

REPORT OF THE EXECUTIVE OFFICER  
State Allocation Board Meeting, October 24, 2012

SCHOOL FACILITY PROGRAM REGULATORY AMENDMENTS

PURPOSE OF REPORT

To present proposed regulatory amendments to the School Facility Program (SFP) regulations to clarify Labor Compliance Program requirements as a result of Chapter 868, Statutes of 2002 (Assembly Bill [AB]1506 - Wesson).

DESCRIPTION

Labor Code (LC) Section 1771.7(d)(2)(B) prohibits the release of funds by the State Allocation Board (Board) until the Board has received a written finding that the awarding body has initiated and enforced, or contracted with a third party to initiate and enforce, a Department of Industrial Relations (DIR)-approved labor compliance program (LCP).

The proposed SFP regulatory amendments provide a process for school districts to qualify for funding if the construction contract was signed prior to the district either contracting with a third party LCP provider or having their LCP approved by the DIR.

AUTHORITY

See Attachment A.

BACKGROUND

Pursuant to AB 1506, an LCP is required for all SFP projects funded from either Kindergarten-University Public Education Facilities Bond Act of 2002 (Proposition 47) or Kindergarten-University Public Education Facilities Bond Act of 2004 (Proposition 55). This law took effect upon voter approval of Propositions 47 and 55. School districts subject to these requirements must either contract with a DIR-approved third party to perform the LCP or seek approval from the DIR to initiate and enforce the LCP internally. The purpose of the LCP is to ensure appropriate compliance with certain labor laws for school construction projects, such as the appropriate prevailing wage payments for construction work. Projects where the construction contract was awarded after January 1, 2012 are not subject to these requirements. Projects funded from the Kindergarten-University Public Education Facilities Bond Act of 2006 (Proposition 1D) or the Class Size Reduction Kindergarten-University Public Education Facilities Bond Act of 1998 (Proposition 1A) are also not subject to the AB 1506 LCP requirements, regardless of the construction contract award date.

AB 1506 specified that the Board could not release funds until it receives a written finding that the awarding body has initiated and enforced, or contracted with a third party to initiate and enforce, a DIR-approved labor compliance program.

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BACKGROUND (cont.)

At the September 2012 Board meeting, the Board heard an appeal regarding four *Fund Release Authorizations* (Form SAB 50-05) for projects apportioned from Propositions 47 and/or 55. The OPSC had returned the fund release requests because the District did not have LCPs in place for the entire life of the projects. In this case, each project was completed in two phases with a separate contract and plans for Phase 1 and Phase 2. The District indicated that the first phase of the projects began prior to the district submitting an *Application for Funding* (Form SAB 50-04). It did not contract with an LCP provider because it believed it would be applying for funds from Proposition 1D. The District contended that it was in compliance with the LCP requirements because it did contract with third party LCPs for the second phase of each project once it learned that only funds from Propositions 47 or 55 would be available.

In considering the appeal, the Board decided that the district did not qualify for Proposition 47 or 55 funds, but converted the district's apportionment to Proposition 1D, as sufficient funds had become available. The Board also asked Staff to develop regulations to further clarify LCP requirements.

STAFF ANALYSIS/STATEMENTS

For applicable projects, Staff currently determines districts have complied with LCP requirements for fund release, pursuant to LC Section 1771.7 (d)(2)(B), if the district's DIR LCP approval date or third party contract date occur prior to the construction contract. However, because the Labor Code specifies that some of the LCP components include bidding and pre-job conference requirements, if the LCP was initiated and enforced prior to the construction contract being signed, Staff does not release funds for applicable projects until the district provides additional LCP verification demonstrating compliance with LC Section 1771.5.

In 2011, at least three projects had been apportioned funds from Propositions 47 or 55, but the districts were not able to demonstrate compliance with LC Section 1771.5. In those cases, the Board was able to reapportion the projects from Proposition 1D. At the October 2011 Board meeting, due to diminishing Proposition 1D bond authority, the Board directed Staff to send a letter notifying all districts that if their projects have received funds from Propositions 47 and 55, they are required to have an LCP in place and that bond switching is no longer an option.

