THE CERES UNIFIED/STANISLAUS
50/71043-00-030 ITEM HAS BEEN WITHDRAWN

REPORT OF THE EXECUTIVE OFFICER
State Allocation Board Meeting, August 24, 2011

SCHOOL DISTRICT DATA	
School District:…FRESNO COUNTY OFFICE OF EDUCATION	County:…….....FRESNO
Application Number:……..50/10108-00-002	School Name:…….KERMIT KOONTZ EDUCATION COMPLEX
Total District Enrollment:……...1,943	Project Grade Level:……9-12
Financial Hardship:……..……..YES	
Last Approved Local Bond Measure:……None	

PURPOSE OF REPORT

To present the Fresno County Office of Education's (COE) request to change the scope of its previously apportioned new construction project.

DESCRIPTION

The COE requests approval to change the scope of its new construction project to add a solar power generation system that was not included in the plans submitted with the original funding application that received an apportionment in December 2007.

AUTHORITY

Education Code (EC) Section 17070.63(a) states, "The total funding provided under this chapter shall constitute the state's full and final contribution to the project and for eligibility for state facilities funding represented by the number of unhoused pupils for which the school district is receiving the state grant. As a condition of receipt of funds, a school district shall certify that the grant amount, combined with local funds, shall be sufficient to complete the school construction project for which the grant is intended."

School Facility Program (SFP) Regulation Section 1859.103 states, "With the exception of savings attributable to a site apportionment made pursuant to Sections 1859.74.5 or 1859.81.2, the State's portion of any savings declared by the district or determined by the [Office of Public School Construction] OPSC by audit must be used to reduce the SFP financial hardship grant of that project or other financial hardship projects within the district for a period of three years from the date the savings were declared by the district or determined by the OPSC audit."

BACKGROUND

Between January 2005 and December 2007, the COE received an $8.9 million apportionment (100 percent State funded) to build a new community school with 12 portable classrooms, administrative facilities, kitchen/multi-purpose room area, a library, and restroom facilities. During the project, the COE decided to not construct a handicap-accessible pool that was a deductive alternate in the originally approved plans. According to the COE's appeal this decision was made due to "ongoing maintenance, liability issues, and the inability to use the pool in the cool season." The Notice of Completion for this project was issued on April 9, 2009 and the school was occupied in 2009. Based on the COE's most recent *Expenditure Report* (Form SAB 50-06) dated February 3, 2011, the project is 99 percent complete, and has expenditures totaling $7.7 million (the total State grant was $8.9 million).

Prior Board Actions

At the June 22, 2011 State Allocation Board (Board) meeting, the Board did not approve the Butte COE's appeal to add additional scope (a library) to its new construction project. Similar to Fresno COE, Butte COE's projects also received 100 percent State funding.

(Continued on Page Two)

STAFF ANALYSIS/STATEMENTS

The project apportioned on December 12, 2007 consisted of 12 portable classrooms, administrative facilities, kitchen/multi-purpose room area, a library, and restroom facilities. A solar power generation system was not originally included in the plans. Due to the removal of the handicap-accessible pool, the COE has approximately $0.5 million in residual funds, which it would like to use to add new scope to the project.

The COE is not requesting any additional funds for this additional scope. The COE has received feedback from the California Department of Education (CDE) that CDE reviewed the project and found it remains consistent with the California Code of Regulations, Title 5. The COE has stated that receiving Division of the State Architect (DSA) approval should require minimal review because the additional scope includes structures that have already been pre-checked by DSA.

"Full and Final" Apportionment

Staff reviewed the COE's request and has found that, because the new scope was not part of the original project, adding it to the existing approval would expand the scope of the project in a way that is inconsistent with EC Section 17070.63(a). This Education Code section states that "the total funding provided under this chapter shall constitute the state's full and final contribution to the project."

