

REPORT OF THE EXECUTIVE OFFICER
State Allocation Board Meeting, December 12, 2007

ADDITIONAL GRANT FOR GENERAL SITE DEVELOPMENT

PURPOSE OF REPORT

To request:

1. Adoption of amendments to the School Facility Program (SFP) Regulations to extend the additional grant for general site development for one year.
2. Authorization to file the proposed regulations on an emergency basis with the Office of Administrative Law (OAL).

BACKGROUND

A report was presented at the April 2006 State Allocation Board (SAB) meeting on the status of the Office of Public School Construction's (OPSC) ongoing analysis of the SFP new construction grants to build complete schools. As part of the analysis, the OPSC was requested to determine if the general site allowance was included in the base grant amount. General site work 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. The preliminary analysis resulted in discrepancies between the Lease-Purchase Program (LPP) and SFP; therefore, it was reasonable to conclude that general site development was not considered in the base grant. As a result, during the discussion of this report, the SAB requested Staff to develop proposals on an additional grant for general site development.

At the June 2006 SAB meeting, the Board approved regulations to provide an additional grant for general site development for new construction projects that are new schools or additions to existing sites where additional acreage is being acquired. The regulations included a sunset date of January 1, 2008 unless otherwise extended by amendments adopted by the Board, in order to provide Staff time to complete a full analysis of the impact of the general site grant, the increase to the new construction base grant proposed in Assembly Bill 127, and the total SFP funding model.

AUTHORITY

Education Code Section 17072.12 states that the Board may provide funding for assistance in site development and acquisition. The SAB's Legal Counsel has opined that "because the SFP does not define site development, the Board may adopt regulations to define and clarify the types and amounts of site development assistance that can be provided."

Regulation Section 1859.76 states, ... "Subsection (d) of this section shall be suspended no later than January 1, 2008, unless otherwise extended by amendments as adopted by the Board."

STAFF COMMENTS

Staff has not completed the analysis of the total SFP funding model, as the Project Information Worksheet that will be utilized for the grant adequacy study has not yet been approved by the Office of Administrative Law. However, since the initial analysis demonstrated discrepancies in the general site allowance between the LPP and the SFP, Staff is recommending an extension of the general site allowance for an additional year. This one-year extension will allow Staff time to obtain sufficient project data that, in conjunction with the grant adequacy study, will enable Staff to provide a solid recommendation on the continuation of the general site allowance.

(Continued on Page Two)

STAFF COMMENTS (cont.)

The SAB has apportioned a general site allowance total of \$80,796,840 for 136 projects through the October 2007 SAB meeting. Staff recommends that the SAB adopt the attached regulations on an emergency basis in order to continue to provide school districts immediate funding relief which appears consistent with the preservation of the public peace, health and safety, or general welfare.

Additional Non-Substantive SFP Regulation Changes Included in this Item

Regulation Sections 1859.76 and 1859.83: Correct a reference in the regulations to ensure that the general site development grants for joint-use projects are calculated in a similar manner as the companion SFP qualifying projects.

Regulation Section 1859.104.3: Correct an inadvertent typographical error which cites an incorrect section.

RECOMMENDATIONS

1. Adopt the proposed regulations as shown on the Attachment and begin the regulatory process.
2. Authorize the OPSC to file these regulations on an emergency basis with the OAL.

This Item was approved by the State Allocation Board on December 12, 2007.

Attachment

PROPOSED AMENDMENTS TO THE
SCHOOL FACILITY PROGRAM REGULATIONS
State Allocation Board Meeting, December 12, 2007

Title 2. Administration
Division 2. Financial Operations
Chapter 3. Department of General Services
Subchapter 4. Office of Public School Construction
Group 1. State Allocation Board
Subgroup 5.5. Regulations Relating to the Leroy F. Greene School Facilities Act of 1998:
(School Facility Program)

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, ~~2008~~ 2009, unless otherwise extended by amendments as adopted by the Board.

The district must submit a detailed cost estimate for all requests for site development work, with the exception of General Site Development, and any justification documents that will support the work with the Form SAB 50-04.

The Board will approve reasonable and appropriate site development work which meet common engineering practices and industry standards that are consistent with the specific site conditions if the site development costs are consistent with the most current edition of the Saylor Current Construction Costs. The design professional must certify to the district that the site development work does not exceed the minimum requirements to develop the site to meet educational needs and/or standards.

General Site Development provided pursuant to 1859.76(d)(1), service site and off-site development costs shall be reduced, on a prorated basis, by the percentage of the excess acreage of the site that exceeds the master plan site acreage approved by the CDE.

