

REPORT OF THE EXECUTIVE OFFICER  
State Allocation Board Meeting, May 25, 2016

ADDITIONAL GRANT FOR GENERAL SITE DEVELOPMENT

PURPOSE OF REPORT

To seek approval from the State Allocation Board (Board) to extend the General Site Development grant for one year.

DESCRIPTION

The regulations authorizing the General Site Development grant will expire on January 1, 2017. This item provides the Board the option to extend the authority to provide the grant until January 1, 2018. This item also includes a correction to a reference in the definition of a "Portable Classroom".

AUTHORITY

Education Code (EC) 17070.35 states:

(a) In addition to all other powers and duties as are granted to the board by this chapter, other statutes, or the California Constitution, the board shall do all of the following:

(1) Adopt rules and regulations, pursuant to the rulemaking provisions of the Administrative Procedure Act, Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2 of the Government Code, for the administration of this chapter. However, the board shall have no authority to set the level of the fees of any architect, structural engineer, or other design professional on any project. The initial regulations adopted pursuant to this chapter shall be adopted as emergency regulations, and the circumstances related to the initial adoption are hereby deemed to constitute an emergency for this purpose. The initial regulations adopted pursuant to this chapter shall be adopted by November 4, 1998. If the initial regulations are not adopted by that date, the board shall report to the Legislature by that date, explaining the reasons for the delay.

BACKGROUND

When an applicant applies for School Facility Program (SFP) New Construction funding, supplemental site grants such as Service Site Development, Off-Site Development, Utilities, and General Site Development, may be requested. A description of what is included in each of these grant categories follows.

*Service Site Development* prepares the site for building or infrastructure construction and is performed within school property lines. This includes items such as site demolition, rough grading, soil compaction, drainage and eligible erosion control.

*Utility* costs are associated with installation of water, sewer, gas, electricity, and communication lines necessary to serve the master-planned capacity of the site.

*General Site* includes, but is not limited to; finish grading, on-site hard surfaced areas for foot traffic, driveways, walkways, outdoor instructional play facilities, permanent playground equipment, athletic fields, and landscaping.

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BACKGROUND (Cont.)

In December 2005, the Board requested that the Office of Public School Construction (OPSC) create a committee to look at the adequacy of new construction grants. Specifically, the Board asked that the committee address two issues: the equity of the SFP new construction base grant compared to the equivalent allowances provided under the Lease Purchase Program (LPP) when the State converted programs in 1998; and, if the grants are sufficient to build a complete new school.

In response, OPSC assembled the Grant Adequacy Ad Hoc Committee (Committee), which included representatives from several school districts, architectural, construction and construction management firms, consultants, the California Building Industry Association, the Department of Finance, the California Department of Education, and OPSC staff. The Committee took a two-step approach to the Board's request and its first step concentrated on determining if the SFP new construction base grant was equitable at the time of conversion from the LPP.

The report back to the Board in April 2006 identified that additional analysis was warranted to fully explore the complexities of the funding model and how the additional grants may make up for differences seen when comparing the SFP base grant to the LPP base grants. However, during the course of the analysis the Committee also determined that it was unable to definitively conclude whether the general site allowance was included in the SFP base grant. The Board requested that OPSC return the following month to present a proposal and recommendations regarding general site additional grants.

In May 2006 an item was presented to the Board for consideration of adding an additional grant for general site development. In the report, OPSC staff stated that "if general site development costs *were* factored into the development of the new construction base grant, then the new construction base grant does not take into account the size of the site." Because larger sites would incur more costs related to general site development, it was considered a reasonable conclusion that the general site costs were not fully factored into the development of the SFP new construction base grant. The Board adopted a temporary general site grant until a complete analysis of the new construction base grant could be completed.