Financial Hardship Savings

This project was approved as a Financial Hardship project with 100 percent State funding. Currently, the SFP regulations do not allow Financial Hardship districts to retain the State's share of savings, because the district does not contribute its full 50 percent matching share to the project. In the COE's appeal, it states "as a result of exercising the deductive alternate and receiving a favorable bid, the [COE] … now has the funds within the approved grants already received for the project to complete the solar power generation system at the site." In other words, without the addition of the new scope, this project is anticipated to generate savings, which are identified by the time the expenditure audit is complete. If returned to the State, the Financial Hardship savings could be used to fund other Board-approved projects.

Additionally, the added project scope was not part of the original apportioned project. Approving the COE's request would set a precedent that would substantially change the Financial Hardship program by allowing Financial Hardship districts to essentially retain the State's share of project savings and potentially allow an unfair advantage to Financial Hardship districts.

Other Funding Options

The COE has another option for applying for State funding for the additional project scope. If the COE were to construct additional classrooms in the future, it may be possible to add the new scope as part of a future funding application. The COE currently has new construction eligibility available and its enrollment has increased in the last three years. As of July 12, 2011, there is $249.2 million in remaining new construction bond authority. Staff encourages the COE to reapply soon.

Based on the information presented, Staff has administratively denied the District's request.

BOARD OPTIONS

1. Take no action, which would allow Staff's administrative action to stand.
2. Grant the District's appeal.

BOARD ACTION

In considering this Item, the State Allocation Board (SAB) approved the District's appeal which would allow the District to change the scope of its previously apportioned new construction project to include a solar power generation system.

ATTACHMENT

STATE OF CALIFORNIA
SCHOOL DISTRICT APPEAL REQUEST

STATE ALLOCATION BOARD
OFFICE OF PUBLIC SCHOOL CONSTRUCTION

SAB 189 (REV 10/09)

SCHOOL DISTRICT	APPLICATION NUMBER
Fresno County Office of Education	50/10108-00-002
SCHOOL NAME	COUNTY
Kermit Koontz Education Complex	Fresno
DISTRICT REPRESENTATIVE	E-MAIL ADDRESS
Jan M. Biggs	jbiggs@fcoe.org

Purpose of Request:

The Fresno County Office of Education (FCOE) requests approval from the State Allocation Board (SAB) to allow project expenditures to install a solar power generation system as part of the Kermit Koontz Education Complex new construction project.

Basis of Request:

- [x] Law (Statute) Education Code 17072.35
- [x] Regulation Section 1859.106
- [x] Other (specify) SFP Handbook

Description:

The FCOE is near completion of the Kermit Koontz Education Complex New Construction project. The project was funded by the SAB under the Financial Hardship program on December 12, 2007. At project bid, for a variety of reasons including ongoing maintenance, liability issues and the inability to use the pool in the cool season, the FCOE Board chose to exercise a deductive alternate and not construct a handicap accessible pool. Instead, the special education physical education program is being accommodated on the field area and hard courts as well as indoors on treadmills, stationary bicycles and other adaptive equipment.

As a result of exercising the deductive alternate and receiving a favorable bid, the FCOE prepared for the installation of a solar system by adding roof jacks to accommodate a solar power system and a conduit path from the roof to the main electrical switch gear during the construction of the project and now has the funds within the approved grants already received for the project to complete the solar power generation system at the site.

Based on Education Code 17072.35, Regulation Section 1859.106 and information from the School Facility Program (SFP) Handbook, using the new construction grants to incorporate a solar generation system into the project is permitted and an allowable expenditure.

Education Code 17072.35 states that an appropriate use of the new construction grant is "for the cost of designs and materials that promote the efficient use of energy and water". A solar power generation system would allow for more efficient use of energy than solely relying on the existing connection to the power grid, and will also provide operational savings to the campus. Regulation Section 1859.106 further instructs OPSC staff to audit projects "to assure that the expenditures incurred by the district were made in accordance with the provisions of Education Code 17072.35 for new construction projects". The requested expenditure is allowable under Regulation Section 1859.106.

