



## Office of Public School Construction

STAFF TO THE STATE ALLOCATION BOARD

### April-May 2015 Update

#### Eighth Priority Funding Apportionments

The Office of Public School Construction (OPSC) had \$135.7 million available to fund all current Priority Funding (PF) requests as a result of the spring bond sale. \$113.6 million in PF apportionments for 41 projects, representing 22 school districts (Districts) were approved at the April 2015 State Allocation Board (SAB) meeting. As a reminder, these projects approved in the current PF round are required to submit a valid *Fund Release Authorization* (Form SAB 50-05) by close of business **Tuesday, July 14, 2015**. If the Form SAB 50-05 is not physically received at OPSC by 5:00 PM on **July 14, 2015**, the project will be rescinded without further SAB action and may be returned to the Unfunded List (Lack of AB55 Loans) with a new approval date of July 14, 2015, unless the District receives a second non-participation occurrence. Any project receiving a second occurrence will be rescinded without further SAB action.

**\*Please note** that all fund release requests received between June 15, 2015 and July 1, 2015 will be processed beginning July 1, 2015, in order for OPSC to meet the accounting requirements for the fiscal year end process. Any SAB Form 50-05's received by OPSC in that 2-week time period will have a slight delay in being sent to the State Controller for processing.

#### Ninth Priority Funding Request Round

The Ninth PF filing round opens on May 13, 2015 and ends on June 11, 2015, at close of business (5:00 pm). Valid requests made during this window will be eligible for apportionments from July 1, 2015 through December 31, 2015. There are currently 115 projects for 41 Districts on the Unfunded List (Lack of AB55 Loans) totaling \$237.1 million that could submit a request for participation in the upcoming PF round.

'Request to participate' letters during a priority funding request period for any projects currently on the Unfunded List (Lack of Authority) cannot be accepted. Any requests received for project residing on the Unfunded List (Lack of Authority) will be returned.

A PF List showing the receipt of submitted valid request letters for projects on the Unfunded List (Lack of AB55 Loans), a list showing projects that have received one occurrence, and a list showing projects that have received two occurrences are all available on OPSC's homepage at <http://www.dgs.ca.gov/opsc/Home.aspx>.

For more information, please contact Tasha Brennan, Supervisor, at [Tasha.Brennan@dgs.ca.gov](mailto:Tasha.Brennan@dgs.ca.gov) or 916-375-4138 or Lina Lyda, Supervisor, at [Lina.Lyda@dgs.ca.gov](mailto:Lina.Lyda@dgs.ca.gov) or (916) 375-4027.

#### REMINDER: All Programs Are Now Required to Participate in the Priority Funding Process

The SAB took action on March 26, 2014 to include Career Technical Education Facilities Program (CTEFP), Charter School Facilities Program (CSFP) conversion, and the Overcrowding Relief Grant (ORG) projects in the participation requirements for the PF process to promote activity on the Unfunded List (Lack of AB55 Loans) and equity among the programs. The updated regulations are currently in effective as of October 1, 2014. The requirements can be found in School Facility Program (SFP) Regulation Section 1859.90.3 that outlines the criteria for participation in the PF process. The report and SAB actions were submitted to the Legislature to complete the requirements of Education Code 17070.53.

The following chart outlines how the Non-Participation Regulations affect the current PF procedure. The CSFP projects that are in the stage of advance release of design and/or site acquisition funds from a Preliminary Charter School Apportionment are not required to participate in the PF process.

|   |  |  |  |  |  |
|---|--|--|--|--|--|
| PF Request Round<br>11/12/14-<br>12/11/14 | PF Apportionments<br>Using 11/12/14-<br>12/11/14 PF Request<br>Round | PF Apportionments<br>Using 11/12/14-<br>12/11/14 PF Request<br>Round Not Meeting<br>90 Days To Submit<br>50-05 | PF Request Round<br>5/13/15-6/11/15      | PF Apportionments<br>Using 5/13/15-<br>6/11/15 PF Request<br>Round | PF Apportionments<br>Using 5/13/15-<br>6/11/15 PF Request<br>Round Not Meeting<br>90 Days To Submit<br>50-05 |
| Occurrence if<br>Request Not<br>Received  | Apportionment  | Occurrence   | Occurrence if<br>Request Not<br>Received | Apportionment  | Occurrence   |

