

STATE ALLOCATION BOARD

707 Third Street
West Sacramento, California 95605
www.opsc.dgs.ca.gov



**Implementation Committee
Proposed Meeting Schedule**

2010

Thursday, September 9, 2010

California State Capitol
Sacramento, California

Thursday, October 14, 2010

California State Capitol
Sacramento, California

Wednesday, November 10, 2010

California State Capitol
Sacramento, California

December 2010 – To Be Determined

California State Capitol
Sacramento, California

2011

Thursday, January 13, 2011

California State Capitol
Sacramento, California

*Meetings are scheduled from 9:30 a.m. to 3:30 p.m. with a one hour lunch break.
Please check www.opsc.dgs.ca.gov for hearing room assignments as meeting times, dates, and locations are subject to change.*

STATE ALLOCATION BOARD
IMPLEMENTATION COMMITTEE MEETING
September 9, 2010

CONSTRUCTION COST INDEX

PURPOSE OF REPORT

To continue discussions on the annual adjustment to the School Facility Program (SFP) grant apportionments based on the change in the statewide Class B Construction Cost Index (CCI).

BACKGROUND

At the August 2010 Implementation Committee Meeting (IMP), Staff presented a report providing additional history on the CCI. The report described the definitions and the use of both Class B and Class D indices when the Lease Purchase Program (LPP) was in effect. In 1998 when Senate Bill 50 created the School Facility Program it required the State Allocation Board (SAB) to use the annual percent change in the Class B index exclusively to adjust the pupil grant amounts provided for modernization and new construction projects. Since 1998, the SAB has either adopted Marshall & Swift (M&S) 10 Western States or 8 CA Cities because they were the only Class B indices available.

After hearing presentations at the June and August IMP meetings from representatives from Lee Saylor Index (LSI) and M&S, and reviewing the materials provided by Engineering News-Record (ENR), the Committee determined that the M&S and LSI indices most closely aligned with California construction.

Staff has included previous discussion items that were presented at the June and August IMP committee meetings as a reference on questions that were addressed, as shown in Attachment C. Additionally, on Attachment D are the components used to develop the indices published by M&S, LSI, and ENR, such as; the materials, labor, and study cities.

Customized Index

The Committee further discussed from the June and August IMP committee meetings, the development of a customized index specific for school construction and the next steps to develop such an index. The Chair asked that Committee Members draft methodologies for a customized index for future discussion. Additional questions were raised for M&S and LSI concerning the proposed index and the answers provided by each company are indicated on Attachments A (LSI) and B (M&S).

Cost Estimates vs. CCI

At the June and August IMP committee meetings, the committee asked for clarification on the use of the *2010 Saylor Publications Current Construction Costs* to evaluate cost estimates by the OPSC Plan Verification Team (PVT). LSI was retained to conduct a study to provide a list of square foot school facility costs and was approved by the SAB in September 1987. Since the study was conducted the OPSC PVT has used the *Saylor Publications Current Construction Costs* to evaluate cost estimates.

For further clarification, LSI has two separate publications; one is the *2010 Saylor Publications Current Construction Costs* and the other is the CCI. The LSI CCI is based on the construction cost market value, and the *2010 Saylor Publications Current Construction Costs* is a specific resource that portrays construction costs for preparation of conceptual, schematic, preliminary and final estimates for architects, engineers, estimators in all trades, as well as, general building and engineering contractor estimators.

M&S does not have a publication available for use by PVT to evaluate cost estimates that would facilitate line item costs/breakdowns. M&S publishes the CCI that is based on the construction cost market value.

DISCUSSION

At the March 2010 SAB meeting the direction of the Board asked Staff to examine the various indices available and discuss those options at an IMP meeting. Staff has the following options for the Committee to review based on the information and data collected for adoption within statute. Additionally, Staff has provided future options for proposed legislative changes.

What index can be adopted for the 2011 CCI adjustment?

EC Section 17072.10(b) states, "The Board shall annually adjust the per unhooded-pupil apportionment to reflect construction cost changes, as set forth in the statewide cost index for class B construction as determined by the Board."

Current Options:

Adopt one of the following Class B indices; M&S 8 CA Cities, 10 Western States*, or LSI.

Future Options:

Legislative change to redefine "Class B" based upon the confines of school construction; or adopt a Class B customized index by either M&S or LSI.

Does the SAB want a customized index?

Current Options:

Adopt a customized index that is a Class B index; both M&S and LSI stated the customized index can be classified as a Class B index.

Can the Board adjust the CCI more than once a year?

EC Section 17072.10(b) which states, "The Board shall annually adjust the per un-housed pupil apportionment to reflect construction cost changes, as set forth in the statewide cost index for class B Construction as determined by the Board."

Current Options:

Staff received a legal opinion that the board can only make this adjustment annually, to mean only once in a 12 month or 365 day period.

Future Options:

Legislative change to allow a CCI adjustment at the Board's discretion. Several IMP members proposed a CCI adjustment multiple times a year.

At this time, Staff would like to seek further input from the Committee members and stakeholders on the updated information of the Construction Cost Indices.

*However, concern has been expressed that M&S 10 Western States does not meet the standards within Statute.

AUTHORITY

New Construction

EC Section 17072.10(b) states, "The Board shall annually adjust the per unhousted- pupil apportionment to reflect construction cost changes, as set forth in the statewide cost index for class B construction as determined by the Board."

SFP Regulations Section 1859.71 states, "The new construction per-unhoused-pupil grant amount, as provided by Education Code Section 17072.10(a), will be adjusted annually based on the change in the Class B Construction Cost Index as approved by the Board each January."

Modernization

EC Section 17074.10(b) states, "The Board shall annually adjust the factors set forth in subdivision (a) according to the adjustment for inflation set forth in the statewide cost index for class B construction, as determined by the board."

SFP Regulation Section 1859.78 states, "The modernization per-unhoused-pupil grant amount, as provided by Education Code Section 17074.10(a), will be adjusted annually based on the change in the Class B Construction Cost Index as approved by the Board each January."

SFP Regulation Section 1859.2 defines "Class B Construction Cost Index" as a construction factor index for structures made of reinforced concrete or steel frames, concrete floors, and roofs, and accepted and used by the Board.

Attachment A
LSI CCI (formerly Lee Saylor Index)
Customized Index Response

The LSI CCI produces monthly data on changes in the prices paid by consumers for a representative project and services. The percent change in the LSI CCI is used as a measure estimating inflation as it pertains to California construction costs. It is the statistical measure of changes in market factors representing the California construction market. Each index has its own calculation methodology and is expressed in terms of a change from a base value (the previous end of year). Thus, the percentage change is more important than the actual numeric value.

The LSI CCI (formerly known as the Lee Saylor Index) was first established by an economist in 1969 to follow specific material and labor changes in a manner that would most accurately reflect California's construction market. It is considered one of the 11 most important construction indexes in the United States by Engineering News Record for over 40 years and the only index characterizing strictly California costs. During this period it has been used by the State of California in many capacities, including The Office of Local Assistance, now Office of Public School Construction. The LSI CCI is also the basis for all increases in the Saylor Construction Cost Data books which are already utilized by OPSC for their reviews.

In the early 1990s, during a change in ownership of Lee Saylor, Inc., I took over production of the index. The Company wanted to abandon it, and there was not a priority placed on the timeliness of the index in my mind and I was often late in the delivery of the index. Much to my chagrin and embarrassment, I did not understand the importance of the index and did not place a priority on it. However, today, I have come to fully understand the importance and necessity of this timely follow thru. I would like a second chance to work with you and prove it. I believe with the LSI CCI, and its long history of use in the State of California, we can give OPSC a viable, usable index for school construction.

Now, to answer the questions you asked:

1. *If we had a customized construction cost index could it be considered "Class B"?*

Yes, I have over 40 years of detailed information on both materials and labor which can be sorted and customized to fit your criteria for Class B Construction.

2. *Does LSI use ONLY prevailing wage? Can you please provide back up information on how you get that information?*

In the preparation of the LSI CCI, only Union wages (which is what prevailing wages based on) for specific trades as the labor factors in the index are taken directly from Engineering News Record and utilized in the labor section of the index.

3. *What would be the cost of a customized index?*

As the LSI CCI already has a component which fits the definition for "Class B" construction for the State Allocations Board, there would be no additional charge.

4. *How long would it take to customize it?*

As the LSI CCI already has the "Class B" component it would not require any time to be made available to the SAB along with historic numbers and graphs and forecasts.

5. *What materials would LSI suggest that we include in this customized index to accurately capture school construction in CA?*

The LSI CCI covers all the major components of school construction, and I do not believe adding more would enhance the accuracy of the index.

6. *How frequent can an index be released? Month to month? Annually?*

Currently, the index is prepared on a month to month basis and released quarterly.

7. *Can an Index be forecasted?*

Since I have over 40 years of actual indexes, yes we can put it on a trend graph based off of the 40 + years of historic information to forecast where construction costs will most likely go. I have already done this for several clients.

Attachment B
Marshall & Swift (M&S)
Customized Index Response

M&S researches local building material and labor wages throughout California and the rest of the USA and Canada for our Total Component Database (TCD). Our research also includes productivity and business costs for insurance, workers compensation, overhead and profit, etc. Our staff is constantly updating TCD which drives our various products and services that support our insurance, real estate and government customers.

In reviewing the current process and proposed changes, our first concern is in the accuracy of the original estimate. M&S has researched construction costs for over 75 years and believes that the most accurate estimates come from a review of the building plans and then estimating materials, labor, equipment, productivity and business practices required to build the specific building. M&S offers building cost estimates based on student count, but cautions that a variety of architectural selections and building features can have significant affect on the cost per pupil.

We believe that the best method of adjusting the cost of a building over time is to:

1. Use a cost estimator program to estimate the original value,
2. Archive the building characteristics and then,
3. Use a cost estimator program with current data to estimate the building at a later date.

The alternative to estimating a building's cost at two different points is to use an index of building costs. And the most accurate California school index would be based on the materials and labor needed for schools in California. As we discussed, a custom index would begin with a model or models (primary, middle and high school for example) that incorporates a common set of building materials and labor components. We could build models from plans and specifications of "typical" schools or from consulting with your staff on what should be included in a typical school. We could then adjust the building costs based solely on the changes in costs of materials and wage rates in California—in fact we could build the index to reflect the changes in material and labor costs for different locations around California. Once we have the building models, we can adjust costs estimated in the past to incorporate current pricing—but we do not have index forecasts at this time. As was discussed on August 12, our indexes may not capture price spikes, but we do capture trends that are reflected in our indexes.

Building a custom index would entail some work by our research staff and consultation with you on the models whether that is providing us with plans and specifications or describing the typical building for us to build the model. There would be a setup cost that reflects the hours our Data Asset team needs to build and test the new school models. There would also be an ongoing fee for maintaining the custom index to cover the work to do quality testing and validation each time the index is updated for you. The fees would be based on complexity and the frequency that we run the model. The costs would be higher than the cost OPSC pays today for our off the shelf indexes.

As for your remaining questions:

1. ***If we had a customized construction cost index could it be considered "Class B"?***

We could include only Class B buildings in your index or make a separate entry for only Class B buildings if you need that segregation.

2. Does M&S use ONLY prevailing wage? Can you please provide back up information on how you get that information?

Our indexes—standard and custom—are based only on prevailing wages in California

3. What would be the cost of a customized index?

Complexity—how many models, do we review plans and specs to build models, etc.— would determine the cost and time required to build a custom index. We would need more information to provide specific costs and times to complete.

4. How long it would take to customize it?

Answered in #3.

5. What materials would M&S suggest that we include in this customized index to accurately capture school construction in CA?

M&S would recommend you provide one or more sets of plans and specifications on a typical building that we use to build each model. We could build different models based on usage (elementary school, high school, etc.) or other factors that would result in a different building design. Our research staff will build the models based on the building materials in the plans and specs with proper weighting for the building components. Our index will then more accurately reflect the change in overall construction cost based on changes in the actual components of a building. Our indexes will reflect market condition trends, but not necessarily cost spikes driven by short term capacity limitations. We could model economic data—especially construction start data—to find correlations with the price spikes you experienced several years ago but that would also require some detailed analysis of the bid results and may not be cost effective.

