REPORT OF THE EXECUTIVE OFFICER
State Allocation Board Meeting, May 25, 2016

SCHOOL DISTRICT DATA	
School District:……MONTAGUE ELEMENTARY	County:.....SISKIYOU
Application Number:.....61/70417-00-0021	School Name……..MONTAGUE ELEMENTARY
Total District Enrollment:.....200	Project Grade Level: K-8

PURPOSE OF REPORT

To present the Montague Elementary School District's (District) request for an extension to complete an Emergency Repair Program (ERP) project.

DESCRIPTION

Montague Elementary School District is a one school district with an enrollment of 200 pupils located in rural Northern California. On August 20, 2014, the District received an ERP Grant to replace a structurally unsafe portable classroom. According to program regulations, the District is required to complete the emergency repair replacement and submit the *Expenditure Report* (Form SAB 61-04) to the Office of Public School Construction (OPSC) within 21 months from the Apportionment date. During the planning process the District experienced some unexpected delays. When the District realized it was not going to complete the project within the required timeframe, it submitted an appeal requesting to extend the May 20, 2016 deadline to July 19, 2016.

AUTHORITY

See Attachment A.

BACKGROUND

In 2004, Senate Bill 6, Chapter 899 established the ERP with $800 million to address facility conditions in low performing schools that pose urgent threats to students' or staffs' health and safety as a result of the *Williams v. California* Settlement. The ERP was originally structured as a reimbursement program; meaning that the State would reimburse the district for 100 percent of the costs of the repairs if its application were approved. In 2007 the program was successfully converted into a grant program by Assembly Bill 607, Statutes of 2006 Chapter 704. This allowed eligible schools to receive funds before they completed repairs.

The Montague Elementary School District is a small, one-school district located in Siskiyou County. The enrollment is 200 students with over 70 percent of them receiving free or reduced lunch. The District submitted an ERP application to OPSC on April 9, 2008 to replace a structurally unsafe portable classroom. The District then received an ERP Grant on August 20, 2014. Because the project required the Division of the State Architect's (DSA) review and approval, the District had 21 months to complete the project and submit the Form SAB 61-04 along with the required documents to the OPSC per ERP Regulation Section 1859.330. The completed Form SAB 61-04 was due to the OPSC by May 20, 2016.

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BACKGROUND (cont.)

OPSC sent reminder letters to all districts that received an ERP Grant informing them about the upcoming deadline in August 2015 and February 2016. In response to the February letter, the District's architect submitted a request for an extension to complete the project to OPSC on March 10, 2016. OPSC advised the District that it cannot administratively approve the District's request and per ERP Regulations and that the project would be rescinded without further Board action if the requirements were not met. In response, the District submitted a *School District Appeal Request* (SAB 189) requesting to extend the May 20, 2016 deadline to July 19, 2016, which is included as Attachment B.

STAFF ANALYSIS/STATEMENTS

District Position

The District is requesting to extend the deadline to complete the project and submit the required documents to OPSC by July 19, 2016. In its appeal, the District states that it "has in good faith been diligently pursuing the installation of this classroom, and had no control over the unforeseen delays that hampered its completion by May 20, 2016." The District also stated that having the funding rescinded "would present an undue financial hardship." The full text of the District's appeal request is included as Attachment B.

Staff Position

The District is requesting an extension to the time allotted in ERP Regulations to complete an ERP project which consists of replacing an unsafe portable structure. OPSC is unable to administratively approve the District's request; therefore Staff is seeking Board direction.

Regulatory Requirements

ERP Regulation Section 1859.330 *Time Limit on Grant Apportionment* states that when DSA review and approval is required, within 21 months of the Grant apportionment the district shall complete the project and submit the Form SAB 61-04 to the OPSC. The regulation goes on further to state, "If the LEA does not meet the Time Limit on Grant Apportionment, the Apportionment will be rescinded without further Board action." The District received its ERP Apportionment on August 20, 2014. Therefore, according to ERP Regulations the District must complete the project and submit the completed Form SAB 61-04 to OPSC by May 20, 2016 to retain the funds. Since the District has not met this Time Limit on Grant Apportionment, the Apportionment will be automatically rescinded without an action by the Board. Without an extension, the District will be required to return the full amount of the original apportionment.

District's Timeline

In March 2016, the District realized that it would not meet the deadline. Since the District received the funds, it relocated the students, demolished the unsafe portable classroom, designed plans, purchased a new portable classroom, and obtained DSA plan approval for the project. However, the District is currently waiting on the portable classroom to be delivered to the school site and plans to have it installed as soon as school is out. The District states, "We will insure the project is completed by 07/19/16," which is the requested due date for the extension.

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STAFF ANALYSIS/STATEMENTS (cont.)

It appears that the District has actively been working toward completion of the project. However, due to the District's location, change in administration, and limitations due to weather conditions, the project has taken longer than originally planned. In addition, the District noted verbally that even if it had started construction earlier in the year to meet the May 20 deadline, this year's harsh weather conditions would have likely delayed completion of the project. The District's project appears to be on track to be completed by July 19. The District stated that "If this grant money is rescinded it would present an undue financial hardship upon [the] District." A timeline of events is included as Attachment C.

