

Stuart & Associates

Governmental Consultants

TO: Dr. Joe Ovick

FROM: Susan Stuart

DATE: December 6, 2006

RE: November 30 and December 1, 2006 SAB Implementation
Committee Meeting

Meeting of November 30, 2006 and December 1, 2006

Agenda Items

1. Implementation of AB 127
 - ◆ Career Technical Education Grant
 - ◆ Overcrowding Relief Grant
 - ◆ Seismic Mitigation Grant
2. Implementation of AB 607
 - ◆ Emergency Repair Grant Program

CAREER TECHNICAL EDUCATION FACILITIES (CTEF) PROGRAM

Background

The CTEF program through Prop 1D and AB 127 provides \$500 million in funding for new CTEF facilities, modernization of existing facilities at a comprehensive high school, or for the purchase of equipment needed for the program. Similar to the joint use program, the CTEF program provides 50 percent of the allowable expenditures up to \$3 million on a new construction project and \$1.5 million for a modernization project. This program, however, includes an option for school districts to receive a loan for the district's share of the project to be payable over a fixed time frame (10 years has been suggested).

Qualification for the grant is based on a two-phased application process. In the first phase, the CDE reviews and ranks applications for the grant funding based

on the quality of the career tech program being offered. Based on the rankings, the application will be presented to OPSC and eligibility will be determined for a preliminary apportionment of funds.

CDE Application

CDE presented its revised version of the application guidelines. The format has been simplified since the last version was presented, but many expressed concerns that additional simplifications should be made.

The grant proposal will be scored on eight basic elements providing a maximum score of 175 points. One of the issues to be decided is whether or not the entire application would be rejected if the applicant fails to address one or more of the elements or sub-elements of the application, or whether that section would receive a zero.

Eligible Entities

OPSC stated that only school districts operating a comprehensive high school pursuant to Ed. Codes 51224, 51225.3 and 51228 qualified to file an application. The business advocates indicated that Ed Code 48661 limited the applicant to only comprehensive high schools. We asked what their definition of comprehensive high school was, and they stated, "You know, the ones we know and love". I asked if 90210 would be their definition, and they said that's what they had in mind. Some of us suggested that perhaps an eligible LEA would meet the provisions of the law and would allow COEs to apply for the funds if they were offering CTE at a comprehensive high school and if they were able to produce matching funds. The business advocates want college prep kids in these programs, not "the children that the COEs serve". The business advocates also stated that they believed comprehensive high schools had relinquished their obligation to offer CTE programs and that they should again take over the responsibility of administering these programs. The Chair stated that this committee was not going to make decisions on who would administer the program. Educators pointed out that schools do not administer programs, but rather school districts with governing boards make these decisions. One school district representative pointed out that with NCLB requirements, districts have been forced to focus on non-elective classes.

Allowance

The preliminary apportionment would be based on a dollar per square foot basis. The dollar amount would not necessarily be equivalent to the Minimum Essential Facility or Facility Hardship amounts established in the regulations.

Depending on the scope of the project, there may be an additional allowance for site development costs.

Local Contribution

Both the new construction and modernization applications would require a 50/50 match from local funding sources. If the district does not have any matching funds available, then they may request a loan. The provisions for receiving a loan were not disclosed. However, the OPSC indicated that it would not be as detailed as requesting financial hardship funding. OPSC did mention that they recommend a 10-year payback on the loan. There was testimony that 10 years may be acceptable if the funds are used to only purchase equipment. In situations where structures are created or remodeled, it was advisable to have a longer payback period. Thirty years was suggested as it matched the repayment schedule for Charter applications.

Apportionment

OPSC indicated that a district would receive a preliminary apportionment for the project. The project must be converted to a full and final apportionment within 12 months. The district may request a fund release for design purposes equal to 10 percent of the total project budget if they qualify for a loan for their local match.

If the district is unable to convert the project to a full funding application, the apportionment would be rescinded. The district may resubmit its request in the next funding cycle and retain the same CDE score. If funds were released for design purposes, those funds must be repaid.

Funding Cycle

There will be two funding cycles of a maximum of \$250 million per cycle. The first deadline for filing is anticipated to be October 31, 2007 with the apportionment occurring in February 2008. The Second filing deadline is anticipated to be April 30, 2008.