The SFP Handbook provides guidelines for project expenditures and recognizes flexibility as a part of construction projects. The Handbook states that to "continue with a project as approved by the Board, the original intent or project scope must be maintained". Adding the solar power system does not alter the size, placement, or number of any classrooms, minimum essential facilities or non-minimum essential facilities in the project, maintaining both the original intent and the project's scope. Additionally, the solar power system would not materially alter the funding formula to determine the grants received for the project.

In keeping with the current statute (EC 17072.35 and Regulation Section 1859.106), policies outlined in the SFP Handbook and OPSC recommendation, the FCOE is requesting approval from the SAB to move forward with incorporating a solar power system as part of the Kermit Koontz Educational Complex new construction project.

SIGNATURE OF AUTHORIZED DISTRICT REPRESENTATIVE	DATE
Jan Biggs	4/4/2011

THE LOS ANGELES UNIFIED SCHOOL DISTRICT,
PROJECT NUMBER 56/64733-00-007, ITEM
HAS BEEN WITHDRAWN

REPORT OF THE EXECUTIVE OFFICER
State Allocation Board Meeting, August 24, 2011

SCHOOL DISTRICT DATA	
School District: ..... LOS ANGELES UNIFIED	County: ..... LOS ANGELES
Application Number: 56/64733-00-008	School Name: ..... LIGGETT ELEMENTARY
Total District Enrollment: 667,273	Project Grade Level: K-6
Financial Hardship: ..... NO	

PURPOSE OF REPORT

To present the District's request to include an Energy Efficiency grant in an unfunded approval for its Overcrowding Relief Grant (ORG) application.

DESCRIPTION

The District is requesting an ORG unfunded approval for Liggett Elementary which includes an additional grant that was denied during the application review process. The District is requesting the Energy Efficiency grant totaling $91,120. If approved, the Energy Efficiency Grant would trigger a Labor Compliance Program grant of $20,796.

AUTHORITY

See Attachment B.

BACKGROUND

The District submitted a funding application as part of the seventh ORG funding cycle. The application was received on January 31, 2011. As part of the application review process it was determined the District was ineligible to receive Energy Efficiency funds.

The Energy Efficiency grant is a supplemental allowance available to districts with projects that have increased costs associated with plan design and other project components for school facility energy efficiency. In order to receive the grant, facilities in the proposed new construction project must exceed the nonresidential building energy efficiency standards as specified in Title 24, Part 6 of the California Code of Regulations by 15 percent. The percentage that a project exceeds the nonresidential building energy efficiency standards is verified by the Division of the State Architect (DSA).

As part of the application the District submitted all of the necessary documentation required to be eligible for the Energy Efficiency grant. However, Staff determined that the District is ineligible for the Energy Efficiency grant as the grant is a subset of Kindergarten-University Public Education Act of 2002 and 2004 (Propositions 47 and 55), while the ORG program was established in Kindergarten-University Public Education Act of 2006 (Proposition 1D).

At the March 2010 meeting, the Board opened a one year filing period for districts to apply for remaining Energy Efficiency funding made available by cash returned to the program. The one year filing period ended on April 1, 2011. With the exception of $100,000 reserved by Staff pending the outcome of this appeal, the remaining Energy Efficiency authority was transferred to the new construction program. If the District is not awarded Energy Efficiency funds as part of this appeal, the reserved authority will be transferred to the new construction fund.

(Continued on Page Two)

STAFF ANALYSIS/STATEMENTS

District Position

The District believes that they are eligible for the Energy Efficiency grant, as the regulations do not exclude ORG projects. The District has also quoted Education Code (EC) Section 17079.20(c) which states, "The board shall require that applicant school districts comply with all of the same conditions otherwise required for new construction funding pursuant to this chapter." The District interpretation of this section is that the ORG requires projects to comply with the same conditions as new construction projects and the District is eligible for Energy Efficiency funds as they are available to new construction projects.

