

STATE ALLOCATION BOARD

707 3rd Street
West Sacramento, CA 95605
<http://www.opsc.dgs.ca.gov>



Date: April 23, 2010

To: Interested Parties

Subject: **NOTICE OF THE STATE ALLOCATION BOARD
IMPLEMENTATION COMMITTEE MEETING**

Notice is hereby provided that the State Allocation Board Implementation Committee will hold a meeting on **Thursday, May 6, 2010** from 9:30 a.m. to 3:30 p.m. in the California State Capitol, Room 447, Sacramento, California 95814.

The Implementation Committee's proposed agenda is as follows:

- 1) Convene Meeting
- 2) 2010 Implementation Committee Meeting Calendar (remainder of 2010)
- 3) High Performance Incentive Grants
Continue discussion on proposed regulatory changes for the High Performance Incentive Grants.
- 4) Seismic Mitigation
Discuss barriers to school districts accessing Seismic Mitigation funding.
- 5) ~~Career Technical Education Facilities Program Improvements~~ WITHDRAWN
~~*Continue discussion on proposed regulatory changes for Career Technical Education Facilities Program.*~~

Any interested person may present public testimony or comments at this meeting regarding the issues scheduled for discussion. Any public input regarding unscheduled issues should be presented in writing, which may then be scheduled for a future meeting. For additional information, please contact Sue Genera at (916) 375-4751.

A handwritten signature in black ink, appearing to read "Lisa Kaplan".

LISA KAPLAN, Chairperson
State Allocation Board Implementation Committee

Individuals who need auxiliary aids for effective participation are invited to make their requests and preferences known to Sue Genera at (916) 375-4751 five days prior to the meeting.

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**Implementation Committee
Remaining Meeting Schedule for 2010****Thursday, May 6, 2010**

California State Capitol
10th Street and Capitol Mall
Sacramento, California

Thursday, June 3, 2010

California State Capitol
10th Street and Capitol Mall
Sacramento, California

Thursday, July 8, 2010

California State Capitol
10th Street and Capitol Mall
Sacramento, California

Thursday, August 5, 2010

California State Capitol
10th Street and Capitol Mall
Sacramento, California

Thursday, September 9, 2010

California State Capitol
10th Street and Capitol Mall
Sacramento, California

Thursday, October 7, 2010

California State Capitol
10th Street and Capitol Mall
Sacramento, California

Thursday, November 4, 2010

California State Capitol
10th Street and Capitol Mall
Sacramento, California

December 2010 – To Be Determined

California State Capitol
10th Street and Capitol Mall
Sacramento, California

Meetings are scheduled from 9:30 a.m. to 3:30 p.m. with a one hour lunch break.

Please check www.opsc.dgs.ca.gov for hearing room assignments and as meeting times, dates, and locations are subject to change.

STATE ALLOCATION BOARD
IMPLEMENTATION COMMITTEE MEETING
May 6, 2010

HIGH PERFORMANCE INCENTIVE GRANT FUNDING

PURPOSE OF REPORT

To discuss proposed regulatory changes to the High Performance Incentive (HPI) grant.

BACKGROUND

Proposition 1D set aside \$100 million for incentive grants to promote the use of high performance attributes in new construction and modernization projects for K-12 schools. The high performance attributes used to qualify a project for these grants, as well as formulas for funding, are detailed in School Facility Program (SFP) Regulation Sections 1859.71.6 and 1859.77.4. The high performance attributes are in the following categories:

- Sustainable Sites
- Energy
- Water
- Materials
- Indoor Environmental Quality

By meeting High Performance Rating Criteria (HPRC) within the categories, a project achieves points; more of the high performance attributes generally means a higher point score. Each project must achieve a minimum point score to qualify for an incentive grant. For a project to qualify for the HPI grants, a minimum of 27 points must be attained for new construction projects, while a minimum of 20 points for new construction additions or modernizations must be attained. The construction plans and supporting documentation are submitted to the Division of the State Architect (DSA) for review and point score verification. The verified point score is reported on a scorecard and submitted to the Office of Public School Construction (OPSC) as part of the complete funding request. The number of points verified for a project corresponds to an increase to the project's per pupil construction base grant amount that can range from two to just over ten percent.