6. How frequent can an index be released? Month to month? Annually?

All prices in an index are researched at least quarterly and our indexes could be made available quarterly as well.

7. Can an Index be forecasted?

As mentioned previously, our indexes are not forecasts, but real time measurements of actual construction costs.

How were the indexes used under Lease Purchase Program (LPP)?

The LPP grant amounts were determined on a square footage basis. The OPSC would determine by using the DSA approved plans whether the building type was Class B or Class D for each building. A school construction project could have consisted entirely of one building class type or a combination of both. The grant amount was based primarily on the verified square footage of each building for each class type.

What index did the SAB use under the LPP?

The former Office of Local Assistance (OLA) used the adjustment factors from M&S since the mid-1960's. Over time, different index baselines were established providing that the adjustment factor could begin at 1.00 after periods of inflation. The baseline for the building class indices were re-established in September 1987. For ten years (1987 to 1996), LSI provided the Class D adjustment factor while M&S provided the Class B. During that time the OLA continued to record the M&S factors for both building classes and based upon this data the SAB proposed that the LSI and M&S Class D factors resulted in equal indices. The M&S index was more readily available on a monthly basis; therefore the SAB approved the use of M&S exclusively in September 1996.

What is the difference between Class B and Class D?

Class B refers to buildings made of reinforced concrete or steel frames, concrete floors, and roofs. Class D refers to structures that are constructed primarily of wood. The terms appear to have been developed for the purpose of classification in construction cost indices.

Why is the Class B CCI used for SFP?

Senate Bill 50 (Greene) created the SFP in 1998 and required the SAB to use the annual percent change in the Class B index to adjust the pupil grant amounts provided for modernization and new construction projects.

Can the Board adjust the CCI more than once a year?

EC Section 17072.10(b) which states, "The Board shall annually adjust the per un-housed pupil apportionment to reflect construction cost changes, as set forth in the statewide cost index for class B Construction as determined by the Board." The board can only make this adjustment annually, to mean only once in a 12 month or 365 day period.

Do the indices incorporate prevailing wage rates?

Each company tracks the local union wages for each city surveyed for the index. A majority of local union wages make up the prevailing wage in most states. "Prevailing Wage" is defined by the Department of Industrial Relations (DIR) as the hourly wage, usual benefits and overtime, paid to the majority of workers, laborers, and mechanics within a particular area. California prevailing wage rate is established by the DIR for each trade and occupation based on surveys given in a given area for the predominant wages. According to the DIR, the majority of predominant wages are the union wages. For example, ENR has price reporters covering 20 U.S. cities that check prices locally.

The prices are quoted from the same suppliers each month and ENR computes its latest indexes from these figures and local union wage rates.

Attachment D
CONSTRUCTION COST INDICES COMPANY COMPARISON

Materials Used in the Index

Marshall & Swift Building Cost Index	Lee Saylor Inc. Building Cost Index	Engineer News Record Building Cost Index
<ul style="list-style-type: none"> • Ready-mix Concrete • Concrete Block • Brick • Drywall • Structural Steel • Steel Decking • Felt Paper • Re-bar • Galvanized Pipe • Copper Wire • Plywood • Lumber 	<ul style="list-style-type: none"> • Aluminum • Felt Paper • Concrete Block • Brick • Cement, Portland • Ready-mix Concrete • Copper tubing • Glass • GWB • Insulation, Mineral Wool • Insulation, Rigid Fiberboard • Lath, metal • Lumber • Masons Lime • Paving, Asphalt • Pipe, PVC • Pipe Reinforced Concrete 24" • Plywood • Steel Sheets, Stainless • Steel, Reinforcing • Steel, Structural • Tar Pitch • Titanium Pigment 	<ul style="list-style-type: none"> • Structural steel • Cement • Lumber

Labor Used in the Index

Marshall & Swift Building Cost Index	Lee Saylor Inc. Building Cost Index	Engineer News Record Building Cost Index
<ul style="list-style-type: none"> • Electricians • Bricklayers • Carpenters • Structural Ironworkers • Plumbers • Common Laborers 	<ul style="list-style-type: none"> • Carpenters • Bricklayers • Structural Ironworkers • Common Laborers • Operating Engineers • Plasterers • Plumbers • Electricians • Teamsters 	<ul style="list-style-type: none"> • Bricklayers • Carpenters • Structural Ironworkers

Index City Grouping

Marshall & Swift	Lee Saylor Inc.	Engineer News Record
<ul style="list-style-type: none"> • Average of 10 Western States, Class B • Average of 8 Cities in California, Class B • Average of San Francisco & Los Angeles 	<ul style="list-style-type: none"> • Average of Labor in 16 U.S. Cities • Average of Materials in 20 U.S. Cities 	<ul style="list-style-type: none"> • Average of San Francisco & Los Angeles

STATE ALLOCATION BOARD
IMPLEMENTATION COMMITTEE MEETING
September 9, 2010

AB 127

PURPOSE OF REPORT

To present and discuss options regarding, the annual adjustment to School Facility Program (SFP) Grants authorized by Assembly Bill (AB) 127, as authorized by Education Code Section 17072.11(b).

BACKGROUND

At the January 27, 2010 SAB meeting the Board directed the Implementation Committee to discuss AB 127 and return to the State Allocation Board (SAB) with recommendations. The following table provides an overview on the history of the SAB, Implementation Committee, and the Grant Adequacy Ad Hoc Committee discussions regarding AB 127:

December 2005	<p>The Grant Adequacy Ad Hoc Committee was assembled and comprised of representatives from several school districts, architectural, construction and construction management firms, consultants, the California Building Industry Association, the Department of Finance (DOF), the California Department of Education (CDE), and Board Staff Members.</p> <p>Several meetings took place in December 2005, and devised goals and objectives for the Committee. The first objective, to determine if the SFP new construction base grant was equitable at the time of conversion from the LPP, was complete. The second objective, determining if the grants are sufficient to build new schools today, was still under development.</p>
March 2006	<p>Staff and the Grant Adequacy Ad Hoc Committee developed a survey to send to school districts to gather data on current costs to build schools. The survey was sent to 231 school districts and 52 percent were returned, however, the majority were incomplete. Staff reported it would be unable to make conclusive recommendations regarding the adequacy of the grants absent comprehensive data.</p>
April 2006	<p>Purpose: To provide a status on the review of the adequacy of the new construction grant to build new schools under the SFP.</p> <p>Board Action: The Board accepted the report and Staff's recommendation to bring a report back to the Board when the analysis of the entire funding model is complete. In addition, the Board requested that a proposal and recommendations regarding general site additional grants be presented at the May SAB meeting.</p> <p>http://www.documents.dgs.ca.gov/opsc/SAB_Agenda_Items/Archives/2006/Apr26.pdf</p>
May 2006	<p>Assembly Bill (AB) 127, Chapter 35, Statutes of 2006 (Perata/Nunez) added Education Code (EC) Section 17072.11 which provided for an increase of seven percent for elementary and middle school projects and a four percent increase for high school projects beginning July 1, 2006. AB 127 also stated that beginning January 1, 2008, the SAB has the authority to increase the base grant up to six percent or decrease it by an amount determined every fiscal year based on the current construction costs.</p> <p>Staff and the Grant Adequacy Ad Hoc Committee developed a project information worksheet (PIW). Various drafts of this worksheet were presented to the SAB Implementation Committee beginning in July through September 2006.</p>

July 2006 - February 2007	Discussions began to implement EC Section 17072.11, added pursuant to Assembly Bill 127, Chapter 35, Statutes of 2006 (AB 127), which provides an adjustment to the New Construction Base Grant. The IMP held several meetings to discuss the following programs: Small High Schools, High Performance Schools, Grant Increase, Charter School Facility Program, Seismic Mitigation/Replacement, and the Overcrowding Relief Grant.
September 2006	<p>Purpose:</p> <ol style="list-style-type: none"> 1. Adopt proposed emergency regulations to implement and administer statutory amendments as follows: <ul style="list-style-type: none"> • Small High School • High Performance Schools (Resource Conservation Measures) • Charter School • Grant Increases 2. Authorization to file the proposed emergency regulations with the Office of Administrative Law (OAL). <p>Board Action: The Board approved Option 2 regarding the High Performance Schools Grant, and corrected "(a)" to "(a)(1)" in the final line of Regulation Section 1859.163.1. The Board also requested that The California Department of Education (CDE) work with OPSC to collect project cost and construction information relative to future grant increases and to report on the findings. http://www.documents.dgs.ca.gov/opsc/SAB_Agenda_Items/Archives/2006/Sep27.pdf</p>
October 2006	<p>Purpose: Amendments to the School Facility Program for the General Site Development Grant, Small High School Program, and Charter School Facilities Program.</p> <ol style="list-style-type: none"> 1. Adoption of technical and non-substantive amendments to the SFP regulations for the additional grant for general site development, the Small High School Program, and the Charter School Facilities Program. 2. Authorization to file the proposed regulations on an emergency basis with the OAL. <p>Board Action: This item was approved by the Board. http://www.documents.dgs.ca.gov/opsc/SAB_Agenda_Items/Archives/2006/Oct25.pdf</p>
March 2007	<p>Purpose: To provide a status on the review of the adequacy of the new construction grant to build new schools under the SFP.</p> <p>Board Action: This report was accepted by the Board. CDE indicated that they could supply staff within 30 days, projects that have met Title 5 and are complete schools, and would subsequently provide a definition of a complete school. It was emphasized that the definition of a complete school is necessary as soon as possible in order to have a basis of comparison for the construction project and cost data collected and in ample time to meet the statutory timeline of January 2008. http://www.documents.dgs.ca.gov/opsc/SAB_Agenda_Items/Archives/2007/Mar28.pdf</p>
June 2007	<p>Purpose: To provide information requested by the SAB on the components of a complete school consistent with the <i>California Code of Regulations, Title 5</i> and a representative sample of such schools.</p> <p>Board Action: This item was approved by the Board. http://www.documents.dgs.ca.gov/opsc/SAB_Agenda_Items/Archives/2007/Jun27.pdf</p>
July 2007	<p>Purpose: To present the proposed PIW that will be used to gather data for the purpose of determining the annual increase or decrease to the New Construction Base Grant per EC Section 17072.11.</p> <p>Board Action: The Board requested that Staff return to the August SAB meeting with a revised PIW. In addition, the Board requested that Staff meet with the stakeholders and practitioners for input on the worksheet. http://www.documents.dgs.ca.gov/opsc/SAB_Agenda_Items/Archives/2007/Jul25.pdf</p>