*Proposed Regulatory Amendments*

The proposed SFP regulatory amendments would add a new regulation section to clarify the LCP written finding requirement, pursuant to LC Section 1771.7(d)(2)(B), and provide an alternative method for districts to qualify for funding in cases where a district initiated and enforced an LCP after the construction contract was signed for the project.

All school districts that are subject to the LCP requirements would provide a written verification indicating that the district or the third party provider submitted an applicable LCP application to the DIR, when submitting a Form SAB 50-05. The written verification would also indicate that the district or third party's LCP is approved by the DIR and has not been revoked.

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STAFF ANALYSIS/STATEMENTS (cont.)

Districts that contracted with a third party LCP provider or obtained DIR approval of its LCP after the construction contract was signed would be required to submit a report to the OPSC and the DIR from a third party LCP provider that includes the following:

1. Verification that the applicable duties of an LCP were performed on the project.
2. Verification that the performance of the applicable LCP began within one month after the commencement of the construction work.
3. A written record of the LCP's confirmation of monthly payroll records for the project.

These districts would also provide a notice to each worker that the district has submitted the report and that they may contact the OPSC and DIR concerning the accuracy of the findings. The report would not be acceptable if the DIR notifies the OPSC within 60 calendar days that it has determined it to be incorrect. The third party provider that completes the report could not be the same third party with whom the district has contracted to implement its LCP for the project.

To allow the DIR 60 calendar days to provide notification that the report is incorrect without conflicting with priority funding deadlines, Staff proposes to amend SFP Regulation Section 1859.90.2. The amendment would require applicable districts to submit the third party LCP report to the OPSC and the DIR at least 60 days prior to submitting a Form SAB 50-05. Districts would acknowledge this on its written statement that indicates it wishes to participate in a priority funding round. To allow districts sufficient time to comply, this requirement would only apply on or after July 1, 2013.

RECOMMENDATIONS

1. Approve the regulations as shown on Attachment B.
2. Authorize the Executive Officer to file the regulations on an emergency basis with the Office of Administrative Law.

## ATTACHMENT A

### AUTHORITY

LC Section 1720 states:

(a) As used in this chapter, "public works" means:

(1) Construction, alteration, demolition, installation, or repair work done under contract and paid for in whole or in part out of public funds, except work done directly by any public utility company pursuant to order of the Public Utilities Commission or other public authority. For purposes of this paragraph, "construction" includes work performed during the design and preconstruction phases of construction including, but not limited to, inspection and land surveying work.

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LC Section 1771.5 states:

(a) Notwithstanding Section 1771, an awarding body may choose not to require the payment of the general prevailing rate of per diem wages or the general prevailing rate of per diem wages for holiday and overtime work for any public works project of twenty-five thousand dollars (\$25,000) or less when the project is for construction work, or for any public works project of fifteen thousand dollars (\$15,000) or less when the project is for alteration, demolition, repair, or maintenance work, if the awarding body elects to either:

(1) Initiate and enforce a labor compliance program pursuant to subdivision (b) for every public works project under the authority of the awarding body as described in subdivision (e).

(2) Reimburse the Department of Industrial Relations for the cost of monitoring and enforcing compliance with prevailing wage requirements for every public works project of the awarding body as described in subdivision (f).

(b) For purposes of this section, a labor compliance program shall include, but not be limited to, the following requirements:

(1) All bid invitations and public works contracts shall contain appropriate language concerning the requirements of this chapter.

(2) A prejob conference shall be conducted with the contractor and subcontractors to discuss federal and state labor law requirements applicable to the contract.

(3) Project contractors and subcontractors shall maintain and furnish, at a designated time, a certified copy of each weekly payroll containing a statement of compliance signed under penalty of perjury.

(4) The awarding body shall review, and, if appropriate, audit payroll records to verify compliance with this chapter.

(5) The awarding body shall withhold contract payments when payroll records are delinquent or inadequate.

(6) The awarding body shall withhold contract payments equal to the amount of underpayment and applicable penalties when, after investigation, it is established that underpayment has occurred.

(7) The awarding body shall comply with any other prevailing wage monitoring and enforcement activities that are required to be conducted by labor compliance programs by the Department of Industrial Relations.

(c) For purposes of this chapter, "labor compliance program" means a labor compliance program that is approved, as specified in state regulations, by the Director of Industrial Relations.

