

STATE ALLOCATION BOARD AGENDA

Meeting Date: October 17, 2016

State Capitol
Room 4202
2:00 p.m.

Revision date: October 11, 2016

Tab #3 – EO Statement:

- Replace page 6

Tab #6 – Appeal Items:

- Klamath-Trinity/Replace pages 250 and 260
- San Juan/Replace pages 272 and 285

Thank you,

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EXECUTIVE OFFICER STATEMENT
State Allocation Board Meeting, October 17, 2016

AUGUST PRIORITY FUNDING APPORTIONMENTS

On August 17, 2016, the State Allocation Board (Board) approved \$78.7 million in priority funding apportionments for 20 projects representing 14 school districts. Of the 20 projects 19 of them are required to submit a *Fund Release Authorization* (Form SAB 50-05) containing an original signature by **Tuesday, November 15, 2016**.

As of September 30, 2016, OPSC has received eight Forms SAB 50-05 representing \$48.1 million. There are 11 projects for which a Form SAB 50-05 has not been submitted, representing \$30.6 million.

SEISMIC MITIGATION PROJECTS

Buena Park Elementary School District (Funding Approval)

There is an item on the Consent calendar to provide an unfunded approval for full funding in the amount of **\$541,571** to Arthur F. Corey Elementary. This project is an SFP Facility Hardship Seismic Mitigation Program (SMP) rehabilitation project.

Hemet Unified School District (Funding Approval)

There is also an item on the Consent calendar to provide an unfunded approval for full funding in the amount of \$6,012,331 to Hemet Elementary. This project is an SFP Facility Hardship SMP replacement project.

UPCOMING PRIORITY FUNDING FILING ROUND

The next priority funding filing period will begin on November 9, 2016 and will close on December 8, 2016. Priority funding requests with original signatures must be physically received by OPSC before the close of business on December 8, 2016. These requests will be valid from January 1, 2017 through June 30, 2017.

There are currently six projects for six school districts on the Unfunded List (Lack of AB 55 Loans) totaling \$12.3 million that could submit a request for participation in this filing round.

Requirements for Participation In Priority Funding

OPSC reminds school districts that the requirements for Participation in the Priority Funding Process are in effect (SFP Regulation Section 1859.90.3). There are two ways for a school district to not participate in the priority funding process as follows:

- Not submit a valid priority funding request in the 30-day filing period, or
- Submit a valid priority funding request but fail to submit a valid *Fund Release Authorization* (Form SAB 50-05) to request the release of funds after the Board approves an apportionment.

The second time that either of these occurs, the funding for the project will be rescinded without further action by the Board. For additional information, please refer to the [Procedures for School Facility Program Funding](#).

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REPORT OF THE EXECUTIVE OFFICER
State Allocation Board Meeting, October 17, 2016

SCHOOL DISTRICT DATA

School District:KLAMATH-TRINITY JOINT UNIFIED County:.....HUMBOLDT
Application Numbers:.....51/62901-00-005, -006 School Names:.....J. Norton and Orleans Elementary
Total District Enrollment:.....1,073 Project Grade Level:.....K-8
Financial Hardship:.....YES
Last Approved Local Bond Measure:.....2016
Qualifying Financial Hardship Criteria:.....SFP Regulation Section 1859.81(c)(1)

PURPOSE OF REPORT

To present two District Facility Hardship applications for State Allocation Board (Board) action related to funding.

DESCRIPTION

The District discovered extensive water intrusion issues at various sites beginning in April 2014 that included dry rot and mold damage plus the presence of mold spores. It immediately closed the affected facilities and began the repair process. The District has been working to repair the schools and in the process has discovered even more facilities that are impacted by mold. Located in a remote region of Northern California, the District must use specialized design elements to contend with its humid micro-climate and has escalated construction costs because of its location.

The District has submitted two additional Facility Hardship funding applications to the Office of Public School Construction (OPSC) as part of its ongoing effort to address these health and safety threats. Earlier this year in April, the Board provided funding for five Facility Hardship projects related to these same issues as well as others.

Due to the extraordinary circumstances in this school district, the District is requesting the Board to consider the following actions for these two projects and, additional consideration for three future projects:

- I. Provide replacement funding for rehabilitation work on both projects.
- II. Provide Apportionments to the projects outside of the priority funding process.
- III. Provide direction to Staff for three additional projects.

AUTHORITY

See Attachment A.