August 2007	<p>Purpose: To present the proposed PIW that will be used to gather data for the purpose of determining the annual increase or decrease to the New Construction Base Grant per EC Section 17072.11 and for bond accountability.</p> <p>Board Action: The Board delayed action for 30 days. http://www.documents.dgs.ca.gov/opsc/SAB_Agenda_Items/Archives/2007/Aug22.pdf</p>
September 2007	<p>Purpose: To present the proposed PIW that will be used to gather data for the purpose of determining the annual increase or decrease to the New Construction Base Grant pursuant to EC Section 17072.11, for bond accountability, and the status of the bid climate.</p> <p>Board Action: The Board approved to move forward and use the PIW until the end of the calendar year, monitor the results, and revisit it in January 2008, if necessary. http://www.documents.dgs.ca.gov/opsc/SAB_Agenda_Items/Archives/2007/Sep26.pdf</p>
December 2007	<p>Purpose: To provide an update on the study on the adequacy of the new construction grant.</p> <p>Board Action: The Board requested that Staff continue to keep open lines of communication regarding the process being utilized and to provide updates to the Board. Additionally, the Board requested Staff to follow up with the County Superintendent of Schools for purposes of conducting a separate study on the costs to construct county schools. http://www.documents.dgs.ca.gov/opsc/SAB_Agenda_Items/Archives/2007/Dec12.pdf</p>
January 2008	<p>Purpose: To present the findings made by the Macias Consulting Group (MCG) on the adequacy of the New Construction Grant.</p> <p>Board Action: There was much discussion by the SAB regarding this final report. The Board requested that a working group be started to delve into the report to try to achieve a better understanding and come back with a recommendation to the Board. http://www.documents.dgs.ca.gov/opsc/SAB_Agenda_Items/2008-01/GA.pdf http://www.documents.dgs.ca.gov/opsc/SAB_Agenda_Items/2008-01/MCG_Final_Rpt.pdf#search=grant%20adequacy%20survey&view=FitH&pagemode=none</p>
May 2008	<p>Purpose: To discuss the adequacy of the New Construction Grants and to recommend a grant adjustment, in accordance with EC Section 17072.11.</p> <p>Board Action: The Board approved staff's recommendations and requested staff to present this item on an annual basis. In addition, the Board requested staff to collect sound data in order to satisfy the need to know the costs to construct schools. http://www.documents.dgs.ca.gov/opsc/SAB_Agenda_Items/2008-05/hcg.pdf</p>
February 2009	<p>Purpose: To present and discuss options regarding:</p> <ol style="list-style-type: none"> 1. The annual adjustment to the SFP Grants based on the Class B Construction Cost Index (CCI) as provided in EC Section 17072.10 (b) and Title 2 of the California Code of Regulations; 2. The annual adjustment to SFP Grants authorized by Assembly Bill (AB) 127; 3. Extending the General Site Development additional grant. <p>Board Action: The Board approved staff's recommendations, including the date change in Recommendation No. 3 to extend the General Site Development additional grant to "January 1, 2010." In addition, the Board requested that the six percent grant adjustment provided through AB 127 be discussed at the April 2009 Implementation Committee meeting so the Board can address the issue at a future SAB meeting. http://www.documents.dgs.ca.gov/opsc/SAB_Agenda_Items/2009-02/SFP_GA.pdf</p>

April - June 2009	Discussed the methodology for analyzing data obtained from the Project Information Worksheets at the IMP meeting.
June 2009	<p>Purpose: To discuss the proposed methodology for the analysis of new construction grant adjustments as required by AB 127 [Chapter 35, Statutes of 2006 (Nunez)].</p> <p>Board Action: The Board took no action but requested the OPSC to initiate a meeting with the authors of a June 2008 <i>University of California-Berkeley Report</i> on school construction costs to ask their advice on the new construction grant methodology. In addition, the Board requested the OPSC to work with Los Angeles Unified School District to address OPSC data collection and its transparency. http://www.documents.dgs.ca.gov/opsc/SAB_Agenda_Items/2009-06/SABagenda06_24_09.pdf</p>
July 2009	<p>Purpose: To present a report prepared by University of California – Berkeley that addresses research findings of school construction costs and factors that affect California.</p> <p>Board Action: The Board took no action</p> <p>An electronic copy of this report is available on the OPSC website at: www.opsc.dgs.ca.gov</p>
January 2010	<p>Purpose: To present an analysis of the relationship between the SFP new construction grant amounts and the cost of new construction along with options for adjusting the SFP new construction pupil grant amounts.</p> <p>Board Action: The Board requested that staff recommend a process resolving the mass of reports and provide a timeline for the Board that includes discussion at the Implementation Committee so it can be presented at a future SAB meeting. http://www.documents.dgs.ca.gov/opsc/SAB_Agenda_Items/2010-01/January_27_2010.pdf http://www.documents.dgs.ca.gov/opsc/SAB_Agenda_Items/200911/New_Construction_Grant_Adjustment_Report.pdf</p>

AUTHORITY

EC Section 17072.11(b) states, “On or after January 1, 2008, the board shall increase or decrease the per-unhoused pupil grant eligibility by amounts it deems necessary under this article and the per-pupil cost of new school construction, provided that the increase in any fiscal year pursuant to this section shall not exceed 6 percent.”

STATE ALLOCATION BOARD
IMPLEMENTATION COMMITTEE MEETING
September 9, 2010

HIGH PERFORMANCE INCENTIVE GRANT FUNDING

PURPOSE OF REPORT

To provide answers to frequently asked questions (FAQ's) regarding the High Performance Incentive (HPI) grant portion of the Project Information Worksheet (PIW).

BACKGROUND

In May of 2010, the State Allocation Board (SAB) approved regulation changes that added more available credits to the High Performance Rating Criteria as well as adding more funding for each project that qualifies for the HPI grants.

At the June 3, 2010 Implementation Committee meeting there was discussion regarding how Districts should proceed in filling out the SAB approved changes to the PIW related to the new HPI grant regulation changes. Since some Committee Members and Stakeholders raised questions regarding the changes, Staff has developed the proposed FAQs that will be available to Districts for their use, as shown in the attachment. It is Staff's goal to assist Districts in filling out the PIW and making that process as simple as possible.

DISCUSSION

The SAB wanted to use the HPI grants as a starting point for collecting information on costs associated with the design and construction of high performance attributes in school facilities. Currently there is no data on costs associated with high performance building features. Staff would like to emphasize that the information on the Worksheet will not be used as part of a project audit but will be analyzed to help improve programs in the future.

Staff would like to clarify the questions and concerns brought forward at the June IMP concerning the PIW, they are as follows:

Flexibility

When creating this form, the idea that was central to the design was allowing for flexibility in reporting. Staff understood that there was no perfect way of addressing the need for data collection and that any format that was ultimately chosen would have its flaws.

As mentioned previously, there is currently a lack of information related to the differential in costs for high performance building features. By allowing flexibility in filling out this form, it is Staff's hope that districts will report differential costs and other information in a way that will illustrate exactly what benefits, savings and differential costs are associated with high performance building components.

(continued on page two)

STAFF COMMENTS (cont.)

New projects should use “expected” benefits/savings instead of “realized” benefits.

In the “Additional High Performance Incentive Grant Information” section of the HPI page in the PIW, Districts are asked to report energy savings and student achievement, as well as any other benefits that were realized from the high performance features in the project. It was noted that often times those types of benefits take long periods of time to measure. Another comment was that, especially in new schools those benefits are impossible to determine being that the schools don’t have comparisons to make. In cases like these, Staff is asking the District report expected benefits instead of realized benefits.

Data sheets versus line-by-line entries

As the PIW is an online form with only single line entries for data, there was a request to allow Districts to submit or attach data sheets for the requested differential information in sections 5 and 6 of the “High Performance Incentive Grant Information” area of the HPI page in the PIW. This would enable more ease of reporting for large volumes of high performance component or system information as well as avoid duplication of data entry for Districts. Staff is currently exploring this option and will continue to examine this request and seek methods for collecting data in large volumes.

Modernization Projects

Typically modernization projects do not have the requirement for submitting a PIW the way that new construction projects are required to. For the purposes of the HPI grants, modernization projects that receive high performance funds are required to submit a PIW, but only for the HPI grant portion of the project and of the PIW form. This means only the header section (to indentify the project) and the last page of the form need to be filled out.

Establishing Standard Costs

The standard cost of an element or component should be the cost (or average cost if there is a variance) of what a building feature or system costs when they are standard or not high performing. An example of this would be how much the cost of a standard non high performing HVAC system is. This will be used in comparison to the cost of a similar high performing feature or system to examine the difference in costs.

One Committee Member also noted at the June 3, 2010 meeting that often architects would provide a cost estimate for standard or non high performing components as well as an augmented cost estimate showing the increase for installing high performing components. This information could be use in filling the PIW out and for establishing both the standard costs and the differential for similar, but high performing components.

(continued on page three)

STAFF COMMENTS (cont.)

The data on the PIW that Districts provide will help to improve the program by identifying the components included in the HPI projects. Data collection is important in the effort to continue to improve the HPI program, and all other programs. By having actual data from Districts the efforts and discussions within workgroups and Staff can assist in building the programs, as recently accomplished by the HPI workgroup. The HPI workgroup identified that 16 additional points were necessary for increased participation and interest in the HPI grants. The PIW information will increase the ability to identify additional program improvements.

Attachment

High Performance Incentive Grant – PIW FAQs

General Questions

Q: When must the HPI Grant section of the PIW be completed?

A: This section of the PIW must be completed at each reporting period for the project and only when the project has received High Performance Incentive grants.

Q: Who may complete the HPI Grant section of the PIW?

A: Anyone with access to the school district's password for logging in to the OPSC website will be able to fill out the PIW information for HPI grants. Passwords are only given to those who have been identified by the school district as valid representatives and are on file in the OPSC database. To change the district representative, a school district can submit a Form SAB 50-03, filling out Section 1 of the form only, naming the new representative(s).

Q: What will the information be used for?

A: The information gathered on HPI grant funding will be used as a guide for future consideration of how similar programs will be created and funded. Currently there is a lack of good data on costs associated with high performance building features, so the State Allocation Board wanted to use the HPI grants as a starting point for collecting information on costs associated with constructing high performance buildings and components. This information will not be used as part of a project audit.

High Performance Incentive Grant Information Section

Q: How do I find out the number of HPRC points attained?

A: Each project that is submitted to the OPSC for HPI grant funding must have a High Performance Rating Criteria Scorecard approved by the DSA. This scorecard will have the number of HPRC points attained in the project design.

Q: What is the Total State Apportionment?

A: For new construction projects, the Total State Apportionment is 50% of the eligible project costs as shown on the funding shell that was approved by the State Allocation Board. For modernization projects the Total State Apportionment is 60% of the eligible project costs. For projects approved with Financial Hardship requests, these amounts may be up to 100% of the total eligible project costs depending on if the district has any matching funds available for the project.

Q: How do I calculate State Share HPI?

A: The number of HPRC points attained on the HPRC Scorecard provided by the DSA is translated in to a percentage increase to the construction base grant amount for the project.

Whatever dollar figure results from this percentage increase represents either the 50% State Share of the HPI grant for new construction projects or the 60% State Share of the HPI grant for modernization projects. If the district has a copy of the funding shell that was approved by the State Allocation Board the amount listed on the shell for High Performance represents the State Share of the HPI grant for that project. Funding shells are also available on the OPSC website in the State Allocation Board agenda archives.

Q: What is the Total District Match?

A: For new construction projects the Total District Match would be equal to the Total State Apportionment for the project. For modernization projects, the Total District Match for the project is 40% of the total project costs. To calculate the Total District Match based on the State's 60% share amount, take the State Share at 60%, divide by six and then multiply that result by four, this will give you the Total District Match.

Q: How do I calculate Total HPI Match?

A: For new construction projects the Total HPI Match would be equal to the State Share HPI grant amount for the project. To calculate the Total HPI Match for modernization projects, take the State's 60% Share of the HPI grant, divide by six and then multiply that result by four, this will give you the Total HPI Match.

Q: What types of Hard Cost components/elements should be included (or excluded)?

A: Any of the components or elements of the design that helped to attain HPRC points should be listed in the Differential Costs section of the PIW. Only items and systems that are high performing as compared to similar non high performing items should be reported. This may include, but is not limited to; lighting systems, HVAC systems, roofing, insulation, energy efficient windows and doors, low flow toilets and urinals, ducting, low mercury emitting items, etc.

Q: What types of Soft Cost components/elements should be included (or excluded)?

A: Any of the soft costs related to designing and integrating the high performance design features should be included in the Differential Costs section. This should include a comparison to what a high performance design costs as compared to a standard design. Also expenditures on commissioning and/or training to use the high performing components properly can be reported. Costs associated with feasibility studies and testing may also be included in this section.

Q: What is the "High Performing Cost" of a component/element?

A: This is just the cost of the high performing components or elements included in the project. The cost of these high performing features will be compared to what a similar non high performing feature costs.

Q: How do I find the "Standard Cost" of a component/element?

