STATE OF CALIFORNIA ARNOLD SCHWARZENEGGER, Governor
STATE ALLOCATION BOARD
1130 K Street, Suite 400
Sacramento, CA 95814

IMPLEMENTATION COMMITTEE MINUTES

June 3, 2005

Capitol East End Complex
1500 Capitol Avenue, Rooms 72.149B & 72.148C
Sacramento, CA

Members Present

Mavonne Garrity, SAB
Lori Morgan, OPSC
Lettie Boggs, CASBO (Alternate for John Palmer)
Rick Parks, AIA (Alternate for Brian Wiese)
Constantine Baranoff, SSD
Cathy Allen, CCSESA (Alternate for William Cornelison)
Dennis Dunston, CEFPI
Beth Hamby, LAUSD
Blake Johnson, DOF
Fred Yeager, CDE
Gary Gibbs, CBIA
Dave Doomey, CASH
Eric Hall, CASH
Jay Hansen, SBCTC

Members Absent

Debra Pearson, SSDA
Dennis Bellet, DSA

The meeting was called to order at 9:40 am; there were 14 members present and 2 absent. The Chair acknowledged Rick Parks as the alternate representative for Brian Wiese, AIA, Cathy Allen as the alternate representative for William Cornelison, CCSESA, and Lettie Boggs as the alternate representative for John Palmer, CASBO.

The minutes from the May 6, 2005 Committee meeting were accepted as presented.

Dave Doomey announced that this would be his last meeting as the representative for CASH, and that the new representative would be Eric Hall.

The Chair announced the following:

- Lori Morgan had been appointed the Deputy Executive Officer for the Office of Public School Construction (OPSC).
- The regulations had become effective for the Emergency Repair Program; the OPSC could begin accepting applications immediately. The application and materials would be available online by the end of the day.

RESIDUAL MODERNIZATION GRANTS

This topic was originally introduced through proposed Assembly Bill 1300 (Arumbula). At the February 2005 State Allocation Board (SAB) meeting, the SAB requested information from staff regarding the "residual" modernization grant issue. Staff presented the report to the SAB at the May 3, 2005 meeting, which was accepted with a request that the issue be discussed further by the Implementation Committee. Subsequently, the bill had been held by the Assembly Appropriations Committee.

In presenting the Committee item, Lori Morgan explained how modernization eligibility was determined. She also encouraged districts to establish eligibility at their schools, because it would assist in determining the statewide modernization needs. It was suggested that perhaps the Division of the State Architect might be able to assist with this by generating a statewide eligibility analysis for districts.

The Chair requested comments from the audience on the "residual" modernization grant issue. A Committee member expressed concern that eligibility should remain at the site that generated it in order to maintain equity. Another Committee member expressed concerns about the ability to track the transfers, if the concept were to go forward. A comment from the audience suggested that the ability to transfer eligibility would allow districts more flexibility because the districts were the most familiar with the needs of their facilities.

Comments were made by the audience that modernization projects with small number of pupil grants were difficult. The Chair reminded districts that they were eligible to receive a small project allowance when the modernization projects involved less than 200 pupil grants, and also referenced data from the report that indicated there were a large number of small modernization projects that had successfully been funded in the past. Staff also explained the requirement that a project have at least 101 pupil grants (or the remainder of the eligibility if there were less than 101 available), which was introduced by the SAB in response to their concern the modernization grants be used at the site as opposed to generating savings that could then be used for other capital outlay projects.

A Committee member stated he believed the current modernization program worked very well, and that it was not really appropriate for the Committee to take a position on the issue because the legislative process should be responsible for addressing any concerns with the program. Other Committee and audience members agreed, and the Committee concluded that it would be more appropriate to first allow the legislative process to address any residual modernization grants issues and, if necessary, bring back the item for discussion after the legislative process has been completed.

FINANCIAL HARDSHIP EQUITY ISSUES

The Chair introduced this topic and explained that the issue had initially been brought up at the February SAB meeting, where a Board member requested clarification on financial hardship funding criteria and the equity of the funding distribution. The SAB requested that the OPSC prepare a report, and the resulting report was presented at the May 3, 2005 SAB meeting. The SAB accepted the report and requested that the issue be discussed further by the Implementation Committee, where any necessary regulatory changes could be discussed and developed. The SAB also requested that the Committee discuss possible negative impacts to the financial hardship districts under the current financial hardship regulations.

OPSC staff member Jason Hernandez began the discussion by providing an overview of the current School Facility Program (SFP) financial hardship program including requirements for participation and documentation.

The Chair requested general comments from the audience regarding the current financial hardship system to identify what was working and what was not working for school districts. The Committee solicited comments and generated discussions for resolving issues so that any necessary regulations could be further discussed at the next meeting.

Comments from the Committee and audience were primarily focused on the inadequacy of the SFP grants and their inability to build complete schools. Some districts stated that after receiving high bids, they were forced to scale their projects back leaving out essential core facilities. These districts are placed in a precarious position since financial hardship districts do not have other funds available to supplement the SFP grants, and if they do over expend are penalized for doing so. The discussion then focused on the need to eliminate the penalty for financial hardship districts that over expend due to necessary cost overruns. Additional comments from the audience suggested they would prefer a one-year financial hardship review versus the current six month review.