As part of the application submittal, the District complied with all of the conditions, per EC section 17079.20(c), required for Energy Efficiency and submitted the necessary DSA certification.

It is the District's position that the OPSC has a limited interpretation of EC sections 100620(e) and 100820(e) interpreting the word "inclusive" to mean "only" and "exclusively". The District believes there are alternate ways to interpret the EC. The District references EC Section 2 which states, "The code establishes the law of this state respecting the subjects to which it relates, and its provisions and all proceedings under it are to be liberally construed, with a view to effect its objects and promote justice."

The District opines that sections (a) through (e) of the EC Sections 100620 and 100820 are eligible for Energy Efficiency funding as well as others that meet the technical and DSA certified qualifications for the Energy Efficiency program as stated in EC and regulation, without exclusion of the ORG projects. The District contends that when multiple interpretations are possible, the Board should choose the most permissive interpretation.

Staff Position

Statutory Limitations

The EC stipulates that the Energy Efficiency grant allowance was provided in Propositions 47 and 55; however, Proposition 1D did not provide for this allowance. Energy Efficiency grants were not continued through Proposition 1D. The grant is specifically tied to the funds and programs allocated through the Proposition 47 and 55 bond programs.

In EC Section 100620 (e), it states that "From the total amounts set forth in paragraphs (1) to (6), inclusive, of subdivision (a), a total of no more than twenty million dollars ($20,000,000) shall be used for the costs of energy conservation adjustments authorized pursuant to Section 17077.35." Paragraphs one through six are the funding allotments for the New Construction, Facility Hardship, Modernization, Charter School, Joint-Use and Critically Overcrowded Schools (COS) programs. This language indicates that the funds set aside for Energy Efficiency as part of Proposition 47 can be allotted specifically within the New Construction, Facility Hardship, Modernization, Charter School, Joint-Use and COS programs. The Energy Efficiency grant is tied to the Proposition 55 funds for the specified types of projects. The language contained in Proposition 55 is similar to the language in Proposition 47.

(Continued on Page Three)

STAFF ANALYSIS/STATEMENTS (cont.)

Distinction Between the ORG and Other SFP Programs

The ORG was established by Proposition 1D and provides a specialized program allowing districts to replace portable classrooms on overcrowded school sites with permanent classrooms. The program provides unfunded approvals through a funding cycle system. The ORG is a self contained program in which the district must apply for program eligibility which is completely isolated from all other forms of district eligibility (i.e. New Construction, Modernization, etc.). The ORG is a program (created by Proposition 1D) that is not in direct competition for bond authority with programs that have the ability to utilize funding from Propositions 47, 55, and 1D (New Construction, Modernization, etc.).

ORG program applications must comply with the same conditions required of new construction projects in the submittal of a complete funding application. Under the ORG program, districts are building new structures, thus these structures must be approved by the DSA, must meet the site acquisition requirements, and must meet any requirements imposed by all governing bodies involved in the oversight of school construction. One main difference between the ORG and the new construction program is that the ORG program derives its eligibility from a specific formula separate from the new construction program. Another is that the funding source is separate, as ORG projects do not vie for the same bond authority as traditional new construction projects. Since ORG projects do not draw down new construction eligibility, or compete for the same funding source, they are not the same as new construction projects and must obey the limitations imposed by that program and bond source.

Legal Opinion

Staff has received the following legal opinion from counsel: "The ORG program was created through the passage of Kindergarten-University Public Education Act of 2006 (Proposition 1D), and ORG projects may only be funded with bond proceeds from that Bond Act that created the program. Energy Efficiency grants were created by Kindergarten-University Public Education Act of 2002 and 2004 (Propositions 47 & 55) and are available to projects funded from those Bond Acts but not for projects funded from Proposition 1D."

