

REPORT OF THE EXECUTIVE OFFICER
State Allocation Board Meeting, May 23, 2012

CHARTER SCHOOL FACILITIES PROGRAM ADVANCED SITE AND DESIGN FUND RELEASES

PURPOSE OF REPORT

To request that the State Allocation Board (Board) extend the six-month filing period to request advanced site and design fund releases for Charter School Facilities Program (CSFP) projects with Preliminary Apportionments or Unfunded Preliminary Apportionments.

DESCRIPTION

At the May and August 2011 Board meetings, the Board set aside a total of \$94.2 million in bond sale proceeds for purposes of providing advance fund releases for design and/or site acquisition to qualified CSFP projects via a filing round ending May 2, 2012. Approximately \$64.5 million in bond sale proceeds remains unrequested at the conclusion of this latest CSFP advance fund release filing round. Staff is seeking direction on how to disburse the funds.

AUTHORITY

Education Code (EC) Section 17070.35(a) states, "In addition to all other powers and duties as are granted to the board by this chapter, other statutes, or the California Constitution, the board shall do all of the following:

- (1) Adopt rules and regulations, pursuant to the rulemaking provisions of the Administrative Procedure Act, Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2 of the Government Code, for the administration of this chapter...
- (2) Establish and publish any procedures and policies in connection with the administration of this chapter as it deems necessary...."

EC Section 17078.25 states, "(a) Within the maximum time period set forth in Section 17078.30, the applicant shall have a period of up to four years from the date of the preliminary apportionment in which to complete the application for final apportionment.

(b) The applicant may request a single one-year extension of the period set forth in subdivision (a). The board shall grant the request for the single one-year extension if it determines that the applicant has made substantial progress towards completing the requirements for filing an application for final apportionment. The board may grant only one one-year extension for the project and may only grant the extension if granting the extension would not, in total, cause the project to exceed the maximum time period set forth in Section 17078.30."

BACKGROUND

The State's fiscal crisis of December 2008 eliminated the ability to provide funding for CSFP advance fund releases on a flow basis, as the program originally intended. Because these advances are not considered separate apportionments, they did not originally appear on the unfunded approvals list (they were added at the February 2011 Board meeting); no funding was provided for these purposes from December 17, 2008 until the Board's actions at its August 2010 meeting. At its August 2010 meeting, the Board reserved bond sale proceeds specifically for this purpose and has continued to do so periodically since that time.

The October 2011 General Obligation Bond sale generated enough cash proceeds to cover all remaining CSFP advance fund releases. The third advance fund release filing round commenced November 2, 2011 and included all CSFP Preliminary Apportionments that had outstanding advance fund releases. Charter applicants were given a deadline of May 2, 2012 to submit a valid *Fund Release Authorization* (Form SAB 50-05).

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BACKGROUND (cont.)

The following is a brief history of Board actions to set aside funding for CSFP advance fund releases:

DATE	FILING ROUND	AMOUNT RESERVED	# OF REQUESTS SUBMITTED	AMOUNT RELEASED TO CHARTERS	UNDISBURSED FUNDS
8/25/10	1	\$10 million	4	\$10 million	\$0
12/15/10	1	\$46 million	14	\$31.8 million	\$14.3 million
12/15/10	2	\$50 million	14	\$35.2 million	\$14.8 million
5/25/11; 8/24/11	3	\$94.2 million	9	\$29.7 million	\$64.5 million

The unreleased amount from each of the first two filing rounds was held over by the Board for use in the third filing round. Additionally, the Board declared that once the third advance fund release filing round ended, all CSFP Preliminary Apportionments and Unfunded Preliminary Apportionments that had not yet had their statutory timelines re-activated would be re-activated as of May 3, 2012. All CSFP Preliminary Apportionments are currently active and shown on Attachments A, B, and C.