(d) For purposes of this chapter, the Director of Industrial Relations may revoke the approval of a labor compliance program in the manner specified in state regulations.

(e) An awarding body that elects to use a labor compliance program pursuant to subdivision (a) must use the labor compliance program for all contracts for public works projects awarded prior to the effective date of the regulations adopted by the department as specified in subdivision (g). For contracts for public works projects awarded on or after the effective date of regulations adopted by the department as specified in subdivision (g), the awarding body may also elect to continue operating an existing previously approved labor compliance program in lieu of reimbursing the Department of Industrial Relations for the cost of monitoring and enforcing compliance with prevailing wage requirements on the awarding body's public works projects if it has not contracted with a third party to conduct its labor compliance program and if it requests and receives approval from the department to continue its existing program.

(f) An awarding body that elects to reimburse the department for the cost of monitoring and enforcing compliance with prevailing wage requirements for public works projects of the awarding body, pursuant to subdivision (a), must, for all of its contracts for public works projects awarded on or after the effective date of the regulations adopted by the department as specified in subdivision (g):

(1) Ensure that all bid invitations and public works contracts contain appropriate language concerning the requirements of this chapter.

(2) Conduct a prejob conference with the contractor and subcontractor to discuss federal and state labor law requirements applicable to the contract.

(3) Enter into an agreement with the department to reimburse the department for its costs of performing the service of monitoring and enforcing compliance with applicable prevailing wage requirements on the awarding bodies' projects.

(g) The Department of Industrial Relations shall adopt regulations implementing this section specifying the activities which the department shall undertake to monitor and enforce compliance with the prevailing wage requirements on the public works projects, including, but not limited to, monthly review, and audit if appropriate, of payroll records.

(h) (1) The Department of Industrial Relations shall determine the rate or rates, which the department may from time to time amend, that the department will charge in obtaining reimbursement from awarding bodies for the reasonable and directly related costs of performing the specified monitoring and enforcement services, provided the amount charged by the department shall not exceed one-fourth of 1 percent of the total public works project costs.

(2) Notwithstanding paragraph (1), for public works projects paid for in whole or part out of public funds, within the meaning of subdivision (b) of Section 1720, that are derived from bonds issued by the state, the amount charged by the department shall not exceed one-fourth of 1 percent of the state bond proceeds used for the public works project.

(i) All amounts collected by the Department of Industrial Relations for its services pursuant to this section shall be deposited in the State Public Works Enforcement Fund.

LC Section 1771.7 states:

1771.7. (a)(1) For contracts specified in subdivision (f), 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 initiate and enforce, or contract with a third party to initiate and enforce, a labor compliance program, as described in subdivision (b) of Section 1771.5, with respect to that public works project.

(2) If an awarding body described in paragraph (1) chooses to contract with a third party to initiate and enforce a labor compliance program for a project described in paragraph (1), that third party shall not review the payroll records of its own employees or the employees of its subcontractors, and the awarding body or an independent third party shall review these payroll records for purposes of the labor compliance program.

(b) This section applies to public works that commence on or after April 1, 2003. For purposes of this subdivision, work performed during the design and preconstruction phases of construction, including, but not limited to, inspection and land surveying work, does not constitute the commencement of a public work.

(c)(1) For purposes of this section, if any campus of the California State University chooses to use the funds described in subdivision (a), then the "awarding body" is the Chancellor of the California State University. For purposes of this subdivision, if the chancellor is required by subdivision (a) to initiate and enforce, or to contract with a third party to initiate and enforce, a labor compliance program, then in addition to the requirements described in subdivision (b) of Section 1771.5, the Chancellor of the California State University shall review the payroll records on at least a monthly basis to ensure the awarding body's compliance with the labor compliance program.

(2) For purposes of this subdivision, if an awarding body described in subdivision (a) is the University of California or any campus of that university, and that awarding body is required by subdivision (a) to initiate and enforce, or to contract with a third party to initiate and enforce, a labor compliance program, then in addition to the requirements described in subdivision (b) of Section 1771.5, the payroll records shall be reviewed on at least a monthly basis to ensure the awarding body's compliance with the labor compliance program.

(d)(1) An awarding body described in subdivision (a) shall make a written finding that the awarding body has initiated and enforced, or has contracted with a third party to initiate and enforce, the labor compliance program described in subdivision (a).