BACKGROUND

Klamath-Trinity Joint Unified is a small district serving the Salyer, Willow Creek, Hoopa, Weitchpec, Orleans and Pecwan communities, as well as the Hoopa and Yurok Indian Reservations and Karuk Tribal lands, in Humboldt and Trinity Counties. Ninety percent of the District's students are Native American and the District estimates that approximately ninety percent qualify for free or reduced lunch this year.

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BACKGROUND (cont.)

The remote location of the school sites presents a variety of logistical and economic challenges for construction, including, but not limited to, the lack of multiple qualified bids, transportation to and housing of workers near the project sites, transportation of materials to the project sites, and escalated project costs for specialized design.

In February 2016, it was discovered that the mold was more widespread than previously identified. Toxic mold was also found in other buildings including cafeterias, kitchens, offices, classrooms, and boiler rooms. All eight schools in the District were closed for two weeks in February 2016, in order to do further testing and to reconfigure space in the un-affected schools and buildings, so that all students could be housed. The Board provided funding for five school sites at the April 20, 2016 meeting.

The District recently submitted two additional applications for rehabilitation work at two school sites. During the review process, Staff determined that the cost/benefit analysis for both projects shows that the cost of rehabilitating the buildings exceeds the threshold set in School Facility Program (SFP) Regulations of 50 percent of the replacement cost, which qualifies the District for replacement funding. Because of this, OPSC is unable to administratively approve the projects for the requested funding type pursuant to SFP Regulation Section 1859.82(a)(1)(A) which does not provide Staff the ability to approve replacement funding for rehabilitation work.

In order to continue the rehabilitation work, the District submitted a *School District Appeal Request* (Form SAB 189) for the projects and requested to use replacement funding for the rehabilitation work. The Form SAB 189 is included as Attachment B. The District is requesting consideration of this issue due to its district-wide extraordinary circumstances leading to higher than normal construction costs and difficulty in getting bids that reflect prices similar to projects being conducted in other areas not as remote. The District believes that replacement is not an option as true costs would exceed the replacement funding allowed under the SFP.

The two current applications represent additional buildings on those sites in need of immediate repair. The District has also submitted three additional Facility Hardship funding applications to address the mold found in other buildings on various sites within the District that will be coming forward to the Board for approval once OPSC has finalized the review and confirmed that there is sufficient bond authority available for them.

STAFF ANALYSIS/STATEMENTS

There are two topics for Board consideration of this approval. Each consideration is presented separately on the following pages. A summary of the two projects is provided in the following chart and full descriptions of each project are included as Attachments C and D:

Attachment	SFP Application & Site	Scope of Project	State Share	Financial Hardship	District Share
C	51/62901-00-005 Jack Norton ES	Mold Abatement & New Roof (Gym & Classrooms)	\$5,228,894	\$5,228,894	\$0
D	51/62901-00-006 Orleans ES	Mold Abatement & New Roof (Gym)	\$5,243,238	\$5,243,238	\$0
		TOTALS:	\$10,472,133	\$10,472,133	\$0

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STAFF ANALYSIS/STATEMENTS (cont.)

I. Request for Replacement Funding for Jack Norton Elementary and Orleans Elementary

District Position

In its appeal, the District is requesting to use Facility Hardship replacement funding to rehabilitate multiple buildings on two sites. It believes that “rehabilitating the buildings is the most prudent use of local and State funds” due to “the unique circumstances regarding the District’s geographic location, current construction climate and community significance”.

The District contends that the Current Replacement Cost used by OPSC to determine if a project is eligible for rehabilitation or replacement is not reflective of the costs for its location. The District provided a chart showing that rehabilitation costs for the projects were greater than 50 percent of the replacement costs, based on bids received and calculations provided by construction managers and architects. The Form SAB 189 states that “it would not be economically feasible for the District to replace these buildings as the true replacement costs far exceed the replacement funding from the State and the District’s available funds.” These higher construction costs are attributed to persistent humidity increasing the design and construction costs, and the remote location creates an insufficient construction pool and low supply of construction materials.

Additionally, the District states that schools are “an important focal point for the community”, as many of the buildings are used after school by various community groups. If the buildings were replaced, cost restraints would require them to be built significantly smaller, and the buildings would lose their significance and usefulness within the community. Many students spent up to 12 hours a day at the schools sites, in before or after school programs, making these sites a significant and safe place for the students.

The full text of the District’s appeal request is included as Attachment B.