STAFF ANALYSIS/STATEMENTS

Staff provided extensive outreach to all CSFP applicants leading up to the May 2nd filing deadline to maximize participation and learn of any obstacles preventing participation. Staff sent reminder letters on November 2, 2011 and February 2, 2012, and contacted each applicant by phone on January 25, 2012 and again from March 8 through 15, 2012. A webinar was also conducted on March 15, 2012 to inform applicants of all submittal requirements and to address any questions or concerns about the process. A total of six applicants submitted a valid Form SAB 50-05 for nine separate fund releases by May 2, accounting for \$29.7 million in fund releases. An additional four applicants with advances totaling \$21.7 million were not able to meet the deadline, but have verbally stated they have the ability to meet an extended deadline as various circumstances have prevented the submittal of a valid Form SAB 50-05. Reasons given for the inability to submit a valid Form SAB 50-05 by May 2, 2012 included the following:

- One of the applicants, which had two separate projects totaling \$8.1 million in advances, is located in the Los Angeles area and had Form SAB 50-05s ready for pick up by overnight courier service the day prior to the deadline. However, the streets where the applicant is located were closed due to the “May Day” protests on May 1 and the courier was unable to pick up the packages for delivery to the Office of Public School Construction (OPSC) by May 2. Staff has received written verification from the courier certifying their inability to pick up packages on that day (Attachment D).
- One applicant, with advances totaling \$6.7 million, was not found financially sound by the California School Finance Authority, but has indicated that this determination may change as new information becomes available at the end of this fiscal year (June 30).
- One applicant, with advances totaling \$6.6 million, submitted a Form SAB 50-05 for an advance fund release for site acquisition, but did not submit the required appraisal of the property by the May 2nd deadline. The applicant indicated that an extended deadline would allow them to obtain and submit an appraisal.
- One applicant, with advances totaling \$0.3 million, has been working on the required Facilities Use Agreement with the local school district, but had been unable to come to terms by the deadline. The applicant indicated that an extended deadline would allow them to come to terms.

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STAFF ANALYSIS/STATEMENTS (cont.)

There are 13 additional applications totaling \$42.9 million that have not submitted a Form SAB 50-05. When asked of their ability to participate if the deadline was extended, only one indicated that if given more time, they may be able to submit a complete request for funds. The other applicants responded as follows: one indicated they may not be going forward with the project; two no longer qualified for the funds set aside for site acquisition (as they will be using existing District sites for no cost); five were not currently capable of taking on the added expenses or workload at this time; and four did not respond to our request.

There are three other CSFP projects that have submitted an *Application for Funding* (Form SAB 50-04) for Final Apportionment for a construction ready project. One has already been approved by the Board for \$3.2 million and is currently on the list of unfunded approvals. Two other projects totaling approximately \$11.6 million are on the OPSC workload list and are being processed for unfunded approval, for a total known need of \$14.8 million for construction ready projects.

The table below illustrates the remaining cash proceeds from the third filing round and potential CSFP uses:

Cash Originally Made Available for CSFP	Funds Already Disbursed	Likely Advances if Extension Granted	Construction Ready CSFP Projects	Potential Remaining Cash for SFP
	6 projects	5 projects	3 projects	
\$94.2 million	\$29.7 million	\$21.7 million	\$14.8 million	\$28.0 million

Staff is presenting four options for the disbursement of the \$64.5 million remaining in reserved cash proceeds. It should be noted that any Board action to extend the expired deadline would have no effect on the re-activation of the CSFP Preliminary Apportionments, as they have already been administratively re-activated as of May 3, 2012, per prior Board action. Also, any CSFP advance fund release not provided an extension would remain in its current position near the top of the unfunded approvals list and would remain eligible to compete for funding in future Priority Funding (PF) filing periods.

Option 1 – Extend the deadline to request funds for design and/or site to within 180 days of the Board’s approval.