(2)(A) If an awarding body described in subdivision (a) is a school district, the governing body of that district shall transmit to the State Allocation Board, in the manner determined by that board, a copy of the finding described in paragraph (1).

(B) The State Allocation Board shall not release the funds described in subdivision (a) to an awarding body that is a school district until the State Allocation Board has received the written finding described in paragraph (1).

(C) If the State Allocation Board conducts a postaward audit procedure with respect to an award of the funds described in subdivision (a) to an awarding body that is a school district, the State Allocation Board shall verify, in the manner determined by that board, that the school district has complied with the requirements of this subdivision.

(3) If an awarding body described in subdivision (a) is a community college district, the Chancellor of the California State University, or the office of the President of the University of California or any campus of the University of California, that awarding body shall transmit, in the manner determined by the Director of Industrial Relations, a copy of the finding described in paragraph (1) to the director of that department, or the director of any successor agency that is responsible for the oversight of employee wage and employee work hours laws.

(e) Because the reasonable costs directly related to monitoring and enforcing compliance with the prevailing wage requirements are necessary oversight activities, integral to the cost of construction of the public works projects, notwithstanding Section 17070.63 of the Education Code, 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 for the costs of a new construction or modernization project shall include the state's share of the reasonable and directly

related costs of the labor compliance program used to monitor and enforce compliance with prevailing wage requirements.

(f) This section shall only apply to contracts awarded prior to the effective date of regulations adopted by the Department of Industrial Relations pursuant to paragraph (3) of subdivision (a) of Section 1771.3.

## ATTACHMENT B

### Section 1859.90.2. Priority Funding Process.

The priority funding process allows the Board to distribute available funds to districts or charter schools who request an Apportionment or an advance release of funds from a Preliminary Apportionment or Preliminary Charter School Apportionment during specific 30-calendar day filing periods beginning with July 27, 2011 and continuing with the 2<sup>nd</sup> Wednesday of January and the 2nd Wednesday of July each calendar year. Certifications are valid until the next filing period begins. Requests must be physically received by the OPSC by the 30th calendar day to be considered valid. During any priority funding process a district or charter school must submit the Form SAB 50-05 within a specified time period of the Apportionment or approved advance release of funds request, pursuant to (a)(2) or (b)(2) of this section. Projects receiving an apportionment as part of the priority funding process for which the OPSC does not physically receive an original signature copy of the Form SAB 50-05 within the appropriate time limit shall be rescinded without further Board action.

- (a) In order to be considered for an Apportionment, approved advance release of design funds from a Preliminary Charter School Apportionment, or approved advance release of environmental hardship site acquisition funds from a Preliminary Apportionment, the district or charter school must provide a written statement signed by an authorized representative that includes each of the project application numbers, and the type of apportionment request (e.g., Apportionment, separate apportionment for design or site acquisition), within the 30 calendar day filing period that contains all of the following:
- (1) Request to convert the unfunded approval to an Apportionment or to receive an approved advance release of funds; and
  - (2) Concurrence with a 90 calendar day time limit on fund release; and
  - (3) Acknowledgement that a valid, original signature Form SAB 50-05 must be submitted and physically received by the OPSC within the 90 calendar day time limit and failure to do so will result in the rescission of the Apportionment or approved advance release of funds request without further Board action; and
  - (4) Acknowledgement that, if the district submits the SAB Form 50-05 on or after July 1, 2013 and is required to submit an LCP third party report, pursuant to Section 1859.97(b), the report will be submitted to the OPSC and the DIR at least 60 days prior to submitting the SAB Form 50-05; and
- ~~(4)~~ (5) For those receiving an Apportionment, acknowledgement that by participating in the priority funding process, the district or charter school is waiving its right to a standard 18 month timeline for fund release submittal.
- (b) In order to be considered for an approved advance release of site acquisition funds from a Preliminary Charter School Apportionment, the district or charter school must provide a written statement signed by an authorized representative within the 30 calendar day filing period that contains all of the following:
- (1) Request to convert the advance release of funds to an approved advance release of funds request; and,
  - (2) Concurrence with a 180 calendar day time limit on fund release; and
  - (3) Acknowledgement that a valid, original signature Form SAB 50-05 must be submitted and physically received by the OPSC within the 180 calendar day time limit and failure to do so will result in the rescission of the approved advance release of funds request without further Board action; and

- (5) Acknowledgement that it must provide evidence that it has entered into the Charter School Agreements within 90 calendar days of approval of the advance release of funds request and failure to do so will result in the rescission of the approval without further Board action.

