

Minutes
CALIFORNIA SCHOOL FINANCE AUTHORITY

Meeting of the Board
Wednesday, June 29, 2006
10:30 a.m.
915 Capitol Mall, Room 587
Sacramento, California 95814

Deputy State Treasurer Ted Eliopoulos, serving as chair, called the meeting to order.

Roll Call

Members Present: Ted Eliopoulos for Phil Angelides, State Treasurer
Kathleen Moore for Jack O'Connell, Superintendent of Public Instruction
Anne Sheehan for Michael C. Genest, Director of Finance

Staff Present: Katrina Johantgen, Executive Director

Approval of Minutes

The minutes of the May 10, 2006 Authority meeting were adopted as submitted.

Executive Director's Report

Charter School Facilities Program:

Oakland School for the Arts (OSA) provided official notification from the school's Board of Trustees confirming that the school has elected to return the preliminary apportionment of \$9,967,844 awarded under the Charter School Facilities Program (CSFP) at the State Allocation Board meeting on February 23, 2005. OSA has submitted an application for the second round of the State Charter School Facilities Incentive Grants Program.

Legislation:

Assembly Bill 127 (Nunez) : The Kindergarten-University Public Education Facilities Bond Act of 2006 (AB 127) has qualified for the November ballot as Proposition 1D. If passed, the bond will allocate \$500 million to a third round under the CSFP. Program changes related to the Office of Public School Construction's (OPSC's) regulations and the use of the funds will be discussed at the State Allocation Board's Implementation Committee meeting next Friday. Changes to the Authority's regulations are not anticipated as a result of the statutory changes included in the bill, however, staff is considering proposing amendments to clarify certain issues that have arisen in the last three years. The funding round will kick off quickly if passed, and staff is preparing contingency plans that include a budget change proposal and alerting the charter community of the proposed application dates and the application process.

Assembly Bill 2717 (Walters): The bill will allow charter schools to access funding through the Authority by amending the definition of participating parties to also include charters. AB 2717 has passed through the Senate Education Committee, 10-0, and will move to the Senate Appropriations Committee.

Resolution No. 06-11 Approving Proposed Amendments to the Regulations for the Charter School Facilities Program and Authorizing Staff to Distribute for Public Comment and Initiate the Emergency Rulemaking Process

Ms. Johantgen provided an update on the status of the proposed changes to the Authority's regulations specific to the requirement for a lease agreement. Staff has been meeting with legal counsel, OPSC staff, and representatives of some of the charter schools and school districts, to discuss ways to make the program more flexible, easier to access and easier to execute the agreements associated with the release of funds. Authority regulations currently provide for a lease agreement between the State, the school district that will hold title to the project, and the awardee charter school. In response to feedback from charter schools and school districts, including LAUSD, the single tri-party format of the lease agreement is being restructured into three separate agreements that will include uniform terms and conditions. The restructuring of the agreements will require corresponding changes to the Authority's regulations. The proposed changes include removing the word lease from references to an agreement, with the most substantial changes to Section 10160, which will identify the Memorandum of Understanding, the Funding Agreement, and the Use Agreement. Upon approval by the members, staff will distribute the proposed amendments to interested parties for public comment. If there are no substantive public comments, then the proposed amendments will be filed with the Office of Administrative Law as emergency regulations.

It was moved, seconded and passed to approve Resolution 06-11, approving the proposed amendments to the regulations for the Charter School Facilities Program and authorizing staff to distribute the regulations to interested parties for public comment and initiate the emergency rulemaking process.

Resolution No. 06-12 Approving the Forms of the Memorandum of Understanding (Tying Agreement) and the Funding Agreement Related to the Charter School Facilities Program

Ms. Johantgen provided an overview of the proposed forms of the Memorandum of Understanding and the Funding Agreement.

The MOU sets out the basic program guidelines and the default security provisions and will be entered into by the State, the charter school, and the school district where the project is physically located. Ms. Johantgen confirmed that the format presented today captures comments received from OPSC and some of the charter schools and school districts, including LAUSD.