At the May 28, 2008 meeting, Staff presented an item to seek direction on applications that were received by OPSC during the period of time where the regulations were expired from January 1, 2008 to March 2, 2008. Staff recommended that the Board apportion the projects with the General Site Development grant included. Staff cited the December 2007 meeting where the Board indicated that "it wanted the general site development allowance to be seamless with no gaps in funding." The Board approved Staff's recommendation.

SFP Regulation Section 1859.76(d) implementing this additional grant was effective on September 5, 2006 with a suspension date of "no later than January 1, 2008, unless otherwise extended by the amendments as adopted by the Board."

*Subsequent Extensions*

At the December 2007 meeting, the Board made its first extension of the General Site Grant. Since then the Board has approved single year extensions every year with one exception; in July 2011, the Board approved a two-year extension.

### STAFF ANALYSIS/STATEMENTS

Approval of an extension to the General Site Development grant regulation would prevent a lapse in regulatory authority and would continue to allow applications to be processed with the grant, provided that the regulation extension is approved by the Board, filed with the Office of Administrative Law (OAL) and in effect before the regulations expire. While there is no bond authority remaining to fund additional New Construction projects, there is available bond authority for the Charter School Facilities Program and some Facility Hardship projects whose applications could qualify for the General Site Development grant. Funding applications received after January 1, 2017 would not be able to request this supplemental grant without the extension.

#### *Technical Correction*

Additionally, Staff has included a proposed regulatory change to SFP Regulation Section 1859.2 to correct the reference to the EC within the definition of a "Portable Classroom". In SFP Regulation Section 1859.2 titled *Definitions* the definition of "Portable Classroom" currently refers to EC Section 17070.15.(k) titled "Property", when it should be referring Education Code 17070.15 (j) titled "Portable classroom".

#### *Summary*

Staff recommends extending the General Site Development grant one year to sunset on January 1, 2018 and approval of the proposed regulations as shown in the Attachment.

### RECOMMENDATIONS

1. Adopt the proposed regulations as shown in the Attachment, which extends the General Site Development grant for one year, January 1, 2018 and corrects the definition of a "Portable Classroom".
2. Authorize the Executive Officer to file the proposed regulations with the OAL.

ATTACHMENT

SCHOOL FACILITY PROGRAM REGULATORY AMENDMENTS

School Facility Program (SFP) Regulation Section 1859.2 *Definitions*

For the purpose of these regulations, the terms set forth below shall have the following meanings, subject to the provisions of the Act:

...

“Portable Classroom” shall have the meaning set forth in Education Code Section 17070.15(~~h~~)(j).

...

Section 1859.76. New Construction Additional Grant for Site Development Costs.

In addition to any other funding authorized by these Regulations, the Board shall provide funding equal to 50 percent of the following approved site development and applicable design costs:

...

(d) General Site Development costs within school property lines for an addition to an existing school site project wherein additional acreage is acquired, with the exception of existing school site acreage that is leased pursuant to Section 1859.22, or a new school project, determined as follows:

(1) \$19,200 per Useable Acre as approved by the CDE. This sum may be increased by the percentage identified in Section 1859.83(b). The per acre amount shown above shall be adjusted annually in the manner prescribed in Section 1859.71.

(2) 6 percent of the State and district share for Elementary School Pupils and Middle School Pupils and 3.75 percent of the State and district share for High School Pupils of the New Construction Grant. For purposes of this calculation, the percentage amount for Severely Disabled Individuals with Exceptional Needs and Non-Severely Disabled Individuals with Exceptional Needs pupils shall be based on the type of project selected by the district on the Form SAB 50-04.

(3) 6 percent of the State and district share for Elementary School Pupils and Middle School Pupils and 3.75 percent of the State and district share for High School Pupils of the funding provided by Sections 1859.71.2, 1859.72, 1859.73, 1859.73.2, 1859.82, 1859.83(a), (b) and (c) and 1859.125(a)(1) through (a)(2).

Subsection (d) of this section shall be suspended no later than January 1, ~~2017~~2018, unless otherwise extended by amendments as adopted by the Board.

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