A: The standard cost of an element or component should be the cost (or average cost if there is a variance) of what a building feature or system costs when they are standard or not high performing. An example of this would be how much the cost of a standard non high performing

HVAC system is. This will be used in comparison to the cost of a similar high performing feature or system to examine the difference in costs.

Q: What if I don't know / I can't find the cost data for some components/elements?

A: There are publications such as the Sailor Cost Index and other publications that will give costs on building components and elements. Architects and cost estimators may also be able to provide these figures.

Additional High Performance Incentive Grant Information Section

Q: In the Energy Savings section, do I report money saved per month? Per year?

A: This section can be reported either by month or by year depending on the length of time that the energy savings have been realized. If this is for a new school project, projected energy savings may also be used for this section.

Q: How can cost-per-month savings be measured or anticipated for new facilities, when there are no past energy costs for the facilities to compare with?

A: Energy costs for other similarly sized buildings in the district may be used as a measuring stick for anticipated energy costs to be compared to the savings that are projected or estimated to be realized with the high performing features in the new facilities.

Q: It looks like the Energy Savings section is asking for data on money saved. Can we report actual energy savings (i.e. using less energy), too?

A: Yes. Please report any and all benefits that are realized from energy savings or any other benefits that are realized from the high performing components in the facility. If this is a new school without older energy usage to compare with, please indicate expected energy savings.

Q: When I am filling out the Student Achievement section, what if I don't have any data to report here (as would be the case with a new school.)

A: If you do not have any data to report in this section, simply put "N/A". Data that would be appropriate to enter here would be any academic benefits or other benefits realized by students as a result of the high performing components in the project.

Q: What kinds of "Other Benefits" realized may be reported?

A: Any benefit not identified in any of the other categories on the form should be listed in this section. This information gathered in this form is going to be used for providing a foundation for future high performance types of programs. Any benefits that are identified will be useful in creating a program that focuses on the benefits being realized by those who have already constructed high performing facilities.

INFORMATION

The information collected using this form is necessary in order to conduct an analysis of the relationship between the per-unhoused-pupil grant eligibility and the per-pupil cost of new school construction for grades K-12 pursuant to Education Code Section 17072.11, to meet the requirements for bond accountability, and the status of the bid climate.

INSTRUCTIONS

This worksheet is to be completed and submitted with the *Fund Release Authorization* (Form SAB 50-05) for all new construction projects that are completing Part IV of the Form 50-05.

This worksheet is to be completed and submitted with the *Expenditure Report* (Form SAB 50-06) for all new construction projects that have received a fund release pursuant to Part IV of the *Fund Release Authorization*.

Attach to this form the accepted bid documents including additive/deductive alternates.

Completed By: Enter the name and title of the person completing this worksheet.

Phone Number: Enter the contact phone number for the person completing this worksheet.

Date Completed: Enter the date that the form was completed.

Application Number(s): Insert the application number provided by the Office of Public School Construction (OPSC). Include the project number(s) of any other associated State funded projects. (e.g. joint-use)

School District: Insert the name of the school district where the project is located.

County: Insert the name of the county where the project is located.

Project Tracking Number: Insert the project tracking number provided by the OPSC, the California Department of Education (CDE), and the Division of the State Architect (DSA).

Project Name: Insert the name of the project (ex. – ABC Elementary School).

Indicate the time period that this form was filled out by checking the appropriate box. Enter the estimated percentage of the project completed. The percentage completed shall be the same as that which is reported on the *Expenditure Report*.

Project Funding

Please provide actual amounts when available and estimates as necessary. Indicate whether the amount reported is the actual or an estimate by checking the appropriate box.

1. Check yes or no to indicate if this is a financial hardship project.
2. Funds available (include site acquisition). If the project includes square footage from other State funded projects (e.g. joint-use), report the funds available from that project.
 - a. Enter the total actual amount of the State Apportionment(s) for this project (sum of 1 and 2).
 1. Enter the amount of the State Apportionment for this project
 2. Enter the amount of the State Apportionment for the joint-use project (if applicable).
 - b. Enter the estimated or actual amount of interest earned on State funds for this project.
 - c. Enter the total actual amount of the District Match for this project (sum of 1 and 2).
 1. Enter the amount of the District Match for this project.
 2. Enter the amount of the District Match for any joint-use project (if applicable).
 - d. Enter the estimated or actual amount of any additional local (district) funds that were necessary to complete this State funded project.

Please provide actual contract amounts when available and estimates as necessary. Indicate whether the amount reported is the actual contract amount or an estimate by checking the appropriate box.

1. Site Acquisition Costs
Enter the total cost for site acquisition, including State share, district share, and any additional local funds. Include any costs for environmental studies and fees.
2. Bid/Construction Contract(s) Data. If the bid(s) includes square footage for other State funded projects (e.g. joint-use), include all associated costs.
 - a. Enter the accepted base bid amount prior to any accepted additive/deductive alternates for all contracts. If there is more than one contract signed (e.g. multiple-prime, etc.) please enter the total of all base bids.
 - b. Enter the amount of all accepted additive/deductive alternates for all contracts.
 - c. Enter the amount of the total construction contract(s). Include the amount of any change orders or addendums, if applicable.
 1. Enter the amount of the building cost in the contract(s).
 2. Enter the estimated amount of the site development work, including service site, offsite, utilities, and general site, included in the contract(s).
 3. Enter the amount of any other construction costs included in the contract(s) (e.g. demolition, interim housing, Labor Compliance Program, General Condition fees, as applicable). If using construction management, enter any general condition fees in 5 below. *Do not include any costs listed in 5 below.*
3. Enter the amount of actual and estimated (not yet contracted, invoiced or obligated) soft costs for the project (e.g. tests and inspections, architect fees, etc.) *Do not include any costs reported in 4 below.*
4. Enter the amount of the estimated remaining hard costs not yet contracted, invoiced or obligated (e.g. portions of work not yet bid, etc.) that are necessary for the completion of this project. *Do not include any costs reported in 3 above.*
5. Enter the amount of Construction Management Fees. If the project is being bid as multiple-prime, include costs for general conditions, etc. *Do not include any costs listed in 2(c)(3) above.*
6. Enter the actual or estimated amount for project contingencies.
7. Enter the actual or estimated amount for furniture and equipment.
8. Enter the amount of the Total Project Cost (do not include site acquisition costs). This amount should be equal to the sum of 2c, 3, 4, 5, 6 and 7 above.

Joint-Use Information

1. Check yes or no to indicate whether the project includes a joint-use partner, even if the joint-use project does not include State funding. Enter the OPSC application number if applicable.
2. Check the appropriate box to indicate which type of joint-use partner is included in the joint-use project.
3. Check yes or no to indicate whether the joint-use partner is contributing capital funding towards this project. If applicable, enter the dollar amount the joint-use partner is contributing.
4. Check which facility(ies) are part of the joint-use project. If other is chosen, please explain the type of joint-use project.

Project Information

- Choose from the drop down menu the type of project that is being built (e.g. new school, addition, etc.)
- Choose from the drop down menu the type of school that best describes this project (e.g. elementary, middle, etc.)
- Select what outdoor facilities you have and how many of each are in the project. If the facility is considered multiple use, check the box that best represents what the facility will be used for the majority of the time. If the project consists of any other playfields not listed, check "other" and explain.
- Check the boxes of the grade levels in the project. Based upon the District's loading standard, enter the number of pupils that can be served at each grade level.

- Enter the master plan site capacity of the project based on single-track use and local district loading standards. Based on teacher contracts and/or local loading standards this number **may be** different from the number of pupils requested on the *Application for Funding*.
- Enter the square footage of the parking structure (if applicable).
- Enter the total net useable site acreage of the project.

Component Types:

- Choose all components that are included in the project. Include the number of each type of facility. Indicate the number of each type of classroom building(s) (e.g. 8 permanent, 4 portable). Indicate if there are any stand-alone restroom buildings. If indicating “other” facilities, a detailed listing of those facilities is not required unless the facility being constructed is atypical or a non-standard facility. If so, then please explain.
- From the pull down menu, choose the main type of construction for each of the buildings in the project (e.g. permanent, modular, portable).
- Enter the square footage of each component that was in the DSA approved plans at the time the project was apportioned by the State Allocation Board (SAB). If more than one component is contained in the same building, in order to prevent duplication, report the square footage by each component. (e.g. library in administrative building, report the square footage under the library and administration under administration). If a building is a classroom building report the square footage of the entire building (e.g. hallways, mechanical area, teacher workrooms, etc.).
- At the time of fund release, only complete this section if there has been a change in scope in the DSA approved plans since the time the project was apportioned by the SAB. Enter the square footage of each component that is in the plans (including any adjustments for addendums or changes orders) when the district submitted its *Fund Release Authorization*. Indicate the square footage of any stand-alone restroom buildings.
- Enter the square footage for each component in the plans (including any adjustments for addendums or changes orders) at the time of the first annual expenditure report and at the time of the final expenditure report.

Total Square Feet All Facilities

- Enter the total building square footage for all facilities in the project. When calculating the square footage, include the total square footage identified on the DSA approved plans for all facilities. Be sure to use the same methodology when calculating square footage for each reporting period.
 - From the total square footage entered above, enter the amount of square footage that is considered stick-built.
 - From the total square footage entered above, enter the amount of square footage that is considered permanent modular.
 - From the total square footage entered above, enter the amount of square footage that is considered portable pursuant to Education Code Section 17070.15(j).

Total Building Cost (Per Square Foot)

- When completing the Worksheet for the first time, enter the original estimated building cost per square foot. For subsequent reports, enter the current estimated or actual cost per square foot. To determine the cost per square foot, divide the total building cost, excluding site acquisition and site development costs (service site, off-site, utilities, parking structures, and general site) by the total building square footage as reported.

Additional Information: This information is being collected to evaluate the bid climate.

1. Enter the number of bidders on this project. If more than one contract was signed for this project (e.g. Multiple-Prime), enter the average number of bidders per trade.
2. Enter the date(s) the bid(s) opened. If more than one bid date, enter the opening bid date of the first bid package.
3. Enter the number of times the project was re-bid, if applicable.

4. Describe the accepted additive/deductive alternates that were included in the project costs. Indicate whether they included facilities or building elements. If the additive/deductive alternate included buildings, please indicate the square footage.
5. Check yes or no to indicate if the contract(s) includes any facilities or other construction that have not yet been identified elsewhere on this form. If yes, explain what those facilities or construction include.
6. Check yes or no to indicate whether the SAB approved project was modified due to cost.
 - a. If, yes explain briefly what measures were taken (e.g. from permanent classrooms to portable etc.)
7. Indicate what facilities, components, or elements, if any, that were included in the SAB approved project have been eliminated. Indicate if any facilities, components, or elements, were added to the project. Provide a brief explanation as to why they were altered.
 - a. If the project received an Adjusted Grant fund release on or after November 1, 2007, check yes or no to indicate whether any facilities and/or square footage that was added or deleted was approved by the CDE, and/or the DSA, and/or the SAB. Please attach the appropriate documentation.
 - b. Check yes or no to indicate if the facilities are intended to be deferred to a later phase. If yes, please explain.

Please note: If you have, or are considering a deviation to the scope of work outlined in the SAB approved project plans, please consult with the CDE, the DSA and the SAB.
8. Check yes or no to indicate whether there were any local requirements or ordinances the district had to meet that were not covered within the State program(s) provisions (e.g. road or street improvements, utilities, or fees demanded by another local agency, etc.)
 - a. Check yes or no to indicate whether or not these costs were included in the construction contract.
 - b. If yes, describe the local requirement and the associated costs.
9. Check yes or no to indicate whether or not you utilized existing architectural plans from another project.
 - a. If yes, indicate how many times the plans have been re-used within the district. Indicate the name(s) of the project(s).
 - b. Indicate the name any other school districts that have used these plans, if known. Indicate the name of the architect who designed the plans.

Comments/Additional Information

Please provide any additional information about this project that you think will be helpful in completing the analysis.