Other Factors

If the District's appeal is approved, the Board will need to provide an additional grant of approximately $20,796 for the Labor Compliance Program as the project will receive funding out of Proposition 47 or 55.

Conclusion

Staff supports the design and implementation of energy efficient measures in projects. Unfortunately, there is no mechanism to allow the District to receive Energy Efficiency grants for an ORG project approved out of Proposition 1D, as is not allowed in the statute. However, there is a mechanism for ORG projects to qualify for grants to support energy efficient measures via the High Performance Incentive Grant Program.

Staff is unable to recommend the approval of the District's appeal and has administratively denied the District's request.

BOARD OPTIONS

1. Take no action, which would allow Staff's administrative action to stand.
2. Grant the District's appeal.

BOARD ACTION

In considering this Item, the State Allocation Board (SAB) approved the funding application without the energy efficiency grant, which allowed the District to receive an unfunded approval in the amount of $2,809,349 for this project. The SAB held over the energy efficiency discussion while a legal opinion from Legislative Counsel was being requested.

ATTACHMENT A

STATE OF CALIFORNIA
SCHOOL DISTRICT APPEAL REQUEST

STATE ALLOCATION BOARD
OFFICE OF PUBLIC SCHOOL CONSTRUCTION

SAB 189 (REV 10/09)

SCHOOL DISTRICT	APPLICATION NUMBER
Los Angeles Unified School District	56/64733-00-008
SCHOOL NAME	COUNTY
Liggett Elementary School	Los Angeles
DISTRICT REPRESENTATIVE	E-MAIL ADDRESS
Shawn Atlow	shawn.atlow@lausd.net

Purpose of Request:

To request that the State Allocation Board (SAB) approve the District's full request for Overcrowding Relief Grant (ORG) funding – inclusive of a supplemental grant from Proposition 55 for Energy Efficiency. Additionally, LAUSD requests that the SAB instruct the Office of Public School Construction (OPSC) to maintain the project's original date in line even if the application has to be resubmitted to OPSC as a result of it being returned to the District.

Basis of Request:

- [x] Law (Statute) Ed Code Sections 17079.20, especially (c)
- [x] Regulation SFP Regulation Sections 1859.71.3
- [ ] Other (specify) _____

Description:

Please see attached pages

SIGNATURE OF AUTHORIZED DISTRICT REPRESENTATIVE

DATE
August 17, 2011

Revised due to resolution of selected issues

ATTACHMENT A

Attachment to School District Appeal Request
SAB 189 Revisedv3 - Revised due to resolution of selected issues
Dated August 17, 2011

Los Angeles Unified School District	Application Number: 56/64733-008
Liggett Elementary School	County: Los Angeles
Dist. Rep: Shawn Atlow	Email: shawn.atlow@lausd.net

Purpose of Request:

To request that the State Allocation Board (SAB) approve the District's full request for Overcrowding Relief Grant (ORG) funding – inclusive of a supplemental grant from Proposition 55 for Energy Efficiency. Additionally, LAUSD requests that the SAB instruct the Office of Public School Construction (OPSC) to maintain the project's original date in line even if the application has to be resubmitted to OPSC as a result of it being returned to the District.

Basis of Request:

Law (Ed Code)	Sections 17079.20, especially (c)
Regulation	SFP Regulations Section 1859.71.3
Other (specify)	

Description:

The LAUSD appreciates OPSC staff working with the District to try to resolve the outstanding issues related to this project. The District reviewed the OPSC's determinations communicated via phone calls and in the emails dated April 8, 2011 and April 12, 2011. Although both agencies have worked hard to come to agreements on all questions, there remains one issue of contention related to whether the statutes and regulations allow Overcrowding Relief Grants (ORG) projects to receive Energy Efficiency funding.