Staff Position

Rehabilitation versus Replacement

The District is requesting to use replacement funding for rehabilitation work of qualifying buildings at two sites under the Facility Hardship Program. According to SFP Regulation, the District qualifies for replacement funding, but is requesting to rehabilitate the buildings, as the District believes it is the most prudent and economically feasible way to address the health and safety issues. SFP Regulations that implement the Education Code (EC) have been interpreted previously by the Board to allow replacement funding for rehabilitation projects that exceeded 50 percent of the replacement cost of the facility for both Seismic Mitigation Program (SMP) and Facility Hardship projects. Staff believes that statute does not preclude the Board from allowing the District to use replacement funding for rehabilitation work. An analysis of statute and SFP Regulation is provided below, as well as a brief summary of past Board actions for consideration.

Analysis of Statute

To qualify for hardship funding, EC Section 17075.10(b)(2) requires a district to “Demonstrate that due to unusual circumstances that are beyond the control of the district, excessive costs need to be incurred in the construction of school facilities....” This section goes on to provide further clarification for projects under the SMP, but for non-SMP facility hardship projects, the SFP Regulations govern the requirements and funding allowances to be provided under the program. The issue of allowing or requiring a District to construct a new facility if the rehabilitation costs exceed 50 percent of the SFP replacement cost of the building is not addressed in statute.

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STAFF ANALYSIS/STATEMENTS (cont.)

Analysis of SFP Regulation

SFP Regulation Section 1859.82(a)(1)(A) allows a building whose rehabilitation cost exceeds 50 percent of the replacement cost to be eligible for replacement. It states the following: “If the request is for replacement facilities, a cost/benefit analysis must be prepared by the district and submitted to OPSC that indicates the total costs to remain in the classroom or related facility and mitigate the problem is at least 50 percent of the Current Replacement Cost.” However, the District’s request is not for replacement but rather for rehabilitation. The same regulation section states: “If the cost to remain in the classroom or related facility is less than 50 percent of the Current Replacement Cost, the district may qualify for a Modernization Excessive Cost Hardship Grant for rehabilitation costs pursuant to Section 1859.83(e)....”

Previously, Staff has interpreted this regulation section to mean that a district would only be eligible for the type of project dictated by the cost/benefit analysis. Those projects where rehabilitation costs exceed 50 percent of the replacement cost have only been approved for replacement funding.

Prior Board Actions

Use of the 50 percent threshold is appropriate in most cases, but does not address all unique issues.

In 2012 and January 2016, the Board approved replacement funding for the Simi Valley and Palm Springs Unified School Districts respectively to perform rehabilitation work on buildings due to their historical significance as a result of the districts’ appeal requests.

In an appeal from Coalinga-Huron Joint Unified School District in 2013, the district requested replacement funding for an SMP project to rehabilitate a building that has significant historical value to the community and had increased rehabilitation costs due to the building type. For that project, there was a \$1.57 million difference in replacement and rehabilitation funding. The Board approved the district for **rehabilitation** funding.

In April 2016, the Board approved replacement funding at replacement amounts for the District to perform rehabilitation work at five school sites on multiple buildings due to the same factors presented in this item. The Board also approved immediate State Apportionments for four of the five projects. The fifth project received an Apportionment at the following Board meeting.

Cost/Benefit Analysis

The replacement cost is calculated based on the eligible square footage of the building, and the rehabilitation is based on a cost estimate submitted by the District of the minimum work required to obtain DSA approval. The current cost/benefit analyses for the two current projects are shown in the chart below.

Cost Benefit Analysis		
Jack Norton Elementary – 51/62901-00-005		
Cost to Rehab vs. Replace	Rehabilitation Cost	\$ 2,250,498
	Replacement Cost	\$ 2,356,728
	Percentage	95.5%
Orleans Elementary – 51/62901-00-006		
Cost to Rehab vs. Replace	Rehabilitation Cost	\$3,323,367
	Replacement Cost	\$ 3,718,773
	Percentage	89.2%

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STAFF ANALYSIS/STATEMENTS (cont.)

Impact on Modernization Eligibility

If the Board were to provide replacement funding, those affected buildings would receive a new age for purposes of generating modernization eligibility under SFP Regulations, which could affect future modernization eligibility.

Summary

As submitted, the rehabilitation work cost estimates exceed 50 percent of the replacement cost for the projects in Attachments C and D which qualifies the projects for replacement funding rather than rehabilitation under SFP Regulations. Staff agrees that the SFP Regulations do not address the unique issues presented by the District. Further, statute does not specify that buildings must be replaced if they qualify for replacement.

Staff is unable to administratively approve the District's request. Based on past Board actions and the circumstances of these projects, Staff recommends providing replacement funding for these two projects and allowing the District to perform rehabilitation work.

