”
 - b) New site development modernization not for replacement, repair or additions to existing site development work.
 - c) Removal of hazardous waste from a modernization project the DTSC has declared unsafe which exceeds ten percent of the total modernization apportionment.
 - d) Costs incurred on leased facilities not owned by another district or county superintendent.
 - e) Acquisition and development of real estate.
 - f) Demolition costs not attributable to replacement of “like kind” building area.
4. Any expenditures which are not reasonably attributed to the project.
5. Relocation costs not conforming to Title 25, California Code of Regulations, Section 6000, et seq. (see Regulation Section 1859.74(a)(1)).
6. Expenditures associated with a “use of grant” (see Regulation Section 1859.77.2) SAB approval that were not constructed as specified in the original approval.
7. Campus supervision going beyond construction site security (such as campus security and administrative overhead).
8. Financial Hardship project expenditures exceeding the district’s grant eligibility for the project plus interest earned on State funds. The district may elect to provide the overspent amount to reduce the financial hardship contribution on a future project, or not submit a financial hardship application for a period of three years from the date of last financial hardship adjusted grant approval for the district.
9. New construction expenditures associated with interim housing unless access to the classrooms already on the site is considered unsafe during construction.
10. Relocation costs not considered reasonable such as: goodwill not court ordered; the difference between the salvage value and new value of furniture and equipment costs, if the business vendor retains the furniture and equipment.
11. Legal fees not directly attributable to the SFP project.
12. Litigation costs which exceed the SFP grant.
13. Expenditures associated with facility hardship SAB approvals which were not constructed as originally approved (see Regulation Section 1859.82).
14. Site Acquisition costs related to joint use (also refer to the table in “SFP Allowable Expenditures – V. Joint-Use Project Expenditures,” page 16).

⁷ See the most current version of the *California School Accounting Manual*, Procedure 770. Capitalized equipment is an allowable expenditure; supplies are not allowable expenditures.

Expenditures After the Three or Four Year Timeline

Expenditures that have been paid *after* three or four years (as applicable) have elapsed since the date of the final fund release, are allowable expenditures only if:

- » The contracts for the expenditures were signed prior to the three or four years have elapsed; and,
- » The building has not been occupied prior to the payment.

Expenditure Audit Response

Once the expenditure and/or in-depth expenditure audit(s) have been completed, the audit staff will notify the school district of its findings and as appropriate, prepare an SAB item or issue an administrative journal recommending the project be closed. Notification to the district will be in the form of an Expenditure Review letter with the Review of Project Financing and Expenditures attached. In addition to reporting any audit findings, the OPSC will inform the district if the audit staff will prepare a SAB item for the next available board or an administrative journal to close the project. The SAB item may request an increase or decrease of the project's SFP grant for various site costs and/or a reduction in the SFP grant for other project costs considered ineligible (per Regulation Section 1859.106).

The district will have 15 calendar days to respond to the audit staff's findings. If additional documentation is submitted within the 15 days, the audit staff will revise the audit findings, if necessary, and repeat the process of sending the audit findings to the district. If the district does not respond within 15 days or accepts the audit findings, an item will be presented at the next available SAB, or an administrative journal will be prepared to close the project.

Project Savings

For an applicant district that declares savings on a SFP project, and the savings amount has been verified through the OPSC expenditure audit, Regulation Section 1859.103 states that "*A district may expend the savings not needed for a project on other high priority capital facility needs of the district...*". The regulation further prescribes that the "*...State's portion of any savings from a new construction project or a joint-use project may be used as a district matching share requirement, only on another new construction project, and the State's share of any savings from a modernization project may be used as a district matching share requirement, only on another modernization project*". In considering both of these regulation references, the district is free to apply the savings achieved on a construction project towards the district's high priority capital facility needs unless the district is using the State's share of savings as the district's matching contribution on a SFP project, in which case the State's share of savings must be applied to a SFP project of like-kind.

The district is limited as to how savings are used for financial hardship projects according to Regulation Section 1859.103. The savings achieved on a project, including interest accrued, must be used to reduce the financial hardship contribution on that project, or on future financial hardship projects. The district will have three years from the date savings was determined through the SFP expenditure audit to apply savings to reduce the financial hardship contribution on a future project. If the district does not apply the savings within three years, the district must reimburse the savings, including interest, to the SAB. The expenditure amount reported above the district and State share, including interest, will be used to reduce the project's financial hardship contribution.

Savings will be pro-rated appropriately based on the funding of the project. For example, if a project is funded 50 percent by the State and 50 percent by the district, for every dollar remaining in savings, 50 percent is considered the State's share of savings, and 50 percent is considered the district's share of savings.

If the district had savings but did not report the use of savings at the time of project closeout, the district will be required to submit annual savings expenditure reports, using the Detailed Listing of Project Expenditures—Savings (located on the OPSC website) until all savings are spent. For financial hardship projects that have unexpended savings, the district will be required to submit annual savings expenditure reports for three years. At the end of the three-year period, if the savings are not fully expended, the district must reimburse to the State any unapplied savings, including interest accrued.

OPSC audit staff will review the savings expenditure reports for accuracy and to verify the costs are considered eligible per "Allowable Expenditures under the SFP," page 13, and as prescribed in Regulation Section 1859.103 and 1859.106. The savings expenditure reports will be verified to ensure that the construction projects receiving the savings funding are appropriate, and that warrant numbers, warrant dates, warrant amount, and the description/purpose are appropriate.

