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STATE ALLOCATION BOARD
SUBCOMMITTEE ON
SEISMIC MITIGATION PROGRAM

DEPARTMENT OF FINANCE
915 L STREET, REDWOOD ROOM
SACRAMENTO, CALIFORNIA 95814

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APPEARANCES

Committee Members:

SCOTT HARVEY, Chair, Acting Director, Department of General Services

ASSEMBLY MEMBER JOAN BUCHANAN

KATHLEEN MOORE, Director, School Facilities Planning Division, California Department of Education, designated representative for Jack O'Connell, Superintendent of Public Instruction; Member State Allocation Board

Office of Public School Construction Staff:

DAVE ZIAN, Chief of Program Services, OPSC

P R O C E E D I N G S

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3 MR. HARVEY: I think maybe I will convene this
4 meeting as long as our recording secretaries are available.
5 We're live. We'll make it official.

6 Good afternoon. I'm Scott Harvey, and I am
7 chairing the Seismic Mitigation Subcommittee of the State
8 Allocation Board today. And on my left, on your right, is
9 Ms. Kathleen Moore who is also a member of the State
10 Allocation Board representing the Department of Education.

11 The third member of our distinguished Subcommittee
12 is Assembly Member Joan Buchanan and I'm confident
13 Ms. Buchanan will join us when she's available.

14 For the record, we do have a quorum, having two of
15 the three of us here. We can function as a Subcommittee of
16 the Board without violating any of the Bagley-Keene rules.
17 This is intended to be an open forum, a forum for discussion
18 on a very, very important question which is how do we ensure
19 that kids are safe in their schools by distributing dollars
20 that have been set aside by virtue of voters in
21 Proposition 1D.

22 Now, Prop. 1D was passed in '06 and in that
23 proposition was language that said to the Allocation Board,
24 when you dispense about \$200 million we're setting aside for
25 seismic, you must do so for the most vulnerable of

1 facilities, and it went on to say and that is Category 2 type
2 buildings.

3 So we really had a starting place with Prop. 1D,
4 didn't we. We had a starting place that said here's
5 200 million and a starting place that said you must start
6 with the most vulnerable and we're going to define that at
7 the outset as being Category 2 type buildings.

8 Over time I think those of us on the Board learned
9 that Type 2 buildings meant 12 different categories of
10 buildings. So where do you start. Where do you start with
11 the most vulnerable.

12 And the Division of State Architect, which is part
13 of DGS, had a series of meetings with stakeholders and
14 experts in the field to kind of talk about what should the
15 protocols be if you have as your guiding principle most
16 vulnerable and a finite amount of money.

17 And most voices, like all the voices I heard, said,
18 well, you need to look at the most risky of those Category 2
19 buildings, most prone to be vulnerable in an earthquake, and
20 you've got to establish some protocol on shake intensity.

21 And it is with that as the backdrop that in '07
22 regulations were promulgated by the Allocation Board that
23 took those two things into consideration.

24 Four of the 12 Category 2 buildings were listed in
25 our initial regulations as were a shake zone intensity of

1 1.7. And we had lots of suggestions to make it lower than
2 that, but when the Board collectively met, the decision was
3 to start with the worst of the worst, to start slowly, grow
4 the program, get the money out.

5 Well, we discovered that there were some obstacles
6 to getting the money out. Part of them were articulated by
7 school districts when they talked with us. They said wait a
8 minute, you know, we have to have a 50 percent match unless
9 you're a financial hardship district, then it's a hundred
10 percent. So that's the first obstacle. Some of us don't
11 necessarily have the money.

12 Number two, your regs require that you pay for a
13 structural engineer to certify that the building really is at
14 risk; and number three, gosh, while temporary housing is
15 eligible, there's not a special bump, there's not a special
16 set-aside. There isn't a little extra money to pay for
17 putting students in temporary housing if you have to retrofit
18 the building.

19 And the Board had a series of hearings and we
20 modified that initial regulation based on some of the voices
21 and we added building types. We lowered the shake zone
22 intensity. We found \$200,000 after negotiating an
23 interagency agreement with the Seismic Safety Commission so
24 we could pay for that structural engineer study.

25 The one thing we didn't do was put a bump into the

1 funding for temporary housing and that's where we are today,
2 but we haven't spent much money. We've got 4 million out the
3 door and another 14- that we've contemplated -- not
4 contemplated, we took action on at our last meeting.

5 So today I think it's appropriate to hear again
6 what are the obstacles, what can we do to get the money out
7 in a more aggressive manner recognizing that we've got two
8 clarion responsibilities. We have a limited amount of money
9 and we have to be cognizant of the language in statute. We
10 didn't make it up. It was in statute that said we have to
11 address the most vulnerable.

12 Kathleen, I have tried to set the scene. I have
13 tried to set an expectation of what we hope to hear about at
14 this meeting, knowing that our target is to have some
15 recommendation either to maintain the status quo -- I hope
16 it's not that -- or to change the regulations somehow to
17 address the need that we all recognize, but to do it in a way
18 that gets the money out in a more timely fashion.

19 Ms. Moore, do you wish to add anything?

20 MS. MOORE: I think your opening remarks are very
21 thorough and that our charge by really the State Allocation
22 Board was to review the program and to look at ways that we
23 can promote further participation.

24 I think it's important to hear both from staff,
25 from experts in the field, as well as the constituents as to

1 how we can best achieve that.

2 This program's been in place since 2006 or '07 when
3 we began with it. Over time we have continued to review the
4 program and I think it's appropriate that we're doing it at
5 this time as well. Thank you.

6 MR. HARVEY: Thank you. All righty. Does anyone
7 have any questions about what we're about to that, what we're
8 embarking on before I ask staff to introduce the subject, and
9 then I hope we'll hear from all of you.

10 Seeing no questions, I'm alerted that Assembly
11 Member Buchanan is approaching as I speak. It's all about
12 timing and she's made a wonderful grand entrance right on
13 cue. Welcome, Joan.

14 ASSEMBLY MEMBER BUCHANAN: Thank you very much.

15 MR. HARVEY: I won't play back my opening remarks
16 because --

17 ASSEMBLY MEMBER BUCHANAN: That's okay.

18 MR. HARVEY: -- you know I can't clear my throat in
19 less than ten minutes.

20 ASSEMBLY MEMBER BUCHANAN: Well, I'm happy to be
21 here.

22 MR. HARVEY: We're glad you're here. We now have a
23 full Committee. Let the record reflect that all three of the
24 Subcommittee members are here. We just tried to set the
25 scene.

1 ASSEMBLY MEMBER BUCHANAN: Okay.

2 MR. HARVEY: Staff will give us the staff report.

3 ASSEMBLY MEMBER BUCHANAN: We're doing -- which
4 one -- are we doing seismic first --

5 MR. HARVEY: We're doing seismic first.

6 ASSEMBLY MEMBER BUCHANAN: Okay.

7 MR. HARVEY: Yes, Joan and I -- in fact all three
8 of us have the joy of sitting initially on this very
9 important subject and then we segue right into a Subcommittee
10 on priorities in funding.

11 Joan, did you wish to say anything, just kind of
12 set the scene or just take it all in?

13 ASSEMBLY MEMBER BUCHANAN: I'll take it all in.

14 MR. HARVEY: Okay. David, are you leading?

15 MR. ZIAN: I will --

16 MR. HARVEY: Why don't you say who you are for the
17 record and set the scene in your own terms.

18 MR. ZIAN: So I'm Dave Zian. I'm Chief of Program
19 Services at OPSC and I'd like to thank you, Mr. Harvey and
20 members of the Seismic Subcommittee, for convening this
21 important meeting.

22 I'd like to start by further defining and spend a
23 little bit of time on the Seismic Mitigation Program relative
24 to the criteria -- current program criteria and then later
25 on, we'll talk about potentially some forward-reaching ideas

1 that can be considered by you folks.

2 So to that end, to be eligible for Seismic
3 Mitigation Program funding at this point, a district must
4 have buildings that are being used by students and/or
5 staff -- currently being utilized by staff and students and
6 are classified as most vulnerable Category 2 buildings as
7 verified by DSA and that they are located in an area where
8 short period spectral acceleration response -- and from here
9 on out, I'm going to call it a ground shaking intensity or
10 GSI, if you hear that -- of 1.70 or more when the program was
11 first initiated.

12 Now, as Scott mentioned, there have been some
13 changes over time, and in August of 2009, the Board -- the
14 State Allocation Board adopted regulations reducing the GSI
15 from 1.7 down to 1.68 and added additional most vulnerable
16 building category types in C1 categories, PC categories, and
17 they're actually outlined on the bottom of page 2. They're
18 underlined for your convenience.

19 MR. HARVEY: Dave, why don't you speak English for
20 us. What kind of building is that generally?

21 MR. ZIAN: They are -- C1 would be reinforced
22 concrete cantilever type facilities with wood roofs and that
23 would be a C1B technically. These are terms that DSA can
24 speak to probably much more eloquently than I can.

25 Another example would be precast, tilt-up concrete

1 shear walls with concrete floor and roof diaphragms would be
2 another most vulnerable building type that was added at the
3 time of August 2009 when modifications were changed.