Funding Priority

This program requires an even distribution of projects through out the State. The proposal uses the existing eleven service regions. The SAB would fund the project with the highest score in each region and continue with the second highest and third highest until all the first priority projects for each district have been funded. Only then would they consider the second and subsequent priority project for a district. The date of submittal to OPSC will not be a consideration.

Fund Release

Other than the release of design funds to districts receiving approval for a loan, districts must request a fund release within 18 months of the apportionment. The process will mirror the SFP process.

Savings

Districts funded under this program will not be able to retain any project savings for other higher priority capital facilities improvement purposes. The savings, including any funds loaned as a match, must be returned to the SAB at closeout.

Impact on Baseline

If the CTE application is to rehabilitate an existing facility to provide for the program, the work in the existing building will not cause it to be considered modernized for purposes of the modernization program. In addition, if a classroom is created, the district's new construction baseline would not be adjusted for these classrooms.

A large point of contention remains for a CTEF grant that results in a new building area that includes classroom space. OPSC and DOF both stated that although districts could be eligible for grants irrespective of whether they have new construction eligibility, they would receive an immediate reduction in new construction eligibility (if they have none, they would go further into the negative). The business advocates and school district representatives protested, saying this would be a disincentive for districts to apply for the program. This issue will be discussed again in January.

Regional Occupation Program (ROP)

I stated that in Contra Costa County the COE administers all ROP programs at comprehensive high schools. These programs provided by the counties are an integral part of a CTE program, and should not be precluded from filing an application if their program is to be located on a comprehensive high school. COEs are currently working with the districts to provide services. Funding for this program needs to provide the widest opportunity to serve the most number of students.

OVERCROWDING RELIEF GRANT (ORG)

Background

AB127 provides \$1 billion in new construction funds to relieve overcrowding on campuses by removing portable classrooms from service and replacing them with permanent construction.

To be eligible for this funding, a district must have school sites with pupil density exceeding 175 percent of the CDE recommended size based on the 2005/06 CBEDS report. (If you'd like a list of these schools, please contact our office). These schools are defined as serving 100 (K-6) pupils/acre and 75 (7-12) pupils/acre. The funds must reduce pupil density to not less than 150 percent of the CDE recommended size.

Eligibility

The eligibility to replace portable classrooms will be based on a districtwide or on a high school attendance area. The number of pupil grants will be the student capacity of all the portable classrooms on the district's SAB 50-02. Pupils who are housed in CSR portables must be reduced from the number of eligible pupils. In order to accomplish this, districts will certify to OPSC the total number of CSR portables districtwide, as well as the total number of elementary schools in the district. The number of portables will be divided by the number of elementary schools to determine the average number of CSR portables at each elementary school. This will be a one-time determination. The grants will be reduced by the average number of portables per elementary school multiplied by 25 (state loading standard for K-6) --- a simple program.

Application

The district will be able to assign to the application the number of pupil grants equal to the capacity of the portable classrooms to be replaced. The resulting capacity after identifying the portable classrooms to be replaced must result in the overall site capacity to equal or exceed 150 percent of the CDE recommended population density.

There will not be a restriction on the grade level of pupil grants that can be assigned. Therefore, there will not be a need to go through the Use of Grants process. However, the OPSC will still require that the application meet the commensurate test (construction costs must equal or exceed 60 percent of the total project budget).

Site Acquisition

Many were interested in discussing the option to use funds for site acquisition, not necessarily acquiring large sites (i.e., ten acres), but adding sufficient adjacent property to enable districts to add buildings. Reducing site density this way would theoretically mean removing pupils from the overcrowded site although this option was not specifically addressed in the bill text. OPSC indicated that they had a legal opinion that site acquisition was allowable by this new program. Funding would be subject to the same provisions already established under the SFP.

Financial Hardship

Districts that qualify for financial hardship funding may not ask for advance funding for design or site acquisition. However, they will be permitted to bridge finance those costs. The bridge financing will not be considered available funds when the next financial hardship review is made.

Once the district is ready to file for the full and final apportionment, the district may be funded as a financial hardship application. The existing regulations regarding eligible reimbursement costs of bridge financing instruments will be applied.

Portable Classroom Disposition

This new program looks to the removal of portable classrooms as a means of reducing the student density. Once the replacement facility is constructed, then the portable classroom must be no longer used for classroom purposes.

Districts must remove the portables within six months of occupancy of the replacement buildings.