In the event that the amount of requests received during a specific 30-day filing period exceeds the funds available, the Board shall apportion based on the unfunded approval date and the application received date up to the available cash from each bond source. Projects that have requested to participate in the priority funding process for which an Apportionment cannot be provided shall retain their date order position on the Unfunded List. Request letters of projects not converted to apportionments will not be returned to the district or kept by the Office of Public School Construction.

For purposes of this section “rescinded” or “rescission” shall mean that the apportionment or approved advance release of funds request returns to unfunded approval status with a new unfunded approval date. The new unfunded approval date will be 90 calendar days after the apportionment date. The district or charter school will not be required to re-submit the application and no further application review will be required.

Note: Authority cited: Section 17070.35, Education Code.

Reference: Sections 17072.12, 17072.30, 17074.16, 17076.10, 17077.40, 17077.42 and 17077.45, Education Code.

SFP Regulation Section 1859.97. Labor Compliance Program Documentation for Fund Release.

As required pursuant to Labor Code Section 1771.7 subdivisions (a) and (b), for any project funded in whole or in part from Proposition 47 or Proposition 55 for which the construction contract is awarded prior to January 1, 2012, the district shall initiate and enforce, or contract with a third party to initiate and enforce, an LCP, with respect to that project.

(a) The district shall submit a written finding that the district has initiated and enforced, or has contracted with a third party to initiate and enforce, the LCP with respect to that project.

(b) Where the construction contract was signed either prior to the district’s LCP being approved by the DIR or prior to the district entering into a contract with a third party to implement the LCP, the district shall be determined to have complied with Labor Code section 1771.7 subdivision(a), only upon satisfaction of all the following:

(1) The DIR has approved either the district’s or the third party LCP, and such approval had not been revoked at the time of implementing the LCP.

(2) The district or the third party with whom the district contracted to implement its LCP submitted an application for approval of its LCP in accordance with the DIR’s LCP regulations prior to January 1, 2012;

(3) The district submits the report of a third party that has been approved by the DIR to operate an LCP in accordance with DIR LCP regulations, and such approval has not been revoked as of the date of the report. In the case of a district that has entered into a contract with a third party to implement the LCP, the report must be prepared by a different third party that has been approved by DIR to implement an LCP, and such approval had not been revoked as of the date of the report. The report must include all of the following:

(A) Verification that the applicable duties of an LCP were performed on the project as set forth in Labor Code section 1771.5 subdivision (b) and DIR regulations; and

(B) Verification that the performance of the applicable LCP duties began within one month after the commencement of the construction work on the project as set forth in Labor Code section 1771.7 subdivision (b); and

- (C) A written record of the LCP's confirmation of payroll records for each month in which a contractor or subcontractor reports having workers employed on the public work pursuant to Title 8 California Code of Regulations, Section 16432 subdivision (c).
- (4) The district shall provide notice to each worker for which confirmation of payroll records has been performed pursuant to Title 8 California Code of Regulations, Section 16432 subdivision (c), informing that the district has submitted a written report to the OPSC that the district has initiated and enforced, or contracted with a third party to initiate and enforce, a labor compliance program on the project to monitor and ensure the payment of prevailing wages to workers. The notice shall inform these workers of the manner in which they may contact the OPSC and the DIR concerning the accuracy of the report set forth in subdivision (b)(3) above.
- (5) The district shall provide the DIR a copy of the report set forth in subdivision (b)(3) above at the same time the report is submitted to the OPSC. The DIR may notify the OPSC if the DIR determines the verifications in the awarding body's report to be incorrect.
- (6) The report shall not be determined to comply with Labor Code section 1771.7 subdivision (a) if the DIR submits the notice described in subdivision (5) above within 60 calendar days of receiving the report in subdivision (b)(3) above.

