

STATE ALLOCATION BOARD

1130 K Street, Suite 400
Sacramento, CA 95814

**IMPLEMENTATION COMMITTEE MINUTES**

October 3, 2008

Legislative Office Building
Sacramento, CA

Members Present

Katrina Valentine, SAB

Lori Morgan, SAB/OPSC (Morning session)

Juan Mireles, SAB/OPSC (Afternoon session)

Fred Yeager, CDE

William Savidge, CASH

Vinceena Kelly, CCESSA (Alternate for Kenn Young)

Lettie Boggs, CEFPI (Alternate for Dennis Dunston)

Margie Brown, CASBO

Robert Pierce, SSD

Mark DeMan, LAUSD (Morning session)

Lyle Smoot, LAUSD (Alternate for Mark DeMan -Afternoon session)

Debra Pearson, SSSA

Gary Gibbs, CBIA

Richard Conrad, DSA

Members Absent

Dean Tatsuno, AIA

Cesar Diaz, SBCTC

Lenin Del Castillo, DOF

The meeting was called to order at 9:35 am.

Minutes

Minutes for the September 5, 2008 Implementation (IMP) meeting were accepted as presented.

Opening Remarks

Rob Cook, Executive Officer of the SAB/OPSC, introduced Katrina Valentine as the new Assistant Executive Officer and Chair of the Implementation Committee. Mr. Cook thanked the committee members for the opportunity to chair the committee, and turned the meeting over to Ms. Valentine.

A committee member requested that Seismic Mitigation be added to the IMP future items list for the purpose of addressing the fact that funds have not been accessed. The OPSC and DSA responded that they are working together on this issue and conducting outreach to potential applicants. Further, the OPSC and DSA will be presenting a status update on this issue at the October State Allocation Board (SAB) meeting. It was noted that if the outreach and SAB's direction resulted in the need to modify criteria, it was already planned to take the amended regulation proposal to the IMP Committee.

Emergency Repair Program

OPSC Staff members Masha Lutsuk and Joel Ryan presented the proposed revisions to the Emergency Repair Program (ERP) forms and regulations.

The OPSC presented 3 proposals:

- ERP Regulations;
- *Grant Request* (Form SAB 61-03), and;
- *Expenditure Report* (Form SAB 61-04);

ERP Regulations:

The OPSC presented proposed changes to the ERP regulations that would require Local Educational Agencies (LEAs) to submit any ERP savings plus interest concurrently with the *Expenditure Report*, Form SAB 61-04.

Discussion Points:

A committee member noted that this change does not add more money to the program but would make funding available sooner for allocation to new ERP projects, which is a laudable objective.

Concerns were expressed regarding the difficulty a LEA may have determining the amount of interest earned on a particular project due to the fact that interest is earned on a quarterly basis, and the interest is captured in a fund that oftentimes includes other monies. In order to comply with this change, the LEAs would have to estimate the interest due to the OPSC. Since the amount due would be based on an estimate, members inquired whether the estimated amount would have to be verified at the grant adjustment submittal. The OPSC agreed that LEAs would have to submit an estimated amount of interest due and that the LEA would have to show a reasonable effort was made to determine the interest owed but that it would not be verified at time of submittal. However, the amount of interest owed may be adjusted as a result of audit findings.

Members inquired how the OPSC proposal would streamline the process. The OPSC responded that the changes streamline the process because the LEA will no longer need to be invoiced, reducing communications and workload for both parties.

Concerns were expressed that the changes would put additional pressure on project completion timelines. Further concern was expressed that the existing timelines, under current regulations, are not long enough. The OPSC responded that the current timelines were established with the thought that the emergency nature of the projects funded under this program warranted rapid completion. However, the OPSC acknowledged that more complicated projects and the allowance for projects to be combined into one application may have an impact on a LEA's ability to meet the current program timeframes. The OPSC agreed to take this issue under consideration.

An issue was raised that LEA accounting departments may have concern with issuing a check without receiving an invoice. A suggestion was made that the OPSC include an invoice-like statement that monies are owed to the State on the Form 61-04 so that the LEA accountants may issue a check to the State.

An issue was raised regarding funding provided for cost increases indicated on the Form SAB 61-04. The OPSC stated that current regulations require funding by date order received, with priority given to initial grant requests. The OPSC stated that, given the limited amount of funding for the program and the amount of requests received, it is unlikely that an LEA would receive additional funding for projects that exceeded the apportioned grant amount.

An inquiry was made regarding the current timeframe for savings to be returned under current regulations, which requires SAB approval. The OPSC responded that it cannot collect savings without SAB approval. The OPSC agreed to review the regulations to verify if the OPSC has the authority to expedite the processing of the Form SAB 61-04s that have savings.