The first HPI grants were apportioned at the February 2008 State Allocation Board (SAB) meeting and, to date, approximately \$18.5 million that represent HPI grants for 76 projects has been apportioned or granted unfunded approval in the New Construction, Modernization, Critically Overcrowded Schools, Charter Schools and Overcrowding Relief Grant programs. One of the HPI grants approved was for a modernization project. Staff is currently processing an additional 34 HPI grant requests for approximately \$6.7 million that have not been approved by the Board, of which seven are for modernization projects.

At the February 2010 SAB meeting, the Board requested that staff convene a workgroup to examine the HPI grant, with an emphasis on the lack of modernization requests. Two workgroup meetings were assembled in March and input was gathered from

stakeholders that included architects, school districts, the U.S. Green Building Council, the Collaborative for High Performance Schools (CHPS), the Coalition for Adequate School Housing (CASH), Legislative staff, the California Department of Education (CDE), and the DSA.

After the March workgroup meetings and the April Implementation Committee meeting, another workgroup meeting convened with many of the same participants from the March meetings. Initially, CASH and CHPS proposed a two tiered approach which would provide \$250,000 for every qualifying modernization project and \$150,000 for every qualifying new construction project, plus double the funding associated with the existing HPRC funding formula.

At the April Implementation Committee meeting and the April workgroup meeting, CASH and CHPS representatives altered their original proposal. Their base incentive suggestion remained unaltered; however instead of doubling of the existing funding formula, the new proposal supports adoption of OPSC Staff's proposed regulatory changes that were brought forth at the April Implementation Committee meeting.

AUTHORITY

Education Code (EC) Section 101012(a)(8) states, "The amount of one hundred million dollars (\$100,000,000) for incentive grants to promote the use of designs and materials in new construction and modernization projects that include the attributes of high-performance schools, including, but not limited to, the elements set forth in Section 17070.96, pursuant to regulations adopted by the State Allocation Board."

EC Section 17070.96 states, "As part of its application for funding under this chapter, a school district shall certify that it has considered the feasibility of using designs and materials for the construction or modernization project that promote the efficient use of energy and water, the maximum use of natural lighting and indoor air quality, the use of recycled materials and materials that emit a minimum of toxic substances, the use of acoustics conducive to teaching and learning, and other characteristics of high performance schools."

EC Section 17072.30(a) states, "Subject to the availability of funds, and to the determination of priority pursuant to Section 17072.25, if applicable, the board shall apportion funds to an eligible school district only upon the approval of the project by the Department of General Services pursuant to the Field Act, as defined in Section 17281, and certification by the school district that the required 50 percent matching funds from local sources have been expended by the district for the project, or have been deposited in the county fund, or will be expended by the district by the time the project is completed, in an amount at least equal to the proposed apportionment pursuant to this chapter, prior to release of the state funds."

EC Section 17074.16(a) states, "The board shall release disbursements to school districts with approved applications for modernization, to the extent state funds are available for the state's 60-percent share, and the school district has provided its 40-percent local match. Subject to the availability of funds, the board shall apportion funds to an eligible school district only upon the approval of the project by the Department of General Services pursuant to the Field Act, as defined in Section 17281, including, but not limited to, a project that complies with the Field Act by complying with Section

17280.5, and evidence that the certification by the school district that the required 40-percent matching funds from local sources have been expended by the district for the project, or have been deposited in the county fund or will be expended by the district by the time of completion of the project, and evidence that the district has entered into a binding contract for the completion of that project. If state funds are insufficient to fund all qualifying school districts, the board shall fund all qualifying school districts in the order in which the application for funding was approved by the board.”

