STATE ALLOCATION BOARD
1130 K Street, Suite 400
Sacramento, CA 95814

IMPLEMENTATION COMMITTEE MINUTES

September 19, 2008

State Capitol Building
Sacramento, CA

Members Present
Rob Cook, SAB/OPSC
Lori Morgan, SAB/OPSC
Fred Yeager, CDE
Ted Rozzi, CASH (Alternate for William Savidge)
Vinceena Kelly, CCESSA (Alternate for Kenn Young)
Dennis Dunston, CEFPI
Margie Brown, CASBO
Robert Pierce, SSD
Lyle Smoot, LAUSD (Alternate for Mark DeMan)
Gary Gibbs, CBIA
Cesar Diaz, SBCTC

Members Absent
Dean Tatsuno, AIA
Debra Pearson, SSDA
Lenin Del Castillo, DOF
Richard Conrad, DSA

The meeting was called to order at 9:45 am.

Before the OPSC presented, the Chair noted that this discussion would be a continuation of the proposed Financial Hardship regulations, which were not discussed during the September 5, 2008 meeting.

A committee member raised a concern, stating that the Financial Hardship Reform group working on the proposed regulation changes and the Financial Hardship Panel working on big picture changes to the program should be working together.

Financial Hardship Regulations
OPSC Staff members Lisa Silverman, Jason Hernandez, and Keith Jung presented the proposed reforms to the Financial Hardship Program.

The OPSC presented 7 of 9 proposals:

- Initial Review;
- Renewal Review;
- Interim Reporting Requirement;
- 3 Year Rule;
- Small School Districts;
- Qualifying Criteria;
- Other Non-Substantive Changes

Initial Review, Renewal Review, and Interim Reporting Requirement:
The OPSC discussed proposed definitions of revenues, encumbrances, and expenditures allowed during the initial Financial Hardship (FH) review. Under the proposal, revenues will include all current and projected capital facility funds. Projected revenue is defined as all capital

facility funding received within six months of the FH documentation submittal date. For purposes of the FH review, encumbrances and expenditures will be allowed for classrooms and required school facilities.

Discussion Points:
Audience members raised concerns regarding the six month projected revenue, including which funds would be captured by this requirement, and how to determine what revenue would be received within the timeframe. A member of the committee re-stated that any revenue listed would be of a very conservative nature.

As one possible alternative to the project revenue listed on the fund worksheets, an audience member proposed that the OPSC instead ask districts to declare what types of major revenue, bonds, certificates of participation, etc they would be receiving in the next six months. Districts could certify to this and risk a potential material inaccuracy (MI). The OPSC mentioned that this information is requested on the FH checklist, but currently no certification is involved. A possibility could be to separate all the funding information on a separate form and have districts certify to that information.

Audience members raised concerns that the table in section 1859.82 of the regulations should not be used as a reference to the type of facilities that would be allowed as an eligible encumbrance during an initial financial hardship review. One suggestion was to list the type of facilities and not reference the chart at all. Another suggestion involved listing the type of facilities that would not be eligible instead of the facilities that would be allowed. The OPSC indicated that these suggestions would be taken into consideration.

Discussion on the expenditures allowed and disallowed included questions about expenditures that were not School Facility Program (SFP) eligible and how they would be treated. The span of time for expenditures that will be examined by the OPSC during a FH review was also discussed.

As part of the Renewal Review discussion, the OPSC discussed extending the FH status from six to twelve months. An extension to a twelve-month period would be tied to the interim reporting requirement and the other proposed regulation changes. The OPSC mentioned that one could not go without the other to insure the integrity of the bonds.

<u>Three Year Rule:</u>
The OPSC discussed that under the current three year regulations, the clock starts with the district's most recent FH adjusted grant apportionment. The issue is that, as written today, the three year window is non-existent. For example, often when a SFP closeout audit reveals that a FH SFP project was overspent and the district is given the option to stay out of the FH program for three years, the three year window has already passed.

To make it a true three year period, the proposed regulations suggest that the trigger to start the three year period be one of the following: (1) the date of the most recent FH new construction or modernization adjusted grant funding apportionment, (2) the date of the most recent FH approval status, or (3) the date the district agreed to stay out of the FH program for three years, per SFP project audit findings.

Discussion Points:
There was a concern raised that this would create a longer period for districts to stay out of the program.

<u>Small School Districts:</u>
The OPSC conveyed its proposal that for small school districts, with an average daily attendance of less than 2,500, the maximum district contribution from non-bond funds shall not exceed the minimum reserve balance for economic uncertainty during the twelve month FH

status. This is intended to address the inequitable contribution made by small school districts to their projects in the FH program.

Discussion Points:
One member of the audience asked about the funds in excess of the minimum reserve and how a district may spend those funds. The OPSC stated that the question would be discussed further before any edits were incorporated to the regulations.   One committee member did not oppose allowing a district to meet their three percent reserve for economic uncertainties, but remarked that a district should otherwise have to contribute any available contribution to their projects.

<u>Qualifying Criteria:</u>
As proposed for the 60% bonded indebtedness test, all debt issued for the purpose of constructing or modernizing classrooms and required school facilities will be used to determine whether the district meets this criteria. The amount of debt issued prior to October 1, 2008 for non-required school facility purposes will be phased out of the 60% calculation between October 1, 2008 and January 1, 2013. The OPSC went over an example detailing this phase out of non-required debt.

Discussion Points:
Audience members raised concerns regarding bonds that were already issued and how the OPSC would extract the portion of the bonds that would be phased out over the five year period. There were also questions raised about using the table in Regulation Section 1859.82(b) as a reference for what type of facilities would be considered eligible debt for FH purposes.

One audience member suggested an alternative to extracting debt for non-required facilities: raising the debt level from 60% to 70%.

<u>Other Non-Substantive Changes:</u>
Interim housing language has been slightly modified to reflect the restructuring of the regulations as contained in this proposal, and to delete the reference to Emergency School Classroom Law in former section 1859.81 (d) of the FH regulations.

Discussion Points:
An audience member asked whether this would change the calculation of interim housing. The OPSC explained that no changes were made to the calculation of interim housing. An audience member opined that interim housing was created to enable a district to receive the maximum amount of the deduction. The OPSC stated that the interim housing calculation represents a maximum, and as with all regulations, was always subject to verification. In the recent years, districts were asked up front what their actual interim housing needs will be, so the matching contribution would reflect the amount retained by the district for this purpose accordingly. Asking up front enables the available contribution to be accurately adjusted and prevents districts from having potential audit exceptions at the end of the project. This procedure was explained in an *Advisory Actions* article, and all FH approval letters contain language stating that the interim housing deduction will be audited in the future.

Adjournment and Next Meeting
The meeting adjourned at 2:45 p.m. The next committee meeting is scheduled for Friday, October 3, 2008 at 9:30 a.m. and will be held at the Legislative Office Building located at 1020 N Street, Room 100, Sacramento, California.