Inquiries were raised regarding whether an LEA can accrue more interest than they repay, and whether a project has to be completed prior to submittal of the Form SAB 61-04. The OPSC responded that the LEA will accrue additional interest because interest will still be earned from the time the warrant is calculated and remitted by the LEA until the payment is deposited by the OPSC. The OPSC stated that the project has to be complete at submittal, and expenditures made after submittal of the Form SAB 61-04 are ineligible.

In response to inquiries regarding what happens if an LEA fails to make payment when due, the OPSC cited regulations stating that if an LEA fails to make their payment, the OPSC will notify the Controller and the LEA in writing, and the Controller will deduct an amount equal to the amount received by the LEA from the LEA's next apportionment of State funds. It was suggested that the regulation be changed to read "the amount due by the LEA..." instead of "the amount received by the LEA." The OPSC agreed that this language should be clarified.

A request was made to hold any possible changes to ERP regulations and forms since the program is currently oversubscribed. The OPSC responded that new projects are still being submitted, and that the proposed changes would be helpful by recouping the savings sooner.

Grant Request (Form SAB 61-03):

The OPSC presented proposed changes to the Form SAB 61-03 to clarify submittal requirements and to distinguish between construction cost and application documentation preparation and submittal costs.

Discussion Points:

It was requested that the Form SAB 61-03 instructions be clarified by making some minor changes. The OPSC agreed to look into these requests.

Inquiries and concerns were raised regarding which applicants will be required to use the revised Form SAB 61-03. The OPSC stated that the new Form SAB 61-03 will apply to both new applicants and applicants required to resubmit the form as a result of 15-Day Letter findings. Concerns were expressed that this would affect the applications already in-house, and could possibly set a precedent for future changes to regulations in other programs, i.e. when proposed form changes impact applications submitted but not yet funded. The OPSC agreed to consider these issues.

Expenditure Report (Form SAB 61-04):

The OPSC presented proposed changes to the Form SAB 61-04, including new sections to assist the LEA in the calculation of the Grant Adjustment amount and a requirement to submit a new ERP Expenditure Worksheet along with the Form SAB 61-04.

Discussion Points:

The need for an Expenditure Worksheet was questioned. The OPSC cited the OPSC's fiduciary responsibility in ensuring proper administration of program funds, which is hampered by the fact that the existing Form SAB 61-04 does not include any expenditure detail. The OPSC clarified that the detailed expenditure worksheet was intended for projects filing under the grant option rather than those applying for reimbursement funding. Additionally, the OPSC commented that the worksheet will assist the LEA in completing the Form SAB 61-04.

Concerns were raised regarding additional work without a statutory requirement. It was clarified that statutory authority exists for the SAB, via its staff, to administer the program. The OPSC added it would consider the concerns about additional work and look into accepting expenditures reported in a different format. It was suggested that the OPSC use the format of the "Detailed Listing of Warrants Issued by the District for Deferred Maintenance Hardship Projects" *SAB Form 184ADM* since most LEA staff that complete the Form SAB 61-04 are familiar with the SAB Form 184ADM.

Financial Hardship Program

At the previous IMP meeting on September 19, 2008, the OPSC concluded the presentation of the proposed FH regulation changes. However, committee members raised questions regarding the issues that the proposed changes are intended to resolve.

OPSC Staff members Lisa Silverman and Jason Hernandez identified past and current Financial Hardship (FH) Program issues and presented the proposed FH Checklists. Items covered included IMP Committee and SAB discussion items from 2005 that identified FH program issues, recent FH issues raised in appeals, the Performance Audit of the FH Program, and FH Checklists.

Discussion Points:

The FH issue has been before the IMP committee numerous times and some stakeholders expressed that they were still unclear about what the issues are that OPSC is trying to address.

One committee member stated that the OPSC had clearly presented the FH Program issues, and agreed that it is critical for the IMP Committee to work with the OPSC in resolving these serious issues.

Concerns were expressed regarding whether the right problems were being addressed. A committee member argued that larger concerns such as grant adequacy and complete schools need to be addressed. The OPSC responded that these topics, while important, are beyond the scope of this discussion, and that the presence of other concerns should not derail the OPSC from moving forward with addressing the identified issues.

A member summarized the issues presented by the OPSC as the following:

- Districts encumber all their funds prior to applying for FH;
- Districts put themselves near insolvency in order to qualify for FH;
- Districts apply for FH when they could handle expenditures themselves over time, and;
- The FH process is too complex and needs to be streamlined.

It was suggested that the FH Regulation proposal be reformatted similar to the format used in 2005, which showed the Observations/Potential Solutions cross referenced with the proposed regulation changes. The OPSC agreed to consider this suggestion when preparing the item to return to the IMP Committee for further discussion.

Adjournment and Next Meeting

The meeting adjourned at 3:30 p.m. The next committee meeting is scheduled for Friday, November 7, 2008 at 9:30 a.m. and will be held at the Legislative Office Building located at 1020 N Street, Room 100, Sacramento, California.