REPORT OF THE EXECUTIVE OFFICER
State Allocation Board Meeting, July 25, 2012

SCHOOL DISTRICT DATA

School District: ..... COMPTON UNIFIED County:……..……LOS ANGELES

Application Numbers: ……..57/73437-01-023,-024,-029,-031,-034,-035,-036,-037,-038,-040,-041,57/73437-03-008,-009,-010

School:……..VARIOUS Project Grade Levels:…….……K-12

Total District Enrollment..... 24,224

Financial Hardship: …….…….....YES

Last Approved Local Bond Measure: …….....November 2002 ($80 Million)

PURPOSE OF REPORT

To present the District's request to retain excess Financial Hardship (FH) funds.

DESCRIPTION

The District received FH Design grants as an advance for 15 modernization projects which were funded solely out of the Proposition 1A FH apportionments allowance with the intent that funding adjustments were to be made at the time of the adjusted grant. However, at the adjusted grant stage the District no longer qualified for FH status, but adjustments to return the excess FH apportionments were not made. Further overfunding occurred when the Labor Compliance Program (LCP) grants were processed on ten of these projects. These overfunded grants resulted in the District receiving approximately $4.1 million more in funds than it was eligible under the FH program. Staff subsequently notified the District to return the excess funds. The District is requesting that the Board allow the District to keep the excess funds.

AUTHORITY

School Facility Program (SFP) Regulation Section 1859.80 states that "A district shall qualify for hardship assistance by demonstrating…(a) A financial hardship, as provided in Section 1859.81, which prevents the district from funding all or a portion of the matching share requirement for a SFP grant."

In determining eligibility for FH funding, SFP Regulation Section 1859.81 states that "an analysis shall be made of the district's financial records by the Office of Public School Construction (OPSC)" and that "All funds thus identified that have not been expended or encumbered by a contractual agreement for a specific capital outlay purpose prior the initial request for financial hardship status shall be deemed available as a matching contribution." The Regulation further states that "If the district meets the financial hardship requirements in this Section, the amount of financial hardship is equal to the district's matching share less funds deemed available…."

SFP Regulation Section 1859.81.1 states in part that "When the Board is accepting applications pursuant to Section 1859.95 [Acceptance of Applications When Funding Is Unavailable], the funding of the new construction or modernization grant may be made from funds set aside by the Board for financial hardship. The amount provided as a separate apportionment shall be adjusted at a future date to assure that hardship funding for the project does not exceed the amount the district was otherwise eligible to receive."

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BACKGROUND

On March 22, 2000, the Board approved Separate Design (design) grant funding for the 15 modernization projects. This advance funding is provided for projects with FH status and is intended to enable districts to prepare Division of State Architect approved plans and fulfill other criteria that will qualify projects for the bulk of funding at the subsequent Adjusted Grant (construction) approval. Districts without FH status are deemed to have sufficient funds to finance planning work and do not receive any State funding until the construction approval. For a modernization project with an 80/20 State/district share ratio, where the district has no available cash to make a partial contribution, the eligible FH assistance comprises 20 percent of the total design approval (the district's required matching share of the grant).

The District passed an $80 million local bond in November 2002; therefore, it had available funds to finance its required matching share of the 15 projects and it was no longer eligible to receive FH assistance. When the Adjusted Grants for these projects were funded on December 18, 2002, the apportionment calculations should have included an adjustment that would have reduced the FH assistance to 20 percent of the prior design approvals. However, this adjustment was not done, and the District erroneously received excess State funds.

STAFF ANALYSIS/STATEMENTS

SFP regulations require that any FH apportionment that a district is ineligible to receive should be returned to the State. In Compton's case, the first chance to collect the ineligible funds would have been on or around December 18, 2002. Due to an error at the time, an adjustment to reduce the FH assistance to 20 percent of the prior design approval was not done, resulting in an overpayment to the District which was never returned. However, as the Board has previously discussed on other matters, there is a question as to the fairness of seeking recovery of the funds years after the overpayment. Upon Board direction, Staff is exploring regulations to set the maximum amount of time that the Board would seek recovery of such funds. Absent regulation or a statute of limitations to address the current situation; Staff does not recommend the return of excess FH funds at this time.

