

Stuart & Associates

Governmental Consultants

TO: Superintendents/Facilities Directors

FROM: Susan Stuart

DATE: August 13, 2007

RE: July 25, 2007 State Allocation Board Meeting

Status of Funds

There is approximately \$3 billion in new construction, \$2.9 billion in modernization, and \$290 million in ERP funding remaining.

Executive Officer's Statement

Rob Cook's Report

- ◆ OPSC has identified a consultant to do a management audit of the Financial Hardship process at OPSC.
- ◆ OPSC has identified a consultant to do a study on grant adequacy.
- ◆ There has been a request for an Attorney General's opinion on SB 1415 regarding the use of site sales proceeds. The question is whether contributions to the district's retirement account are considered one-time or ongoing. OPSC will keep the SAB updated on the status.

OPSC Administrative Costs

- ◆ Conditioned on the passage of a State budget, the SAB approved \$18.3 million in administrative costs for fiscal year 2007/2008 for the state agencies administering the school facilities bond funds. OPSC would receive \$13.9 million; CDE would receive \$2.6 million; California School Finance Authority would receive \$866,000; and the State Controller's Office would receive \$929,000. Although the item passed without a dissenting vote, OPSC was requested to provide a detailed budget item on how their allocation would be spent.

Appeals/Specials

Val Verde Unified School District

The Val Verde Unified School District has been a financial hardship district since

the beginning of the School Facilities Program. In the last review of their financial hardship status renewal, OPSC indicated that the district had approximately \$90 million available in COPs to contribute towards their next projects. The District filed an appeal to the SAB, arguing that the funds were not available because the grants were inadequate and they were forced to pass COPs to complete and improve previously approved financial hardship projects.

Because there was thorough discussion of this item at previous SAB meetings, the issue was up for vote only. The Board voted to support the staff recommendation to deny the district's appeal on a 9-0 vote, with the chair abstaining.

Pittsburg Unified School District

On the Consent-Special agenda, the Pittsburg Unified School District was given approval for Facilities Hardship funding for the replacement of a school in which a gas pipeline crossed through the campus. Towards the end of the meeting, a member of the SAB raised questions about the proximity of the pipeline and mitigation measures, but the CDE representative eloquently addressed the concerns. The issue was approved.

Riverside County Office of Education

The Riverside County Office of Education submitted a request for a facility hardship rehabilitation project at three school sites. The SAB approved the requests. However, the SAB asked that the County be available next month to address a couple of questions by the board members. OPSC had not had an opportunity to visit the schools prior to the County making the repairs.

Joint Use Applications

OPSC presented 39 joint use projects, totaling over \$30 million, for approval by the SAB and indicated they had an additional 18 projects that were initially excluded due to the language in the joint use agreement. OPSC staff will re-evaluate those agreements and anticipates presenting them for funding next month, as there is sufficient funding for these projects.

The Santee Elementary School District had nine projects on the list that constituted a reconfiguration of an existing area for a teacher training facility. The joint use partner is the Santee School District Foundation. The SAB was concerned the joint use partner was not an independent entity from the Santee Elementary School District. OPSC acknowledged they did review a number of documents and they were satisfied they were an independent not-for-profit organization.

The Roseland Elementary School District noted that their joint use partner is the Roseland Charter School. The SAB was concerned the Roseland Charter School District may not qualify as an independent not-for-profit joint use partner. Legal counsel did note that Education Code states that the joint use partner may be “a non-profit organization approved by the board.” After some discussion, the SAB requested staff and legal counsel to provide them information regarding the latitude they had regarding defining an appropriate joint use partner. The SAB approved all the joint use projects except for Roseland Elementary School District’s request. It is to be presented with the remaining 18 applications at the next meeting.

Joint Use Filing Period

OPSC indicated that the current final filing date for a funding cycle does not provide OPSC sufficient time to properly evaluate the applicants. They requested that the final filing date be amended to March 1. The SAB expressed concern that any regulatory changes may not be approved prior to March 1, 2008. CDE added that joint use requests would need to be in their office prior to February 1, 2008 in order to have them approved prior to March 1, 2008. OPSC believes that regulatory changes could be implemented and approved by OAL prior to March 1, 2008.

Santa Maria Joint Union High School District

OPSC conducted a closeout audit of a project for Santa Maria Joint Union High School District. The SAB approved the staff recommendation permitting a one-time exception to fund costs associated with construction management services. As part of their recommendation, OPSC proposed these costs could be included as part of the 50 percent fund release requirement for those projects filing a fund release request under the SFP prior to January 1, 2004. After that date only “at risk” construction management costs may be included as part of the 50 percent requirement.

Regulations

Labor Compliance Program

This item addressed the recent reduction in the Labor Compliance grants for new construction and modernization, but did not address the issue of funding district LCP programs that were voluntarily implemented. A member of the SAB requested the item be withdrawn and re-considered with the previous issue as soon as a previously requested Attorney General Opinion is available. They anticipate that will occur within six to eight weeks.

Grant Increase – Project Information Worksheet

When the regulations implementing AB 127 permitting an annual augmentation of the per pupil grant by up to 6 percent were presented to the Office of Administrative Law (OAL), OAL required that the proposed form be included as part of the regulation. Therefore, this item presented a project information worksheet that must be completed by every district as part of the fund release and closeout process. The information on the worksheet would be used to gauge if an augmentation is warranted.

The SAB agreed to hold this item over until the SAB Implementation Committee had a chance to review the form.

Other Reports

Process of State Allocation Board Agenda

At the June meeting of the SAB, the Board asked OPSC to make a presentation about how items are classified on the agenda, including which criteria staff uses to place items on the Consent Agenda, Consent Specials, Specials, Appeals, Regulations, Reports and Information.

The Board expressed concern that there may have been some items that were presented as consent items because the staff perceived them to have merit as a fundable project, when it should have been within the purview of the SAB, and perhaps OPSC did not have the discretion to make that determination.

Other Items of Interest

Sanchez v. State of California

The SAB, OPSC and others were named in a lawsuit filed by the Val Verde Unified School District. The basic premise of the lawsuit is that students attending a district which has received financial hardship status do not have equal access to complete school facilities due to the definitions and requirements in the SFP program. There was no formal discussion of the specifics of the case, nor was the text of the case provided. However, they are now available. If you would like a copy of the details of the lawsuit, please contact our office.

Modernization Applications

The SAB recently implemented regulations that would permit a district to receive an augmentation of either three percent or an amount equal to the cost of access

compliance costs and fire safety costs approved by the DSA. If a district elects to receive the latter, the amount provided would be limited to an amount not to exceed 50 percent of replacement costs.

As part of that action, the SAB requested staff to return with information regarding the adequacy of funding. In an effort to assist OPSC, DSA developed a form to identify the minimum access compliance and fire safety work for the project. This form must be presented to OPSC as part of the modernization application package. It does not matter if you elect to use the default 3 percent or ask for a larger amount.

The next SAB meeting will be at 4:00 pm on Wednesday, August 22nd.