4 In addition, there were precast concrete frame with
5 concrete shear walls with rigid floors added, PC2A's,
6 concrete frame with infill masonry shear walls, and so on.
7 So it gives you an example of some of the terminology. A
8 little bit of it is esoteric in nature, that they're
9 specified and identified by DSA. They're better qualified
10 to --

11 MR. HARVEY: What kind of building are we sitting
12 in today?

13 MR. ZIAN: This is a --

14 MR. SMITH: What is it, Dave?

15 MR. ZIAN: What is it? It's a concrete --

16 MR. SMITH: A steel frame building.

17 MR. ZIAN: -- steel frame --

18 MR. HARVEY: Steel frame? Not on the list?

19 MR. ZIAN: Is it safe?

20 MR. SMITH: It's a safe building.

21 MR. ZIAN: Okay.

22 MR. HARVEY: It's a safe building.

23 MR. ZIAN: There we go.

24 MR. HARVEY: For the record, we do have
25 representatives -- we have the privilege of having our State

1 Architect, "Chip" Howard Smith, in the audience. He will be
2 available to answer questions when appropriate.

3 MR. ZIAN: Going on then, in November of 2009 --
4 staff touched on this also briefly -- the California Seismic
5 Safety Commission was nice enough to provide the Office of
6 Public School Construction with a \$200,000 grant specifically
7 to address the problem in the program in terms of school
8 districts that were concerned about priming the pump.

9 They didn't want to spend, you know, 10-, 15-,
10 \$20,000 to get their facilities structurally evaluated only
11 to find out that they're not eligible and they can't get in
12 line for the Seismic Mitigation Program, so that was kind of
13 one of the initial stoppers.

14 That 200,000 was provided then by the California
15 Seismic Safety Commission to do two things: number one, to
16 develop a uniform seismic template that would allow for
17 streamlined reviews and essentially ferret out the eligible
18 from the ineligible school buildings, if I can use that
19 terminology, and also the \$200,000 grant was provided for our
20 office to contract with a northern and a southern structural
21 engineering firms that could provide structural engineering
22 analysis using that uniform seismic template that I'm
23 mentioned earlier.

24 So all of this has occurred. The template has been
25 developed and the structural seismic review has taken place

1 on requesting school districts. To date there have been --
2 there was an initial list developed by DSA that identified 16
3 school districts with 48 buildings and of those buildings,
4 OPSC did outreach to identify interest in this -- utilization
5 of this template and also having the structural engineer come
6 out and actually analyze the facilities.

7 So of those 48 buildings and 16 school districts, 9
8 school districts actually raised their hand and said yeah,
9 come on out, we want to have our buildings evaluated, and
10 that's -- within those 9 school districts, there were a total
11 of 38 buildings.

12 So what happened at that point was an analysis of
13 those 38 buildings which have been completed to date and 20
14 of the 38 for over a 50-percent margin there have been
15 preliminarily qualified as meeting the Seismic Mitigation
16 Program criteria.

17 Obviously there are more steps involved. They will
18 have to select an architect, get engineering plans to figure
19 out how to fix these facilities. They'll need to go through
20 DSA and get plans approved and ultimately file an application
21 with our office.

22 I'd like to say that at this point where we are,
23 our office is going to aggressively pursue outreach with
24 these 20 school districts -- actually not 20 school districts
25 but these 20 buildings that are preliminarily eligible and

1 they represent, by the way, 5 school districts. So five of
2 the nine actually had buildings that are eligible for the
3 record.

4 And so we will be -- we've started that outreach as
5 far as talking about meeting your funding share/financial
6 hardship criteria and we're actually going to, you know,
7 mount a major outreach effort, go out to these folks, talk
8 with them about program features, how to access the program,
9 the next steps, and we have also had preliminary discussions
10 with DSA that they can obviously accompany that outreach
11 effort to address that.

12 MR. HARVEY: David, one moment for a question,
13 please.

14 MR. ZIAN: Yes.

15 MS. MOORE: Dave, do we know whether those five
16 districts are interested in coming in for the program or is
17 it too preliminary at this stage -- at this point?

18 MR. ZIAN: It's still a little early, but one of
19 the school districts has indicated that they have some issues
20 with their funding share. So again with this outreach, we'll
21 be talking with them and see what we can do for them
22 potentially within the current confines of Chapter 12.5,
23 which is the School Facilities Program legislation, and our
24 regulations of what we can do.

25 So we'll try to figure out what we can do.

1 MR. HARVEY: As a follow-up, Dave, you know,
2 because the 50 percent local match has been identified as a
3 barrier in the past and we may hear about it again today, can
4 you briefly tell me what you've done to reach out to any
5 financial hardship districts that might be on our list -- any
6 list since we would be paying a hundred percent; therefore
7 there would be no local match --

8 MR. ZIAN: Right.

9 MR. HARVEY: -- one less impediment removed.

10 MR. ZIAN: So early on when the list of 48
11 school -- preliminary districts that had been identified that
12 the 48 buildings within the 16 districts -- sorry, I have to
13 back up -- we did a lot of outreach, calling them, whether
14 they'd be interested in these reviews, if we were to get a
15 contract with structural engineers and development of the
16 template and all that. And early on, we reached out to
17 districts both verbally and in writing to let them know that
18 there were -- there was a Financial Hardship Program and kind
19 of try to delineate what the program criteria in that program
20 is.

21 There are specific criteria detailed in our
22 regulations for financial hardship projects. So there was a
23 lot of initial discussions. To date, there haven't been any
24 actual approvals of those districts that we've identified,
25 but there was initial outreach and we'll continue that

1 outreach efforts to see, you know, if we can, you know,
2 perhaps identify some other candidates that would be viable
3 for that program.

4 MR. HARVEY: Do you have a question at this point?

5 ASSEMBLY MEMBER BUCHANAN: I'll wait on my
6 question. I do have one.

7 MR. HARVEY: Okay. Thank you, Dave. Please
8 proceed.

9 MR. ZIAN: Okay. So the program was modified as I
10 mentioned. The additional building types were added. The
11 ground shaking intensity was lowered to 1.68. We've done the
12 outreach. We have certain buildings that have been
13 identified to date.

14 We've talked a little bit about impediments. We've
15 addressed the structural engineering component which was a
16 major impediment now with that \$200,000 grant. I should also
17 for the record today note that there's 77,000 left of the
18 original grant that was provided by the California Seismic
19 Safety Commission and we have requested retention of those
20 proceeds for additional outreach and the California Seismic
21 Safety Commission was nice enough to grant that request.

22 So that will be part of our ongoing efforts in the
23 future to utilize that money for more seismic reviews and
24 potentially identifying more eligible school districts and
25 buildings that can tap into this funding.

1 So as far as -- that's on the structural
2 evaluations. As far as the local match, I've briefly touched
3 on that. That is an impediment. It was identified early on
4 in Implementation Committee discussions as a major
5 impediment. It remains a major impediment to this day. I
6 won't pull any punches on that. But again we will be
7 mounting a major offensive as far as going out, identifying
8 potential areas where they are eligible, if they could
9 possibly apply for financial hardship funding, and absent
10 that, there are other district options.

11 You know, I know times are tight right now, but
12 there are always district options, you know, as far as
13 financing things, bank loans and interfund transfers.
14 There's other ways to meet these needs. I know things are
15 hard right now.

16 Beyond that would require statutory change as far
17 as the local match requirement. If they don't meet financial
18 hardship to just hit it head-on, there -- it would require a
19 statutory change to really address that need if they don't
20 have their 50 percent share in a project or in the event of a
21 rehab, it's a little bit different situation.

22 The last thing is the interim housing which was
23 another impediment that you touched on briefly there, Scott.
24 Sorry. Mr. Harvey.

25 MR. HARVEY: I'm Scott Harvey. You can call me --

1 MR. ZIAN: Is it all right if I call you Scott.

2 MR. HARVEY: Please.

3 MR. ZIAN: So as far as the interim housing, that
4 is another area that we've looked at. It historically has
5 not been an eligible cost in any of our main bread and butter
6 programs such as Modernization, New Construction, Facility
7 Hardship, that kind of thing.

8 However, it is an eligible program cost. It is an
9 eligible cost within the grant, but I think what we're
10 talking about here is an augmentation to what would be
11 provided as a grant and right now that's an impediment as it
12 stands.

13 We do not believe there's authority for that and
14 there's been legal opinions to that effect. I will say that
15 if we do identify districts that are eligible for financial
16 hardship assistance in the program, i.e., meaning they could
17 get up to a hundred percent of the cost for a project, then
18 in those situations, our program currently allows them to
19 scalpel out the costs associated with interim housing and it
20 would not be deemed as available. You know, we get into
21 those kinds of situations in the Financial Hardship Program
22 where if they spend money and they come in for financial
23 hardship, we'd say, ah-ha, you encumbered that money, it's
24 available, fine, you can go ahead and spend it, but it would
25 be available.

1 But I'm just saying for clarity that that would not
2 be deemed available. We would allow you, if you're financial
3 hardship, to take your district funds that would otherwise be
4 available as contribution to a project but use it for interim
5 housing. So -- if that helps.

6 MS. MOORE: Dave --

7 MR. ZIAN: Yes.

8 MS. MOORE: -- can you remind us how the cost for a
9 seismic project is determined. Is it a per pupil cost once
10 we've determined the number of pupils that are in an affected
11 building or otherwise? Could you just go over that for a
12 minute.