II. Immediate Apportionments for both Projects

District Position

The District is requesting immediate Apportionments for both projects.

Staff Position

Due to the urgency of the situation described in the District's appeal request, Staff recommends that the District receive immediate Apportionments for both projects presented as Attachments C and D Apportionments outside of the priority funding process will result in the District having immediate access to cash once a *Fund Release Authorization* is submitted. While the District would have 18 months to submit a fund release request versus the 90 day requirement under priority funding, the District has indicated they would submit the *Fund Release Authorization* immediately upon Board approval.

If the District were to receive unfunded approvals following the priority funding process, the earliest date the District could receive an Apportionment is after January 1, 2017, and more likely not until Spring 2017, when cash becomes available. While the work for the buildings in these projects is largely complete, the District must complete the abatement and replace the roofs and walls for this project before students are allowed back into the facilities.

Since the District has exhausted its available funding and qualifies for full funding under the Financial Hardship program, access to cash quickly will allow them to continue mitigating the mold issues.

Therefore, Staff is recommending that the funding be made available as Apportionments outside the priority funding process.

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III. Additional Applications

The District has submitted three additional applications for other school sites with similar issues as the two schools presented as part of this appeal. The applications and requested amounts as reported by the District are listed below.

SFP Application & Site	*Requested State Share	*Potential Financial Hardship Share	District Share
51/62901-00-007 Hoopa Elementary	\$5,784,820	\$5,784,820	\$0
51/62901-00-008 Hoopa High	\$6,924,585	\$6,924,585	\$0
51/62901-00-009 Trinity Valley Elementary	\$3,052,904	\$3,052,904	\$0
TOTALS:	\$15,762,309	\$15,762,309	\$0

*Amounts listed are the initial requested amounts only and have not yet been verified.

OPSC is confirming available bond authority and has started to process these applications to determine the total amounts each project may qualify for. It is likely that the remaining applications will also exceed the 50% threshold for rehabilitation costs and the District has indicated that there are still immediate cash needs for the other schools. Therefore, if the Board approves the appeal request for the two projects in this item, Staff requests that if the remaining projects are eligible for funding, the Board consider authorizing OPSC to present the remaining projects as part of the consent calendar inclusive of allowing replacement funding for rehabilitation work and an Apportionment outside of the priority funding process.

RECOMMENDATIONS

Pursuant to the *Rules and Procedures of the State Allocation Board*, “Staff is providing the following options, for the three different issues addressed here, 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.”

Staff recommendations for the two projects are listed below.

I. Replacement Funding

Provide Replacement Funding at Replacement Amounts and Allow Rehabilitation Work for:

Attachment	SFP Application	Site	Total Grant Amount
C	51/62901-00-005	Jack Norton ES	\$5,228,894
D	51/62901-00-002	Orleans ES	\$5,243,238

For all Facility Hardship projects, the State portion of any and all savings which may be realized from the funding of the project must be returned to the State.

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II. Apportionments

Provide Apportionments for the following projects:

Attachment	SFP Application	Site	Total Grant Amount
C	51/62901-00-005	Jack Norton ES	\$5,228,894
D	51/62901-00-006	Orleans ES	\$5,243,238

III. Additional Applications

Make a finding that in the event that the three remaining applications; 51/62901-00-007 at Hoopa Elementary School, 51/62901-00-008 at Hoopa High School and 51/62901-00-009 at Trinity Valley Elementary School, qualify for funding, bond authority is available, and in the event that the District requests replacement funding for rehabilitation work and an Apportionment outside of the priority funding process, Staff shall present the items for Board consideration in the consent section of a future agenda.

ATTACHMENT C

(Rev. 1)

REPORT OF THE EXECUTIVE OFFICER
State Allocation Board Meeting, October 17, 2016

SCHOOL DISTRICT DATA

School District:KLAMATH TRINITY JOINT UNIFIED County:.....HUMBOLDT
 Application Number:.....51/62901-00-005 School Name:.....JACK NORTON ELEMENTARY
 Total District Enrollment:.....1,025 Project Grade Level:.....K-8
 Financial Hardship:.....YES

The District qualifies for financial hardship pursuant to SFP Regulation Section 1859.81(c)(4). The District has demonstrated it is financially unable to provide all or part of the matching funds and is levying the developer fees or equal alternative revenue source justified by law. The District’s total bonding capacity as of November 4, 2015, is \$5 million or less.