As required by Education Code Section 17079.20 (c) and SFP Regulation Section 1859.71.3, New Construction Additional Grant for Energy Efficiency, the District complied with all of the conditions for receiving Energy Efficiency funding and provided the additional documentation, DSA certification on Form ECR-1, with the initial funding application. The OPSC rejected the District's request for the Energy Efficiency allowance despite this ORG project meeting all of the requirements for Energy Efficiency. The OPSC discounted the authorizations provided in Education Code Section 17079.20(c), which speaks to the applicability and limitations of other SFP allowances to ORG projects, and SFP Regulation Section 1859.71.3, which speaks to the requirements for obtaining the Energy Efficiency allowance.

Education Code Section 17079.20 addresses "limitations" and other ORG specific requirements for the ORG program. Subdivision (c) states:

> "The board shall require that applicant school districts comply with all of the same conditions otherwise required for new construction funding pursuant to this chapter with the exception of subdivision (b) of Section 17071.75." [Note: the excepted subdivision (b) of Section 17071.75

only relates to use of regular new construction eligibility, which does not apply to ORG projects.]

OPSC's reason for rejecting the request for Energy Efficiency funding is based on one of the possible interpretations of the Education Code. The OPSC conclusion seems to be based on a very selective and limited reading of Education Code Sections 100620 (e) and 100820 (e) and interprets the word "inclusive" to mean "only" and "exclusively." This interpretation leaves out the clear intent of the law to provide supplemental funding for all projects covered under Chapter 12.5 of the Education Code (Education Code 17077.30 and Education Code 100801), which does include the ORG Program. It is our contention that the legislature in passing the Energy Efficiency statutes did not intend to limit energy efficiency funding to Proposition 47 and 55.

Another approach to interpretation would lead to the practical conclusion that, yes, projects in (a) through (d) are eligible for Energy Efficiency funding; and so are others which meet the technical and DSA certified qualifications for the Energy Efficiency program as cited above in other sections of the Education Code and SFP regulations, each without exclusion of the ORG program projects. When multiple interpretations are possible, the OPSC and SAB should choose the most permissive interpretation per Education Code Section 2, that "all proceedings under it are to be liberally construed, with a view to effect its objects and to promote justice."

LAUSD respectfully requests the SAB allow the Energy Efficiency grant for this project. The District also requests the OPSC to maintain this project's place in line during the appeal.

Thank you.

ATTACHMENT B

AUTHORITY

Education Code (EC) Section 2 states, "The code establishes the law of this state respecting the subjects to which it relates, and its provisions and all proceedings under it are to be liberally construed, with a view to effect its objects and promote justice."

EC Section 17077.30 states, "(a) As part of the requirements for submission of an application to the State Allocation Board for funding pursuant to this chapter for any new construction or modernization project, the applicant school district may, at the time of submission of the final drawings to the Division of the State Architect, certify that an energy analysis and report has been prepared that sets forth the utility savings that would be generated if the facilities were designed, constructed, and equipped, with the energy efficiency and renewable technologies that would make the facilities exceed the minimum building energy-efficiency standards mandated for new public buildings pursuant to the latest edition of the California Building Standards Code through the use of energy efficiency and renewable energy technologies.
(b) The energy analysis and report shall include a verifiable life-cycle cost analysis for each proposed energy conservation measure and renewable energy that may include, but need not be limited to, photovoltaic parking lot and security lighting, and solar swimming pool and domestic water heating, showing a return on investment of less than 15 years.
(c) The cost of the energy analyses and reports shall not exceed:
(1) Seven thousand five hundred dollars ($7,500) per project for elementary schools.
(2) Ten thousand dollars ($10,000) per project for middle schools.
(3) Fifteen thousand dollars ($15,000) per project for high schools.
(d) An applicant school district may count the following funds or expenditures toward meeting the local matching funds requirement under this chapter:
(1) The amount from any local sources actually expended on the project by the applicant school district for an energy audit.
(2) The amount actually applied to the project from any incentive, grant, or rebate, received by the applicant school district from a program funded pursuant to Section 381 of the Public Utilities Code."