13 MR. ZIAN: Well, in Regulation 1859.82, there is
14 a -- first of all, it depends on whether it's pieces and
15 parts or whether it's an entire replacement, but we have a
16 chart that specifies a square footage type basis and a lot of
17 it would be driven by, you know, plans and all that.

18 But as far as the allowances we would provide --
19 for instance, the last one that was just provided for West
20 Contra Costa County at the last Board, that was on a square
21 footage basis provided in the regulation and so we look at
22 the square footage and we cost it out according to our
23 regulation and do that.

24 MS. MOORE: So in that --

25 MR. ZIAN: A rehab is a -- let me finish, if you

1 don't mind just for a second.

2 MS. MOORE: Sure.

3 MR. ZIAN: So a rehab though is a different one
4 where you do not exceed the 50 percent of the current
5 replacement value in the program --

6 MS. MOORE: Um-hmm.

7 MR. ZIAN: -- and on those, it's actual engineering
8 cost estimate, actual costs what it is, and then the State
9 would bear, you know, the -- 60 percent of those costs and
10 the district would have to pay 40 percent.

11 MS. MOORE: Thank you.

12 MR. ZIAN: So that's --

13 MS. MOORE: So --

14 MR. ZIAN: Actually 50. Sorry on that.

15 MS. MOORE: -- in that scenario, when we are
16 establishing those types of budgets, unlike our other
17 programs which are per pupil amounts and which you say that
18 it is an -- interim housing is an eligible cost of the per
19 pupil amount --

20 MR. ZIAN: Um-hmm.

21 MS. MOORE: -- in these cases, it seems to me that
22 saying that interim housing is an eligible component of it
23 isn't the same as saying eligible housing -- or interim
24 housing is an eligible component of a regular program because
25 the cost estimate is done on a square footage basis and/or

1 done on a replacement cost basis which does not include
2 interim housing.

3 So if a district were to use funding for interim
4 housing, it would come out -- it would have to come out of a
5 cost estimate that was based on what it was to replace that
6 building and/or rehabilitate it, unlike our other programs.
7 Is that correct?

8 MR. ZIAN: I think to a certain extent, yes, it is
9 correct. You know, square footage basis, it is -- the number
10 is what it is, but --

11 MS. MOORE: Um-hmm.

12 MR. ZIAN: -- as far as the interim -- that number
13 could be up or it could be down. Remember now, there could
14 be a cost estimate and plans that go through DSA that say the
15 number's this --

16 MS. MOORE: Um-hmm.

17 MR. ZIAN: -- but our number could be a totally
18 different number, a much higher number. So I think --

19 MS. MOORE: Does the value ever reconcile to the
20 square -- I mean to the bid in projects or is it if we've
21 established a per square foot cost, then ultimately that's
22 what the district receives, that's what they have to match,
23 that's the cost of the project or does it reconcile to a bid
24 at some point?

25 MR. ZIAN: Well -- yeah. Darlene maybe can --

1 Darlene's our expert on facility hardship.

2 MR. HARVEY: Darlene, identify yourself for the
3 record, please.

4 MS. NEWMAN: I'm Darlene Newman. I would like to
5 clarify that there's two types of cost estimates. The one
6 estimate takes out all of the extra costs like interim
7 housing or extra things that don't fit the minimum work
8 required to meet that project.

9 The reason that's done that way is to determine
10 only if it's a rehab or a replacement facility.

11 MS. MOORE: Um-hmm.

12 MS. NEWMAN: And once it qualifies for that --
13 that's why the cost for the interim housing comes afterwards.
14 It's not a part of the project, but it becomes a part of the
15 project after it's determined whether it's rehab or
16 replacement. Then the costs are -- can be requested as a
17 line item on the cost estimate and -- but it's not a part of
18 determining what type of project it would be. Those costs
19 wouldn't interfere with that. Is that --

20 MS. MOORE: If interim housing was determined as a
21 line item, we're funding it, and I'm hearing that we don't
22 fund interim housing.

23 MS. NEWMAN: Okay.

24 MR. ZIAN: Not as an augmentation.

25 MS. NEWMAN: I'm going to try to explain it. It's

1 a little bit different and I hopefully can make it -- bring
2 clarity to this.

3 If we give the money up front -- we've had
4 districts come in and they didn't want to spend money on
5 interim housing. In fact they had room to put the children
6 and it was going to be for six months or whatever. They had
7 room to set up temporary classrooms in a multipurpose room or
8 they had extra classrooms at a nearby school. And so they
9 didn't get that cost.

10 So if we gave districts that money up front and
11 they didn't use that money for interim housing, it would be
12 senseless money being given away.

13 MS. MOORE: I definitely understand that.

14 MS. NEWMAN: And so if it's after the fact, then
15 that's showing us that they had interim housing and that they
16 utilized it so therefore it becomes an eligible cost, but
17 it's not a grant that we just give away at the beginning.

18 MS. MOORE: I guess where I'm still having a
19 difficult time understanding is that if a cost of a project
20 is determined and it's determined based on square foot and
21 let's just pull a number -- your number, 225 a square foot
22 for replacement of a facility. If that's the actual cost of
23 the square footage, it's not inclusive of interim housing.

24 So how is it that a district can utilize -- while
25 it's eligible, I understand that. It's eligible. How could

1 they utilize that for interim housing? It's not a line item.
2 It's not a line item. It's not part of the square footage
3 cost.

4 That's what I'm -- unlike the other programs, it's
5 per ADA and what you actually pay for with that per ADA are a
6 variety of choices that the district makes.

7 MR. ZIAN: Right. Right. You can get --

8 MS. MOORE: Which is different than a square
9 footage allowance and/or a cost that we've -- the State and
10 the district have arrived at for a project that's based on
11 actual cost.

12 MR. ZIAN: Yeah. Can I back up just a little bit
13 too because this is -- it's a difficult question -- really
14 good question. We'll have to look at it some more first of
15 all.

16 But I want to say that within that square footage
17 calculation where we provide an allowance, remember that
18 isn't just for the construction cost. That allowance is for
19 hard costs and soft costs. It's everything, including, you
20 know, if you have interim housing costs or architectural fees
21 or whatever it is you're doing, hiring a consultant or
22 whatever.

23 That square footage is not just for the
24 construction. I want to make sure you're clear on that --

25 MS. MOORE: Okay.

1 MR. ZIAN: -- that is supposed to encompass the
2 entire project cost. So --

3 MS. MOORE: Okay.

4 MR. HARVEY: But what I heard is that the
5 calculation, so it doesn't become a grant, takes place after
6 the fact. So if it's after the fact, what is the basis for
7 the calculation? The school's estimate or actual outlay for
8 interim housing or what is that line item made up of after
9 the fact?

10 MS. NEWMAN: After the fact? It comes in as
11 interim housing and I don't know where we end up putting it
12 after the plan reviews then, but when the architect provides
13 the cost estimate, he'll provide a line item and actually
14 it's typed in that they use this amount for interim housing.
15 Then --

16 MR. HARVEY: So it's actual amount for interim
17 housing.

18 MS. NEWMAN: Um-hmm. Yes.

19 MR. HARVEY: Okay. That's what I needed to know.
20 It's what they actually spent.

21 MS. NEWMAN: And so if it's a six-month project and
22 they have the interim housing --

23 MS. MOORE: Then why --

24 MS. NEWMAN: -- for a year, we can --

25 MS. MOORE: -- there's an incongruence --

1 MS. NEWMAN: -- base it on the length of the
2 project.

3 MS. MOORE: There's incongruity here because we say
4 that we do not allow interim housing as a line item grant.
5 We don't allow it.

6 MR. ZIAN: Meaning an additional grant.

7 MS. MOORE: We don't give it as a line item grant.

8 MR. HARVEY: Not an augmentation.

9 MS. MOORE: But we allow it as an expenditure.

10 MR. ZIAN: Yes.

11 MS. MOORE: So the expenditure comes at the expense
12 of something else.

13 ASSEMBLY MEMBER BUCHANAN: Because the grant
14 amount's based on the --

15 MR. ZIAN: That's one way of looking at it, yes.
16 If there's insufficient funds and I would submit --

17 MS. MOORE: And -- and one district --

18 MR. ZIAN: -- in some cases there's plenty --

19 MS. MOORE: -- may be able to utilize it for
20 interim housing because for a variety of reasons, their cost
21 per square foot did not -- was not utilized in full for hard
22 and soft costs.

23 Another district may not be able to utilize it for
24 interim housing because their cost per square foot was fully
25 utilized by hard and soft costs. Could that be a situation?

1 MR. ZIAN: It's possible.

2 MS. MOORE: So we could be setting up perhaps an
3 incongruous depending upon the school district how we treat
4 interim housing.

5 MR. ZIAN: One of the issues that we have right now
6 is we -- when we looked at and tried to prepare this item, we
7 were trying to look at actual costs and try to come up with a
8 -- you know, a studied analysis and we have a very small
9 sample size.

10 So you almost have to look at each project and you
11 could see just by the swings in here, which I can talk about
12 here in a second, there's a wide swing of costs based on not
13 only the square footage but, you know, the magnitude of the
14 work that needs to be done and maybe DSA can at some point
15 speak to that more too because in some cases, maybe a
16 building requires only minor retrofit or less intensive
17 repairs versus a building type that's more flawed and has a
18 lot -- more extensive work.