## Annual Adjustment to School Facility Program Grants for 2015

Statute requires an annual adjustment to the per-unhoused-pupil grants amounts of the SFP based on the change in the statewide Class B Construction Cost Index (CCI) each calendar year. The CCI adjustment has been made according to the Marshall and Swift (M&S) Eight California Cities Index every year since 2009. In the past, the SAB has compared a variety of indices for the purpose of adjusting the SFP grants but decided in 2009 to make the M&S Eight Cities Index its permanent choice as is was the most representative option for construction in California.

As the M&S Eight California Cities and the M&S Ten Western States indices have not been made available to OPSC for 2015, staff presented three alternate indices at the April 2015 meeting [Sierra West Current Construction Cost Index, Engineering News-Records (ENR), and RS Means] as options for the SAB's consideration for the 2015 CCI Adjustment. The SAB approved Staff's recommendation to adopt an increase for 2015 SFP Grant based on the RS Means Construction Index as it uses 12 cities in California and a total of 66 materials, while Sierra West and ENR record only two California Cities and use less materials when establishing their annual rates of change. The SFP grants adjusted based on RS Means data will be made available on OPSC's website. Staff will also return at a future SAB with an item to adopt an index on a permanent basis for 2016 and beyond.

## Charter School Facilities Program

At the March 2014 meeting, the SAB took action to open a new Charter School Facilities Program (CSFP) filing round and reserve any funds returning to the program for applicants of the 2014 CSFP filing round, for eight months after preliminary apportionment were awarded. This was consistent with what the SAB has done in the past with prior CSFP filing rounds. Those preliminary apportionments were awarded at the November 2014 SAB; therefore, any funds returning to CSFP before July 25, 2015 (eight months from the preliminary apportionments) will be available only for projects in the 2014 CSFP filing round. At the April 2015 meeting, the SAB created a policy to allow all CSFP projects on the Unfunded List (Lack of AB55 Loans) that are eligible for an increase to access available Bond Authority until an apportionment. This action only applies to Bond Authority returning on or after July 25, 2015. Please contact Erin Cunneen for additional information at 916-375-4741 or [erin.cunneen@dgs.ca.gov](mailto:erin.cunneen@dgs.ca.gov)

## Seismic Mitigation Program

At the February 2015 SAB meeting, OPSC presented a status report on the Seismic Mitigation Program (SMP) on efforts made and future options available to streamline the SMP and speed up the award of seismic mitigation funds. This report also fulfills the requirement from last year's State Budget to report back to the legislature by March 1, 2015, on options for streamlining the SMP.

The report focused on the following areas:

- Minimum Work Determination for SMP Funding
  - Division of the State Architect (DSA) Procedures and OPSC Outreach under current regulations.
  - Holistic approach to SMP Project Funding
  - Partial Seismic Upgrades
- Reservation of Bond Authority for Conceptually Approved Projects
- Accelerated Cash Proceeds for SMP Projects.

The SAB accepted the report and requested staff to bring back information on the statutory scheme related to the possibility of reserving bond authority for SMP projects at the conceptual approval phase.

Staff returned at the April 2015 SAB to provide the SAB with the requested statutory analysis. Previously mentioned in the February report and reiterated in this report, reserving Bond Authority at the conceptual approval stage would conflict with the existing statute as the SMP is a subset of New Construction which requires receiving approvals from the California Department of Education (CDE) and the DSA prior to receiving an apportionment. Other SFP programs [Joint-Use Program, Critically Overcrowded School Facilities (COS) Program, and CSFP) does allow a reservation of funds prior to CDE and DSA plan approval as they are not subsets of New Construction and the governing statute for these programs specifically allows advance apportionment. The report concluded that statutory framework allowing preliminary apportionments for the SMP may be modeled by using similar language and structure as contained in certain Education Code sections pertaining to preliminary apportionments for Joint-Use, COS, and CSFP projects. This report was accepted by the SAB.

