

Stuart & Associates

Governmental Consultants

TO: Superintendents/Facilities Directors

FROM: Susan Stuart

DATE: June 28, 2007

RE: June 27, 2007 State Allocation Board Meeting

Status of Funds

Prop 1D Remaining Funds - \$7.3 billion – November 2006

New Construction	\$1.9 billion
Modernization	2.9 billion
CTE	.5 billion
High Performance	.1 billion
Overcrowded Relief	1.0 billion
Charter Schools	.5 billion
Joint Use	50 million

Prop 55 Remaining Funds - \$10 billion – March 2004

New Construction	\$1.3 billion
Modernization	52 million
COS	288 million
Charter Schools	25 million
Joint Use	1.5 million

Prop 47 Remaining Funds - \$11.4 billion – November 2002

\$170 million from various programs

Prop 1A Remaining Funds - \$6.7 billion – November 1998

\$19 million from various programs

The Emergency Repair Program still has over \$300 million available.

Please contact our office if you would like a copy of full report of the Status of Funds provided at the SAB meeting.

Executive Officer's Statement

The new Executive Officer, Rob Cook, was officially confirmed at this SAB meeting. Also welcomed was Will Semmes, the new SAB representative for DGS, replacing Rob Cook. Rob provided his first Executive Officer's Statement that included the following:

- ◆ OPSC recommended moving of \$21 Million from the Lease-Purchase Program (LPP) to the SFP Joint Use program. CDE requested additional funds, as there will most likely be a funding shortfall of \$2 to \$3 Million for the received Joint Use applications.
- ◆ Charter applications have been received totaling approximately \$2 billion. Only \$500 million is available from current Prop 1D funds for this purpose.
- ◆ A legal opinion has been received from the Attorney General's Office regarding Davis USD. This opinion will be shared publicly soon, but it apparently states the SAB is able to interpret their own regulations and that they may consider other opinions in addition to those provided by their own counsel.
- ◆ Regulations for the High Performance and New Construction Funding will be resubmitted to OAL in the near future.
- ◆ It is anticipated that the regulations for the Career Tech Program and Site Sale Proceeds will be approved and available soon.
- ◆ The ERP Grant regulations are currently in OAL for review and should be approved in the near future.
- ◆ OPSC is issuing an RFA to conduct a management audit of the Financial Hardship process at OPSC.
- ◆ OPSC is issuing an RFA to do a study on grant adequacy. The SAB asked that the existing Grant Adequacy Committee be included in this process.

Appeals

Porterville Unified School District

The Porterville Unified School District was included on the "Special-Consent" calendar for reimbursement of 50 percent of their litigation costs associated with a project funded under the LPP. Because projects under this program were required to bid their site and construction projects separately, they often hired two separate contractors for these two phases of construction. This often

resulted in construction delays, and hence, litigation. Because of this recognized flaw in the program, the SAB reimbursed the districts for 50 percent of the litigation costs, even though they were not required to do so.

Questions were raised by members of SAB (most of the current members are new and have no history with the LPP) regarding the Board's liability. OPSC advised the board that the district has shown "due diligence" in defending their interest and that of the State, and stated the SAB historically funded half of the allowable legal costs. This is likely to be the last of the LPP requests of this nature - the SFP does not permit funding of these types of requests.

The SAB approved the District's request.

Val Verde Unified School District

This was the third hearing for the Val Verde Unified School District, who has been a financial hardship (FH) district since the beginning of the School Facilities Program. In a previous write up, OPSC indicated that the district had \$89 million available in Certificate of Participation funds to contribute towards the next projects, and that the district had not reported all of these to the State. This latter issue will be addressed separately at a future meeting as a potential Material Inaccuracy finding.

The District filed an appeal, arguing that the COP funds were not available because the funds were expended on costs related to the completion of previously approved financial hardship projects, since funding for this program doesn't allow districts to build complete schools. Without the district's contribution of COP funds, they argued, the schools would have been either incomplete or constructed of inferior quality.

The district scaled down their previous request, and at this meeting asked permission to keep \$22 million in COPs to complete an elementary school, and at that point be subject to the rules of the program. They said they were taking the proceeds of \$40 million of the COPs to pay off \$40 million to pay down their debt. Questions were asked and staff responded that this action was discretionary and stated the district had the option to repay the State with these funds. In addition, although members of the SAB agreed that adequate schools are desirable, there was concern that this would create a precedent and FH districts who had abided by the rules of the program would and should request the same treatment.

After a lengthy discussion, a motion was made and seconded that the SAB approve the staff's recommendation to deny the district's request. Five members voted to support the staff recommendation, there were two abstentions, and two members were absent. Since six votes are necessary for any action, the SAB agreed on a motion to reconsider, and another vote will be taken when all the members of the board are present.

More to come...

Regulatory Changes

Labor Compliance Program Grant

OPSC presented a report regarding the Labor Compliance Program, to grant funding for districts that voluntarily initiate and enforce an LCP, and to adjust the LCP grant.

At the March 2007 SAB meeting, there were conflicting opinions on whether the SAB could and should fund voluntarily implemented LCP plans. The SAB elected to request a formal Attorney General's opinion. Because the opinion is not available, the SAB decided to defer the decision on both issues until the AG's is received.

Facilities Inspection Tool

The SAB approved the Facilities Inspection Tool (FIT), which will become the permanent William's facilities evaluation instrument replacing the Interim Evaluation Instrument (IEI).

Other Reports

California Department of Education

The California Department of Education (CDE) presented their report to the SAB. The report indicated that in 1947 CDE made recommendations relating to the per pupil square footage allowances, which was presented in the form of a range. However, the Legislature elected to adopt the low-end value of the range. Since that time the demand on school facilities has increased but there has been no adjustment to that original building area standard.

CDE evaluated 60 projects deemed to be complete schools based on Title 5 requirements. These schools included a median per pupil square footage of 71

sq. ft. for elementary schools, 88 sq. ft. for middle school and 108 sq. ft for high schools. These values were less than the median provided to students in facilities constructed in the Western Region (2006) and were far below the 2006 National average.

The report addresses the question of whether or not these complete schools support the world-class academic standards to which students, teachers, administrators, and elected officials are held accountable.

If you'd like a copy of the CDE report, please contact our office.

Other Items of Interest

Seismic Retrofit Program

CASH spoke to the SAB indicating that the regulations for the Seismic Retrofit Program seem to be stalled and that they urge the SAB to expedite the regulatory process.

SAB Agenda

Senator Margett requested OPSC re-evaluate the criteria for determining if an item should be a consent item or a special item. It appeared that one of the consent items had a footnote that led them to believe that it should be a special discussion item.

Implementation Committee

The meeting of the Implementation Committee scheduled for July 13, 2007 has been canceled. The next meeting is scheduled for August 3, 2007.