19 So that's a situation where I could see -- where I
20 can see your point and there may be some inadequacies, but I
21 think it's early right now. Until we look at some of these
22 things, you know, it's hard to tell whether --

23 MS. MOORE: Well, I think you've done a good --

24 MR. ZIAN: -- it's going to happen or not.

25 MS. MOORE: -- job of teasing out those areas that

1 we have known have been a problem and you have ticked them
2 off so to speak in that you went out and have this grant for
3 the evaluations and we've also addressed other issues of
4 concern to the stakeholders of why maybe the funding doesn't
5 flow out.

6 It appears that interim housing continues to be one
7 that's raised and that's why I'm trying to understand it and
8 to assist. Is it a real issue and do we need to address it
9 as part of our policy. I know that it's not part of other
10 programs, but it continues to rear up.

11 So is it one that we should consider as a Board.
12 Is it one that we as our Subcommittee should be recommending
13 to our Board and the more information that we have about how
14 it actually might work, the more helpful I think our
15 information moving forward to the full Board will be.

16 MR. ZIAN: If I could just add one other point
17 here, if we go back to the beginning of the School Facility
18 Program. It was kind of like a -- you know, leave a lot of
19 these things to the locals to decide what's appropriate, you
20 know --

21 MS. MOORE: Um-hmm.

22 MR. ZIAN: -- as far as what to ask for in a
23 funding application and so on. That carries forward to today
24 and when you get into issues of interim housing, I hate to
25 say it again, but it's real early in this program right now

1 where we're actually getting a lot of new application
2 requests or potential new application requests, but some
3 districts are overbuilt and some aren't overbuilt. You know
4 what I mean.

5 So if you're overbuilt, the interim housing thing
6 may not even be an issue. And if I can just say overbuilt
7 means you have more seat capacity than you have enrollment
8 and some districts aren't a declining enrollment. Others are
9 growing or, you know, at a level pace. So it's -- even the
10 interim housing may or may not be an issue depending on the
11 district, depending on the magnitude -- the number of
12 facilities and the type of facilities that are taken offline.

13 So I wish I could answer you more directly.

14 MS. MOORE: I absolutely agree with you --

15 MR. ZIAN: It just depends.

16 MS. MOORE: -- in that I think that districts
17 should do a thorough research of how they can house their
18 students during these programs and if there is excess
19 classrooms or building space somewhere else, that should be
20 the first choice of school districts.

21 But if interim housing is preventing a project and
22 they don't have, you know, facilities nearby -- you know, we
23 also know that you could have space, but it's eight miles
24 away, does not make sense. But if they don't have that, I do
25 think that perhaps that is a consideration that we should

1 consider.

2 I don't know. We need to hear more from school
3 districts, but it has been on every single agenda moving from
4 the time this began and we're still at this point with these
5 programs. So I think it's an important one to consider as
6 part of the puzzle of perhaps moving forward with greater
7 access for our school districts.

8 ASSEMBLY MEMBER BUCHANAN: Is the interim housing
9 that we're talking about though, is that unique to the
10 Seismic Program or is that part of the bigger issue we should
11 be looking at?

12 MR. ZIAN: I think it's part of a bigger issue --
13 the short answer.

14 ASSEMBLY MEMBER BUCHANAN: Okay.

15 MR. ZIAN: But it could be -- manifest itself
16 differently in the Seismic Mitigation Program in some cases.

17 ASSEMBLY MEMBER BUCHANAN: So I'd like to talk --
18 get back to the Seismic Program. When -- in our -- was it
19 April 23rd meeting, you presented this report to us.

20 MR. ZIAN: Yes.

21 ASSEMBLY MEMBER BUCHANAN: And in it, you know, you
22 said -- I'm going to probably paraphrase this a little bit --
23 but you said that you can't find an expert that will say this
24 is the threshold for ground shaking that's safe or not safe
25 and that actually makes sense to me because conditions can

1 vary differently, right, from site to site and based on
2 knowledge.

3 So the goal of the Seismic Program to me should be
4 to get money to schools that are, you know, at risk and need
5 to be repaired. It shouldn't be where you just keep lowering
6 thresholds till you give away all the money.

7 And I still, when I get back to all of this,
8 because we had a program recently that -- I forget the name
9 of the school, but had -- remember all the different fault
10 lines where they couldn't build and it was caught in between
11 programs.

12 So I get back to asking the question is there a
13 reason we should have a separate Seismic Program other than I
14 know school districts may like it because they can line up
15 for money faster in one program versus another, or should
16 these criteria be built into our, you know, critical hardship
17 or financial hardship? Should they be built into our other
18 programs and these schools should qualify under those
19 criteria?

20 And I know -- I looked at your list. I mean -- I
21 was trying to pull it up on my iPad. We had a local article
22 because San Ramon was on the list and they talk about how the
23 reports you were dealing with were so old on that, that the
24 schools have been modernized and everything else since then
25 and that -- and the list has never been updated. I forget

1 what report it was in.

2 So, you know, we may be very much over -- I mean
3 and some of these schools have been modernized for a decade.
4 So we could very much get overstating, you know, the risk.

5 But I think if a school -- you know, if it's not
6 safe for kids to be in the classroom, we need to fix those
7 schools whether we fix it through seismic or we fix it
8 through another program. And to the extent we can streamline
9 it and not try and put a 1.68, 1.65, or 1.62, a number on it,
10 it seems to me that that -- you know, that opens up the
11 ability to fund those schools and to get money to them on an
12 as-needed basis.

13 Because I just -- and there's something to me that
14 just -- you know, let's just keep going and finding schools
15 so we can get rid of the money that -- that's great, but the
16 whole idea is how do we fix the schools that are, you know,
17 at risk for these students. And why shouldn't we consider an
18 option like that?

19 MR. ZIAN: The voters in 2006 wanted to set aside
20 money specifically for these most vulnerable buildings and
21 that was up to 199.5 million for the Seismic Mitigation
22 Program.

23 ASSEMBLY MEMBER BUCHANAN: Right.

24 MR. ZIAN: And that is a subset of our Facility
25 Hardship Program and the projects that we've been approving

1 through the Seismic Mitigation either conceptual or actual
2 funding apps, the four that have been approved so far --

3 ASSEMBLY MEMBER BUCHANAN: Right.

4 MR. ZIAN: -- they do not actually have a building
5 that's going to collapse right this second which is kind of
6 where we've drawn the line when you get to other facility
7 hardships where --

8 ASSEMBLY MEMBER BUCHANAN: Right.

9 MR. ZIAN: -- there's an immediate threat of -- you
10 know, in some cases if you have a -- you know, a building's
11 going to fall or has fallen already, that would be under our
12 normal Facility Hardship Program.

13 The issue with Morongo was a special situation. I
14 don't -- you know, there's obviously --

15 ASSEMBLY MEMBER BUCHANAN: I remember that.

16 MR. ZIAN: -- a lot of mitigating factors there and
17 it was almost like a -- you know, you have to view each
18 project on its own merits.

19 ASSEMBLY MEMBER BUCHANAN: That's my point.

20 MR. ZIAN: And I don't know if there are any others
21 that fit that kind of situation.

22 ASSEMBLY MEMBER BUCHANAN: That's my point though.
23 If we can't come up with a number that says if you're above
24 this number, you're safe, if you're below this number, you're
25 not, if we can't come up with that kind of number -- right?

1 Because each school is on its own merits.

2 I'm familiar with San Ramon Valley because I was on
3 the school board when they did all the engineering studies
4 and found the liquification and we actually had to abandon
5 the gym and I think that's the school where you lowered the
6 threshold to 1.68.

7 But if we can't come up with that number, why
8 shouldn't we be taking these projects and -- I know it would
9 take legislative action, but allowing them to qualify under
10 these other programs and evaluating on a school-by-school
11 basis because if you -- you know, Morongo is a great example
12 because no one could -- everyone agreed that you couldn't
13 build and that the site wasn't safe and yet we were caught up
14 in between these different regulations and we couldn't
15 actually get the money to fix the schools for the kids.

16 So I just -- and the fact that this was approved in
17 2006 and now it's 2011 and we're still -- we're going out
18 there trying to find this is -- I mean I'm just trying to
19 understand why the other option is not a better option.

20 MR. ZIAN: The option of opening it up to the
21 larger --

22 ASSEMBLY MEMBER BUCHANAN: Well, the option of
23 rolling the funds into the critical hardship -- or the
24 Financial -- I mean the other programs and taking a look at
25 these on a case-by-case basis, as engineers say, this school

1 is not safe, we have these seismic problems or whatever, and
2 having them qualify under those programs. I think it partly
3 addresses Senator Hancock's concern of, you know, not having
4 the -- those districts that don't have the matching funds to
5 qualify under the Seismic Program.

6 MR. HARVEY: I think it's a proper question if
7 staff even leaves it open as an option --

8 ASSEMBLY MEMBER BUCHANAN: Right.

9 MR. HARVEY: -- because this is the one category of
10 funding we can roll into something else. So, Ms. Buchanan, I
11 think your policy question is a proper one. We either need
12 to do a better job of defining ways to get these dollars out
13 quickly whether it is a window of opportunity kind of
14 approach, where you establish some criteria and if folk don't
15 come after the money within a certain period of time, you're
16 foreclosed and you lower it again and open it up for --

17 ASSEMBLY MEMBER BUCHANAN: But my question is, is
18 the goal to give away the money or is the goal to make
19 schools safe.