High Performance Incentive Grant Information

The “High Performance Incentive Grant Information” and “Additional High Performance Incentive Grant Information” sections must be completed, at every reporting period, only for projects that were apportioned funds for a High Performance Incentive (HPI) grant pursuant to SFP Regulation section 1859.71.6 and 1859.77.4. The information reported in these sections will not be used for the purposes of recovering funds or auditing projects.

1. Check yes or no to indicate whether this is a financial hardship project.
2. Enter the number of High Performance Incentive points verified for this project.
3. Enter the total actual amount (or estimated amount if actual is not available) of the State Apportionment(s) for this project.
 - a. Enter the total actual amount (or estimated amount if actual is not available) of the State share of the High Performance Incentive grant amount.
4. Enter the total actual amount (or estimated amount if actual is not available) of the District Match for this project.
 - a. Enter the total actual amount (or estimated amount if actual is not available) of the District Match of the High Performance Incentive grant amount.
5. List all *hard costs* for systems, components, or elements in the project that contributed to meeting High Performance Rating Criteria. For each system, component, or element, indicate the cost (actual, or estimated if actual is not available). Also indicate the cost of a comparable non-High Performance standard system, component, or element, and the difference between the High Performing cost and the standard cost. If more space is needed, the information requested in this section may be reported on a separate, attached document.

6. List all *soft costs* for elements (such as commissioning, planning, design, consulting, etc.) in the project that contributed to meeting High Performance Rating Criteria. For each element, indicate the cost (actual, or estimated if actual is not available). Also indicate the cost of a comparable non-High Performance standard element that would have been included in a non-High Performance project, and the difference between the High Performing cost and the standard cost. If more space is needed, the information requested in this section may be reported on a separate, attached document.

Additional High Performance Grant Information

1. Enter the amount of energy savings achieved or expected to be achieved at the school site, compared to energy costs at the site before the High Performance project. If actual energy savings are reported, indicate "Actual." If estimated energy savings or expected energy savings are reported, indicate "Estimated." In the space provided, describe how the energy savings reported were calculated and include a narrative of any other energy savings information that you think may be pertinent.
2. Describe how student achievement has changed since the High Performance facilities have been occupied. If the facilities have not been occupied, or if student achievement changes have not yet been observed or measured, describe the expected changes.
3. Describe other benefits realized, or expected, as a result of the High Performance attributes in this project.

STATE ALLOCATION BOARD
IMPLEMENTATION COMMITTEE MEETING
September 9, 2010

Labor Compliance Program

PURPOSE OF REPORT

To discuss proposed regulations for the implementation of Senate Bill (SB) X2 9 that requires school districts to pay a fee to the Department of Industrial Relations (DIR) for the enforcement a labor compliance program (LCP) for projects funded from State bond funds

BACKGROUND

SB X2 9 (Padilla, Chapter 7, Statutes of 2009) requires school districts that receive State bond funds for public works projects with construction contracts awarded on or after August 1, 2010 to pay a fee to the DIR to ensure compliance with and enforcement of prevailing wage laws on the project. Statute requires that the DIR develop regulations administering the fee in order for the compliance and prevailing wage laws to be in effect. These regulations went into effect on August 1, 2010.

Any state bond funds granted to districts to accommodate the increased costs of a project due to the enforcement of this statute are exempt full and final apportionment; thereby allowing the State Allocation Board (SAB) time to adopt and implement School Facility Program (SFP) regulations.

AUTHORITY

Labor Code (LC) 1771.3 (a) (2)

“The Director of Industrial Relations, with the approval of the Director of Finance, shall determine and assess a fee on any awarding body using funds derived from any bond issued by the state to fund public works projects, in an amount not to exceed one-fourth of 1 percent of the bond proceeds. The fee shall be set to cover the expenses of the Department of Industrial Relations for administering the prevailing wage requirements on public works projects using those bond funds. All fees collected pursuant to this subdivision section shall be deposited in the State Public Works Enforcement Fund, and shall be used only for enforcement of prevailing wage requirements on projects using bond funds and other projects for which awarding bodies pay into the fund. The administration and enforcement of prevailing wage requirements is an administrative expense associated with public works construction.”

LC 1771.75

“(a) An awarding body that chooses to use funds derived from either the Kindergarten-University Public Education Facilities Bond Act of 2002 or the Kindergarten-University Public Education Facilities Bond Act of 2004 for a public works project, shall pay a fee to the Department of Industrial Relations, in an amount that the department shall establish, and as it may from time to time amend, in an amount not to exceed one-fourth of 1 percent of the bond proceeds, sufficient to support the department’s costs in ensuring compliance with and enforcing prevailing wage requirements on the project, and labor compliance enforcement as set forth in subdivision (b) of Section 1771.55. All fees collected pursuant to this subdivision shall be deposited in the State

Public Works Enforcement Fund created by Section 1771.3, and shall be used only for enforcement of prevailing wage requirements on those projects. The department may waive the fee set forth in this section for an awarding body that has previously been granted approval by the director to initiate and operate a labor compliance program on the awarding body's projects, and requests to continue to operate that labor compliance program on its projects in lieu of labor compliance by the department pursuant to subdivision (b) of Section 1771.55. This fee shall not be waived for an awarding body that contracts with a third party to initiate and enforce labor compliance programs on the awarding body's projects."

"(e) Notwithstanding Section 17070.63 of the Education Code, for purposes of this section, the State Allocation Board shall increase the grant amounts as described in Chapter 12.5 (commencing with Section 17070.10) of Part 10 of Division 1 of Title 1 of the Education Code to accommodate the state's share of the increased costs of a new construction or modernization project due to the fee required to be paid to the Department of Industrial Relations to ensure compliance with and enforcement of prevailing wage laws on the project. All fees collected pursuant to this subdivision shall be deposited in the State Public Works Enforcement Fund created by Section 1771.3."

DISCUSSION

At the July 8, 2010 Implementation Committee meeting, staff presented background information on SB X2 9 and a draft of revised SFP regulations. Committee members and stakeholders raised the following questions:

Is a local match required for the DIR Fee?

SB X2 9 requires a local match. Pursuant to LC Section 1771.75(e), the SAB shall provide an additional grant to cover the state's share of the DIR Fee. Therefore, a local match is required so that the DIR receives the full fee. This is consistent with the grant calculations for the new construction and modernization program grants.

The process of how the DIR will collect the funds has not been decided and will be presented at a future Implementation Committee meeting for discussion.

Will the Office of Public School Construction (OPSC) please present scenarios of SFP projects and show which LCP rules they are subject to?

The details and enforcement of SB X2 9 are continuing to be worked out by all agencies involved. At this time, the policies relating to the transitional issues brought up at the July 2010 Implementation Committee meeting have not been resolved. The OPSC will bring the scenarios back at a future Implementation Committee meeting. Below is a list of situations that have been brought to the attention of the OPSC:

- Kindergarten-University Public Education Facilities Bond Act of 2002 (Proposition 47) or Kindergarten-University Public Education Facilities Bond Act of 2004 (Proposition 55) projects which received the old LCP grant but will have a contract signed after 8/1/10
- Third Party LCP: Will the SAB provide funding to districts for third party LCP with current contracts?
- Emergency situation: How will the DIR Fee be determined for emergency projects?
- Multiple prime: Which contract is the determining factor? Will the DIR examine and charge each contract?
- Financial Hardship: What will the State fund?

- Unfunded approvals: How will the unfunded approval list projects be affected?
- Modernization reimbursements: Will a DIR Fee be assessed on projects funded after August 1, 2010 but with contracts signed before August 1, 2010?

Will the Career Technical Education Facilities Program (CTEFP) maximum grant amount of \$3 million per project per school site allow for a funding increase for the DIR Fee?

At this time, it appears that the SAB does not have the authority to provide an additional grant for the DIR Fee for any projects funded from Proposition 1D even though the DIR Fee may be enforced on those projects. As the CTEFP is funded solely by Proposition 1D, this would exclude CTEFP projects from receiving the additional grant.

Will the DIR collect a LCP fee on CTEFP projects that are for equipment only or projects that are for equipment and construction?

How the DIR Fee is applied to CTEFP projects, including those that include or consist of equipment only, will be decided by the DIR. It is recommended that districts contact the Compliance Monitoring Unit (CMU) of the DIR with any questions.

What is the OPSC's outreach plan for communicating with school districts?

The OPSC plans to reach out to school districts and educate them on how SBX2 9 will affect school construction projects, which projects will be affected, what SFP funds will be issued to the school districts and answer the school district's questions. The OPSC and the DIR will make joint presentations at as many County Office of Education (COE) meetings as possible. In addition to these meetings, the OPSC plans to communicate the new DIR Fee to school districts through updates by OPSC project managers at all remaining COE meetings, webinar presentations, an article in the OPSC publication Building Blocks, a frequently asked questions page on the OPSC website, and email notification.

Proposed Regulations

The attachment includes the proposed regulations for the programs that may be affected by the DIR Fee for the enforcement of labor compliance. The proposed regulations, are structured so that the OPSC funds the additional grant according to the fee calculated by the DIR. By not including the calculation for the DIR Fee in the regulations the SFP has freedom to match the additional grant to the DIR Fee according to actual cost. Reasons behind the structure of the regulations:

DIR Fee Criteria

The DIR Fee is in effect for public works projects with construction contracts awarded on or after August 1, 2010. The new SFP regulation sections and/or amendments to existing regulation sections were created to accommodate the new DIR Fee. The contract award date is the date that the school board awards the contract to a construction company. According to DIR, in cases where there are multiple contracts, the contract that triggers the DIR Fee is the main contract for new construction projects and the latest contract for modernization projects.

In the proposed regulations, the purpose of the DIR Fee is taken directly from LC Section 1771.75 (e). Similar text is also found in LC Section 1771.3(a)(2) and 1771.55(a)(3).

With the attached version of the regulations, the SFP is able to accommodate for the DIR Fee assessed to design-build projects. The DIR Fee is applied to design-build projects differently than to other projects. Non design-build projects are calculated on state issued bond funds. For design-build projects, the DIR Fee is calculated on state issued bond funds or total project

cost (minus site acquisition), whichever is greater. Since “total project cost” can be interpreted multiple ways, the OPSC is awaiting clarification from the DIR.

Bond Sources

Qualifying projects funded by Propositions 47 or 55 are subject to the new DIR Fee and are eligible for an additional grant for the State’s share. Projects funded by the Kindergarten-University Public Education Facilities Bond Act of 2006 (Proposition 1D) may be subject to the DIR Fee; however, SB X2 9 did not grant authority the SAB authority to provide an additional grant for the State’s share of the DIR Fee.

Pursuant to LC Section 1771.3 (a) (2) “The Director of Industrial Relations, with the approval of the Director of Finance, shall determine and assess a fee on any awarding body using funds derived from any bond issued by the state”. This includes projects funded by Proposition 47, 55 and 1D.

LC Section 1771.75 authorizes the SAB to provide an additional grant for the DIR Fee. In part (a), the LC identifies bond funds from Proposition 47 and 55 of the SFP as a funding source that triggers the DIR Fee assessment. Part (e) of LC Section 1771.75 is where authority to provide an additional grant is given to the SAB. There, it states that “for purposes of this section, the State Allocation Board shall increase the grant amounts...” LC Section 1771.75 specifies Proposition 47 and 55. Proposition 1D is clearly excluded. Therefore, the SAB may only provide an additional grant for the state’s share of the DIR Fee to projects funded from Propositions 47 and 55. The regulations are written to specify the bonding source.

Waivers

The proposed regulations are phrased so that the SFP will have the ability to award the additional grant even if the school district receives a waiver from the DIR. A waiver would not exempt the school district from the prevailing wage requirements; it only exempts the school district from paying the fee and having the Compliance Monitoring Unit (CMU) unit review the project. The school district would still have to comply with the prevailing wage requirements. The OPSC’s intent is for the school district to use the funds, which would have otherwise gone to the DIR, for their internal program for prevailing wage enforcement.