PURPOSE OF REPORT

Type of Request	State Allocation Board (Board) approval for an Apportionment for a School Facility Program (SFP) Facility Hardship Replacement project.
Total Project Cost	\$5,228,894
Cost to the State	\$5,228,894

DESCRIPTION

Description of Health and Safety Threat	Jack Norton Elementary School, located on the Yurok Indian Reservation in Northern California is in a region with annual rainfall levels approaching 72 inches and abnormally high humidity levels. In December of 2015 and January of 2016, a licensed industrial hygienist inspected the multipurpose room, lobby, and library as well as restrooms, the boiler room, and the heating systems in the primary building on the site. Testing revealed high levels of mold due to water incursion from the roof areas. The industrial hygienist determined that the mold constituted a health and safety issue, and the Humboldt County Department of Health and Human Services (HCDHHS) concurred. The multipurpose room, main office, and library have been closed due to this issue.
Scope of Project	Rehabilitation work consisted of mold abatement on all surfaces, including the removal and replacement of ceiling tiles, roof plywood and insulation, drywall, siding and wall plywood under a negative air containment area, and the installation of a new roofing system to provide adequate ventilation.
Status of School Site	A temporary food trailer has been set up on the campus and students are eating lunch in their classrooms. Mitigation work has not yet begun.

QUALIFYING CRITERIA

Government/State Level Concurrence	The District has obtained concurrence with the hazards reported and with the proposed minimum work for rehabilitation from the HCDHHS.
Staff Supports the District’s Request	Yes

REPORT OF THE EXECUTIVE OFFICER
State Allocation Board Meeting, October 17, 2016

SCHOOL DISTRICT DATA

School District:SAN JUAN UNIFIED County:.....SACRAMENTO
Application Number:.....51/67447-00-001 School Name.....BELLA VISTA HIGH
Total District Enrollment:.....49,564 Project Grade Level:.....9-12
Financial Hardship:.....NO

PURPOSE OF REPORT

To present the District’s request for Seismic Mitigation Program (SMP) replacement funding in order to rehabilitate an existing facility.

DESCRIPTION

The District submitted an *Application for Funding* (Form SAB 50-04) requesting replacement funding for rehabilitation work for two shop buildings at Bella Vista High under the SMP. However, the cost/benefit analysis for the project shows that the cost of rehabilitating the building exceeds the threshold set in School Facility Program (SFP) Regulations of 50 percent of the replacement cost, which qualifies the District for replacement funding. The Office of Public School Construction (OPSC) is unable to administratively approve replacement funding for rehabilitation work. Therefore, the District concurrently submitted a *School District Appeal Request* (Form SAB 189) to request approval to use replacement funding for rehabilitation work.

AUTHORITY

See Attachment A

BACKGROUND

The District submitted a Facility Hardship request for SMP funding on August 5, 2016 for the rehabilitation (seismic retrofit) of two shop buildings (Buildings H & J) at Bella Vista High School. The buildings were constructed in the early 1960s and are classified as Most Vulnerable Category 2 Buildings. A structural engineer determined the buildings to have a “high potential for catastrophic collapse due to inadequacy of the existing lateral systems.” The District also submitted a cost/benefit analysis for the project that shows that the estimated cost to rehabilitate the buildings exceeds the estimated Current Replacement Cost. The Division of the State Architect (DSA) determined the buildings qualified for SMP funding and approved the “evaluation and design criteria report” in early 2016. In June 2016 DSA approved the plans and specifications, showing that the buildings will be almost completely stripped of their interiors and a new singular building will essentially be built on top of and around the framework and existing roof of the two buildings being rehabilitated.

Upon completion of a review of the submitted documents, Staff concurred that the project qualifies for replacement funding, pursuant to SFP Regulation Section 1859.82(a)(1)(A). Along with the funding request, the District submitted a Form SAB 189 in order to request approval to use replacement funding for rehabilitation work. The District’s request is based on the scope of work, the potential allowance in statute to do so, state and local funding considerations, and prior Board action for similar requests.

STAFF ANALYSIS/STATEMENTS

District Position

In its request, the District requests the Board's approval to use SMP replacement funding to rehabilitate the building. The District believes this request should be granted based on the following:

- 1) Scope of work - The project is essentially a replacement not a rehabilitation project;
- 2) Law - The Education Code (EC) does not prevent such use of replacement funding;
- 3) State and Local Bond Fund Considerations - The District's request for 50 percent of the grant for a new construction project is less than providing 50 percent of the rehabilitation costs approved by DSA;
- 4) Cost and Design Considerations – The cost to demolish and replace the existing building is cost prohibitive.
- 5) Prior SAB Actions - A past approval by the Board of a similar project can be considered.