20 MR. HARVEY: It should be both.

21 ASSEMBLY MEMBER BUCHANAN: Because -- right. But I
22 mean if the goal is to make schools safe, then I question,
23 you know, what is the threshold because what -- the report we
24 had on the 23rd said the current threshold they believe is a
25 good one and what is the process because if that's the case,

1 why do we -- you know, why do we have the schools like
2 Morongo coming up where they're caught in the middle of
3 everything.

4 MR. HARVEY: Why don't we do this, if we can. Why
5 don't we hear from those who have assembled. It's possible
6 that one of our Committee recommendations will be --

7 ASSEMBLY MEMBER BUCHANAN: Right.

8 MR. HARVEY: -- a direction to staff to roll the
9 dollars into these other programs and allow some definition
10 of risk. I mean --

11 ASSEMBLY MEMBER BUCHANAN: Right.

12 MR. HARVEY: -- what's going to be hard is getting
13 arms around that nebulous term, but --

14 ASSEMBLY MEMBER BUCHANAN: Well, I don't think it's
15 that hard. If you have engineering reports that say this
16 school is not safe and kids should not be occupying the
17 facilities and DSA concurs, then, you know, whether the
18 threshold's 1.68, 1.75, whatever it is, then to me we
19 shouldn't -- if we're responsible, we shouldn't have kids in
20 those schools. We should be fixing them.

21 MR. ZIAN: Could I clarify though? Just -- so
22 you're advocating that maybe we look at actually rolling the
23 seismic mitigation funding that left into the facility
24 hardship for --

25 ASSEMBLY MEMBER BUCHANAN: Right.

1 MR. ZIAN: -- for uses as any facility hardship
2 project because you could theoretically --

3 ASSEMBLY MEMBER BUCHANAN: Well, I think those
4 seismic projects are facility hardship projects.

5 MR. ZIAN: -- fund other projects.

6 ASSEMBLY MEMBER BUCHANAN: They should qualify as
7 facility hardship projects.

8 MR. HARVEY: She's saying it's really a subset of
9 that definition of --

10 MR. ZIAN: It is, but if you roll it in there
11 without some prohibition -- you know, that's why it was set
12 aside as money is to address this.

13 ASSEMBLY MEMBER BUCHANAN: But what do you do then
14 when --

15 MR. ZIAN: It could go for other purposes.

16 ASSEMBLY MEMBER BUCHANAN: So let's say all the
17 seismic money gets spent a year from now. What do you do
18 with the school that has a seismic problem two years from
19 now? You know, I mean I think that's one way of having a
20 program where it's clearly defined and you have that
21 continuous eligibility.

22 MR. HARVEY: It goes forward.

23 ASSEMBLY MEMBER BUCHANAN: That's exactly right.

24 MS. MOORE: Is the suggestion then to move from --
25 we essentially define most vulnerable to the how many,

1 eight -- are we at eight building types and 1.68. That's our
2 definition of most vulnerable at the moment --

3 MR. ZIAN: Currently. Correct.

4 MS. MOORE: -- to moving to a definition of safety
5 of students as determined by a structural engineer report is
6 what you're suggesting.

7 ASSEMBLY MEMBER BUCHANAN: That's basically what
8 I'm suggesting, yes.

9 MS. MOORE: Okay. All right.

10 MR. HARVEY: That's what she's suggesting.

11 MS. MOORE: Okay. Thank you.

12 MS. SILVERMAN: And I think that's an option that
13 we can explore, I mean, you know, given the short time
14 period, but that's something that we could definitely
15 revisit.

16 MR. HARVEY: That's why we're holding the hearing.

17 MS. SILVERMAN: Yes.

18 MR. HARVEY: I think we have our first speaker,
19 please. Identify yourself for the record and we'll go from
20 there.

21 MR. HANCOCK: Thank you, Mr. Harvey, members of the
22 Subcommittee. My name is Bruce Hancock, Hancock, Gonos &
23 Park. Ms. Buchanan, I want to thank you for your comments.
24 You actually stole my thunder a little bit.

25 MR. HARVEY: Oh, good, you're done.

1 MR. HANCOCK: But not entirely. I -- my firm has
2 worked with Piedmont Unified School District which is a
3 district that has gotten two of the four seismic mitigation
4 apportionments for which they are I know very grateful.

5 One of the interesting things, however, is that the
6 citizens of Piedmont stepped up and passed a bond to take
7 care of known seismic problems in their district and the most
8 severe seismic problem in the estimation of their engineers
9 and architects did not qualify for this program and was not
10 one of the two schools which received the seismic funding.
11 Again I want to emphasize that funding was much appreciated.

12 But interestingly, right down the vein that you and
13 Ms. Moore are going is that by structural engineer's
14 definition, the most dangerous buildings, if I could use that
15 word, in Piedmont Unified School District were not the
16 buildings that qualified in this program.

17 In fact the building that they considered the most
18 dangerous they had abandoned years before this program
19 started. They did not put children in it for years before I
20 became involved at Piedmont and they subsequently with the
21 help of a bond passed by their citizens took that building
22 down.

23 But that building did not qualify for facility
24 hardship either because it conformed to the requirements --
25 how's it go, Dave -- the requirements of the code in effect

1 at the time that it was constructed.

2 ASSEMBLY MEMBER BUCHANAN: It's the Morongo
3 problem.

4 MR. HANCOCK: And --

5 MR. ZIAN: Was it in the right seismic zone? GSI?

6 MR. HANCOCK: Yes, it was. Absolutely.

7 MR. ZIAN: And so was the building type that was
8 precluded.

9 MR. HANCOCK: It was the building type. That's
10 exactly right.

11 MR. ZIAN: Okay.

12 MR. HANCOCK: And I guess my only comment to end is
13 that when the AB300 list was being compiled, it seems very
14 reasonable to group buildings by building type as a way to
15 manage literally thousands of buildings in question and put
16 them in some sort of a list.

17 But in this program, I'm not sure that simply
18 adopting those same building types, prioritizing them from
19 the AB300 list, and then saying, well, this one is the -- you
20 know, is the most vulnerable of all of these Category 2
21 buildings really gets to the most vulnerable buildings and
22 that I think, Ms. Buchanan, is what you're saying and what I
23 would advocate.

24 I don't know the criteria because I think I
25 understand the difficulty of facing the engineers and facing

1 State agencies who would have to make judgment decisions on
2 something that isn't clear. For instance, it's easy to say
3 this is a certain building type, but what do you have when
4 you have a mixed building type or you have a building type
5 that is none of those that is listed, but the engineer says
6 get children out of this building, it's in danger of
7 catastrophic collapse. Thank you.

8 MR. HARVEY: Thank you. In no particular order,
9 please. Just step on down.

10 MR. BRADY: Good afternoon. My name is Michael
11 Brady and I'm the Assistant Superintendent of Business
12 Services for the Piedmont Unified School District.

13 I have listened with interest to your discussion
14 today and as one of only a handful of school districts that
15 have received Prop. 1D funding, I'm here to say that while we
16 greatly appreciate receiving rehabilitation funds, it has not
17 been without a degree of struggle, a struggle that goes
18 beyond the list of impediments and barriers that you've
19 identified, local matching funds from districts, lack of
20 allowances for interim housing, lack of up-front costs.

21 The Piedmont community passed a \$56 million bond
22 measure to address these issues, but our struggles have
23 included delays on DSA submittals for as long as eight
24 months, plan checkers not versed with ASCE 41 and incomplete
25 or gray area definitions of most vulnerable Category 2

1 buildings.

2 In fact as Mr. Hancock pointed out, the two USD
3 projects listed as approved and as part of the materials
4 today were not originally on the AB300 list, though our
5 structural engineer knew that they met all the criteria for
6 C1 buildings. We just needed to convince others that that
7 was the case.

8 We also have a third building that our structural
9 engineer feels meets the criteria, a C2A building not
10 approved that we feel would have yielded another \$500,000.
11 The point is this: We invested \$67,000 for the structural
12 engineering work in order to bring our buildings to somebody
13 else's attention. In other words, AB300 didn't find out; we
14 found AB300 and we thank Mr. Bruce Hancock for that
15 assistance.

16 I did not come to Sacramento today to discuss the
17 fees that we paid for our structural engineer or the half
18 million dollars for the third building that we still contend
19 meets Category 2 vulnerability standards. Rather I'm here to
20 address the two options before you: one to lower the GSI
21 factor from 1.65 -- to 1.65 from 1.68 and reevaluating the
22 list of potentially eligible buildings.

23 So before you consider the options, I would like
24 you to consider a third. There are school districts out
25 there like Piedmont that have approved but as yet unfunded

1 allocations from the SAB that desperately need those funds to
2 complete current seismic work.

3 We can't receive SAB funding until the State sells
4 bonds which could be as much as a year from now; yet we have
5 projects slated to begin this summer and by our own
6 accounting, there is some 114- to 126 million remaining in
7 bond authority.

8 How simple would it be to use the already approved
9 but as yet unfunded allocations for school districts such as
10 ours as collateral against future bond sales. How much more
11 in the spirit of Prop. 1D would it be to use this money now
12 when it is needed.

13 Adjusting the GSI threshold to capture more
14 buildings is well intentioned, but it feels that it is a
15 decision predicated on the amount of money left under the
16 bond authority rather than on solving the larger problem.