Since the DIR will use the money collected from the fee to run their CMU, the OPSC plans to call the fee a DIR Fee as opposed to the LCP fee. By calling it the DIR Fee, it also makes it evident that there is a difference between the LCP and the new process with the DIR.

It is not possible to remove the LCP regulations and replace them with the new DIR Fee regulations because the LCP regulations may be in effect for some projects. The LCP may be in effect for public works projects with construction contract awarded prior to August 1, 2010. The DIR has stated that for projects funded prior to August 1, 2010 that award the construction contract on or after August 1, 2010, the DIR Fee will not be imposed.

At this time, Staff would like to seek further input from Committee members and stakeholders on the proposed regulations for the DIR Fee.

ATTACHMENT

Definitions

Section 1859.2. Definitions.

“DIR Fee” is the fee applied to any project funded in whole or in part by the Kindergarten-University Public Education Facilities Bond Act of 2002 or the Kindergarten-University Public Education Facilities Bond Act of 2004 with a construction contract award date on or after August 1, 2010 and is therefore subject to the Labor Code Section 1771.75. The Board shall award an additional grant equal to the state’s share of the fee as determined by the Department of Industrial Relations (DIR) to ensure compliance with and enforcement of prevailing wage laws.

New Construction

Section 1859.71.4. New Construction Pupil Grant Increase for Labor Compliance Program.

- (a) For any project funded in whole or in part by Proposition 47 or Proposition 55 with a construction contract awarded prior to August 1, 2010, After determining all other funding authorized by these Regulations, the Board shall increase the per-unhoused-pupil grant amount by 50 percent of the following calculation for any project for which the district is required under Labor Code Section 1771.7(a) and (b) to initiate and enforce a LCP:
- (1) Using the chart in (b) of this Section, determine the total amount of funding to be provided for the increased costs of a new construction project due to the initiation and enforcement of a LCP.
 - (2) Divide the amount determined in subsection (a)(1) by the total number of pupils, or by one if no pupils are assigned, in the approved application.
- (b) The funding provided for a new construction project to initiate and enforce a LCP shall be calculated on the total project cost, exclusive of site acquisition costs, as follows:

\$16,000	For the first \$1 million or any part thereof, plus
1.6 percent	Of the next \$1 million or any part thereof, plus
0.25 percent	Of the next \$1 million or any part thereof, plus
0.15 percent	Of the next \$1 million or any part thereof, plus
0.32 percent	Of the next \$2 million or any part thereof, plus
0.31 percent	Of the next \$2 million or any part thereof, plus
0.46 percent	Of the next \$5 million or any part thereof, plus
0.44 percent	Of the next \$5 million or any part thereof, plus
0.42 percent	Of the next \$30 million or any part thereof, plus
0.4 percent	Of any remaining portion

Note: Authority cited: Section 17070.35, Education Code.

Reference: Section 17072.10, Education Code.

Section 1859.71.7. New Construction Additional Grant for the Department of Industrial Relations Fee.

- (a) For any project subject to the DIR Fee, the Board shall award an additional grant equal to the state's share of the fee.
- (b) In the event the DIR grants a fee waiver, the Board shall award an additional grant, in an amount equal to that as would be awarded for the state's share of the DIR Fee, to maintain an internal labor compliance program.

Note: Authority cited: Section 17070.35, Education Code.

Reference: Section 17250.30, Education Code

Section 1859.72. New Construction Additional Grant for an Individual with Exceptional Needs.

Modernization

Section 1859.78.1. Modernization Pupil Grant Increase for Labor Compliance Program

- (a) For any project funded in whole or in part by Proposition 47 or Proposition 55 with a construction contract awarded prior to August 1, 2010, After determining all other funding authorized by these Regulations, the Board shall increase the per-pupil grant amount by the following calculation, less the district matching share required in Section 1859.79, for any project for which the district is required under Labor Code Section 1771.7(a) and (b) to initiate and enforce a LCP:
 - (1) Using the chart in Section 1859.71.4(b), determine the total amount of funding to be provided for the increased costs of a modernization project due to the initiation and enforcement of a LCP.
 - (2) Divide the amount determined in subsection (a)(1) by the total number of pupils, or by one if no pupils are assigned, in the approved application.

Note: Authority cited: Section 17070.35, Education Code.

Reference: Section 17072.10, Education Code.

Section 1859.78.1.5. Modernization Additional Grant for the Department of Industrial Relations Fee.

- (a) For any project subject to the DIR Fee, the Board shall award an additional grant equal to the state's share of the fee.
- (b) In the event the DIR grants a fee waiver, the Board shall award an additional grant, in an amount equal to that as would be awarded for the state's share of the DIR Fee, to maintain an internal labor compliance program.

Note: Authority cited: Section 17070.35, Education Code.

Reference: Section 17250.30, Education Code

Section 1859.79.2. Use of Modernization Grant Funds.

The Modernization Grant plus any other funds provided by these Regulations shall be expended as set forth in Education Code Sections 17074.25, 17074.10(f) and 17070.15(f) and may also be utilized for other purposes as set forth in Education Code Section 100420(c). Modernization funding may also be used for the DIR Fee or costs incurred by the district directly or through a contract with a third party provider for the initiation and enforcement of a LCP. Modernization funding, with the exception of savings, is limited to expenditure on the specific site where the modernization grant eligibility was generated. The grant may not be used for the following:

- (a) New building area with the exception of the following:
 - (1) Replacement building area of like kind. Additional classrooms constructed within the replacement area will reduce the new construction baseline eligibility for the district.
 - (2) Building area required by the federal Americans with Disabilities Act (ADA) or by the Division of the State Architect's (DSA) handicapped access requirements.
- (b) New site development items with the exception of:
 - (1) Replacement, repair or additions to existing site development.
 - (2) Site development items required by the federal ADA Act or by the DSA's handicapped access requirements.
- (c) The evaluation and removal of hazardous or solid waste and/or hazardous substances when the Department of Toxic Substance Control has determined that the site contains dangerous levels of a hazardous substance, hazardous waste, or both that exceed ten percent of the combined adjusted grant and the district matching share for the project.
- (d) Leased facilities not owned by another district or a county superintendent.
- (e) Costs associated with Reconfiguration pursuant to Section 1859.78.9.

Modernization Grant funds may be used on any school facilities on the site, with the exception of portable classroom facilities eligible for an additional apportionment pursuant to Education Code Sections 17073.15 and 17074.10(f) and as defined in Section 1859.78.8. If the classroom facilities on the site include areas that are currently ineligible for modernization, it will not disqualify those facilities from future modernization funding.

Note: Authority cited: Section 17070.35, Education Code.

Reference: Sections 17070.15, 17074.25, 17074.32, 17250.30 and 100420(c), Education Code.

Critically Overcrowded Schools

Section 1859.145. Preliminary Apportionment Determination.

The Preliminary Apportionment shall be equal to the sum of the following:

- (a) The amounts shown below for each pupil included in a Preliminary Application:
 - (1) \$5,226.82 for each elementary school pupil.
 - (2) \$5,533.65 for each middle school pupil.
 - (3) \$7,225.94 for each high school pupil.
 - (4) \$16,653.06 for each pupil that is a Severely Disabled Individual with Exceptional Needs.

- (5) \$11,137.37 for each pupil that is a Non-Severely Disabled Individual with Exceptional Needs.
- (b) An amount equal to 12 percent of the amount determined in (a) for multilevel construction, if requested by the district.
- (c) An amount equal to one-half of the site acquisition value determined in Section 1859.145.1.
- (d) An amount for site development cost determined, at the option of the district, by one of the following:
- (1) One-half of the Site Development Cost for the specific site as authorized by Section 1859.76.
 - (2) One-half of the Site Development Cost as authorized by Section 1859.76 using historical information in the General Location. Historical information that may be considered to determine this estimated cost may include prior SFP projects of the district or other districts in the General Location.
 - (3) \$70,000 multiplied by the proposed acres requested on the Form SAB 50-08.
- (e) If the Preliminary Application request is for a small new school on a site with no existing school facilities, an amount equal to the difference in the amount determined in (a) and the amount shown in the Chart in Section 1859.83(c).
- To determine the number of classrooms in the proposed project, divide the number of pupils requested on Form SAB 50-08, by 25 for elementary school pupils, 27 for middle and high school pupils, 13 for Non-Severely Disabled Individuals with Exceptional Needs and 9 for Severely Disabled Individuals with Exceptional Needs. Round up.
- (f) An amount due to urban location, security requirements and impacted site equal to 15 percent of the amount determined in (a) for 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 when the following criteria are met:
- (1) The district has requested an increase for multilevel construction pursuant to (b) above.
 - (2) The Useable Acres of the existing and/or proposed site are 60 percent or less of the CDE recommended site size determined by multiplying the sum of the pupil grants requested on Form SAB 50-08, and the current CBEDS enrollment on the site (if applicable) by .01775 for elementary school pupils, .021 for middle school pupils and .02472 for high school pupils. For purposes of this calculation, assign Severely Disabled Individuals with Exceptional Needs and Non-Severely Disabled Individuals with Exceptional Needs pupil grants requested on Form SAB 50-08, as either elementary, middle or high school pupils based on the type of project selected by the district on Form SAB 50-08. For purposes of COS projects, if the site for which the Preliminary Apportionment is requested is a Source School, for purposes of assigning Qualifying Pupils in the Preliminary Application, subtract those Qualifying Pupils from the current CBEDS enrollment on the site before completing this calculation.
 - (3) The value of the property as determined in Section 1859.145.1(a)(1) is at least \$750,000 per Useable Acre. This criterion does not apply to an application for an addition to an existing school site.
- (g) An amount for the geographic location of the proposed project equal to the sum of the amounts determined in (a), (b), (d)(3), (e) and (f) multiplied by the indicated percentage factor in the Geographic Percentage Chart shown in Section 1859.83(a).
- (h) For purposes of COS projects, an amount equal to 12 percent of the sum of the amounts determined in (a) through (g) for all Preliminary Applications received no later than May 1, 2003. For all Preliminary Applications received after May 1, 2003 an amount equal to the sum of the amounts determined in (a) through (g) multiplied by a factor determined as follows:

- (1) Divide the January Class B Construction Cost Index in effect at the time of Preliminary Apportionment by the January Class B Construction Cost Index in effect four years prior to the Preliminary Apportionment. Round to four decimal places.
- (2) Subtract 1 from the quotient in (1). Round to two decimal places.
 - (i) If the district qualifies for financial hardship assistance pursuant to Section 1859.81 at the time of submittal of the Preliminary Application, an amount equal to the sum of the amounts determined in (a) through (h) less any district funds determined available for the project pursuant to Section 1859.81(a). Districts must meet the financial hardship criteria pursuant to Section 1859.81 at the time the request is made to convert the Preliminary Apportionment to a Final Apportionment, including an accountability of any district contribution made available at the time of the Preliminary Apportionment was made, in order to continue with financial hardship assistance for the project.
 - (j) If the district received an apportionment prior to November 5, 2002 pursuant to Section 1859.81.1(e), an amount equal to the sum of the amounts determined in (a) through (i) less the previously authorized apportionment amount.

The amounts shown in (a) shall be adjusted in a manner prescribed in Section 1859.71. The district may be eligible for the funding provided to initiate and enforce a LCP as prescribed in Section 1859.71.4 or may be eligible for an additional grant for the DIR Fee as prescribed in Section 1859.71.7, if required by the Labor Code.

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

Reference: Sections 17075.10, 17078.10, ~~and~~ 17078.24 and 17250.30, Education Code.

Facility Hardship

Section 1859.82. Facility Hardship.