SFP Regulation Section 1859.71.6 outlines the HPRC and funding formulas for new construction projects.

SFP Regulation Section 1859.77.4 outlines the HPRC and funding formulas for addition and modernization projects.

STAFF COMMENTS

Since the April Implementation Committee meeting, Staff has made additional changes to the proposed HPI regulations. There was considerable input from the audience and committee members surrounding the difficulty of meeting the minimum acoustical performance prerequisite in the Indoor Environmental Quality category of the HPRC. Many thought that, even with the addition of two points to the acoustical performance prerequisite, bringing an existing building in to compliance with this requirement could be cost prohibitive. Existing building design and a number of other factors, such as the type of insulation and windows, could make it very difficult to meet the acoustical requirement.

These concerns lead to discussion at the third workgroup meeting surrounding the possibility of eliminating the minimum acoustical prerequisite, and this idea was also suggested at the April Implementation Committee meeting. Many of the experts at the workgroup meeting explained that removing prerequisites would compromise the integrity of what a “high performing” school is, stating that good acoustics are integral to high performance design. To address the workgroup’s concerns, Staff is now proposing a total of four points, instead of two, for the minimum acoustical performance prerequisite. This brings the number of new possible HPRC points to 23, nine of which are for prerequisites.

Another change Staff has made since the April meeting is to change the language in Sections 1859.71.6(a)(4) and 1859.77.4(a)(4) as shown on the attached proposed regulations. The change would streamline and expedite DSA review by aligning the HPI plan verifications with plan reviews by the other disciplines for Structural Safety, Fire and Life Safety and Access Compliance.

Based on input from school districts, the DSA, CDE, design professionals and others, the attached proposed regulatory changes reflect various suggested changes to the HPRC. These changes are aimed at providing increased points for the criteria that have been identified as more difficult to attain.

The proposed revised regulations include 23 additional points. Nine of these additional points are associated with prerequisites that were previously required but did not have point values. All prerequisites would now automatically have a final point score that is nine points higher. For example, a new school project with a base grant of \$30,000,000

that would attain 34 points and an HPI grant of \$705,000 under the current regulations would now automatically attain 43 points and an HPI grant of \$1,416,000. This hypothetical example shows Staff's proposal resulting in a doubling of funding; however the actual increase may be more, since the example does not reflect additional points a project may attain by meeting other proposed new criteria or existing criteria with proposed higher point values.

An example of how the nine prerequisite points would affect a modernization project follows. DSA reported at the April Implementation Committee meeting that an average of 38 HPRC points have been attained for the 14 modernization projects with completed HPI grant reviews. If we assume a typical \$2,000,000 base grant, under the existing regulations this would result in an increase of 3.31% of the base grant for an HPI grant amount of \$66,200. With an additional nine points via prerequisites alone, the HPRC point total under the proposed regulations would be 47, increasing the HPI grant to 6.16% of the base grant or \$123,200, essentially doubling the grant that would be awarded under the current regulations. It is important to note that another 14 points on top of the prerequisite points are now available. If the design achieves any of those newly added points, the HPI grant would increase even more.

A summary of the 23 additional points follows:

Water

- Reduction of potable water for landscaping increased maximum points from two to three. [Section 1859.71.6(B)(1)(b)]
- Reduction of indoor potable water increased maximum points from two to three. [Section 1859.71.6(B)(2)(b)]

Energy

- Meeting minimum energy performance prerequisite increased from zero points to two points. [Section 1859.71.6(C)(1)(a)]
- Added section for plug loads monitored by an energy management system, worth one point. [1859.71.6(C)(1)(e)]
- For renewable energy produced on site, a point was previously given for each five percent of the site's annual power consumption that is produced on site up to 35 percent. Increased highest percent to 95 and point maximum to fifteen. [Section 1859.71.6(C)(2)]
- Meeting fundamental building systems testing and training prerequisite increased from zero points to one point. [Section 1859.71.6(C)(3)(a)]
- Enhanced commissioning increased maximum points from two to four. [Section 1859.71.6(C)(3)(b)] Enhanced commissioning means having a commissioning agent involved both during design and after construction, whereas standard commissioning includes a commissioning agent being involved only post-construction.