17 As for the second option, to reevaluate the list of
18 potential eligible buildings, I would suggest that any
19 examination of vulnerable buildings must include a discussion
20 of wood frame structures as well. While not considered a
21 collapse hazard, the simple truth is that wood frame
22 buildings if not properly braced and strengthened will be
23 rendered unusable after an earthquake.

24 We have chosen voluntarily to strengthen our wood
25 frame buildings in Piedmont for precisely this reason. So as

1 you consider your options, I invite you to add this to put
2 immediate use of the funds that you have at your disposal for
3 the sake of all districts that need this money now and I
4 thank you for your time and your consideration.

5 MS. MOORE: I have a question.

6 MR. HARVEY: Have a question and then I'm going to
7 suggest we take a two-minute break to see if we can reboot
8 our Webcast. It has crashed. I don't want to spend a lot of
9 time trying to bring it back up because we only have until
10 3:30, but the question, we'll take a short break, and see if
11 we can get our Webcasting capabilities running.

12 MS. MOORE: I just wanted to understand your
13 question about -- or your recommendation about
14 collateralizing what is on the list. Are you saying that you
15 have projects that are DSA approved that are ready to go but
16 because of priorities in funding, you have not been able to
17 access cash yet? Or what are you actually -- what is your --

18 MR. BRADY: We have a \$6 million authorization. We
19 presume that we are pretty close in line when the next bond
20 sales come through --

21 MS. MOORE: Okay.

22 MR. BRADY: -- that we'll receive that money. I
23 have a project that begins this summer. I have two-thirds of
24 the money to complete it. I would advocate using the
25 allocation that has been given to us as collateral against

1 funds that are already present in order for us to do that
2 work.

3 MS. MOORE: Okay.

4 MR. BRADY: Or other districts like ours.

5 MS. MOORE: And then I have a question of staff.

6 Do the seismic projects -- are they in order just as all
7 other projects or are they at the top of the list?

8 MR. ZIAN: They would rise to the top when we have
9 cash and we're in one of the priority funding rounds, so they
10 would be funded first before --

11 MS. MOORE: So was your project in any of the other
12 -- was it the top of the list during the last cash or did you
13 just get out of DSA? During the last cash infusion, you
14 know, we let -- I don't know. We just had a priorities in
15 funding round.

16 MR. BRADY: Yeah. We just missed it.

17 MS. MOORE: You just missed it.

18 MR. BRADY: We just missed it.

19 MS. MOORE: Okay. But your project will be at the
20 top and any other project --

21 MR. BRADY: Yes.

22 MS. MOORE: -- that is seismic will be at the top
23 of our funding list and you can ask at that time for that
24 funding, but what you're asking for now is if there's any
25 dribbles of cash that we have available now that they should

1 go first to seismic projects, aren't you?

2 MR. BRADY: Correct.

3 MS. MOORE: Okay.

4 MR. BRADY: Yes.

5 MS. MOORE: Thank you.

6 MR. BRADY: If that sale does not occur until
7 April, we will have a year to wait and a project under
8 construction.

9 MS. MOORE: I understand what you're asking.

10 MR. BRADY: Thank you.

11 MR. ZIAN: Point of clarification. You're talking
12 about a nonseismic -- you have two seismic projects that have
13 been approved and they're for a lot less dollars, about
14 500,000 apiece.

15 MR. BRADY: Correct.

16 MR. ZIAN: You're talking about a nonseismic
17 mitigation project and you want to collateralize that?

18 MR. BRADY: All of our work is seismic mitigation.
19 Every bit of it.

20 MR. ZIAN: Every bit of it.

21 MR. BRADY: Every bit of it. That's what we got in
22 this --

23 MR. HARVEY: Let's have further discussion offline.
24 We need to -- we'll reconvene at 3:00 o'clock. Let's see if
25 we can get our Webcasting back.

1 (Off record at 2:57 p.m.)

2 (On record at 3:03 p.m.)

3 MR. HARVEY: If you could please take your seats,
4 we will reconvene. Thank you for your understanding and
5 courtesies. I believe we're about to hear from
6 San Bernardino. If you would introduce yourself for the
7 record, please.

8 MR. ELATAR: Thank you, Mr. Harvey. Wael Elatar
9 from Administrator of Facilities Management and the
10 Maintenance Operations for San Bernardino Unified School
11 District. First I want to thank the Subcommittee members for
12 giving us, the stakeholders, the opportunity to share with
13 you all our opinions and maybe also our suggestions of how to
14 address this issue.

15 I don't know if you received my letter to not.
16 Okay. Regarding this issue. So we are one of the nine
17 school districts that actually elected or choose to
18 participate in the seismic evaluation allowed by the grant
19 and what the structural engineer from the State determined
20 that our building actually is not qualified or eligible.

21 But I want to actually share with you a little bit
22 about our buildings so basically to touch base on what
23 Ms. Moore and Ms. Buchanan indicated about how can we
24 consider a building most vulnerable over the other.

25 Our building was built -- or two buildings were

1 built in the early 1950s and they have a G force acceleration
2 rate not 1.65, not 1.68, not 1.70, but 1.82. They are very
3 close to major faults, San Andrea fault, and, you know, I
4 don't really see or I haven't heard from any structural
5 engineer who basically would come and say that these
6 buildings with these kind of situations would be less
7 vulnerable than the other one that had been deemed qualified
8 because of the nature of the buildings.

9 And just to touch base on that is that if you
10 actually go to the U.S. Geological Survey Website, you will
11 find out that there is a statement about all dwellings that
12 were built prior to the 1976 code -- '76 when they had a
13 change in the construction code for seismic and you will find
14 out that they are likely to have some -- to be vulnerable to
15 earthquake shaking.

16 So my take on it is that we have a situation here
17 where we are in essence deeming buildings to be qualified or
18 eligible to not eligible, but in reality we are not really
19 sure if these buildings -- how these buildings will perform
20 if we have an earthquake.

21 And my take on it or my suggestion is that this is
22 an opportunity for us to examine these buildings. And I
23 don't have -- I have also other buildings that were in the
24 original report that did not make that qualification of the
25 because of the building type, but I'm not even sure right now

1 what building types they are because the one building that we
2 saw that would be meeting the criteria turned out to be not
3 to.

4 So maybe the other buildings are. So my take on it
5 is that it doesn't really matter what building type is. It's
6 really what if we have a structural engineer who deems these
7 buildings to be unsafe, that is the definition of a
8 vulnerable building for the earthquake. Thank you.

9 MS. MOORE: I have a question.

10 MR. ELATAR: Yes.

11 MS. MOORE: So your 1.82 ground shaking area
12 building did not qualify because of building type; is that
13 what you're saying:

14 MR. ELATAR: Correct. Initially it was deemed to
15 be C1B, but the structural engineer from the State determined
16 that it's not.

17 MS. MOORE: Was there any other investigation of
18 the building that -- in which a structural engineer arrived
19 at any conclusions concerning it or was it simply looking at
20 those two criterias?

21 MR. ELATAR: My understanding -- and Dave maybe can
22 clarify better than I do about this issue -- that the intent
23 of the structural engineer is to make sure if it's eligible
24 based on the existing criteria or not, to determine if it's
25 eligible for one of those eight types of buildings or -- and

1 meet the 1.68 G force not necessarily --

2 MS. MOORE: Is that correct, Dave?

3 MR. ZIAN: That is correct.

4 ASSEMBLY MEMBER BUCHANAN: But we don't know if
5 those buildings have had work that has corrected -- I mean if
6 they've been modernized since -- there may have been work
7 done. So just by the mere fact that you qualify doesn't mean
8 that the building's unsafe.

9 MR. ZIAN: Absolutely. And that's why we send --
10 the DSA list never was meant to be the be-all, know-all.
11 It's a preliminary list. It's a good place to start, but the
12 structural engineers that we have under contract go out and
13 actually verify program criteria and it also --

14 ASSEMBLY MEMBER BUCHANAN: And are they drilling
15 holes -- I mean what are they doing.

16 MR. ZIAN: They're doing a --

17 ASSEMBLY MEMBER BUCHANAN: What kind of structural
18 analysis are they doing?

19 MR. ZIAN: -- forensic analysis. They're looking
20 at the plans and they're actually analyzing what has occurred
21 in the original building set and what has taken place,
22 whether there's been retrofits, repairs, and things like
23 that. So a lot of their analysis is meant to really focus
24 the original list that's a preliminary list to see if they
25 really fall into the right building types and that the work

1 that was done, whether or not that building's still
2 vulnerable or not.

3 So -- and you really need a structural engineer to
4 do that.

5 ASSEMBLY MEMBER BUCHANAN: Are they doing any kind
6 of -- are there any soils engineers? Are they doing any kind
7 of ground samples? Are they doing anything else?

8 MR. ZIAN: I'm not aware of any ground sales.
9 Alan, do you know? I'm not aware of any ground samples or
10 anything like that.

11 MS. MOORE: Can I just ask then if we in doing the
12 reports, for instance, in Mr. Elatar's case where the
13 building ground shake was at a certain level, but it wasn't
14 the correct building type, did we cease the investigation at
15 that point? Because my question would be given that, was
16 there still an analysis whether the building was safe or not.
17 Did it go deeper than just simply saying --

18 MR. ZIAN: My understanding was --

19 MS. MOORE: -- you don't meet the --

20 MR. ZIAN: -- it was disqualified. They met the
21 wrong building type, so they were disqualified.

22 MS. MOORE: So you don't meet the qualifications,
23 but we didn't go any deeper to know is this really a
24 problematic situation or is it not.