Note: Authority cited: Section 17070.35, Education Code.

Reference: Sections 17070.35, 17072.12 and 17072.35, Education Code.

Section 1859.83. Excessive Cost Hardship Grant.

In addition to any other funding authorized by these Regulations, a district is eligible for funding as a result of unusual circumstances that created excessive project costs beyond the control of the district. The Excessive Cost Hardship Grant shall be based on any of the following:

(a) Excessive Cost due to Geographic Location.

A district with a project that is located in a geographic area designated in the Geographic Percentage Chart below is eligible for the sum of the Excessive Cost Hardship Grant(s) determined by multiplying the indicated percentage factor shown in the Geographic Percentage Chart below by each of the following amounts:

- (1) The New Construction Grant and the Modernization Grant.
- (2) The funding provided by Sections 1859.71.2, 1859.71.3, 1859.72, 1859.73, 1859.73.2, 1859.76(d)(1) and (2), 1859.78.4, 1859.78.5, 1859.82(a) and (b), 1859.83(b), (c), (d) and (f) and 1859.125(a)(1) through (a)(2).

....

(b) Excessive Cost for Projects that House No More than 200 Pupils (Small Size Projects).

- (1) Excluding Joint-Use Projects, if the project will house less than 101 pupils, the district is eligible for an Excessive Cost Hardship Grant equal to 12 percent of the funding provided by the New Construction Grant or 12 percent of the funding provided by the Modernization Grant.
- (2) Excluding Joint-Use Projects, if the project will house between 101 and 200 pupils, the district is eligible for an Excessive Cost Hardship Grant equal to four percent of the funding provided by the New Construction Grant or four percent of the funding provided by the Modernization Grant.-
 - (1) A Type I Joint-Use Project and a Type II, part of a qualifying SFP Modernization project, Joint-Use Project is eligible for an Excessive Cost Hardship Grant equal to:
 - (A) 12 percent of the funding provided by Section 1859.125(a)(1) through (a)(2), if the qualifying SFP New Construction or Modernization project pursuant to Section 1859.123 or 1859.123.1 will house less than 101 pupils.
 - (B) Four percent of the funding provided by Section 1859.125(a)(1) through (a)(2), if the qualifying SFP New Construction or Modernization project pursuant to Section 1859.123 or 1859.123.1 will house between 101 and 200 pupils.
 - (4) A Type II Joint-Use Project, not part of a qualifying SFP Modernization project, is eligible for an Excessive Cost Hardship Grant equal to eight percent of the funding provided by Section 1859.125(a)(1) through (a)(2).

....

(d) Excessive Cost Due to Urban Location, Security Requirements and Impacted Site.

- (1) Excluding Joint-Use Projects, the district is eligible for an Excessive Cost Hardship Grant if the district had a project that was previously approved by the DSA, and prior to January 22, 2003, has received SAB approval for a time extension for substantial progress and if the useable site acreage for the project is:
 - (A) at least 50 percent but less than 75 percent of the site size recommended by the CDE for the master planned project capacity. The New Construction Excessive Cost Hardship Grant is equal to eight percent of the New Construction Grant and eight percent of the funding authorized by Sections 1859.73.2 and 1859.83(b) and (c).
 - (B) at least 30 percent but less than 50 percent of the site size recommended by the CDE for the master planned project capacity. The New Construction Excessive Cost Hardship Grant is equal to 15 percent of the New Construction Grant and 15 percent of the funding authorized by Sections 1859.73.2 and 1859.83(b) and (c).
 - (C) less than 30 percent of the site size recommended by the CDE for the master planned project capacity. The New Construction Excessive Cost Hardship Grant is equal to 50 percent of the New Construction Grant and 50 percent of the funding authorized by Sections 1859.73.2 and 1859.83(b) and (c).
 - (D) less than 30 percent of the site size recommended by the CDE for the master planned project capacity.
- (2) Excluding Joint-Use Projects, the district is eligible for an Excessive Cost Hardship Grant if all of the following conditions are met, as applicable:
 - (A) the Useable Acres of the site for the project are 60 percent or less of the CDE recommended site size based on:
 1. the current CBEDS Report at the existing site, if any, at the time of the CDE final plan approval for the project, if any, plus the greater of the Net School Building Capacity of the final new construction project plans submitted to the DSA as calculated in Education Code Section 17071.25(a)(2) or the pupil grants requested in the COS or Charter School project. The Useable Acres will include the existing site that is being utilized for this project plus any additional acreage to be acquired as a part of the Application.
 2. the current CBEDS Report at the site at the time of the CDE final plan approval for the modernization project.