Given that some of the applicants had circumstances beyond their control prevent them from submitting a valid Form SAB 50-05 and others are relatively close to being able to meet the requirements, the Board could extend the deadline to submit a Form SAB 50-05 until November 19, 2012. Doing so would allow CSFP projects additional time to meet the submittal requirements. The Board could re-visit the issue of how to disburse any remaining cash at the conclusion of this extension period.

Pros:

- Provides another opportunity for some CSFP applicants who have worked in good faith to submit a valid Form SAB 50-05 and others whose inability to submit was beyond their control.
- Keeps all of the cash within the CSFP.

Con:

- May reserve cash for projects with no intention of requesting an advance fund release within the proposed time extension.

STAFF ANALYSIS/STATEMENTS (cont.)

Option 2 – Extend the deadline to request funds for design and/or site only for the five applications that indicated an ability to meet an extended deadline distributing the available cash in order as follows:

- **Apply \$21.7 million to the five applications above**
- **Apply \$3.2 million to the Charter construction project on the list of unfunded approvals**
- **Apply \$11.6 million to two Charter construction projects on the OPSC workload list**
- **Apply \$28.0 million to School Facility Program (SFP) projects on the list of unfunded approvals.**

A total of \$36.5 million would be reserved for CSFP projects under this option. The Board would extend the deadline to submit a Form SAB 50-05 until November 19, 2012 only for the four applicants (five applications) who expressed an ability to meet an extended deadline, reserving \$21.7 million for this purpose. An additional \$14.8 million would be reserved to fund the one “construction ready” approved CSFP conversion project on the list of unfunded approvals and the two others on the OPSC workload list. Finally, the remaining funds would be used to fund other SFP projects on the list of unfunded approvals who submitted PF requests during the most recent filing period. Projects would be apportioned based on unfunded approval date until the cash is exhausted. These apportionments could be presented to the June 2012 Board meeting. Those CSFP projects not receiving an extension would remain near the top of the unfunded approvals list based on their Preliminary Apportionment approval date and would still be eligible to compete in future PF filing periods for advance fund releases.

Pros:

- Provides funding for known CSFP advance and conversion funding needs.
- Provides another opportunity for some CSFP applicants who have worked in good faith to submit a valid Form SAB 50-05 and others whose inability to submit was beyond their control.
- Does not reserve cash for projects that have not indicated an intention of requesting an advance fund release.

Cons:

- SFP projects with earlier unfunded approval dates than the CSFP conversion projects would not be funded
- Requires the remainder of the advance fund release applicants to wait to compete in future PF filing rounds for cash instead of having immediate access to cash, should their individual circumstances change.

Option 3 - Extend the deadline for only those five applications (\$21.7 million) that indicated an ability to meet an extended deadline. Use the remaining cash (\$42.8 million) to provide apportionments for SFP projects on the list of unfunded approvals.

This option would extend the deadline only for the four applicants (five applications) who expressed an ability to meet an extended deadline. This would require only \$21.7 million to be reserved for this purpose. The remaining cash would be used to fund other SFP projects on the unfunded approvals list who submitted PF requests during the most recent filing period. Projects would be apportioned based on unfunded approval date until the cash is exhausted. These apportionments could be presented to the June 2012 Board meeting. Those CSFP projects not receiving an extension would remain near the top of the unfunded approvals list based on their Preliminary Apportionment approval date and would still be eligible to compete in future PF filing periods for advance fund releases.

Pros:

- Provides funding for known CSFP advance funding needs.
- Provides another opportunity for some CSFP applicants who have worked in good faith to submit a valid Form SAB 50-05 and others whose inability to submit was beyond their control.
- Does not reserve cash for projects that have not indicated an intention of requesting an advance fund release.

Con:

- Requires the remainder of the advance fund release applicants to wait to compete in future PF filing rounds for cash instead of having immediate access to cash, should their individual circumstances change.