25 MR. ELATAR: Correct. And I -- we also have other

1 buildings that on the original list -- (indiscernible) that
2 were deemed to be not eligible because of the building type
3 but now was -- we're not even sure what building type is. So
4 one of the things that we are suggesting is at least to
5 continue with using the State funding available for the grant
6 to examine these buildings and identify if these buildings
7 are unsafe or not.

8 I mean that's basically the main criteria of what
9 we're looking for. We're just not really looking for, you
10 know, most vulnerable or -- I know the term has been
11 utilized, but the reality is, is that if the building is
12 vulnerable, it doesn't really matter what -- you know, how
13 far it is, you know, in the scale and I cannot find a
14 structural engineer who can tell me this building is more
15 vulnerable than this one.

16 MS. MOORE: I kind of have a question and I don't
17 know if our State Architect can help us with. But it goes to
18 the issue of safety of students and staff. And that is, is
19 it possible for a structural engineer to come out regardless
20 of criteria that we've established up to -- heretofore.

21 We've tried our best to establish this criteria by which to,
22 you know, provide the funding for most vulnerable facilities.

23 But can structural engineers despite these criteria
24 come to a district, review a building, and make a
25 determination that indeed is not safe for students. And if

1 that's the case, I think we are leaning -- we would tend to
2 seem to lean more into Assembly Member Buchanan's idea of
3 that's the major issue is that we should be taking care of
4 regardless of -- criteria has to tried to create the system,
5 but perhaps the -- what we should be looking at is what does
6 the structural engineer or other engineers say about the
7 safety of that building outside of these criteria.

8 Is that answerable or is that the one that we said
9 we really can't answer?

10 MR. SMITH: Let me take a shot at this. By the
11 way, I'm Howard "Chip" -- I go by Chip -- Smith, Acting State
12 Architect, and structural -- I am a structural engineer by
13 the way --

14 MS. MOORE: Uh-huh.

15 MR. SMITH: -- as well as an architect. Structural
16 engineers would typically move towards the use of recognized
17 building standards, national standards as an objective
18 criteria upon which to base a determination of safe versus
19 unsafe.

20 Building codes have even defined the word
21 dangerous, dangerous condition or dangerous building. So
22 with that, I -- the current program is largely based on a
23 national standard, ASCE 31, which is seismic evaluation of
24 existing buildings. That's where all the building types came
25 out of that are listed in the original report and in the

1 current procedure and regulations.

2 So to answer your question, without the use of
3 standards upon which to base a decision, it becomes highly
4 subjective.

5 MS. MOORE: Um-hmm.

6 MR. SMITH: And engineers -- my observation in the
7 30 plus years of working, interacting with other engineers,
8 is there has to be an objective basis upon which to operate.
9 Otherwise subjectivity creeps in quickly.

10 I think that the basis that's been used to date is
11 appropriate. It's the nationally-recognized standard for
12 seismic evaluation. We now have adopted in our codes seismic
13 rehabilitation standards so that an existing building,
14 regardless of the date of construction or the materials used,
15 can be evaluated objectively and a determination made as to
16 whether there's one or more deficiencies.

17 In practice, what would happen is a number of
18 deficiencies would be identified in they exist in the
19 building and those deficiencies may be one or multiple and
20 the consequence of those deficiencies would vary as well.

21 In fact I would say the program right now is
22 largely focused around the structural systems of the
23 buildings, the lateral, the seismic resisting systems of the
24 buildings, which we would call the structural hazard. The
25 nonstructural hazards pose arguably a very significant risk

1 as well: ceilings, plaster, soffits, those kinds of things,
2 and that's an entirely different matter that would apply to
3 the entire range of school buildings.

4 So I would say that I would advise towards sticking
5 with standards as the basis for -- and in reality, I just
6 want to conclude, I -- unless you analyze a specific building
7 and really dig in and do a demand capacity analysis, in other
8 words, look at the hazard that exists at the site, the
9 shaking, the ground conditions, which I recall the hazard,
10 and then you look at the vulnerabilities associated with that
11 particular building and you do a very thorough assessment and
12 you do that for each and every building and then you can see
13 how they rank and then you could prioritize.

14 But that would require a very extensive analysis of
15 each and every building to do so. In reality, a lot of the
16 school buildings I believe contain mixed systems. There are
17 nuances that wouldn't have shown up in the paper survey
18 associated with the original report.

19 MS. MOORE: Just a follow-up question on the
20 national standards.

21 MR. SMITH: Um-hmm.

22 MS. MOORE: Is that a ground shaking number and a
23 building type or are you saying that's what we're aligned
24 with? Is it the actual number that we're aligned with in the
25 national standards? How are we aligned with that national

1 standard?

2 MR. SMITH: We base the criteria upon the national
3 standard. The ground shaking or the hazard itself, that
4 information comes from the USGS maps, for instance, and the
5 CGS folks that we work with, but the building vulnerability
6 information and the -- when you compare the ground shaking
7 with the building, its capacity, that procedure is contained
8 in the standard. So you --

9 MS. MOORE: And how does that national -- how do we
10 in our program, how are we reflective of that standard?

11 MR. SMITH: We -- well, we reference it and have
12 embodied that in the procedure, for instance, that we're
13 currently using.

14 MS. MOORE: But it wasn't an actual number. It was
15 the fact of ground shaking and the fact of building type.

16 MR. SMITH: Yes.

17 MS. MOORE: But the national standard didn't say
18 1.68 is the threshold.

19 MR. SMITH: That's not possible. Right. It -- you
20 could arrive at a demand and a capacity. So you could
21 compare the demands on the building at a site, the ground
22 shaking. You could look at the capacity of the building,
23 which requires significant analytical effort, but that can be
24 derived and then you could, for instance, arrive at a
25 conclusion that Building A has a capacity that is less than

1 the demand; whereas Building B has excess capacity, so
2 obviously Building A is riskier. That's how it would really
3 work.

4 MS. MOORE: Tell me this. Can we -- when was say
5 it's 1.68, it's the right building type, do we do the further
6 analysis that says and it's in good shape or not and we --
7 and that it's eligible or not or do we simply say that those
8 that meet that criteria can move forward regardless of where
9 that building -- whether it ultimately could withstand or not
10 depending upon what the structural engineer says?

11 Is it a you meet the criteria, you get the money,
12 or is it you meet these two criteria but you -- we also do
13 the third where we look really closely at what's the real
14 current status of that building?

15 MR. SMITH: The current procedures require that you
16 meet the criteria --

17 MS. MOORE: Uh-huh.

18 MR. SMITH: -- and then identify the specific
19 deficiencies.

20 MS. MOORE: Okay. So there would be a deficiency
21 component of it.

22 MR. SMITH: Yes. Yes.

23 MS. MOORE: So --

24 MR. HARVEY: Then they have to have a local match.

25 MS. MOORE: And the local match and those things,

1 yeah.

2 MR. HARVEY: And they have to have the --

3 MS. MOORE: No. But I'm really getting at the
4 safety issue. So if we lowered our standard to say 1.35
5 and -- which is a number that has been out there
6 previously --

7 MR. SMITH: Um-hmm.

8 MS. MOORE: -- and we said that's the number, this
9 is the building type. It may mean that a lot more buildings
10 potentially qualify, but there's that third component that
11 any structural engineer would be doing to say and these are
12 or are not the deficiencies. You could meet those criterias
13 and not be deficient or you could meet those criterias and be
14 deficient. Is that true?

15 MR. SMITH: Yes.

16 MS. MOORE: Okay.

17 MR. HARVEY: Thank you. Assembly Member Buchanan,
18 you had a question.

19 ASSEMBLY MEMBER BUCHANAN: So I'm going to try and
20 piggyback to a certain extent off the questions Ms. Moore is
21 asking. It seems to me you've got one set of criteria that
22 you use to help evaluate the safety of the buildings and
23 you're using the national standards and you've said, you
24 know, you could have a combination of factors that result in
25 a building being unsafe where they don't individually fall

1 into each category; right?

2 I mean you've got to have some criteria. But it
3 seems to me what we're trying to do is use a fixed set of
4 standards also for funding and I think that's where we have
5 the disconnect.

6 So if we have a situation where -- I'm going to use
7 the San Ramon High gym because I was on the school board at
8 the time. We had multiple engineers who went out and
9 evaluated the safety of that building from drilling holes in
10 the ground to take a look -- you know, structural to all the
11 different ones and they said they don't think it's safe and
12 then if you have DSA say we don't think it's safe and you're
13 not able to have students, it seems to me that that is to me
14 a more powerful criteria for funding than just saying these
15 are -- you got a cutoff at this number.

16 So is there -- I mean that's why I'm kind of going
17 back to my suggestion that, you know, isn't the whole goal of
18 this program to fix schools that are potentially unsafe for
19 our students and our employees? I mean that -- if that's the
20 goal of the program and we can have agreement by engineers
21 that the district hires that says the students -- the school
22 is not safe to be occupied or a building and DSA concurs with
23 that, then those buildings ought to be fixed and they
24 shouldn't be held to a potentially arbitrary number.