Dave Zian then discussed the observations outlined in the May 3, 2005 SAB report. A consulting firm provided written response to the report offering potential remedies for each observation listed.

The first concern involved the initial review that districts received for financial hardship eligibility, and the three year provision that allowed districts to refrain from reporting additional funds that become available to the district after that review if the district did not submit another financial hardship request. Staff had observed that under this provision, districts were waiting to initiate other funding mechanisms, such as COPs, until after receiving their financial hardship approvals. The districts were then waiting the necessary three years before submitting additional applications, thereby receiving additional funds that did not have to be reported as district contributions; this appeared to be circumventing the system. Staff proposed that the period be extended from three years to five or more years. An audience member indicated that this extension could make it more difficult for districts to pass bonds as the children would have been attending the built schools after five years, and the need may not appear as obvious to the communities at that point.

The audience noted that oftentimes the projects that were submitted to the OPSC and apportioned by the SAB were later required by local planning entities to include additional work, and that there was no other way to fund this work other than requesting additional funds from other sources. Furthermore, other districts indicated that they were often required to reduce the minimum essential facilities in their projects in order to keep the project within the amount of funds that had been allocated, because of the reduction in the allocation that would occur at audit if additional funds were discovered. It was noted that county office of education (COE) projects are often disadvantaged because of the small nature of their projects and the inability to reduce them further if additional costs are found. It was proposed that districts be allowed to request funds based upon the bids received rather than the amount proposed by the OPSC, or that the site development be reviewed differently. Another proposal was made that perhaps districts could retain their financial hardship status until the close-out of the project, instead of relying on the three year provision. Staff noted that while there were those projects that appeared to request additional funding in order to complete the projects, there were also those districts that appeared to request the additional funding in order to fund portions of a project that were not required.

The next concern that was discussed was in regard to dwelling unit augmentations and the additional eligibility that are garnered through the dwelling units. Staff was concerned that the districts generated additional developer fees from the projected students, and that these funds were not captured by the OPSC as possible contributions to these projects. Staff proposed that the matching share period be extended. Committee members responded that it would appear that these funds should be applied toward future projects. It was proposed that the developer fees would become matching funds on future projects that were proposed. It was clarified by the CBIA representative that the level one developer fees could be used as a matching share on either new construction or modernization projects as needed, provided there was a direct nexus between the pupils that produced the fees and the projects that were using the fees.

The next concern that was discussed was in regard to one of the current criteria that school districts could meet in order to qualify for financial hardship funds, a threshold indebtedness of at least 60 percent of the district's total bonding capacity. Staff commented that some districts had appeared to meet this requirement by securing debt instruments and encumbering those funds just prior to requesting financial hardship approval. This practice appeared to be an attempt at circumventing the system. Staff proposed that the threshold be increased. An audience member responded that the threshold be lowered, because by requiring a higher amount, the districts are encouraged to become more indebted. The Committee responded that districts should not be further indebting themselves, because the districts placed their general funds in peril (as collateral) when they requested COPs.

Due to time constraints, Observations #4 and #5 were not able to be presented and will be carried over to the next Implementation Committee meeting.

SMALL HIGH SCHOOL PROGRAM (AB 1465)

The Chair briefly reviewed this program. The Committee and audience were reminded that at the previous meeting, regulations had been presented and had been accepted by the Committee for presentation to the SAB. After additional discussions with the Department of Finance, however, the previously proposed new construction regulations were revised to clarify that the state's share (60 percent) of the total project cost would be taken from the funds specifically set aside for the program. Additionally, the conceptual approval provision was removed from the proposed regulations. In order to maximize the number of applications that could be funded, the new construction regulations were also revised so that the site acquisition was excluded from the total project cost, and that it would be funded at the 50 percent State share as outlined in the existing School Facility Program Regulations. Changes to the proposed timeline were also announced due to the removal of the conceptual approval process. It was proposed that applications would be accepted after January 1, 2006 and would continue until September 30, 2006. It was anticipated that the applications would be presented to the December 2006 or January 2007 SAB.

The Committee expressed concerns about removing the conceptual approval process because it would be more difficult for school districts to plan a new construction project for a small school without a reservation of funding. Concerns were expressed that school districts may not participate in the program without a guarantee of funding. These concerns were noted; however, it was explained that the total project costs could not be determined until appropriations were made, making conceptual approvals unworkable.

A member of the audience raised an additional concern regarding the exclusion of the site acquisition from the total project cost; however, the Committee did not share in the concern. The Chair indicated that the revised regulations were to be scheduled for the June SAB, and encouraged the Committee members and audience to review the regulations and provide feedback to the OPSC prior to the SAB meeting.

ADJOURNMENT AND ANNOUNCEMENT OF THE NEXT MEETING

The Chair announced that the next meeting would take place on July 8, 2005 at 9:30am and would be held at the Legislative Office Building located at 1020 N Street in Sacramento. The meeting was adjourned at 3:00 p.m.