Materials

- Meeting storage and collection of recyclables prerequisite increased from zero points to one point. [Section 1859.71.6(D)(1)]

- Meeting construction waste management prerequisite increased from zero points to one point. [Section 1859.71.6(D)(2)(a)]

Indoor Environmental Quality

- Added section for replacement of existing lamps with low mercury lamps, worth one point. [Section 1859.71.6(E)(1)(d)]
- Meeting acoustical performance prerequisite increased from zero points to four points. [Section 1859.71.6(E)(3)(a)]

California Energy Code

In addition to the increases in points available detailed above, there is also an update to Sections 1859.71.6(C)(1)(a) and 1859.71.6(C)(1)(b) to reference the current 2008 California Energy Code that became effective January 1, 2010.

\$250,000 Base Incentive Grant

At the April 28, 2010 SAB meeting, the Board directed Staff to develop regulations to include a base incentive grant of \$250,000 for each project meeting the minimum point threshold of 27 HPRC points for new construction or 20 points for modernization. Staff has incorporated this change on the attached proposed regulation changes.

Also discussed at the April SAB meeting was the idea that was a part of the CASH/CHPS proposal that all HPI grants from now on are awarded without a District matching share. The SAB's legal counsel has opined that because the HPI grants are awarded as part of either a new construction or modernization project, Education Code Section 17072.30(a) (new construction) and Section 17074.16(a) (modernization) requires that the HPI grants be matched.

Other Topics for Discussion

During discussion at the April SAB meeting, Staff also received direction from the Board to explore a few other topics at the May Implementation Committee meeting. Staff is seeking input on the following topics:

- How to facilitate participation by Financial Hardship districts.
- How to collect data related to high performance construction and associated costs, including costs in comparison to "standard" non-high-performance components, enabling Staff to provide future analysis to the Board on how the regulation changes are manifesting in actual projects being constructed.

Attachment

Section 1859.71.6. New Construction Additional Grant for High Performance Incentive.

(a) In addition to any other funding authorized by these Regulations, the Board shall provide the grant amounts identified in Subsection (b) if all the following are met:

(1) The project includes all the prerequisites in each of the five HPRC to include Sustainable Sites, Water, Energy, Materials and Indoor Environmental Quality and related subcategory credits.

(2) Once the prerequisites in (a)(1) have been met, the district may select the criteria and credits it wishes to pursue to determine point award. Category, criteria and associated points are as follows:

(A) Sustainable Sites.

1. Site Selection:

- a. Code compliance equals prerequisite.
- b. Environmentally sensitive land equals one point;
- c. Greenfields equals one point;
- d. Central location equals one point;
- e. Joint-use of facilities equals one point;
- f. Joint-use of parks equals one point;
- g. Reduced footprint equals one point.

2. Transportation:

- a. Public transportation equals one point;
- b. Bicycles equals one point;
- c. Minimize parking equals one point.

3. Stormwater Management:

- a. Construction site runoff control equals prerequisite.
- b. Limit stormwater runoff equals one point;
- c. Treat stormwater runoff equals one point.

4. Outdoor Surfaces:

- a. Reduce heat islands – landscaping equals one point;
- b. Reduce heat islands – cool roofs equals one point.

5. Outdoor lighting: light pollution reduction equals one point.

(B) Water.

1. Outdoor Systems:

- a. Create water use budget equals prerequisite.
- b. Reduce potable water for landscaping equals one to ~~two~~ three points.

2. Indoor Systems:

- a. Reduce sewage conveyance from toilets equals one point;
- b. Reduce indoor potable water use equals one to ~~two~~ three points.

(C) Energy.