Summary
Staff is unable to administratively approve the District's request due to the requirements outlined in ERP Regulations. Staff is seeking Board direction.

BOARD OPTION

Pursuant to the *Rules and Procedures of the State Allocation Board,* "Staff is providing the following option for the Board's consideration. A positive vote by six members is required for the Board to take action that is an alternative to Staff's administrative action. Absent a positive vote by six members of the Board, Staff's administrative action will stand and the school district's appeal will be considered closed."

Grant the District's appeal.

BOARD ACTION

In considering this Item, the Board approved the District's appeal request, which provided an extension to complete an Emergency Repair Program project and submit the *Expenditure Report* (Form SAB 61-04) to OPSC by July 19, 2016.

ATTACHMENT A

AUTHORITY

Education Code (EC) Section 17592.72

(a) (1) For the 2005–06 fiscal year, all moneys in the School Facilities Emergency Repair Account are available for reimbursement to schools ranked in deciles 1 to 3, inclusive, on the Academic Performance Index, pursuant to Section 52056, based on the 2003 base Academic Performance Index score for each school, as defined in subdivision (b) of Section 17592.70, to meet the repair costs of the school district projects that meet the criteria specified in subdivisions (c) and (d) and as approved by the State Allocation Board.

(2) Commencing with the 2006–07 fiscal year, all moneys in the School Facilities Emergency Repair Account are available for the purpose of providing emergency repair grants to schools ranked in deciles 1 to 3, inclusive, on the Academic Performance Index, pursuant to Section 52056, based on the 2003 base Academic Performance Index score for each school, as defined in subdivision (b) of Section 17592.70, to cover the costs of school district repair projects that meet the criteria specified in subdivisions (c) and (d). The State Allocation Board shall establish a grant application process, grant parameters, substantial progress requirements, and a process for providing certification of the completion of projects. The State Allocation Board shall post the grant application form on its Internet Web site.

(c) (1) For purposes of this article, "emergency facilities needs" means structures or systems that are in a condition that poses a threat to the health and safety of pupils or staff while at school. These projects may include, but are not limited to, the following types of facility repairs or replacements:

(A) Gas leaks.

(B) Nonfunctioning heating, ventilation, fire sprinklers, or air-conditioning systems.

(C) Electrical power failure.

(D) Major sewer line stoppage.

(E) Major pest or vermin infestation.

(F) Broken windows or exterior doors or gates that will not lock and that pose a security risk.

(G) Abatement of hazardous materials previously undiscovered that pose an immediate threat to pupil or staff.

(H) Structural damage creating a hazardous or uninhabitable condition.

(2) For purposes of this section, "emergency facilities needs" does not include any cosmetic or nonessential repairs.

(d) For the purpose of this section, structures or components shall only be replaced if it is more cost-effective than repair.

EC Section 17592.73

The State Allocation Board shall do all of the following:

(a) Adopt regulations and review and amend its regulations, as necessary, 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 article, including those regulations necessary to specify the qualifications of the personnel performing the needs assessment and a method to ensure their independence. The initial regulations adopted pursuant to this article shall be adopted as emergency regulations, and the circumstances related to the initial adoption are hereby deemed to constitute an emergency for this purpose. The initial regulations adopted pursuant to this article shall be adopted by January 31, 2005.

(b) Establish and publish any procedures and policies in connection with the administration of this article as it deems necessary.

(c) Apportion funds to eligible school districts under this article.

(d) Provide technical assistance to school districts to implement this article…

Emergency Repair Program Regulation Section 1859.330 Time Limit on Grant Apportionment

The LEAs that receive ERP Grants shall comply with all of the following provisions:
(a) When the Division of the State Architect's review and approval is not required, within 15 months of the Grant apportionment the LEA shall:
(1) Complete the emergency repair or replacement; and
(2) Submit the Form SAB 61-04 to the OPSC.
(b) When the Division of the State Architect's review and approval is required, within 21 months of the Grant apportionment the LEA shall:
(1) Complete the emergency repair or replacement; and
(2) Submit the Form SAB 61-04 to the OPSC.
If the LEA does not meet the Time Limit on Grant Apportionment, the Apportionment will be rescinded without further Board action. Within 60 days of the OPSC notification, the LEA must submit to the State a warrant for the amount of the Apportionment and any interest earned on State funds. If this does not occur, the OPSC shall initiate collection procedures as delineated in 1859.324.1(a). Any rescinded funds returned to the State will be made available for the funding of future ERP Grants and Grant Adjustments. The LEA may re-file Form SAB 61-03 to request a Grant for the rescinded projects provided it meets the provisions of Section 1859.324 at the time of re-filing.