As part of the SAB 189, the District provided pictures of the remaining structure after the partial demolition of the existing building to demonstrate that the scope of work is essentially a replacement project. The photos show that the District has torn down all exterior walls, windows, the concrete slab, and internal plumbing and casework, with the exception of a few of the exterior flange columns and metal roof decking.

The District also states that mainly for financial reasons, it decided to rehabilitate the facility in lieu of replacing it. Replacing the existing, extensive mechanical, electrical and plumbing infrastructure would be more costly in the long run than to retain it.

The full text of the District's request in the Form SAB 189 is included as Attachment B.

Staff Position

Rehabilitation versus Replacement

The District is requesting to use replacement funding for rehabilitation work of two qualifying Most Vulnerable Category 2 buildings under the SMP. Under the current SFP regulations, the District qualifies for replacement funding, but is requesting to rehabilitate the buildings for a number of reasons, mainly financial as described in the District Position.

The statute governing SMP funding may allow flexibility. The Board has taken action on similar requests in the past. Staff has provided an analysis of SFP regulation and statute below, as well as a summary of past Board actions for consideration.

Analysis of Statute

EC Section 17075.10(b)(2) states the following: "If the board determines that the seismic mitigation work of a school building would require funding that is greater than the 50 percent of the funds required to construct a new facility, the school district *shall be eligible* for funding to construct a new facility under this chapter" (emphasis added). The statute does not explicitly state that the school district *must* construct a new facility if the rehabilitation costs exceed 50 percent of the replacement cost of the building, only that it *shall be eligible* to do so. In this situation, the statute seems to protect a district's right to construct a new facility and entitles the district to hardship funding should the district decide to replace the facility. The statute, however, does not appear to state that the Board would not fund the rehabilitation of a building should the district choose to rehabilitate it.

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STAFF ANALYSIS/STATEMENTS (cont.)*Analysis of SFP Regulations*

SFP Regulation Section 1859.82(a)(1)(A) allows a building whose rehabilitation exceeds 50 percent of the replacement cost to be eligible for replacement. It states the following: "If the request is for replacement facilities, a cost/benefit analysis must be prepared by the district and submitted to OPSC that indicates the total costs to remain in the classroom or related facility and mitigate the problem is at least 50 percent of the Current Replacement Cost." However, the District's request is not for replacement of the buildings but rather for the rehabilitation of them. There is no section specifically dedicated to SMP rehabilitation requests. The only mention of this type of request is under the same section (which assumes a replacement request), which states: "If the cost to remain in the classroom or related facility is less than 50 percent of the Current Replacement Cost, the district may qualify for a Modernization Excessive Cost Hardship Grant for rehabilitation costs pursuant to Section 1859.83(e) or a grant not to exceed 50 percent of the cost estimate that has been reviewed and approved by the OPSC and approved by the board for seismic rehabilitation."

Previously, Staff has interpreted this regulation section to mean that a district would only be eligible for the type of project dictated by the cost/benefit analysis. Those projects where rehabilitation costs exceed 50 percent of the replacement cost have only been approved for replacement funding, based on the current enrollment or square footage at the site. The purpose of the 50 percent threshold is to ensure responsible use of State bond funds, assuming that replacing a building with such extensive repair requirements with a new building is a better use of funds.

Prior Board Actions

Use of the 50 percent threshold is appropriate in most cases, but does not address all circumstances.

In 2012 and January 2016, the Board approved replacement funding for the Simi Valley and Palm Springs Unified School Districts respectively to perform rehabilitation work on buildings due to their historical significance as a result of the districts' appeal requests.

In an appeal from Coalinga-Huron Joint Unified School District in 2013, the district requested replacement funding for an SMP project to rehabilitate a building that has significant historical value to the community and had increased rehabilitation costs due to the building type. For that project, there was a \$1.57 million difference in replacement and rehabilitation funding. The Board approved the district for **rehabilitation** funding.

In April 2016 the Board heard another appeal for Klamath-Trinity Joint Unified, to fund Facility Hardship rehabilitation work for water intrusion and mold at four school sites, at the replacement amount. The buildings in this case were not historical in nature, but the district believed that rehabilitation was the most prudent use of funds due to the district's geographic location, construction costs, and the community significance of the buildings. The Board approved the four projects at the replacement funding amounts in April and May 2016.

STAFF ANALYSIS/STATEMENTS (cont.)