- (B) at least 60 percent of the classrooms in the construction plans are in multistory facilities for any type of new construction project.
- (C) the value of the site being acquired for a new construction project on a new site is at least \$750,000 per Useable Acre.
- (3) If the criteria in (d)(2) are met, the Excessive Cost Hardship Grant:
 - (A) for new construction is equal to 15 percent of the New Construction Grant and 15 percent of the funding authorized by Sections 1859.73.2 and 1859.83(b) and (c) for a project with a site that is 60 percent of the CDE recommended site size plus 1.166 percent for each percentage decrease in the CDE recommended site size below 60 percent. In no event shall the amount provided in this subsection for a new construction project on a new site exceed 50 percent of the cost avoided with the purchase of a site smaller than the CDE recommended site size for the number of the pupil grants requested in the Application determined as follows:
 1. The current estimated value of the project site as determined in Section 1859.74.6(a)(1).
 2. Divide the amount in (A)1. by the number of Useable Acres.
 3. Multiply the quotient in (A)2. by the number of Useable Acres recommended by CDE for the number of pupils described in Section 1859.83(d)(2)(A)1.
 4. Subtract the value in (A)1. from the product in (A)3.
 5. Multiply the difference in (A)4. above by 50 percent.
 - (B) for modernization is equal to 15 percent of the Modernization Grant and 15 percent of the funding authorized by Section 1859.83(b) for a project with a site that is 60 percent of the CDE recommended site size plus 0.333 percent for each percentage decrease of the CDE recommended site size below 60 percent.
- (4) For Joint-Use Projects, the district is eligible for an Excessive Cost Hardship Grant if:
 - (A) the Type I Joint-Use Project's qualifying SFP New Construction project pursuant to Section 1859.123 qualifies for an Excessive Cost Hardship Grant under Section 1859.83(d)(2) and (3)(A).
 - (B) The Type II Joint-Use Project's qualifying SFP Modernization project pursuant to Section 1859.123.1 qualifies for an Excessive Cost Hardship Grant under Section 1859.83(d)(2) and (3)(B).
 - (C) The Useable Acres at the existing school site where the Type II Joint-Use Project, not part of a qualifying SFP Modernization project, is to be constructed are 60 percent or less of the CDE recommended site size based on the existing enrollment at the site.
- (2) If the criteria in (d)(4)(A) or (C) are met, the Joint-Use Project Excessive Cost Hardship Grant is equal to 15 percent of the funding provided by Section 1859.125(a)(1) through (a)(2), for a project with a site that is 60 percent of the CDE recommended site size plus 1.166 percent for each percentage decrease in the CDE recommended site size below 60 percent. For a Type I Joint-Use Project when the qualifying SFP New Construction project involves new construction on a new site, in no event shall the amount provided in this subsection exceed 50 percent of the cost avoided with the purchase of a site smaller than the CDE recommended site size for the qualifying SFP New Construction project pursuant to Section 1859.123 as calculated in Section 1859.83(d)(3)(A).
- (3) If the criteria in (d)(4)(B) are met, the Joint-Use Project Excessive Cost Hardship Grant is equal to 15 percent of the funding provided by Section 1859.125(a)(1) through (a)(2), for a project with a site that is 60 percent of the CDE recommended site size plus 0.333 percent for each percentage decrease in the CDE recommended site size below 60 percent.

Note: Authority cited: Sections 17070.35 and 17075.15, Education Code.

Reference: Sections 17072.32, 17074.15, 17074.16, 17075.10, 17075.15, 17077.40, 17077.42 and 17077.45, Education Code.

Section 1859.104.3. Self-Certification Prohibition Processing Fee.

If the Board has made a finding of Material Inaccuracy pursuant to Section 1859.104.1, the Board shall charge the district an amount of \$100 per hour for the additional hours necessary to process and review the district's applications submitted during the timelines prescribed in Section 1859.104.24(a)(1), (b)(2) or (c)(2). The maximum hours subject to the fee per application is the greater of 50 hours or one percent of the enrollment of the district as reported in Part A, the continuation high pupils reported in Part C, and the special day class pupils reported in Part D of Form SAB 50-01. The Board will not make a release of funds for any project subject to the fee in this section until the fee has been remitted to the OPSC. All fees collected shall be deposited in the School Facility Fund and available for apportionment as directed by the Board.

Note: Authority cited: Section 17070.35, Education Code.

Reference: Section 17070.51, Education Code.