1. Energy Efficiency:

- a. Minimum energy performance based on 2008 California Energy Code equals is a prerequisite and equals two points.
- b. Superior energy performance based on 2008 California Energy Code equals one to 13 points;
- c. Natural ventilation equals one point;
- d. Energy management system equals one point.
- e. Plug loads monitored by an energy management system equals one point.

2. Alternate Energy Sources: Renewable energy equals one to ~~seven~~ fifteen points; one point for each five percent of the site's annual power consumption that is produced on site ~~not to exceed 35~~ up to 40 percent and one point for each 10 percent above 40 percent of the site's annual power consumption that is produced on site up to 90 percent and two points if 95 percent or more of the site's annual power consumption is produced on site.

3. Commissioning and Training:

- a. Fundamental building systems testing and training ~~equals~~ is a prerequisite and equals one point.
- b. Enhanced commissioning equals one to ~~two~~ four points.

(D) Materials

1. Recycling: Storage and collection of recyclables ~~equals~~ is a prerequisite and equals one point.

2. Construction Waste Management:

- a. Construction waste management ~~equals~~ is a prerequisite and equals one point.
- b. Construction waste management at 75 percent or above diverted equals one to two points.

3. Building Reuse:

- a. Reuse of structure or shell equals one to two points;
- b. Reuse of interior partitions equals one point.

4. Sustainable Materials:

- a. Recycled content equals one to two points;
- b. Rapidly renewable materials equals one point;
- c. Organically grown materials equals one point;
- d. Certified wood equals one point;
- e. Salvaged materials equals one to two points.
- f. Alternative: environmentally preferable products in lieu of a. through e. above equals one to seven points.

(E) Indoor Environmental Quality.

1. Lighting and Daylighting:

- a. Daylighting equals one to four points;
- b. View windows equals one point;
- c. Electric lighting equals one point.
- d. Replacement of existing lamps with low mercury lamps equals one point.

2. Indoor Air Quality:

- a. Minimum requirements equals prerequisite.
- b. Thermal displacement ventilation equals two points;
- c. Low-emitting materials equals one to four points;
- d. Chemical and pollutant source control equals one point;
- e. Ducted returns equals one point;
- f. Filtration equals one point.

3. Acoustics:

- a. Minimum acoustical performance ~~equals~~ is a prerequisite and equals four points.
- b. Improved acoustical performance equals one to three points.

4. Thermal Comfort:

- a. American Society of Heating, Refrigerating and Air-Conditioning Engineers 55 code compliance equals prerequisite.
- b. Controllability of systems equals one to two points.

(3) A minimum of four points must come from either (a)(2)(C)1.b. and/or 2.

(4) The project, which includes a complete set of plans, ~~must be~~ submitted to and accepted by the DSA on or after May 20, 2006, must include a request for high performance plan verification at the time the plans are submitted to DSA for review.

(5) The DSA has reviewed the proposed project and concurs with the points specified in the HPRC.

(6) The project will not receive funding from the Energy Efficiency Account.

(7) For those projects accepted by the DSA prior to October 1, 2007, districts may utilize the *CHPS Best Practices Manual Volume III 2002 Edition*, and the point standard will be in the range of 23 to 72 points. All prerequisites, credits and points obtained must be based on the *2002 Edition* requirements. Criteria and associated prerequisite or points as indicated in (a)(2)(D)2.a. and 4.c. and f. and (E)1.c. and 2.b. and district resolutions are ineligible, and (a)(3) is optional.

(b) To determine the High Performance Incentive grant, multiply the New Construction Grant by the percentage allowance in accordance with the eligible high performance points as follows:

(1) For those projects accepted by the DSA prior to October 1, 2007, pursuant to (a)(7), in which the level of high performance attained, as concurred by the DSA, is a minimum of 23 points, the New Construction Grant will be multiplied by:

(A) Two percent at 23 points plus 0.03 percent for each point attained from 24 through 33 points; or

(B) 2.35 percent at 34 points plus 0.24 percent for each point attained from 35 through 40 points; or

(C) Four percent at 41 points plus 0.36 percent for each point attained from 42 through 54 points;

or

(D) 9.05 percent at 55 points plus 0.060 percent for each point attained from 56 through 72 points.