EC Section 17077.35 states, "(a) An applicant school district may include plan design and other project components that seek school facility energy efficiency approaching the ultimate goal of school facility energy self-sufficiency, and may seek a grant adjustment for the state's share of the increased costs associated with those components.
(b) Energy efficiency components that are eligible for inclusion into a project pursuant to this section include, but are not limited to, conservation, load reduction technologies, peakload shifting, solar water heating technologies as described in subparagraph (A) of paragraph (2) of subdivision (b) of Section 25619 of the Public Resources Code and as rated and certified by the Solar Rating and Certification Corporation, the use of ground source temperatures for heating and cooling, photovoltaics, and technologies that meet the emerging technology eligibility criteria established by the State Energy Resources Conservation and Development Commission pursuant to Section 383.5 of the Public Utilities Code. A project that received funding from the renewable energy program administered by the State Energy Resources Conservation and Development Commission is not eligible for a grant adjustment under this section.
(c) In order to be eligible for the grant adjustment pursuant to this section, the building proposed for the project, including the energy-efficiency and renewable energy measures utilized pursuant to this section, shall exceed the nonresidential building energy-efficiency standards specified in Part 6 (commencing with Section 100) of Title 24 of the California Code of Regulations by an amount not less than 15 percent for new construction projects and not less than 10 percent for modernization projects, and shall be shown to provide sufficient energy savings to return the cost of the initial investment in the project over a period not to exceed seven years. The applicant shall certify that the cost for the project exceeds the amount of funding otherwise available to the applicant under this chapter.

(d) The board shall provide an applicant for a new construction or modernization project with a grant adjustment to provide an increase not to exceed 5 percent of its state grants authorized by Sections 17072.10 and 17074.10 for the state's share of costs associated with design and other plan components related to school facility energy efficiency as set forth in this article."

EC Section 17079.20(c) states, "The board shall require that applicant school districts comply with all of the same conditions otherwise required for new construction funding pursuant to this chapter with the exception of subdivision (b) of Section 17071.75."

EC Section 100620 (e) states, "From the total amounts set forth in paragraphs (1) to (6), inclusive, of subdivision (a), a total of no more than twenty million dollars ($20,000,000) shall be used for the costs of energy conservation adjustments authorized pursuant to Section 17077.35."

EC Section 100820 (e) states, "From the total amounts set forth in paragraphs (1) to (4), inclusive, of subdivision (a), a total of no more than twenty million dollars ($20,000,000) shall be used for the costs of energy conservation adjustments authorized pursuant to Section 17077.35."

EC Section 101012 (a)(7) provides "the amount of one billion dollars shall be available for providing new construction funding to severely overcrowded schoolsites…"

School Facility Program (SFP) Regulation Section 1859.70.1 states, "(a) The Board shall set aside $20 million pursuant to Education Code Section 100620(e) and $20 million pursuant to Education Code Section 100820(e) for energy conservation adjustments authorized by Education Code Section 17077.35. The $20 million from each set aside shall be transferred to the Energy Efficiency Account from the following sources:
(1) The funds made available by Education Code Section 100620(a)(1) and 100820(a)(1), as appropriate.
(2) The funds made available by Education Code Section 100620(a)(2) and 100820(a)(2), as appropriate.
(b) The funds from each set aside in (a) shall be apportioned for either of the following:
(1) New Construction Additional Grants for Energy Efficiency authorized by Section 1859.71.3.
(2) Modernization Additional Grants for Energy Efficiency authorized by Section 1859.78.5.