Note: Authority Cited: Section 17070.35, Education Code  
Reference: Sections 1771.5 and 1771.7, Labor Code

**GENERAL INFORMATION**

(Refer to Title 2, California Code of Regulations, Sections 1859.90 and 1859.91)

After a School Facility Program (SFP) grant has been funded by the Board, the Office of Public School Construction (OPSC) will release the apportioned funds with the exception of design funds, to the appropriate county treasury once the district has completed and submitted this form to the OPSC. Design funds will automatically be released to the district within 30 days of the apportionment, with the exception of Preliminary Apportionments.

The following documents must be submitted with this form (as appropriate):

1. Signature page of the contract(s) that meets the requirement for a fund release (Part V and/or VII).
2. Notice(s) to Proceed.
3. For projects for which construction contracts were awarded prior to January 1, 2012, and that require a Labor Compliance Program (LCP) pursuant to Labor Code Section 1771.7:
  - All school district and/or third party provider Department of Industrial Relations approval letters (initial, extension(s) and/or final).
  - Third party contract(s).
  - A written finding that the district has initiated and enforced, or had contracted with a third party to initiate and enforce, LCP pursuant to Section 1859.97(a).
  - If the district is submitting this form pursuant to Section 1859.90.2 on or after July 1, 2013, and if the district's LCP approval or contract date with an approved third party is subsequent to the construction contract date(s), the district must have submitted an LCP third party's report, pursuant to Section 1859.97(b), at least 60 days prior to submitting this form.
4. For all projects for which construction contracts are awarded on or after January 1, 2012:
  - Acknowledgement from the Department of Industrial Relations (DIR) of receipt of the district's notice. However, if the construction contract was awarded between January 1, 2012 and July 1, 2012, a copy of the Notice to DIR from the district with proof of mailing will be accepted in lieu of the DIR acknowledgement. The district understands that if it fails to meet the requirements in Labor Code Section 1771.3, it will be required to repay all state bond funds received including interest.
5. For new construction projects that complete Part V attach:
  - Accepted bid documents including additive/deductive alternates.

For the purposes of completing this form to obtain a fund release for a Final Charter School Apportionment, a charter school shall be treated as a school district.

For the purposes of completing this form to obtain a fund release for a Final Career Technical Education Facilities Apportionment, a joint powers authority shall be treated as a school district.

**SPECIFIC INSTRUCTIONS**

**Part I. Preliminary Apportionment—Design Only**

Check the boxes if the district has current financial hardship status pursuant to Section 1859.81 and is requesting release of Preliminary Apportionment funds for design, engineering, and other preconstruction project costs. Attach to this form the California Department of Education (CDE) Letter pursuant to Section 1859.149(a)(2).

**Part II. Preliminary Charter School Apportionment**

Check the boxes if the charter school is requesting a release of a Preliminary Charter School Apportionment for design and/or separate site apportionment pursuant to Section 1859.164.2. Attach to this form the Charter School Agreements.

**Part III. Separate Site Apportionment**

Check the box, for release of a separate site apportionment provided pursuant to Sections 1859.75.1 or 1859.81.1 or for release of Preliminary Apportionment site only acquisition pursuant to 1859.153(b) or (c).

**Part IV. Overcrowding Relief Grant - Advance Site Funds**

Check the boxes if the district is requesting an advance release of funds pursuant to Section 1859.184.1.

**Part V. New Construction/Modernization/Charter School Rehabilitation**

Check the box(es) for release of new construction, modernization or rehabilitation funds and enter the following:

- a. Date of written approval by the Division of the State Architect (DSA).
- b. Enter the percent of the construction the district has under binding contract(s).
- c. Issue date of the Notice to Proceed for the construction phase of the project(s); and,
- d. Award date(s) of the construction contract(s) entered into by the district for this project. (If the space provided is not sufficient for all applicable contract dates, please list all dates on a separate attachment to this form.)

For Final Charter School Apportionment attach to this form the Charter School Agreements if not previously submitted or if since revised.

**Part VI. New Construction—Site Acquisition Only**

Check the boxes if the district is requesting a separate release of site acquisition funds as part of a new construction project.

**Part VII. Joint-Use Projects**

Check the boxes if the district is requesting release of joint-use project funds.

**Part VIII. Identify District and Joint-Use Partners' Funding Sources**

Check the appropriate box(es) that identify the district funding sources that have or will be used for the district's share of the project.