(2) For those projects accepted by the DSA utilizing the *CHPS Best Practices Manual Volume III 2006 Edition*, in which the level of high performance attained as concurred by the DSA is a minimum of 27 points, the New Construction Grant will be multiplied by:

(A) Two percent at 27 points plus 0.050 percent for each point attained from 28 through 33 points;

or

(B) 2.35 percent at 34 points plus 0.24 percent for each point attained from 35 through 40 points; or

(C) four percent at 41 points plus 0.36 percent for each point attained from 42 through 54 points; or

(D) 9.05 percent at 55 points plus 0.060 percent for each point attained from 56 through 75 points.

If there are no funds remaining in the High Performance School Account or the funds remaining are insufficient to fully fund the additional grant authorized in Subsection (b), the district may either withdraw its application and resubmit it should additional funds be made available in the High Performance School Account or continue with the new construction project and accept a full and final apportionment without the additional grant authorized by Subsection (b).

(3) For those projects accepted by the DSA utilizing the *2009 CA-CHPS Criteria*, in which the level of high performance attained as concurred by the DSA is a minimum of 27 points, the Board shall provide \$250,000. In addition, the New Construction Grant will be multiplied by:

(A) Two percent at 27 points plus 0.050 percent for each point attained from 28 through 33 points;

or

(B) 2.35 percent at 34 points plus 0.24 percent for each point attained from 35 through 40 points; or

(C) four percent at 41 points plus 0.36 percent for each point attained from 42 through 54 points; or

(D) 9.05 percent at 55 points plus 0.060 percent for each point attained from 56 through 98 points.

Note: Authority cited: Section 17070.35, Education Code.

Reference: Section 101012(a)(8), Education Code.

Section 1859.77.4. Addition to a Site and Modernization Grant for High Performance Incentive.

(a) In addition to any other funding authorized by these Regulations, the Board shall provide the grant amounts identified in Subsection (b) if all the following are met:

(1) The project includes all the prerequisites in each of the five HPRC to include Sustainable Sites, Water, Energy, Materials and Indoor Environmental Quality that are within the scope of the project, and related subcategory credits.

(2) Once the prerequisites in (a)(1) have been met, the district may select the criteria and credits it wishes to pursue to determine point award. The category, criteria and associated points are as indicated in Section 1859.71.6 (a), with the exception of (a)(2)(C) 2. that has an amended point allowance that equals three to nine points; three points for the first five percent plus one point for each additional five percent thereafter of the site's annual power consumption that is produced on site not to exceed 35 percent.

(3) A minimum of four points must come from either Section 1859.71.6 (a)(2)(C)1.b. and/or 2.

(4) The project, which includes a complete set of plans, ~~must be~~ submitted to and accepted by the DSA on or after May 20, 2006, must include a request for high performance plan verification at the time the plans are submitted to DSA for review.

(5) The DSA has reviewed the proposed project and concurs with the points specified in the HPRC.

(6) The project will not receive funding from the Energy Efficiency Account.

(7) For those projects accepted by the DSA prior to October 1, 2007, districts may utilize the *CHPS Best Practices Manual Volume III 2002 Edition*, and the point standard will be in the range of 23 to 72 points. All prerequisites, credits and points obtained must be based on the *2002 Edition* requirements. Criteria and associated prerequisite or points as indicated in Section 1859.71.6 (a)(2)(D)2.a. and 4.c. and f. and (E)1.c. and 2.b. and district resolutions are ineligible, and (a)(3) is optional.