The following table presents a comparison of the appeals previously heard by the Board, the dollar amounts for the various types of funding, and the District's current appeal:

	SIMI VALLEY USD	COALINGA- HURON JUSD	PALM SPRINGS USD	KLAMATH- TRINITY JUSD (*4 projects)	SAN JUAN USD
Rehabilitation Grant Amount	\$1,736,978	\$2,164,798	\$3,347,776	\$17,736,911	\$4,376,616
Replacement Grant Amount	\$1,742,692	\$3,739,034	\$4,665,889	\$22,662,121	\$4,656,041
Difference	\$5,714	\$1,574,236	\$1,310,212	\$4,925,210	\$279,425
Percent of Rehab/ Replacement	99.7%	57.9%	71.8%	59.1%, 64.7%, 87.0%, 87.5%	94.0%
District Request	Replacement Funding for Rehabilitation Work				
Board Action	Replacement Funding Amount	<i>Rehabilitation</i> Funding Amount	Replacement Funding Amount	Replacement Funding Amount	TBD

*The Board approved four projects at the April and May 2016 for Klamath-Trinity Joint Unified. The total amounts for all four are listed in the table and CBA result is listed separately.

Cost/Benefit Analysis

The current cost/benefit analysis for the project indicates an estimated rehabilitation cost that is 94.0 percent of the replacement cost. The replacement cost is calculated based on the eligible square footage of the building, and the rehabilitation is based on an OPSC-verified cost estimate submitted by the District of the minimum work required to obtain DSA approval.

Impact on Modernization Eligibility

If the Board were to provide replacement funding, the buildings would receive a new age for purposes of generating modernization eligibility under SFP Regulations. If the shop buildings received a new age by receiving replacement funding, the modernization eligibility at Bella Vista High would be adjusted to reflect the new age of the buildings. Conversely, rehabilitation funding is limited to the minimum work required to obtain DSA approval. If rehabilitation funding is provided, the building would not receive a new age for purposes of generating future modernization eligibility.

Summary

As submitted, the rehabilitation work cost estimate exceeds 50 percent of the replacement cost, which qualifies the project for replacement funding rather than rehabilitation under SFP Regulations. Staff agrees that the SFP Regulations do not address the issues presented by the District. However, statute does not specify that buildings must be replaced if they qualify for replacement, only that "the school district may be eligible for [replacement] funding." Because Staff is unable to administratively approve the District's request, Staff is seeking Board direction.

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BOARD OPTIONS

Without Board action, the District is eligible for replacement funding for the purposes of replacing the facilities. At this time, the District has already entered into contracts and has begun construction. To receive replacement funding the District would be required to halt rehabilitation work already in progress, obtain new DSA-approved plans, and resubmit the application for replacement funding.

Pursuant to the *Rules and Procedures of the State Allocation Board*, "Staff is providing the following options 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."

For all SMP projects, the State portion of any and all savings which may be realized from the funding of the project must be returned to the State.

1) Provide Replacement Funding at Replacement Amount and Allow Rehabilitation:

The Board could provide replacement funding per SFP Regulations and allow the District to use the funds to rehabilitate the building. A funding item reflecting an SMP replacement grant and additional grants is included as Attachment C.

Considerations

- EC does not appear to prohibit the Board from providing replacement funding.
- For purposes of SFP modernization eligibility, the building age would be reset to 12 months from the DSA plan approval. The new date would be June 1, 2017.
- District would receive more funding than what was substantiated by the cost estimate for the minimum work required to obtain DSA approval.

2) Provide Rehabilitation Funding at the Rehabilitation Amount:

The Board could provide rehabilitation funding to complete the rehabilitation work based on the estimated cost of rehabilitation. A funding item reflecting a Seismic Rehabilitation Grant and additional grants is included as Attachment D.

Considerations

- District is only apportioned the funding needed to complete the minimum work required to obtain DSA approval and contained in the cost estimate.
- District's future SFP modernization eligibility for building would not be affected.

3) Provide Replacement Funding Capped at the Rehabilitation Amount and Allow Rehabilitation:

The Board could provide replacement funding to complete the rehabilitation work based on the estimated cost of rehabilitation. A funding item reflecting an SMP replacement grant and additional grants is included as Attachment E.

Considerations

- District is only apportioned the funding needed to complete the minimum work required to obtain DSA approval.
- For purposes of SFP modernization eligibility, the building age would be reset to 12 months from the DSA plan approval. The new date would be June 1, 2017.