A district is eligible for facility hardship funding to replace or construct new classrooms and related facilities if the district demonstrates there is an unmet need for pupil housing or the condition of the facilities, or the lack of facilities, is a threat to the health and safety of the pupils. A facility hardship is available for:

- (a) New classrooms and/or subsidiary facilities (corridors, toilets, kitchens and other non-classroom space) or replacement facilities if either (1) or (2) are met:
 - (1) The facilities are needed to ensure the health and safety of the pupils if the district can demonstrate to the satisfaction of the Board that the health and safety of the pupils is at risk. Factors to be considered by the Board shall include the close proximity to a major freeway, airport, electrical facility, high power transmission lines, dam, pipeline, industrial facility, adverse air quality emission or other health and safety risks, including structural deficiencies required by the DSA to be repaired, seismic mitigation of the Most Vulnerable Category 2 Buildings as verified by the DSA, traffic safety or because the pupils reside in remote areas of the district and transportation to existing facilities is not possible or poses a health and safety risk. The total available funding for seismic mitigation related and ancillary costs for the Most Vulnerable Category 2 Buildings is \$199.5 million for projects where the construction contract was executed on or after May 20, 2006, and the project funding provided shall be for the minimum work necessary to obtain DSA approval.
 - (A) If the request is for replacement facilities, a cost/benefit analysis must be prepared by the district and submitted to the OPSC that indicates the total costs to remain in the classroom or related facility and mitigate the problem is at least 50 percent of the

Current Replacement Cost of the classroom or related facility. The cost/benefit analysis may include applicable site development costs as outlined in Section 1859.76. If the cost to remain in the classroom or related facility is less than 50 percent of the Current Replacement Cost, the district may qualify for a Modernization Excessive Cost Hardship Grant for rehabilitation costs pursuant to Section 1859.83 (e) or a grant not to exceed 50 percent of the cost estimate that has been reviewed and approved by the OPSC and approved by the board for seismic rehabilitation.

- (B) If the request is for replacement facilities that included structural and/or seismic deficiencies, the cost/benefit analysis must also include a report from a licensed design professional identifying the minimum work necessary to obtain DSA approval. The report must contain a detailed cost estimate of the repairs. The report and cost estimate shall be subject to review by the OPSC for conformance with the Saylor Current Construction Cost Publication and, at the OPSC's discretion, the DSA. For seismic deficiencies of the Most Vulnerable Category 2 Buildings, the report and the cost estimate for the minimum work necessary must be reviewed by the DSA.
- (2) The classroom or related facility was lost or destroyed as a result of a disaster such as fire, flood or earthquake and the district has demonstrated satisfactorily to the Board that the classroom or related facility was uninsurable or the cost for insurance was prohibitive.

If the district qualifies for a new or replacement school pursuant to either (1) or (2) above, the district is eligible for a New Construction Grant as a new construction project for the lesser of the pupils housed in the replaced facility based on loading standards pursuant to Education Code Section 17071.25(a)(2) or the latest CBEDS enrollment at the site.

If the district qualifies for replacement facilities on the same site pursuant to either (1) or (2) above, the district is eligible for funding as a new construction project. Replacement facilities shall be allowed in accordance with the square footage amounts provided in the chart in Section (b) below. If the facility eligible for replacement is not shown in the chart in Section (b) below, the replacement facility shall be limited to the square footage replaced. The grant amount provided shall be \$173.30 per square foot for Toilet Facilities and \$96.30 per square foot for all other facilities. Additional funding may be provided for applicable site development costs pursuant to Section 1859.76, New Construction Excessive Cost Hardship Grant(s) pursuant to Section 1859.83(a), (b) or (d), therapy room pursuant to Section 1859.72, multilevel construction pursuant to Section 1859.73 and project assistance pursuant to Section 1859.73.1. The amounts shown will be adjusted in the manner prescribed in Section 1859.71. The district may be eligible for the funding provided to initiate and enforce a LCP as prescribed in Section 1859.71.4 or may be eligible for an additional grant for the DIR Fee as prescribed in Section 1859.71.7, if required by the Labor Code.

Any grants provided pursuant to either (1) or (2) above will be reduced for any space deemed available by the Board in the district, the HSAA or Super HSAA that could be used to house some or all of the displaced pupils, fifty percent of any insurance proceeds collectable by the district for the displaced facilities and fifty percent of the net proceeds available from the disposition of any displaced facilities.

- (b) A multi-purpose room, toilet, gymnasium, school administration or library/media center, facility that meets all the following:

- (1) The facility was lost or destroyed as a result of a disaster, including but not limited to fire, flood or earthquake.
- (2) The facility is no longer useable for school purposes as recommended by the California Department of Education and approved by the Board.
- (3) The district has demonstrated satisfactorily to the Board that the facility was uninsurable or the cost of insurance was prohibitive.

If the district qualifies, the district is eligible for funding as a new construction project. The funding amount provided shall be \$96.30 per square foot for library/media center, school administration, gymnasium and multi-purpose facilities, and/or \$173.30 per square foot for Toilet Facilities. A New Construction Additional Grant may be provided for applicable site development costs pursuant to Section 1859.76, New Construction Excessive Cost Hardship Grant(s) pursuant to Section 1859.83(a) and (d), therapy room pursuant to Section 1859.72, multilevel construction pursuant to Section 1859.73 and project assistance pursuant to Section 1859.73.1. The amounts shown will be adjusted in the manner prescribed in Section 1859.71. The district may be eligible for the funding provided to initiate and enforce a LCP as prescribed in Section 1859.71.4 or may be eligible for an additional grant for the DIR Fee as prescribed in Section 1859.71.7, if required by the Labor Code.

Any grants provided pursuant to (b) above, shall be reduced by fifty percent of any insurance proceeds collectable by the district for the displaced facilities and fifty percent of the net proceeds available from the disposition of any displaced facilities.

The square footage provided, after accounting for all useable facilities on the site, shall not exceed the following:

<i>Facility</i>	<i>Elementary School Pupils</i>	<i>Middle School Pupils</i>	<i>High School Pupils</i>
Multi-Purpose (includes food service)	5.3 sq. ft. per pupil minimum 4,000 sq. ft.	5.3 sq. ft. per pupil minimum 5,000 sq. ft.	6.3 sq. ft. per pupil minimum 8,200 sq. ft.
Toilet	3 sq. ft. per pupil minimum 300 sq. ft.	4 sq. ft. per pupil minimum 300 sq. ft.	5 sq. ft. per pupil minimum 300 sq. ft.
Gymnasium (includes shower/locker)	N/A	12.9 sq. ft. per pupil minimum 6,828 sq. ft. maximum 16,000 sq. ft.	15.3 sq. ft. per pupil minimum 8,380 sq. ft. _maximum 18,000 sq. ft.
School Administration	3 sq. ft. per pupil minimum 600 sq. ft.	3 sq. ft. per pupil minimum 600 sq. ft.	4 sq. ft. per pupil minimum 800 sq. ft.
Library/Media Center	2.3 sq. ft. per pupil plus 600 sq. ft.	3.3 sq. ft. per pupil plus 600 sq. ft.	4.3 sq. ft. per pupil plus 600 sq. ft.

Any facilities eligible for facility hardship not shown in the above chart or for Alternative Education facilities not shown in the table in Section 1859.77.3(a)(5) shall be eligible for

replacement square footage equal to the facilities replaced. For an Alternative Education school eligible for a facility hardship, utilize the square footage provided in Section 1859.77.3(a)(5), with the exception of toilet and administration where the chart above shall be utilized.

A district may request a determination of eligibility for facility hardship funding in advance of project funding.

(c) A district seeking replaced facilities as a result of either (a) or (b) above must submit Form SAB 50-04 for the replaced facilities:

- (1) Within 18 months if the replacement facilities will be located on the same site.
- (2) Within 24 months if the replacement facilities will be located on a replacement site.

If an Approved Application for the replaced facility is not accepted within the time periods identified in (c)(1) or (c)(2) above, the Board shall re-review the criteria submitted by the district for replacement of the facility prior to apportionment of the replaced facility.

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

Reference: Sections 17074.56, 17075.10, 17075.15, 17250.30 and 101012(a)(1), 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...

- (e) Excessive Cost for rehabilitation of facilities the Board has determined are a health and safety risk to the pupils pursuant to Section 1859.82(a)(1) and the cost/benefit analysis to mitigate the problem and remain in the facility is less than 50 percent of the Current Replacement Cost of the facility. If the district qualifies, the district is eligible for funding of rehabilitation costs as a modernization project. If the Approved Application is received on or before April 29, 2002, the grant amount provided is 80 percent of the amount of the cost estimate required in Section 1859.82(a)(1) that has been reviewed by the OPSC and approved by the Board. If the Approved Application is received after April 29, 2002, the grant amount provided is 60 percent of the amount of the cost estimate required in Section 1859.82(a) (1) that has been reviewed by the OPSC and approved by the Board. The district may be eligible for the funding provided to initiate and enforce a LCP as prescribed in Section 1859.71.4 or may be eligible for an additional grant for the DIR Fee as prescribed in Section 1859.71.7, if required by the Labor Code.

...

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 and 17250.30, Education Code.

Charter

Section 1859.163.1. Preliminary Charter School New Construction Apportionment Determination.

The Preliminary Charter School New Construction Apportionment shall be separated into two categories, items that may be identified as construction costs versus site acquisition costs.

- (a) The Preliminary Charter School Apportionment for construction costs shall be equal to the sum of (1) through (9 ~~10~~) below:
- (1) The amounts shown below for each pupil, based on the project capacity, included in a Preliminary Charter School Application:
 - (A) \$5,227 for each elementary school pupil.
 - (B) \$5,534 for each middle school pupil.
 - (C) \$7,226 for each high school pupil.
 - (D) \$16,653 for each pupil that is a Severely Disabled Individual with Exceptional Needs.
 - (E) \$11,137 for each pupil that is a Non-Severely Disabled Individual with Exceptional Needs.
 - (2) An amount equal to 12 percent of the amount determined in (1) for multilevel construction, if requested by the Charter School.
 - (3) An amount for site development cost determined, at the option of the Charter School, by one of the following:
 - (A) One-half of the site development cost for the specific site as authorized by Section 1859.76.
 - (B) One-half of the site development cost as authorized by Section 1859.76 using historical information in the Charter School General Location. Historical information that may be considered to determine this estimated cost may include prior SFP projects of the district or other districts in the Charter School General Location.
 - (C) \$70,000 multiplied by the proposed acres requested on the Form SAB 50-09.
 - (4) General Site Development costs within school property lines for an addition to an existing school site project wherein additional acreage is acquired or a new school project, determined as follows:
 - (A) \$9,600 per proposed acre requested on the Form SAB 50-09. This sum may be increased pursuant to the provisions in Section 1859.83(b). The per acre amount shown above shall be adjusted annually in the manner prescribed in Section 1859.71.
 - (B) 6 percent for Elementary School Pupils and Middle School Pupils and 3.75 percent for High School Pupils of the funding provided by Sections 1859.163.1(a)(1) multiplied by two. 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 Charter School on the Form SAB 50-09.
 - (C) 6 percent for Elementary School Pupils and Middle School Pupils and 3.75 percent for High School Pupils of the funding provided by Sections 1859.163.1(a)(2) and (5) multiplied by two.
 - (5) If the Preliminary Application request is for a small project that will house no more than 200 pupils, an amount pursuant to the following:
 - (A) If the project will house less than 101 pupils, the district is eligible for an amount equal to 12 percent of the funding provided by (a)(1).
 - (B) If the project will house between 101 and 200 pupils, the district is eligible for an amount equal to four percent of the funding provided by (a)(1).