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STAFF ANALYSIS/STATEMENTS (cont.)**Option 4 – Use all of the remaining available cash (\$64.5 million) to apportion projects on the list of unfunded approvals.**

The Board could decide to not extend the deadline and instead use all of the remaining cash to provide apportionments for other SFP projects on the list of unfunded approvals who submitted requests during the most recent PF filing period. These apportionments could be presented to the June 2012 Board meeting. The CSFP advances would remain near the top of the unfunded approvals list based on their Preliminary Apportionment approval date and would still be eligible to compete in future PF filing periods.

Pros:

- Cash would be allocated to “construction-ready” projects.
- Applicants with eligible CSFP advance fund releases could still participate in future PF rounds.

Con:

- Disadvantages some CSFP applicants who have worked in good faith to submit a valid Form SAB 50-05 and others whose inability to submit was beyond their control.

RECOMMENDATION

Approve Option 1.

ATTACHMENT A
CHARTER SCHOOL FACILITIES PROGRAM
ACTIVATION OF INACTIVE AND UNFUNDED PRELIMINARY APPORTIONMENTS
(PROPOSITIONS 47 AND 1D)
State Allocation Board, May 23, 2012

District	County	Charter School	Project	Preliminary Apportionment Amount	Preliminary Apportionment Date	Original Statutory Deadline for Conversion	Time Remaining to Submit a Complete Application for Funding	New Deadline for Conversion
OAKLAND UNIFIED	ALAMEDA	LEADERSHIP PUBLIC SCHOOLS - COLLEGE PARK	54/61259-09-004	\$766,800	5/26/10	5/26/2014	4 Years	5/3/2016
OAKLAND UNIFIED	ALAMEDA	LEADERSHIP PUBLIC SCHOOLS - COLLEGE PARK	54/61259-09-005	\$2,556,172	5/26/10	5/26/2014	4 Years	5/3/2016
LOS ANGELES UNIFIED	LOS ANGELES	ANIMO PAT BROWN	54/64733-00-070	\$5,127,676	7/12/11	7/12/2015	4 Years	5/3/2016
LOS ANGELES UNIFIED	LOS ANGELES	OCEAN CHARTER SCHOOL	54/64733-00-073	\$19,925,488	4/27/11	4/27/2015	4 Years	5/3/2016
SANTA ANA UNIFIED	ORANGE	PACIFIC TECHNOLOGY SCHOOL - SANTA ANA	54/66670-00-003	\$17,413,956	5/26/10	5/26/2014	4 Years	5/3/2016
SACRAMENTO CITY UNIFIED	SACRAMENTO	LANGUAGE ACADEMY OF SACRAMENTO	54/67439-00-005	\$6,662,240	5/26/10	5/26/2014	4 Years	5/3/2016
SAN DIEGO UNIFIED	SAN DIEGO	MAGNOLIA SCIENCE ACADEMY - SAN DIEGO	54/68338-02-002	\$3,036,122	7/12/11	7/12/2015	4 Years	5/3/2016
SANTA ROSA	SONOMA	ROSELAND CHARTER SCHOOL	54/70920-00-002	\$13,470,182	7/12/11	7/12/2015	4 Years	5/3/2016

**ATTACHMENT B
CHARTER SCHOOL FACILITIES PROGRAM
ACTIVATION OF INACTIVE AND UNFUNDED PRELIMINARY APPORTIONMENTS
(PROPOSITION 1D)**