25 MR. HARVEY: I think we're going to study that.

1 ASSEMBLY MEMBER BUCHANAN: Right. Okay.

2 MR. HARVEY: We're getting close to having to
3 adjourn. Is there anyone else who wants to address the Board
4 very, very quickly and then we'll give some direction -- some
5 limited direction to staff to come back for what appears to
6 be yet a second hearing and I think not only do we want to
7 have the options that have been outlined in this staff
8 report, but an option that addresses this concept of rolling
9 the dollars into a subset of the facility hardship, looking
10 at some standards that would drive the question of
11 danger/risk. I'll say no more because I may be saying the
12 wrong kinds of things, but I think that's the general
13 direction of what we'd like that third option to include.

14 And we will pick a time that results in us meeting
15 as quickly as possible. We're still trying to get something
16 to the full Board in May.

17 So with that as the backdrop, Mr. Duffy, or Mavonne
18 Garrity, do you wish to add a few words, please.

19 MS. GARRITY: Mavonne Garrity with Senator
20 Lowenthal's office. I wanted to bring to your attention --
21 on page 2 of the staff analysis, there is a brief discussion
22 of the action of the Board in August of 2009 to lower the
23 threshold for the GSI.

24 There was also an additional action by the Board
25 requesting staff to work with DSA to come back with language

1 and recommendations on when a structural engineer says
2 there's an imminent danger, how can -- what criteria can the
3 DSA use to evaluate that and -- so that it could have the
4 seismic funding.

5 I think -- so there was apparently work done and I
6 haven't done enough digging to refresh myself on what
7 happened with that assignment.

8 MR. HARVEY: I can give you a quick overview.

9 MS. GARRITY: Could you? Okay.

10 MR. HARVEY: There were a series of meetings held
11 and the term imminent became contentious. There were
12 standards about danger, standards about risk, standards about
13 most vulnerable, but the term imminent threat was one that
14 there really didn't appear to be any recognizable standard
15 let alone any consensus.

16 I recall there was some brief report to the Board
17 that talked about that discussion that involved I think
18 stakeholders. I don't know if anyone in this room was part
19 of that, but if you have not heard the results of that
20 preliminary discussion, we certainly can recreate it because
21 we didn't ignore it.

22 Staff did not ignore that direction. It was just
23 difficulty with trying to define that term knowing that we
24 had other standards -- federal standards and other things to
25 rely on.

1 If I've totally misstated it, someone please
2 correct me, but I'm under the impression that there was at
3 least one or two meetings on the subject and if we need to
4 refresh what the outcome of that was, we can certainly hear
5 about that the next time we meet as a Committee. How's that?

6 MS. GARRITY: Thank you.

7 MR. DUFFY: Okay. Then quickly, Tom Duffy for the
8 Coalition for Adequate School Housing. I appreciate the
9 opportunity to speak today.

10 Just a quick history. AB300 was 1999. This is now
11 2011. After AB300, we proposed legislation through the same
12 author, Ms. Corbett, which paved the way -- didn't move
13 forward because of various issues relative to a future bond,
14 but it paved the way for the 2006 set-aside of seismic funds.

15 We've been working since that time, since the
16 implementation in 2007, to bring about a full-on seismic
17 program and you've discussed all those issues today. If
18 districts are unable to move children from a building into
19 safe quarters, which we call interim housing, because of
20 cost, then that's an impediment to use the term that Mr. Zian
21 used.

22 If they are unable to pay their share, their half
23 or whatever it be, they're certainly not going to be able to
24 cover interim housing. We've brought this to the attention
25 of the Board since 2007. We've asked for that as a

1 component.

2 Ms. Buchanan, your suggestion today I think is a
3 very good suggestion. It's in line with what we've suggested
4 in the past that if there's a concern that this -- there will
5 be full run on these dollars and that they would all go away,
6 we've suggested a set-aside of monies, similar to your
7 suggestion, for potentially the most vulnerable buildings if
8 they come forward and to allow others to come in and apply
9 for these dollars based upon the structural engineer's report
10 that they are at risk.

11 Now, just to juxtapose -- and the irony of this is
12 that it appears to be easier to achieve a facility hardship
13 with a structural engineer's report than it is a seismic
14 project. And in fact we have advised districts that they can
15 go the facility hardship road and get there while they can't
16 get there through the Seismic Program because of the
17 impediments that have been identified.

18 So just quickly again the suggestion is include
19 some measure for interim housing. It's an important part of
20 this component.

21 What was noted, you've got four projects -- or
22 three districts that are identified: West Contra Costa,
23 San Ramon, and Piedmont. As I understand it Piedmont took
24 the extraordinary step of moving children not only from their
25 schools but into a separate district to educate them.

1 We know that in West Contra Costa they were moved
2 from a school down the road to another school. I'm not sure
3 how far it was, Ms. Moore, but it was some distance, and I
4 know that the San Ramon instance is leaving a gym which means
5 you can still educate children in classrooms.

6 So in each of those instances, they incurred some
7 discomfort and some cost probably to the general fund, not a
8 capital cost, but there's no interim housing cost that's
9 there.

10 I think that that's telling that those districts
11 were able to move forward because they had some option other
12 than to fund interim housing.

13 So what we would recommend to you as a Subcommittee
14 to recommend to the Board is to loosen up the criteria to
15 access. If you were a board of education and I were a
16 superintendent and Dave were a structural engineer and I was
17 saying to you we have a building that the structural engineer
18 has said is vulnerable but it doesn't meet the 1.68, you as a
19 board would say, well, is it a safe building or not and I
20 would look to the structural engineer and he'd say I don't
21 think it's a safe building and you would say get the kids out
22 of that building and do something about that.

23 I think that you are a Board. You're not a school
24 board, but I think this is before you, this very question of
25 if some -- if a district is able to bring before you a report

1 or to DSA and OPSC a report that says the building is at risk
2 and the children are therefore at risk that your ability to
3 fund that project should really be what these dollars are all
4 about because -- and it may not be dollars today.

5 As was said earlier, it may be the authority to
6 sell bonds in the future, but I think loosening up those
7 purse strings are what you need to do. Thank you very much.

8 MR. HARVEY: Thank you, Tom. It is almost 3:30.

9 ASSEMBLY MEMBER BUCHANAN: Right on time. Good
10 job.

11 MR. HARVEY: As I recall, we will reconvene
12 hopefully within a two-week time frame. We will have a third
13 option. I will call it the enlighten Buchanan option. We
14 will also have a report -- a brief report on the status of
15 that imminent threat working group, where that ended up.

16 Are there any other expectations, Ms. Buchanan,
17 that you have for what we will hear from staff?

18 ASSEMBLY MEMBER BUCHANAN: No. I think you've
19 summarized it well.

20 MR. HARVEY: Ms. Moore?

21 MS. MOORE: I would just like to encourage that if
22 districts have ideas or concerns in this area that they
23 advise us. We've received some letters to date, but if you
24 want to weigh in, it's time to weigh in and that the -- I
25 know the Subcommittee and the Board take seriously the

1 information that is brought forward by those that actually
2 have to deal with our policies in the field.

3 So I would encourage that as well. And one other
4 piece that I'm curious about maybe having because we've had
5 such interaction with the Seismic Safety Commission, if
6 perhaps a representative from the Seismic Safety Commission
7 could also provide us insight or, you know, information that
8 may be helpful, if we could ask them to do so.

9 I think we've had really information from the
10 Division of State Architect, from the Office of Public School
11 Construction, but we've also had some involvement of the
12 Seismic Safety Commission. They have I think an expertise
13 and a knowledge in this area and I for one would like to hear
14 from them as well.

15 ASSEMBLY MEMBER BUCHANAN: I would like them to at
16 least address -- give us some interim housing options since
17 that has been brought up over and over again.

18 MR. ZIAN: Interim housing options?

19 MR. HARVEY: Some interim housing options?

20 ASSEMBLY MEMBER BUCHANAN: Housing options.

21 MR. HARVEY: And I think the -- obviously the
22 public policy question there is, is an eligible expenditure
23 now. We learned about some perceived -- I'll call it that --
24 inequities with how it currently can be applied depending on
25 how you calculate square footage or if you do it after the

1 fact.

2 Others have suggested a supplemental augmentation.
3 So we'll hear a range of things perhaps.

4 ASSEMBLY MEMBER BUCHANAN: Yeah. You know, I'm
5 interested in basing it on need. If a school can reasonably
6 house the students in other classrooms on that campus or
7 whatever --

8 MS. MOORE: I agree.

9 ASSEMBLY MEMBER BUCHANAN: -- I don't think it
10 should just be an automatic extra amount of money, do what
11 you want with it.

12 MS. MOORE: I agree.

13 ASSEMBLY MEMBER BUCHANAN: It should be based on
14 need, but, you know, there should be some way of determining
15 the need and clearly if you have to move kids out of
16 classrooms, they've got to have somewhere to learn.

17 MR. HARVEY: Okay. Well, let me thank you all for
18 your attendance and participation. Hopefully at the next
19 opportunity, we'll have the ability to broadcast our voices
20 so that you can hear us perhaps more plainly.

21 I want to always thank the media for the role they
22 play in asking the tough questions and ensuring that we give
23 them as honest answers as we possibly can and always
24 uncomfortable moments when these things happen, but I think
25 they play a role in the public policy that we all are charged

1 with forming and I respect the role they play. I encourage
2 their involvement and I know we will continue to hear from
3 them on subjects like this.

4 So thank you all. Until we meet again.

5 (Whereupon, at 3:33 p.m. the proceedings were recessed.)

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