Montague Elementary School
"Working together to enhance learning for all students"

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May 16, 2016

Ms. Lisa Silverman
Executive Officer
Office of Public School Construction
707 3rd Street, 6th Floor
West Sacramento, CA 95605

Dear Ms. Silverman,
I am submitting and appeal to extend our ERP grant allocation for 45-60 days, OPSC application number 61/70417-00-0021. Our architect, tom Semingson submitted a letter to your office on our behalf on March 10, 2016 and was denied the extension. Enclosed you will find a copy of the SAB 189 Form as well as supporting documents.

As a new superintendent to this district I implore you to grant this extension so that we can complete the work we have started. Ours is a small district of only 200 students. Over 70% if of our students receive a free or reduced lunch and many come from homes where our school is the safe haven in their lives. My mission and vision is to provide a clean, well maintained, and safe campus that can be the center of our rural community. With the money received we will replace a modular classroom that was structurally unsafe. This classroom will provide our students with a modern facility where they can extend their learning of visual and performing arts. For many of our students this is an opportunity that is only possible at our school. We do not have all the outside resources you would find in larger metropolitan areas like Sacramento.

The DSA recently granted our request on 3/3/16 and bids for grading and concrete have been advertised. Our vendor plans to begin building the portable in April and to have it delivered the first week of June. The classroom will be installed as soon as school is out and should be completed not later than July 19, 2016.

If you have any questions about our projects or my request, please do not hesitate to contact me. I look forward to hearing from you with an approval for extension for this important project.

Keeping Kids First,

Marni Posl

STATE OF CALIFORNIA
SCHOOL DISTRICT APPEAL REQUEST

STATE ALLOCATION BOARD
OFFICE OF PUBLIC SCHOOL CONSTRUCTION

SAB 189 (REV 10/09)

SCHOOL DISTRICT	APPLICATION NUMBER
Montague Elementary School District	61/70417-00-0021
SCHOOL NAME	COUNTY
Montague Elementary School	Siskiyou County
DISTRICT REPRESENTATIVE	E-MAIL ADDRESS
Mrs .Marni Posl	mposl@montague.k12.ca.us

Purpose of Request:

The Montague Elementary School District is requesting an extension of 45-60 days to complete work on ERP project: replacement of portable classroom. Application number: 61/70417-00-0021 which was awarded to the district on 8//20/2014. District received funds on 9/11/14. We will insure the project is completed by 7/19/16.

Basis of Request:

☐ Law (Statute) _____

☒ Regulation ERP Section 1859.330

☐ Other (specify) _____

Description:

As the superintendent of Montague Elementary School District I am requesting an extension be granted for the replacement of a portable classroom. The sequence of events is as follows: 8/20/14 ERP grant awarded, after a lengthy seven year process and several changes in administration, to replace a structurally unsafe portable classroom. (G. Lampella, Superintendent).8/2014-6/2015 Research conducted to locate viable portable classroom. 6/20/15 Preschool program moved and portable demolished. ($6,500 MPeters, Inc.) July 2015 change in administration all projects discussed with Posl, Lampella and Semingson (architects). 9/28/15 floor plans approved and 10/05/15 color scheme/paint approved with American Modular Systems. Admin consulted with Jackie Stafford from Semingson on several occasions to verify plans and progress. 10/7/15 DSA applicaiton and payment mailed. 1/22/16 Update from Semingson regarding delay of DSA approval due to 40 lbs snow load requirement. 3/3/16 DSA approval granted (#02-114668). YTD the district has incurred costs of more than $36, 500 which include architect fees, soils reports, demolition, application fees, etc. Not to mention the countless manpower hours contributed in order for this project to be completed for our students.

As you can clearly see, the district has in good faith been diligently pursuing the installation of this classroom, and had no control over the unforeseen delays that hampered its completion by May 20, 2016. To date we have spent over $40,000 on prepartion of the site for this classroom. This is a small, rural, low income district that desperately needs improvements to our 70 year old school site. We were awarded an additional ERP grant and were able to replace our roof and restore a water damaged classroom and hallway this past summer which helped to rekindle the pride in our school, not to mention provide a safe environment for our students. If the grant is rescinded it would present an undue financial hardship upon our district. I respectfully request you grant MESD an extension so that we can complete this project and continue to meet the needs of our deserving students and staff.

SIGNATURE OF AUTHORIZED DISTRICT REPRESENTATIVE	DATE
	5-11-16

ATTACHMENT C

Montague ESD Timeline of Events

April 9, 2008	District submitted Emergency Repair Program (ERP) application to OPSC
August 20, 2014	District received ERP apportionment.
August 2014 thru June 2015	District researched viable replacement buildings.
June 6, 2015	Portable vacated and demolished.
August 20, 2015	Purchase agreement executed with American Modular Systems.
October 7, 2015	District submitted plans to Division of the State Architect (DSA).
March 3, 2016	District received approval from DSA.
March 17, 2016	OPSC received *School District Appeal Request* (Form SAB 189).
May 20, 2016	Completed *Expenditure Report* (Form SAB 61-04) due to OPSC.
July 19, 2016	Projected completion date.