Staff was also asked at the February 2015 SAB to bring back a report related to having a one agency review for determining the minimum work in SMP projects. Currently DSA does a code compliance review while the OPSC conducts a second/complimentary review to determine how much of the work approved by the DSA can be funded. The SMP allows for the funding of only the minimum work to mitigate the seismic threat along with any work triggered by that minimum work. This report will be brought forward to the SAB at a future meeting.

For more information, please contact: Tasha Brennan, SMP Supervisor at (916) 375-4138 or [tasha.brennan@dgs.ca.gov](mailto:tasha.brennan@dgs.ca.gov), Hannah Konhoff, SMP Analyst at (916) 375-4037 or [hannah.konhoff@dgs.ca.gov](mailto:hannah.konhoff@dgs.ca.gov), Jessica Love, SMP Analyst at (916) 375-2038 or [jessica.love@dgs.ca.gov](mailto:jessica.love@dgs.ca.gov).

## **Prevailing Wage Monitoring**

### **Projects with Contract Award Date on or between 1/01/2012 through 6/19/2014**

Please be advised that Labor Code (LC) Section 1773.3, as amended by Senate Bill 854, Chapter 28, Statutes of 2014, requires school districts that have SFP projects with an initial public works contract awarded on or after January 1, 2012, to notify the Department of Industrial Relations (DIR). The DIR must provide prevailing wage monitoring services for all such projects, except in the cases of: (1) the district operates a DIR-approved internal wage monitoring program; or (2) the district has entered into a collective bargaining agreement that includes the requirements specified in LC section 1771.4(b)(2).

### **Projects with Contract Award Date on or after 6/20/2014**

Senate Bill (SB) 854, Chapter 28, Statutes of 2014 repealed LC Section 1771.3 which required school districts to provide payment to DIR for prevailing wage monitoring. As a result, school districts awarding a construction contract on or after June 20, 2014 are not mandated to provide payment for DIR monitoring and enforcement of prevailing wage requirements. Projects with an initial public works contract awarded on or after June 20, 2014 are not eligible to receive an additional grant for prevailing wage monitoring; however, school districts are still required to notify DIR within five days of initial contract award pursuant to LC section 1773.3(a)(1). All public works projects for a school district must still meet the LC requirements of SB 854 even if the projects were not State bond funded.

## **April SAB 2015 Regulation Updates**

### *Assembly Bill (AB) 97 and Senate Bill (SB) 971 Regulations:*

The SAB approved proposed regulatory amendments to the State Deferred Maintenance Program (DMP) and SFP which aligns to the changes made in the Education Code as a result of AB 97, Chapter 47, Statutes of 2013 and SB 971 Chapter 923, Statutes of 2014. These proposed regulations will be filed with the Office of Administrative Law for formal adoption. The new law provides the following changes to the DMP:

- Removes statutory Authority for the SAB to allocate or approve DMP funding on or after January 1, 2015.
- Provides that school districts may continue to maintain a maintenance fund and that the governing board of each school district shall have complete control of the funds and interest earned on those funds once deposited into a deferred maintenance fund.
- Provides that every public and private school housing classes from kindergarten to grade 12, maintain clean restrooms to be fully operational and stocked at all times and that the school shall keep all restrooms open during school hours when pupils are not in class, and keep a sufficient number of restrooms open during school hours when pupils are in class.