(b) To determine the High Performance Incentive grant, multiply the New Construction or Modernization Grant, as appropriate, by the percentage allowance in accordance with the eligible high performance points as follows:

(1) For those projects accepted by the DSA prior to October 1, 2007, pursuant to (a)(7), in which the level of high performance attained, as concurred by the DSA, is a minimum of 23 points, the New Construction or Modernization Grant, as appropriate, will be multiplied by:

(A) Two percent at 23 points plus 0.03 percent for each point attained from 24 through 33 points; or

(B) 2.35 percent at 34 points plus 0.24 percent for each point attained from 35 through 40 points; or

(C) Four percent at 41 points plus 0.36 percent for each point attained from 42 through 54 points;

or

(D) 9.05 percent at 55 points plus 0.060 percent for each point attained from 56 through 72 points.

(2) For those projects accepted by the DSA utilizing the *CHPS Best Practices Manual Volume III 2006 Edition*, in which the level of high performance attained as concurred by the DSA is a minimum of 20 points, the New Construction or Modernization Grant, as appropriate, will be multiplied by:

(A) Two percent at 20 points plus 0.025 percent for each point attained from 21 through 33 points;

or

(B) 2.35 percent at 34 points plus 0.24 percent for each point attained from 35 through 40 points; or

- (C) Four percent at 41 points plus 0.36 percent for each point attained from 42 through 54 points;
or
(D) 9.05 percent at 55 points plus 0.060 percent for each point attained from 56 through 77 points.
If there are no funds remaining in the High Performance School Account or the funds remaining are insufficient to fully fund the additional grant authorized in Subsection (b), the district may either withdraw its application and resubmit it should additional funds be made available in the High Performance School Account or continue with the addition to an existing site/modernization project and accept a full and final apportionment without the additional grant authorized by Subsection (b).
- (3) For those projects accepted by the DSA utilizing the 2009 CA-CHPS Criteria, in which the level of high performance attained as concurred by the DSA is a minimum of 20 points, the Board shall provide \$250,000. In addition, the New Construction or Modernization Grant, as appropriate will be multiplied by:
- (A) Two percent at 20 points plus 0.025 percent for each point attained from 21 through 33 points;
or
(B) 2.35 percent at 34 points plus 0.24 percent for each point attained from 35 through 40 points; or
(C) Four percent at 41 points plus 0.36 percent for each point attained from 42 through 54 points;
or
(D) 9.05 percent at 55 points plus 0.060 percent for each point attained from 56 through 100.

Note: Authority cited: Section 17070.35, Education Code.
Reference: Section 101012(a)(8), Education Code.

STATE ALLOCATION BOARD
IMPLEMENTATION COMMITTEE MEETING
May 6, 2010

SEISMIC MITIGATION FUNDING

PURPOSE OF REPORT

To provide the Implementation Committee with the status of Seismic Mitigation funding as the committee discusses barriers school districts face when attempting to access the funding.

BACKGROUND

Chapter 35, Statutes of 2006 (AB 127 – Nunez and Perata), approved by the voters as Proposition 1D, provided up to \$199.5 million for seismic repair, reconstruction, or replacement of the “most vulnerable” school facilities.

The following chart includes all Seismic Mitigation funding activity to date:

Board Date	School District	Application Number	Board Action	Project Budget	District Share	State Share	Projected Fund Balance
Beginning Balance							\$199,500,000
6/24/2009	San Ramon Valley Unified	51/61804-03-01	Unfunded Approval	\$7,316,866	\$3,658,433	\$3,658,433	\$195,841,567
1/27/2010	Piedmont City Unified	58/61275-00-01	Unfunded Approval	\$951,734	\$475,867	\$475,867	\$195,365,700
3/24/2010	Piedmont City Unified	58/61275-00-02	Unfunded Approval	\$1,156,878	\$578,439	\$578,439	\$194,787,261
Remaining Balance							\$194,787,261

Projects from three additional districts have been reviewed by the Division of the State Architect (DSA) and determined to have met the seismic funding eligibility criteria. It is anticipated that these districts will apply for funding.