State Allocation Board, May 23, 2012

District	County	Charter School	Project	Preliminary Apportionment Amount	Preliminary Apportionment Date	Original Statutory Deadline for Conversion	Time Remaining to Submit a Complete Application for Funding	New Deadline for Conversion
OAKLAND UNIFIED	ALAMEDA	OAKLAND UNITY HIGH	54/61259-09-001	\$19,836,428	5/28/08	5/28/2012	3 years, 6 months, 11 days	11/14/2015
UNIFIED	ALAMEDA	KIPP KING COLLEGIATE HIGH (REHAB)	54/61309-00-002	\$3,607,942	5/28/08	5/28/2012	3 years, 6 months, 11 days	11/14/2015
UNIFIED	CONTRA COSTA	LEADERSHIP PUBLIC SCHOOLS: RICHMOND	54/61796-03-001	\$15,398,181	5/28/08	5/28/2012	3 years, 6 months, 11 days	11/14/2015
LOS ANGELES UNIFIED	LOS ANGELES	ANIMO JACKIE ROBINSON HIGH	54/64733-00-045	\$27,883,656	5/28/08	5/28/2012	3 years, 6 months, 11 days	11/14/2015
LOS ANGELES UNIFIED	LOS ANGELES	ASPIRE CLAREDON ELEMENTARY	54/64733-00-054	\$31,073,722	8/26/09	8/26/2013	4 Years	5/3/2016
LOS ANGELES UNIFIED	LOS ANGELES	ANTONIO MARIA LUGO ACADEMY	54/64733-00-055	\$21,195,282	5/28/08	5/28/2012	3 years, 6 months, 11 days	11/14/2015
LOS ANGELES UNIFIED	LOS ANGELES	CAMINO NUEVO HIGH SCHOOL CHARTER	54/64733-00-058	\$26,409,520	5/28/08	5/28/2012	3 years, 6 months, 11 days	11/14/2015
LOS ANGELES UNIFIED	LOS ANGELES	CHARTER ACADEMY MIDDLE SCHOOL	54/64733-00-064	\$17,667,222	5/28/08	5/28/2012	3 years, 6 months, 11 days	11/14/2015
UNIFIED	SAN FRANCISCO	LEADERSHIP HIGH (CHAR)	54/68478-13-001	\$9,117,533	5/28/08	5/28/2012	3 years, 6 months, 11 days	11/14/2015
NATOMAS UNIFIED	SACRAMENTO	WESTLAKE CHARTER	54/75283-00-002	\$1,543,758	5/28/08	5/28/2012	3 years, 6 months, 11 days	11/14/2015
TWIN RIVERS UNIFIED	SACRAMENTO	HIGHER LEARNING ACADEMY	54/76505-00-001	\$17,103,884	5/28/08	5/28/2012	3 years, 6 months, 11 days	11/14/2015
TWIN RIVERS UNIFIED	SACRAMENTO	FUTURES HIGH	54/76505-00-004	\$10,205,824	5/28/08	5/28/2012	3 years, 6 months, 11 days	11/14/2015
TWIN RIVERS UNIFIED	SACRAMENTO	FUTURES HIGH	54/76505-00-006	\$970,420	5/28/08	5/28/2012	3 years, 6 months, 11 days	11/14/2015
TWIN RIVERS UNIFIED	SACRAMENTO	HIGHER LEARNING ACADEMY	54/76505-00-008	\$18,067,134	5/28/08	5/28/2012	3 years, 6 months, 11 days	11/14/2015

ATTACHMENT C
CHARTER SCHOOL FACILITIES PROGRAM
ACTIVATION OF INACTIVE AND UNFUNDED PRELIMINARY APPORTIONMENTS
(PROPOSITION 55)

State Allocation Board, May 23, 2012

District	County	Charter School	Project	Preliminary Apportionment Amount	Preliminary Apportionment Date	Original Statutory Deadline for Conversion	Time Remaining to Submit a Complete Application for Funding	New Deadline for Conversion
LOS ANGELES UNIFIED	LOS ANGELES	ANIMO DOWNTOWN CHARTER HIGH	54/64733-00-017	\$12,142,552	2/23/05	2/23/2010	1 year, 2 months, 6 days	7/9/2013
SAN FRANCISCO UNIFIED	SAN FRANCISCO	CITY ARTS & TECH HIGH	54/68478-28-001	\$14,124,484	2/23/05	2/23/2010	1 year, 2 months, 6 days	7/9/2013

*All remaining Proposition 55 projects have been granted a one-year extension of the time limit to submit a Final Charter School Apportionment application, pursuant to SFP Regulation Section 1859.166.1