RECOMMENDATION

Approve the District's request to retain excess FH funds.

This Item was approved by the State Allocation Board on July 20, 2012.

REPORT OF THE EXECUTIVE OFFICER
State Allocation Board Meeting, July 25, 2012

SCHOOL DISTRICT DATA	
School District: .....SELMA UNIFIED	County: .....FRESNO
Application Number(s): 50/62430-00-002, 016, 019	School Name(s):.....JACKSON ELEMENTARY
Total District Enrollment:..... 6,420	Project Grade Level:……VARIOUS
Financial Hardship:.……..……..……..……..YES	
Last Approved Local Bond Measure:……..……..……..……..November 2006 ($23,800,000)	

PURPOSE

To present the Selma Unified School District's (District) request to apply financial hardship savings to offset an overspent project.

DESCRIPTION

The Office of Public School Construction (OPSC) performed a review of prior closeouts of the District. It was determined that in 2006, the District was incorrectly allowed to apply $1,078,473 in financial hardship savings from two projects, Application Numbers 50/62430-00-016 and 50/62430-00-019, to offset the overspent expenditures on another, separate financial hardship project, Application Number 50/62430-00-002.

The OPSC brought this issue forward because School Facility Program (SFP) Regulations do not allow the use of financial hardship savings to offset expenditures on a separate project.

Per SFP Regulation Section 1859.103, the State's portion of any savings declared by the District, or determined by the OPSC during an expenditure review, must be used in either of the following ways:

- To reduce the SFP financial hardship grant of that project -or-
- To reduce other financial hardship projects, within the District, for a period of three years from the date the savings was declared by the District or determined by the OPSC final expenditure review.

In April 2011 the OPSC notified the District that they were inappropriately allowed to use their financial hardship savings to offset their overspent project and needed to return the savings to the State. On January 5, 2012, the OPSC received the District's appeal stating that they disagree with the return of financial hardship savings from projects 50/62430-00-016 and 50/621430-00-019.

AUTHORITY

SFP Regulation Section 1859.103 states that, "…the State's portion of any savings declared by the district or determined by the OPSC by audit must be used to reduce the SFP financial hardship grant of that project or other financial hardship projects within the district for a period of three years from the date the savings were declared by the district or determined by the OPSC audit."

Education Code (EC) Section 17070.63(a) states, "The total funding provided under this chapter shall constitute the state's full and final contribution to the project and for eligibility for state facilities funding represented by the number of unhoused pupils for which the school district is receiving the state grant. As a condition of receipt of funds, a school district shall certify that the grant amount, combined with local funds, shall be sufficient to complete the school construction project for which the grant is intended."

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STAFF ANALYSIS / STATEMENTS

The projects which generated the financial hardship savings received their apportionments by the Board in May 2003 and the funds were released in November 2003. In April 2011, the OPSC determined that the District was inappropriately allowed in 2006 to use the savings from two projects, 50/62430-00-016 and 50/62430-00-019, to offset the overspent expenditures incurred on project 50/62430-00-002. According to SFP Regulation 1859.103, savings must be used to reduce the SFP financial hardship grant of the applicable project, or be used to reduce the apportionment of future financial hardship projects within the District for a period of three years.

SFP Regulation Section 1859.103 requires the District to return the $1,078,473 in financial hardship savings, even though the school district was erroneously allowed to use the savings from two projects to offset the overspent expenditures incurred on another project. However, as the Board has previously discussed on other matters, there is a question as to the fairness of seeking recovery of the funds years after the collection was not made. Upon Board direction, staff is exploring regulations to set a maximum amount of time, after which the Board would no longer seek recovery of such funds. Therefore, absent regulation or a statute of limitations to address the current situation, staff does not recommend the return of financial hardship funds at this time.

RECOMMENDATION

Approve the District's request to apply financial hardship savings to offset an overspent project.

This Item was approved by the State Allocation Board on July 25, 2012.

THE WASHINGTON UNIFIED/FRESNO
(50/76778-00-001) ITEM HAS BEEN WITHDRAWN