At the August 26, 2009 State Allocation Board (SAB) meeting, the Board approved regulatory changes that added new building structure types and lowered the Ground Shaking Intensity factor requirement. Those regulations were approved by the Office of Administrative Law on January 8, 2010.

At the August meeting, the Board also requested the DSA to develop criteria and ultimately make recommendations to the Board regarding seismic mitigation funding for any school building that has been declared as part of an engineering report to be in “imminent danger of collapse” during a seismic event. At the March 24, 2010 SAB meeting, the DSA reported that it found no scientific basis to determine the definition of "imminent threat of collapse" and, in the absence of a scientific methodology to provide a definition, any such determinations would be subjective.

DISCUSSION

At the March 24, 2010 SAB meeting, the Board directed that the following items be discussed at the Implementation Committee: 1) barriers school districts encounter when trying to access Seismic Mitigation funds and 2) how to facilitate releasing those funds. The recommendations should be developed with stakeholders who have been interested in Seismic Mitigation funding, but who have not been able to access the funding.

AUTHORITY

Education Code Section 17075.10(a) states: “A school district may apply for hardship assistance in cases of extraordinary circumstances. Extraordinary circumstances may include, but are not limited to, the need to repair, reconstruct, or replace the most vulnerable school facilities that are a Category 2 building, as defined in the report submitted pursuant to Section 17317, determined by the department to pose an unacceptable risk of injury to its occupants in the event of a seismic event.”

Education Code Section 101012(a) states “The proceeds from the sale of bonds, issued and sold for the purposes of this chapter, shall be allocated in accordance with the following schedule:

(1) The amount of one billion nine hundred million dollars (\$1,900,000,000) for new construction of school facilities of applicant school districts under Chapter 12.5 (commencing with Section 17070.10) of Part 10. Of the amount allocated under this paragraph, up to 10.5 percent shall be available for purposes of seismic repair, reconstruction, or replacement, pursuant to Section 17075.10.”

School Facility Program (SFP) Regulation Section 1859.2 states: “Most Vulnerable Category 2 Buildings,” as defined by the DSA, means

- the building is located where the short period spectral acceleration is 1.68 g or more based on the 2002 United States Geological Survey National Seismic Hazard Maps adjusted for site class factors;
- the building is designed for occupancy by students and staff;
- the building type is either
 - C1 – Concrete Moment Frame,
 - C1B – Reinforced Concrete Cantilever Columns with Wood Roofs,
 - PC1 – Precast/Tilt-up Concrete Shear Wall with Concrete Floor and Roof Diaphragms,
 - PC1A – Precast/Tiltup Concrete Shear Wall with Flexible Roof,
 - PC2A – Precast Concrete Frame without Concrete Shear Walls and with Rigid Floor and Roof Diaphragms,
 - PC2 – Precast Concrete Frame and Roofs with Concrete Shear Walls,
 - C3A – Concrete Frame with Infill Masonry Shear Walls and Flexible Floor and Roof Diaphragms, or
 - URM – Unreinforced Masonry Bearing Wall Buildings;
- a structural report is provided by a structural engineer that demonstrates the lateral force-resisting system of the building does not meet collapse prevention performance objectives and the specific deficiencies and reasoning for concluding that the building has a potential for catastrophic collapse.

SFP Regulation Section 1859.82(a) states: The total available funding for seismic mitigation related and ancillary costs for the Most Vulnerable Category 2 Buildings is \$199.5 million for projects where the construction contract was executed on or after May 20, 2006, and the project funding provided shall be for the minimum work necessary to obtain Division of State Architect approval.

STATE ALLOCATION BOARD
IMPLEMENTATION COMMITTEE

Pending Items List
May 6, 2010

Future items to be discussed at the next three Implementation Committee meetings:

- *Expenditure Report*, Form SAB 50-06 Interest/Savings
 - SBX2 9 Implementation (Labor Compliance Program)
 - Construction Cost Index
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