**Part IX. Career Technical Education Facilities Projects**

Check the appropriate box(es) in Part VIII if the district is requesting a release of Career Technical Education Facilities funds.

**Part X. Identify District's Construction Delivery Method**

Check the appropriate box that identifies the construction delivery method that the district utilized for this project.

SCHOOL DISTRICT	APPLICATION NUMBER
SCHOOL NAME	FIVE-DIGIT DISTRICT CODE NUMBER (SEE CALIFORNIA PUBLIC SCHOOL DIRECTORY)
COUNTY	HIGH SCHOOL ATTENDANCE AREA (HSAA) (IF APPLICABLE)

**Part I. Preliminary Apportionment—Design Only**

- The district certifies it has complied with Section 1859.149(a).
- The district certifies that its applicable matching share has either:
  - been deposited in the County School Facility Fund
  - has already been expended by the district for the project
  - will be expended by the district prior to the Notice of Completion for the project
- The district certifies that it currently has Financial Hardship status under the provisions of Section 1859.81.

- has already been expended by the district for the project
- will be expended by the district prior to the Notice of Completion for the project

**Part II. Preliminary Charter School Apportionment**

**A. Design Only**

Pursuant to Section 1859.164.2(a), must be able to check all boxes:

- The Charter School certifies that its applicable matching share has either:
  - been deposited in the County School Facility Fund
  - has already been expended by the Charter School for the project
  - will be expended by the Charter School prior to the Notice of Completion for the project
- The Charter School certifies it has current financial soundness status from the California School Finance Authority.
- The Charter School certifies it has entered into the Charter School Agreements pursuant to Section 1859.164.2.

**B. Separate Site Apportionment**

Pursuant to Section 1859.164.2(b), must be able to check all boxes:

- Release site acquisition funds. The Charter School certifies the funds are needed to place on deposit in order to secure the site acquisition.
- The Charter School certifies that its applicable matching share has either:
  - been deposited in the County School Facility Fund
  - has already been expended by the Charter School for the project
  - will be expended by the Charter School prior to the Notice of Completion for the project
- The Charter School certifies it has current financial soundness status from the California School Finance Authority.
- The Charter School certifies it has entered into the Charter School Agreements pursuant to Section 1859.164.2.

**Part III. Separate Site Apportionment**

- RA on additions to existing school sites pursuant to Section 1859.74.4.

Pursuant to Sections 1859.75.1 or 1859.81.1, district must be able to check both boxes:

- Release site acquisition funds. The district certifies the funds are needed to place on deposit in order to secure the site acquisition.
- The district certifies that its applicable matching share has either:
  - been deposited in the County School Facility Fund

**Part IV. Overcrowding Relief Grant - Advance Site Funds**

Pursuant to Section 1859.184.1, districts that have received Financial Hardship approval that are acquiring sites through condemnation must be able to check all boxes:

- Release site acquisition funds. The district certifies the funds are needed to place on deposit in order to secure the site acquisition.
- The district certifies that its applicable matching share has either:
  - been deposited in the County School Facility Fund
  - has already been expended by the district for the project
  - will be expended by the district prior to the Notice of Completion for the project
- The district certifies that it will produce an order of prejudgment possession once obtained from the court, and prior to any additional fund releases for the project.

**Part V. New Construction/Modernization/Charter School Rehabilitation**

District/Charter School must be able to check all boxes:

- The district certifies that its applicable matching share has either:
  - been deposited in the County School Facility Fund
  - has already been expended by the district for the project
  - will be expended by the district prior to the Notice of Completion for the project
- The district certifies it has entered into a binding contract(s) for \_\_\_\_ percent of the construction (must be at least 50 percent of the construction included in the plans and specifications applicable to the state funded project), which received written DSA approval on \_\_\_\_\_, and has issued the Notice(s) to Proceed on \_\_\_\_\_ for that contract(s) awarded on \_\_\_\_\_.  
 (If the space provided is not sufficient for all applicable contract dates, please list all dates on a separate attachment to this form.)
- If the district certified compliance with Education Code Section 17070.955 on its Application for Funding (Form SAB 50-04) and if it was not previously sent with the Form SAB 50-04, then the district must submit written confirmation from the district's career technical advisory committee indicating that the need for vocational and career technical facilities is being adequately met within the district consistent with Education Code Sections 51224, 51225.3(b), 51228(b), and 52336.1.