ATTACHMENT A

AUTHORITY

Education Code (EC) Section 17075.10(b)(2) states that a school district applying for hardship state funding must “demonstrate that due to unusual circumstances that are beyond the control of the district, excessive costs need to be incurred in the construction of school facilities. Funds for the purpose of seismic mitigation work or facility replacement pursuant to this section shall be allocated by the board on a 50-percent state share basis.....If the board determines that the seismic mitigation work of a school building would require funding that is greater than the 50 percent of the funds required to construct a new facility, the school district shall be eligible for funding to construct a new facility under this chapter.”

EC Section 17070.35(a) states the following:

(a) 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. However, the board shall have no authority to set the level of the fees of any architect, structural engineer, or other design professional on any project. The initial regulations adopted pursuant to this chapter 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 chapter shall be adopted by November 4, 1998. If the initial regulations are not adopted by that date, the board shall report to the Legislature by that date, explaining the reasons for the delay.

SFP Regulation Section 1859.2 Definitions states in part:

“Seismic Rehabilitation Grant” means a grant allowable under Education Code Section 17075.10(a) and (b)(2) and Section 1859.82(a)(1)(A)(2), excluding additional grants.

SFP Regulation Section 1859.82 states the following: “A district is eligible for facility hardship funding to replace or construct new classrooms and related facilities if the district demonstrates there is an unmet need for pupil housing or the condition of the facilities, or the lack of facilities, is a threat to the health and safety of the pupils.”

SFP Regulation Section 1859.82(a)(1)(A) states:

If the request is for replacement facilities, a cost/benefit analysis must be prepared by the district and submitted to the OPSC that indicates the total costs to remain in the classroom or related facility and mitigate the problem is at least 50 percent of the Current Replacement Cost of the classroom or related facility...If the cost to remain in the classroom or related facility is less than 50 percent of the Current Replacement Cost, the district may qualify for a Modernization Excessive Cost Hardship Grant for rehabilitation costs pursuant to Section 1859.83(e) or a grant not to exceed 50 percent of the cost estimate that has been reviewed and approved by the OPSC and approved by the board for seismic rehabilitation.

SAB Meeting: October 17, 2016

Seismic Mitigation Program - Adjusted Grant Approval

SCHOOL DISTRICT DATA

Application No: 51/67447-00-001
 School District: San Juan Unified

County: Sacramento
 School Name: Bella Vista High

PROJECT DATA

Type of Project: High School
 K-6:
 7-8:
 9-12:
 Non-Severe:
 Severe:
 Application Filing Basis: Site Specific
 Number of Classrooms: 5
 Master Acres:
 Existing Acres: 50.5
 Proposed Acres:
 Recommended Acres: 51.8
 Facility Hardship (a): Yes
 Financial Hardship Requested: No
 Alternative Education School: No
 Addition to Existing Site: No

ADJUSTED GRANT DATA

Capped Fac. Hardship Replacement	\$ 4,376,616
Fire Detection Alarm	13,289
Total State Share (50%)	2,194,953
District Share (50%)	2,194,953
Total Project Cost	<u>\$ 4,389,905</u>

PROJECT FINANCING

<u>State Share</u>	
This Project	\$ 2,194,953
<u>District Share</u>	
Cash Contribution	2,194,953
Financial Hardship	
Total Project Cost	<u>\$ 4,389,905</u>

HISTORY OF PROJECT COST AND APPORTIONMENT
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	Fund Code	Proposition	Previously Authorized	Authorized This Action	Unfunded Approval This Action
<u>State Share</u>					
New Construction/Add. Grant	957-505	1D		\$ 2,194,953	\$ 2,194,953
<u>District Share</u>					
Cash Contribution				2,194,953	
Total			\$	<u>\$ 4,389,905</u>	<u>\$ 2,194,953</u>

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.

Senate Bill 854, Chapter 28, Statutes of 2014, repealed Labor Code (LC) Section 1771.3 which required school districts to provide payment to the Department of Industrial Relations (DIR) for prevailing wage monitoring. As a result, school districts awarding a construction contract on or after June 20, 2014 are not mandated to provide payment for DIR monitoring and enforcement of prevailing wage requirements. Projects with an initial public works project awarded on or after June 20, 2014 are not eligible to receive an additional grant for prevailing wage monitoring; however, school districts are still required to notify DIR within five days of initial contract award pursuant to LC Section 1773.3(a)(1).

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

Provide that the State portion of any and all project savings realized from the funding of this Seismic Mitigation Program project will be returned to the State.