SFP Regulation Section 1859.71.3 states, "(a) In addition to any other funding authorized by these Regulations, the Board shall provide the grant amounts identified in (b) if all the following are met:
(1) The project includes energy efficiency components that conform to Subdivision (b) of Education Code Section 17077.35.
(2) The average energy efficiency score of all the buildings in the project, as determined by EnergyPro 3.1 or a similar computer program approved by the State Energy Resources Conservation and Development Commission, exceeds the nonresidential building energy efficiency standards specified in Part 6 of Title 24 of the California Code of Regulations by at least 15 percent.
(3) The DSA has reviewed the proposed project and concurs with the percentage of energy efficiency that exceeds the nonresidential building energy efficiency standards specified in Part 6 of Title 24 of the California Code of Regulations.
(4) No portion of the project will be funded with funds made available from the Renewable Energy Program administered by the State Energy Resources Conservation and Development Commission.
(5) There are funds remaining in the Energy Efficiency Fund as prescribed in Section 1859.70.1 to apportion some or the entire additional grant provided in (b).
(b) An amount equal to the lesser of the following:
(1) The New Construction Grant multiplied by one percent if the percentage of energy efficiency as concurred by the DSA in (a)(3) is 15 percent, or by one percent plus 0.04 percent for each 0.1 percent increment of increased energy efficiency up to 25 percent. The multiplier may not exceed five percent.
(2) The funds available in the Energy Efficiency Account set aside for this Section.

If there are no funds remaining in the Energy Efficiency Account or the funds remaining in the Energy Efficiency Account are insufficient to fully fund the additional grant authorized in (b)(1), the district may either withdraw its application and resubmit it when additional funds are available in the Energy Efficiency Account or continue with the new construction project and accept a full and final apportionment without the additional grant authorized by (b)(1) or the lesser apportionment authorized by (b)(2).”

ATTACHMENT C

SAB Meeting: **August 24, 2011** **Overcrowding Relief Grant - Adjusted Grant Approval**

SCHOOL DISTRICT DATA

Application No: 56/64733-00-008
School District: Los Angeles Unified
County: Los Angeles
School Name: Liggett Street Elementary

PROJECT DATA

Type of Project:	Elementary School
K-6:	200
7-8:	
9-12:	
Non-Severe:	
Severe:	
Application Filing Basis:	District Wide
Number of Classrooms:	8
Master Acres:	13.3
Existing Acres:	6.9
Proposed Acres:	
Recommended Acres:	12
Financial Hardship Requested:	No
Alternative Education School:	No
Addition to Existing Site:	Yes

ADJUSTED GRANT DATA

Overcrowding Relief Grant	**$**	1,822,400.00
Fire Detection Alarm		2,200.00
Multi-Level Constr.	8Crs.	218,688.00
Service Site		249,942.00
Utilities		103,681.00
Small Size Project		72,896.00
Urban/Security/Impacted Site		339,542.00
Total State Share (50%)		2,809,349.00
District Share (50%)		2,809,349.00
Total Project Cost	**$**	**5,618,698.00**

PROJECT FINANCING

State Share		
This Project	**$**	2,809,349.00
District Share		
Cash Contribution		2,809,349.00
Financial Hardship		
Total Project Cost	**$**	**5,618,698.00**

HISTORY OF PROJECT COST AND APPORTIONMENT

	Fund Code	Proposition		Authorized This Action		Unfunded Approval This Action
State Share						
Overcrowding/Add. Grant	**957-531**	**1D**	**$**	2,809,349.00	**$**	2,809,349.00
District Share						
Cash Contribution				2,809,349.00		
Total			**$**	**5,618,698.00**	**$**	**2,809,349.00**

Funding Source: Proposition 1D Bonds/2006-Nov.
Pursuant to the Board's action on March 11, 2009, this application has been approved and placed on the Unfunded List.
This approval does not constitute a guarantee or commitment of future State funding.

Pursuant to Regulation Section 1859.183, the District is required to remove from the eligible site and from classroom use all portables replaced in this project.

The District shall ensure that it is in compliance with all applicable laws, regulations and certifications it made on the program forms.

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