The Charter School must also be able to check the following box:

- The Charter School certifies it has entered into the Charter School Agreements pursuant to Section 1859.164.2.

The amount of State funds released for new construction shall be 100 percent of the total SFP New Construction Adjusted Grant, less any site acquisition funds previously released in Part III.

The amount of State funds released for modernization shall be 100 percent of the SFP Modernization Adjusted Grant.

**Part VI. New Construction—Site Acquisition Only**

District must be able to check both boxes:

- The district certifies it has entered escrow for the site (attach copy of escrow instructions).
- The district certifies that its applicable matching share has either:
  - been deposited in the County School Facility Fund
  - has already been expended by the district for the project
  - will be expended by the district prior to the Notice of Completion for the project

The amount of State funds released shall be equal to the additional grant provided for site acquisition.

**Part VII. Joint-Use Projects**

- The district certifies that the Joint-Use Partners' financial contribution has either:
  - been received and deposited in the County School Facility Fund
  - has been received and expended by the district
  - will be received and expended by the district prior to the Notice of Completion for the project
- The district certifies it has entered into a binding contract(s) for \_\_\_\_\_ percent of the construction (must be at least 50 percent of the construction included in the plans and specifications applicable to the state funded project), and has issued the Notice to Proceed on \_\_\_\_\_ for that contract signed on \_\_\_\_\_.

The amount of State funds released for new construction shall be 100 percent of the Joint-Use Grant.

**Part VIII. Identify District and Joint-Use Partners' Funding Sources**

- Available bond funds such as general obligation, or Mello-Roos.
- Available developer fees, proceeds from the sale of surplus property, or federal grants.
- Other funds available (identify)
- Funds already expended by the district for the project.
- Funds already expended by the Joint-Use Partners for the project.
- Future revenue sources to be used for the project (identify)

**Part IX. Career Technical Education Facilities Projects**

- The district certifies that its applicable matching share has either:
  - been deposited in the County School Facility Fund
  - has already been expended by the district for the project
  - will be expended by the district prior to the Notice of Completion for the project
- If the district requested a loan for its matching share pursuant to Section 1859.194, the district certifies that it has entered into a loan agreement with the State.

**Part X. Identify District's Construction Delivery Method**

- Design-Bid-Build
- Design-Build
- Developer Built
- Lease Lease-Back
- Energy Performance Contract
- This project includes or will include piggyback contract(s), as defined in Section 1859.2
- Other: \_\_\_\_\_

I certify, as the District Representative, that the information reported on this form is true and correct and that:

- I am an authorized representative of the district as authorized by the governing board of the district; and
- The site where buildings will be modernized or rehabilitated must comply with Education Code Sections 17212, 17212.5, and 17213; and,
- The grant amount provided by the State, combined with local matching funds or the Joint-Use Partner's financial contribution, are sufficient to complete the school construction project, unless the request is for a separate site and/or design apportionment; and,
- The district has or will comply with the Public Contract Code regarding all laws governing the use of force account labor; and,
- This project for which the grant amount is provided complies with Education Code Sections 17070.50 and 17072.30; and,
- The district shall certify at the time of a fund release for the project that it complies with Section 1859.90.1.
- This form is an exact duplicate (verbatim) of the form provided by the Office of Public School Construction (OPSC). In the event a conflict should exist, then the language in the OPSC form will prevail; and,
- If required by Labor Code Section 1771.7, the district has initiated and enforced a [Labor Compliance Program \(LCP\)](#) that has been approved by the DIR.
- If required by Labor Code Section 1771.3(a), the district will contract with the DIR for the required Prevailing Wage Monitoring and Enforcement, or the requirement is waived pursuant to Labor Code Section 1771.3(b). The district understands that if it fails to meet this requirement, it will be required to repay all state bond funds received including interest.

SIGNATURE OF DISTRICT OR JPA REPRESENTATIVE	DATE
NAME OF DISTRICT OR JPA REPRESENTATIVE (PRINT)	TITLE
EMAIL ADDRESS	TELEPHONE NUMBER