**SB 869 Regulations**

At the February 2015 meeting, the SAB approved regulations with respect to the High Performance Incentive (HPI) Grant and CTEFP to implement the provisions set forth by SB 869 Chapter 39, Statutes of 2014 and directed staff to bring, at a future SAB, regulations that details the process for allocation of HPI and CTEFP funds that return to the SFP on or after January 1, 2015.

The item was brought back at the April 2015 SAB which included proposed amendments to the SFP Regulations and affirms the SAB policy of prioritizing Facility Hardship applications. The proposed regulations allow for any future returning CTEFP and HPI funds to be used first allocated to Approved Applications for Facility Hardship applications. After these Approved Applications are fully funded, remaining funds will then be made available on a 50/50 basis between SFP New Construction and Modernization accounts to fund new construction and modernization projects in order of receipt.

**Unused Site Certifications**

As a reminder, the *Certification of Unused Sites* (Form SAB 423) will be mailed to all school districts and county offices of education on May 1, 2015. The Form SAB 423 is mailed out on an annual basis to address the status of each District’s unused sites, and the completed forms are due back on July 1, 2015. All Districts are required to complete this form, and all unused sites must be reported. For any questions, please contact Liz Cheyne at [Liz.Cheyne@dgs.ca.gov](mailto:Liz.Cheyne@dgs.ca.gov) or (916) 375-4325.

**Status of Funds**

**Remaining Bond Authority (As of April 15, 2015) (includes Unfunded Approvals) (in \$ millions)**

| Proposition | New Construction | Modernization | Career Tech | High Performance | Overcrowding Relief | Seismic Repair |
|-------------|------------------|---------------|-------------|------------------|---------------------|----------------|
| 1D          | 11.5             | 4.4           | 2.3         | 0.5              | 2.0                 | 141.2          |
| 55          | 5.9              | 0.0           | N/A         | N/A              | N/A                 | N/A            |
| 47          | 0.4              | 0.1           | N/A         | N/A              | N/A                 | N/A            |
| Total       | 17.8             | 4.5           | 2.3         | 0.5              | 2.0                 | 141.2          |

**Status of Fund Releases (As of March 31, 2015) (in \$ millions)**

|  | Bond Proceeds Amount | Funds Released through 2/28/2015 | Funds Released through 3/31/2015 | Bond Proceeds Balance | % of Bond Proceeds Released |
|--|----------------------|----------------------------------|----------------------------------|-----------------------|-----------------------------|
| November 2009 bond; Dec. 2009 commercial paper sales | 111.4                | 111.3                            | 0                                | 0.1                   | 99%                         |
| March 2010 bond sale                                 | 1,351.3              | 1,351.2                          | 0                                | 0.1                   | 99%                         |
| November 2010 bond sale                              | 1,483.1              | 1,471.4                          | 0                                | 11.7                  | 99%                         |
| October 2011 bond sale                               | 1,003.5              | 994.4                            | 0.9                              | 8.2                   | 99%                         |
| March 2013 bond sale                                 | 500.0                | 499.0                            | 0                                | 1.0                   | 99%                         |
| October 2013 bond sale commercial paper sales        | 253.0                | 248.8                            | 1.3                              | 2.9                   | 98%                         |
| March 2014 bond sale Commercial paper sales          | 331.3                | 320.2                            | 0.0                              | 11.1                  | 97%                         |
| August 2014 commercial paper sales                   | 7.0                  | 7.0                              | 0                                | 0                     | 100%                        |
| September 2014 bond sale                             | 43.3                 | 35.3                             | 0                                | 8.0                   | 82%                         |

**Upcoming Meeting Date**

**State Allocation Board**

- Wednesday, May 27, 2015, 4:00 PM, Location-TBD

The OPSC Events Calendar also contains information about upcoming meetings, deadlines, key dates, and holidays. Users can sign up for email notifications and reminders and effortlessly export an event to their Outlook calendars. A link to the OPSC Events Calendar can be found under “Meeting Information” on the OPSC website: [www.dgs.ca.gov/opsc](http://www.dgs.ca.gov/opsc).