Funding Cycles

There will be three funding cycles for this program. The final filing date for each cycle were noted as follows:

- ◆ \$500 million - January 31, 2008
- ◆ \$300 million - July 31, 2008
- ◆ \$200 million - January 31, 2009

Modernization Eligibility

If the portable classroom being replaced generated modernization eligibility under the SFP modernization program, then the SFP modernization eligibility of the site will be reduced.

SEISMIC MITIGATION

Background

AB127 provides up to \$199.5 million to address the most vulnerable “Category 2 “ buildings.

DSA presented a report that established four criteria for the qualifying buildings:

1. Category 2 building – The structural engineer must demonstrate that the building in question qualifies.
2. The building is located in an area identified by the National Seismic Hazards Maps to be in a very high ground shaking zone.
3. The building is designed for occupancy by students and teachers
4. A structural report is provided that defines the deficiencies and reasoning that this building has a high potential for collapsing.

It is anticipated that the criteria to be finalized by DSA will result in a list equaling the \$199.5 in available funds.

EMERGENCY REPAIR GRANT PROGRAM

Background

Until now, the Emergency Repair Program (ERP) program is being funded as a reimbursement of district expenditures. AB 607 (Goldberg) converted this program into a Grant Program

Eligible Schools

Currently a school that is a decile 1, 2 or 3 school as of the 2003/04 school year qualifies for reimbursement for emergency repair work. Beginning the 2007/08 fiscal year, schools must be deciles 1, 2 or 3 as of the 2005/06 school year in order to qualify for emergency repair funding. The list of qualifying schools will be updated every three years thereafter.

Funding

Qualifying districts will have a two-step process in applying for funding.

1. **Estimated Grant** – The district will present the scope of work and the estimated cost for repair. Once reviewed and accepted as qualifying work, the SAB will provide an apportionment and release the funds to perform the work. The district will have one year to complete the repairs. It was suggested that one-year was not sufficient.
2. **Final Grant** – The district must submit a final grant request within one year of the Estimated Grant apportionment. This application will include all the final costs, warrants, and contracts for the work. If the final costs exceed the original apportionment, the SAB can approve an increase in funding. If the final costs were less than the original apportionment, the district will be required to return the unspent funds.

Audit

As part of the discussion, OPSC was recommending that the SAB approve the Final Grant application and then conduct the audit of expenditures. There were several comments requesting that the audit be conducted prior to SAB approval of the Final Grant application.

Scope of Work

Currently, the ERP only permits one building system per application. The regulations will be revised to permit multiple buildings systems to be included. The application may not include multiple school sites.

Eligible Expenditures

A new addition to the proposed regulations is from OPSC which stated that architectural fees be limited to 12 percent of the construction work and that consultant fees and administrative costs not permitted. This was suggested because a consultant charged \$500 for a \$50 claim. This became very contentious, as many districts rely on consultants, and particularly energy consultants for some of this work. An alternative was suggested to limit the percentage of reimbursable soft costs of the project to some percentage (yet to be determined) of the construction work. One suggestion was 40 percent. The district would have the discretion to expend this soft cost reimbursement on architectural services or consulting services. District administrative costs would not be permitted for reimbursement.

Portable Classrooms

OPSC has been presented with a couple of cases where the condition of the portable classroom was so deplorable that the only option would be replacement under the ERP. OPSC emphatically stated that this program will not become a portable replacement program. No portable classroom would be considered if the cost of repairs does not exceed 75 percent of the cost to replace the portable classroom with another.

INTERIM EVALUATION INSTRUMENT

Background

In addition to creating an Emergency Repair Grant Program, AB 607 (Goldberg) also provided a permanent standard for defining "Good Repair". OPSC will be presenting a revised Evaluation Instrument for comment at the next Implementation Committee meeting to implement the requirements of the legislation.

UPCOMING MEETING DATES

Proposed Dates

Next meeting: Thursday, January 4, 2007

The OPSC presented the following dates for meetings in 2007

- ◆ January 4, 2007
- ◆ February 2, 1007
- ◆ March 2, 2007
- ◆ April 6, 2007
- ◆ May 4, 2007
- ◆ June 1, 2007
- ◆ July 6, 2007
- ◆ August 3, 2007
- ◆ September 7, 2007
- ◆ October 5, 2007
- ◆ November 2, 2007
- ◆ December 7, 2007

OPSC was asked to consider having some meetings in Southern California.