- (6) An amount due to urban location, security requirements and impacted site equal to 15 percent of the amount determined in (1) and (5), plus 1.166 percent for each percentage decrease in the CDE recommended site size below 60 percent when the following criteria are met:
- (A) The Charter School has requested an increase for multilevel construction pursuant to (2) above.
 - (B) The Useable Acres of the existing and/or proposed site are 60 percent or less of the CDE recommended site size.
 - (C) The value of the property as determined in Section 1859.163.2(a) is at least \$750,000 per Useable Acre. This criterion does not apply to an application for an addition to an existing school site.
- (7) An amount for the geographic location of the proposed project equal to the sum of the amounts determined in (1), (2), (3)(C), (4)(A) and (B), (5) and (6) multiplied by the indicated percentage factor in the Geographic Percentage Chart shown in Section 1859.83(a).
- (8) For all Preliminary Apportionments received after February 23, 2005, an amount equal to the sum of the amounts determined in (1) through (6) multiplied by a factor determined as follows:
- (A) Divide the January Class B Construction Cost Index in effect at the time of the Preliminary Apportionment by the January Class B Construction Cost Index in effect four years prior to the Preliminary Apportionment. Round to four decimal places.
 - (B) Subtract 1 from the quotient in (A). Round to two decimal places.
- (9) For any project funded in whole or in part by Proposition 47 or Proposition 55 with a construction contract awarded prior to August 1, 2010, fifty percent of the amount to initiate and enforce a LCP as prescribed in Section 1859.71.4, if required by the Labor Code.
- (10) For any project subject to the DIR Fee as prescribed in Section 1859.71.7, if required by the Labor Code.
- ~~(10)~~ (11) If the Charter School is paying its matching share through the form of lease payments, pursuant to Section 1859.168, the value of the lease as determined by the Authority attributable to the items in (1) through (9) above.
- (b) The Preliminary Charter School Apportionment for site acquisition costs shall be:
 - (1) Equal to one-half of the site acquisition value determined in Section 1859.163.2(a) and (c).
 - (2) If the Charter School is paying its matching share through the form of lease payments, pursuant to Section 1859.168, the value of the lease as determined by the Authority attributable to (1) above
 - (c) The total amount calculated in (a) above will be added to any amount calculated in (b) above, which will provide the Preliminary Charter School Apportionment amount.

The amounts shown in (a)(1) shall be adjusted annually in the manner prescribed in Section 1859.71.

Subsection (a)(4) of this section shall be suspended no later than January 1, 2008, unless otherwise extended by amendments as adopted by the Board.

Note: Authority cited: Sections 17070.35 and 17078.64, Education Code.

Reference: Sections 17078.52, ~~and~~ 17078.56 and 17250.30, Education Code.

Section 1859.163.5. Preliminary Charter School Rehabilitation Apportionment Determination.

The Preliminary Charter School Rehabilitation Apportionment will be determined based on the eligible square footage included in the project. For purposes of the Preliminary Charter School Rehabilitation Apportionment, eligible square footage is defined as the total enclosed exterior square footage of the school buildings. For multilevel buildings, include the square footage at each level.

The amount of funding for each Preliminary Charter School Rehabilitation Apportionment will be equal to the sum of the amounts determined in (a) through (g) below:

- (a) The lesser of the amount determined in (1) or (2) below:
 - (1) The dollar value calculated using a per square foot amount and the total eligible square footage for the site as follows:
 - (A) Determine the total square footage for each classroom included in the project (limited by the Charter School's projected enrollment).
 - (B) Determine the total square footage for any multi-purpose room included in the project.
 - (C) Determine the total square footage for any gymnasium included in the project.
 - (D) Determine the total square footage for any library included in the project.
 - (E) Determine the total square footage for any administration building included in the project.
 - (F) Add the total square footage in (A) through (E) above to obtain the total square footage for the project.
 - (G) From the total determined in (F), determine the total square footage for toilet facilities and the total square footage for other facilities. Multiply the toilet facilities square footage by \$173.30 and the other facilities square footage by \$96.30. The sum of these figures is the square footage dollar value for the project.
 - (2) The dollar value calculated using the new construction grant amount and the project capacity based on the State loading standards as follows:
 - (A) Determine the proposed grade level usage of each classroom in the project (limited by the Charter School's projected enrollment).
 - (B) Multiply the number of classrooms at the K-6 grade level by 25, the number of classrooms at the 7-12 grade level by 27, the number of non-severe classrooms by 13, and the number of severe classrooms by 9.
 - (C) Multiply the number of pupils calculated pursuant to (B) by the appropriate dollar value determined in Section 1859.163.1(a)(1).
- (b) If the Preliminary Application request is for a small project that will house no more than 200 pupils, an amount pursuant to the following:
 - (1) If the project will house less than 101 pupils, the district is eligible for an amount equal to 12 percent of the funding provided by (a).
 - (2) If the project will house between 101 and 200 pupils, the district is eligible for an amount equal to four percent of the funding provided by (a).
- (c) An amount due to urban location, security requirements and impacted site equal to 15 percent of the amount determined in (a) and (b), plus for a project with a site that is 60 percent or less of the CDE recommended site size plus 0.333 percent for each percentage decrease in the CDE recommended site size below 60 percent.
- (d) An amount for the geographic location of the proposed project equal to the sum of the amounts determined in (a), (b), (c), and (e) multiplied by the indicated percentage factor in the Geographic Percentage Chart shown in Section 1859.83(a).

- (e) \$60,000 for each new two-stop elevator required to be included in the project by the DSA, and \$10,800 for each additional stop.
- (f) For all Preliminary Apportionments received after February 23, 2005, an amount equal to the sum of the amounts determined in (a) through (e) multiplied by a factor determined as follows:
 - (1) Divide the January Class B Construction Cost Index in effect at the time of the Preliminary Apportionment by the January Class B Construction Cost Index in effect four years prior to the Preliminary Apportionment. Round to four decimal places.
 - (2) Subtract 1 from the quotient in (1). Round to two decimal places.
- (g) An amount to initiate and enforce a LCP as prescribed in Section 1859.71.4 or for the DIR Fee as prescribed in Section 1859.71.7, if required by the Labor Code.
- (i) If the Charter School is paying its matching share through the form of lease payments, pursuant to Section 1859.168, the value of the lease as determined by the Authority attributable to the items in (a) through (g) above.

The amounts determined in (a) and (e) shall be adjusted annually in the manner prescribed in Section 1859.71.

Note: Authority cited: Sections 17070.35 and 17078.64, Education Code.

Reference: Sections 17071.25, 17078.52, 17078.54, ~~and 17078.58~~ and 17250.30, Education Code.

Joint Use

Section 1859.125. Joint-Use Project Grant Determination Based on Square Footage.

If the funding request is to construct square footage, the Joint-Use Grant is the lesser of the amount determined in (a) or (b):

- (a) The sum of the amounts determined below:
 - (1) \$173.30 for the Toilet Facilities in the Joint-Use Project as calculated in (a)(1)(B) below:
 - (A) Divide the eligible square footage of the Joint Use Project as determined in Section 1859.124 by the total square footage of the joint-use facility.
 - (B) Multiply the quotient determined in (a)(1)(A) by the Toilet Facilities in the joint-use facility.
 - (2) \$96.30 for non-Toilet Facilities in the Joint-Use Project as calculated in (a)(2)(B) below:
 - (A) Divide the eligible square footage of the Joint Use Project as determined in Section 1859.124 by the total square footage of the joint-use facility.
 - (B) Multiply the quotient determined in (a)(2)(A) by the non-Toilet Facilities in the joint-use facility.
 - (3) 50 percent of site development work that meets the following criteria:
 - (A) It is necessary and applicable to the Joint-Use Project.
 - (B) It meets the requirements for service site development or utility costs as outlined in Section 1859.76(a) and/or (c). Off-site development work is not allowed as part of a Joint-Use Project; however, if off-site development work is necessary pursuant to Section 1859.76(b) for a Type I Joint-Use Project, the district may request the eligible off-site work under the qualifying SFP New Construction project pursuant to Section 1859.123.

(C) It is considered excessive site development costs and not eligible for funding under the qualifying SFP New Construction or Modernization project pursuant to Section 1859.123 or 1859.123.1.

(4)(A) For any project subject to the DIR Fee, the Board shall award an additional grant equal to the state's share of the fee.

(B) In the event the DIR grants a fee waiver, the Board shall award an additional grant, in an amount equal to that as would be awarded for the state's share of the DIR Fee, to maintain an internal labor compliance program.

(b) \$1 million if the Joint-Use Project will be located on a school site that is or will be serving Elementary School Pupil(s). \$1.5 million if the Joint-Use Project will be located on a school site that is or will be serving Middle School Pupil(s). \$2 million if the Joint-Use Project will be located on a school site that is or will be serving High School Pupils.

If the district is requesting funding for site development work applicable to the Joint-Use Project, the district must submit a detailed cost estimate and appropriate DSA approved plans, with the Form SAB 50-07. The cost estimate must include appropriate justification documents that indicate the work is necessary to complete the Joint-Use Project and conform to the requirements of Section 1859.76.

Utility service(s) cost shall be prorated, if necessary, for any excess capacity not needed to service the Joint-Use Project.

The dollar amounts shown in (a) are adjusted in a manner prescribed in Section 1859.71 and are eligible for Excessive Cost Hardship Grant(s) pursuant to Section 1859.83 (a), (b) and (d). The district may be eligible for the funding provided to initiate and enforce an LCP as prescribed in Section 1859.71.4 or an additional grant for the DIR Fee as prescribed in Section 1859.71.7, if required by Labor Code.

The Joint-Use Grant amounts provided in this Section and Section 1859.125.1, if applicable, shall be deemed the full and final apportionment for the application. Any costs incurred by the district beyond the Joint-Use Grant amount and the Joint-Use Partner(s) and district financial contribution pursuant to Section 1859.127, shall be the responsibility of the district and/or the Joint-Use Partner(s).

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

Reference: Sections 17077.40, 17077.42, ~~and~~ 17077.45 and 17250.30, Education Code.

Section 1859.125.1. Additional Type I Joint-Use Project Extra Cost Grant.

In addition to the square footage Joint-Use Grant provided in Section 1859.125, a Type I Joint-Use Project may receive funding for Extra Cost equal to the lesser of (a) or (b):

(a) An amount determined by subtracting (a)(2) from (a)(1):

(1) The sum of the following:

(A) 50 percent of the estimated cost to construct the Joint-Use Project.

(B) 50 percent of site development work that meets the following criteria:

1. It is necessary and applicable to the Joint-Use Project.
2. It meets the requirements of Section 1859.76(a) and/or (c).
3. It is considered excessive site development costs and not eligible for funding under the qualifying SFP New Construction project pursuant to Section 1859.123.

4. The district did not receive funding for the site development work under Section 1859.125.
 - (2) The sum of the following:
 - (A) \$173.30 for the Toilet Facilities in the Joint-Use Project.
 - (B) \$96.30 for the non-Toilet Facilities in the Joint-Use Project.
 - (b) An amount determined by subtracting (b)(2) from (b)(1):
 - (1) \$1 million if the Joint-Use Project will be located on a school site that is or will be serving Elementary School Pupil(s). \$1.5 million if the Joint-Use Project will be located on a school site that is or will be serving Middle School Pupil(s). \$2 million if the Joint-Use Project will be located on a school site that is or will be serving High School Pupils.
 - (2) The Joint-Use Grant amount determined in Section 1859.125 based on square footage, if applicable. If the district is requesting funding for site development work applicable to the Joint-Use Project, the district must submit a detailed cost estimate and appropriate DSA approved plans with the Form SAB 50-07. The cost estimate must include appropriate justification documents that indicate the work is necessary to complete the Joint-Use Project and conform to the requirements in Section 1859.76. Utility service(s) cost shall be prorated, if necessary, for any excess capacity not needed to service the Joint-Use Project. The amounts shown in (a) are adjusted in a manner prescribed in Section 1859.71. The district may be eligible for the funding provided to initiate and enforce a LCP as prescribed in Section 1859.71.4 or may be eligible for an additional grant for the DIR Fee as prescribed in Section 1859.71.7, if required by Labor Code. The Joint-Use Grant amount provided in this Section and Section 1859.125, if applicable, shall be deemed the full and final apportionment for the application. Any costs incurred by the district beyond the Joint-Use Grant amount and the Joint-Use Partner(s) and district financial contribution pursuant to Section 1859.127, shall be the responsibility of the district and/or the Joint-Use Partner(s).

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

Reference: Sections 17077.40, 17077.42, ~~and~~ 17077.45 and 17250.30, Education Code.