The Funding Agreement will be entered into by the state and the charter school. The Authority and the State Allocation Board will execute the document on behalf of the state. The Funding Agreement lays out the terms and conditions that must be met by the charter school and the payment schedule. An option has been included for charter schools that elect to use the repayment intercept mechanism that is provided for in the Authority's statutes.

The form for the Use Agreement was not drafted because it is expected that the charter school and the school district will negotiate the terms and conditions of this agreement with the district utilizing their own format for this agreement. The Use Agreement will be included as an attachment to the MOU, with the State reserving the right to approve the Use Agreement.

It was moved, seconded and passed to approve Resolution 06-12, approving the forms of the Memorandum of Understanding and the Funding Agreement related to the Charter School Facilities Program.

Resolution No. 06-13 Approving Awards and Authorizing the Disbursement of Funds Under the Second Round of the State Charter School Facilities Incentive Grants Program

Ms. Johantgen provided a summary of the funds available for this round. The total amount allocated to the grant program in the 05-06 budget year was \$19,700,000, of which \$225,000 was set aside for administrative costs. Therefore, because the first two funding rounds were in the 05-06 fiscal year, the net available for projects for the first two funding rounds was \$19,475,000, of which \$9,380,832 was awarded to charter schools in round one. The net available for projects in the second funding round was \$10,094,168. The amount set aside for administrative costs for the 05-06 fiscal year exceeded the actual costs incurred, and staff will be requesting an adjustment to the 07-08 budget so the unused administrative funds may be rolled into the net amount available to charter school projects in the fourth funding round.

The methodology used in evaluating and processing applications for the second funding round was essentially the same as it was for the first funding round with a slightly compressed filing deadline for applicants. The same level of due diligence was used in regard to eligibility, legal status of civil or criminal matters, threshold eligibility, charter compliance and charter standing with the chartering entity. As occurred in the first funding round, there was some difficulty obtaining OPSC's Form 50-01 from some school districts as needed to determine the district's percentage of overcrowding. Everyone put forth their best effort to obtain the information, unfortunately there were a number of applicant schools that did not receive any preference points in the overcrowding category. After some discussion by the members regarding the method for obtaining overcrowded data, staff was requested to look at alternatives for establishing whether a school is overcrowded and bring back some recommendations regarding options for determining and obtaining overcrowded data, at a future meeting.

A total of 73 applications were received and 56 were deemed eligible. The 25 top-ranked applications were recommended for funding. Ms. Johantgen advised of a pending issue with the 23rd school on the list, Visual and Performing Arts Charter School (VAPAC). Staff's initial request to the chartering authority for verification the school was in compliance with the terms of its charter and in good standing with the chartering authority received negative responses. VAPAC obtained an injunction set forth by the court that the Authority could not use the letter from the district regarding VAPAC's standing and charter compliance. Pending a determination whether the school was in compliance with the terms of its charter and in good standing with its chartering authority at the time of application submission, Ms. Johantgen recommended to the members that any act to approve or deny VAPAC's application be delayed until the August board meeting. It was further recommended that the amount of \$750,000 be set aside to be

awarded to VAPAC should the school be found to be in compliance with the eligibility requirements outlined in California Code of Regulations, title 4, section 10177.

There were two public comments suggesting that charter schools be given greater opportunities to work with reluctant school districts in providing overcrowded data for the districts.

It was moved, seconded and passed to approve Resolution 06-13, approving the awards as recommended and authorizing the disbursement of funds under the second funding round of the State Charter School Facilities Incentive Grants Program, and further approving that no action be taken to approve or deny VAPAC's application, and its potential award of \$750,000 be set aside, until the Authority's August meeting.

Public Comment

There were no other public comments.

Without any further business to conduct, the meeting was adjourned.

Respectfully submitted,

Katrina Johantgen