

This paper explores each of the major funding sources for school facilities projects, categorized by Local, State, or Federal. The discussion of each funding type includes the typical uses by school districts, and any special nexus requirements for using those funds.

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LOCAL FUNDING SOURCES

GENERAL OBLIGATION BONDS (GO BONDS)

There are two types of general obligation bonds typically used by districts. Prior to Proposition 39, G.O. bonds required a two-thirds majority vote. This type of election is still available to school districts and does not have some of the requirements that are a part of a Prop 39 G.O. bond, however the 2/3 majority can be difficult to reach.

Prop 39 bonds pass with a 55% yes vote. They can be used for capital improvements as listed in the bond language. The district is responsible to establish a citizen's oversight committee (COC) made up of not less than 7 community members including a parent of a student in your school district, a member of a parent/teacher/student organization such as the PTA, a representative of the local business community, a senior citizen, and a member of a bona fide taxpayer organization.

Most boards prefer to clearly establish the roles and responsibility of the oversight committee prior to the first committee meeting. The committee does not have board authority to approve projects or contracts. Their role is to review projects to assure the voting community that the projects the voters authorized are being completed. They also provide the public with assurance that expenditures being charged to the bond fund are appropriate to the bond projects.

The routine documentation provided to the COC is to be published on the district website for public availability.

USES: Districts typically use local bond funds to supply the required match to obtain state funds. These funds are also used to complete projects that are needed in the district but have no other funding source. Projects or project types must be included in the bond authorization language prior to the authorizing vote.

NEXUS REQUIREMENTS: Proceeds must be spent on capital projects. The oversight committee is charged with watching the district to assure that the funds are being spent according to the bond language. The district is to post on its website any reports provided to the oversight

committee. The board is to cause and receive a performance audit (not the COC.) The district is subject to fiscal audit requirements and if the funds are used to match state funds, then a project audit from the Office of Public School Construction will also occur.

(A comparison matrix of 2/3 and 55% bonds is provided at the end of this document for your reference.)

SCHOOL FACILITIES IMPROVEMENT DISTRICT (SFID)

An SFID election is similar to a 2/3 majority bond election, except instead of the election being held throughout the boundaries of the district, the area of the election can be defined as not including portions of the district.

The SFID is typically used when a district has Community Facilities Districts (CFD) paying significant developer fees for the schools in their areas, while other areas of the district do not have CFD funds and therefore need a GO bond. Sometimes the CFD voters will not support the GO because they are already paying parcel taxes and do not feel the facilities are needed as their schools are typically newer. SFID's are also used when a community has significant senior citizen areas that are not supportive of school bonds. Any area excluded from an SFID election does not vote and is not taxed.

USES: SFID proceeds are used in the same manner as General Obligation Bonds to fund local match requirements for state funds and to fund projects that do not qualify for other types of funding.

NEXUS REQUIREMENTS: The nexus requirements are typically the same as for a general obligation bond. (There are some initial requirements that must be worked out with the County Registrar of Voters, be sure that you talk to them well ahead of the election.) Proceeds must be spent on capital projects as approved in the ballot language. A COC is not required.

DEVELOPER FEES

Developer fees are collected from anyone who builds a commercial, industrial or residential project within the district boundaries. The fee is set annually by the governing board of the dis-

trict and is based upon the district's Fee Justification Study. The fees are charged based on an amount per square foot of new development unless otherwise negotiated. There are three levels of fees. Differing rates are charged for residential and commercial development. Residential development under 500 square feet is exempt from the fee. (These fees are referred to in the development community as "school fees.")

USES: Developer Fees must provide benefit to the development that generated the fee. Most typically this is done by providing classrooms and schools that serve new development. The use can range from providing additional space in existing schools to adding completely new schools. In some instances a case is made for adding capacity in one area of the district that then results in freeing up capacity in an area of development.

Use of these fees can be specifically negotiated to provide certain facilities in a timeline that assists the developer, and in exchange for working with the developer to provide that school early, the district receives further compensation, property or whatever is negotiated. Care should be taken in promising to open a school early that the operational funds will be there if the school is not yet full. These can be a negotiated component and provided by the developer.

NEXUS REQUIREMENTS: A developer fee report adopted by the governing board of the district establishes the fee level. There are very specific requirements and methodology for the fee calculation.

A Montieth Report must be presented to the governing board of the district within 120 days of the close of the fiscal year. This report must draw the nexus between the projects generating the funds and the expenditure of those funds for school facilities that benefit those projects. Funds that are not committed within 5 years must be returned.

COMMUNITY FACILITIES DISTRICTS (CFD)

Community Facilities Districts are a form of parcel tax and may be formed to cover a developer's required school fees. This type of tax is sometimes called Mello-Roos after the legislators who sponsored the enabling legislation.

As a parcel tax it must be voted on by all of the parcel owners in the proposed district and requires a 50% majority vote to pass. It is frequently used for new developments that want premier school facilities in place when the new homes go to market. When a developer owns all the parcels initially, the vote is conducted after negotiation with the district has been completed regarding what will be included in the tax and the facilities that will result. These negotiations frequently include timing of those facilities.

The requirement to pay the ongoing taxes is then passed to the buyer of each parcel within the development. Some CFD's include a buyout option that allows the homebuyer to pay the fee up front rather than year to year.

USES: The funds may be used as negotiated and may have broader uses than standard developer fees, such as construction of a new elementary school per the developer's design criteria and timing. They may include additional facilities beyond those that would normally be included in a district project with the standard state match. The financing could include components other than those for the district project.

NEXUS REQUIREMENTS: Verification of the parcels to be taxed and the appropriate amounts must be made every year. The district may have other requirements to demonstrate facilities construction milestones in conjunction with specific development milestones. A portion of the proceeds can be used for administration of the funds. The district must abide by the commitment made in the negotiation with the developer.

PARCEL TAX

Parcel taxes are not voted on by the registered voters of an area, they are voted on by the property owners who will be taxed if the election is successful. They require a 50% majority vote. The funds may be used for a wider variety of purposes than other types of taxes; however, they have proven to be difficult to pass for school needs.

USES: Typically parcel taxes fund extraordinary maintenance requirements connected with a particular facility or type of facility, but can be used for any facility or maintenance purpose approved by the voters.

NEXUS REQUIREMENTS: The nexus requirement is to provide whatever the specific election language specifies.

REDEVELOPMENT AREA (RDA)

Redevelopment areas are typically established by cities and counties to address blight. Tax increment from the RDA is redirected to funnel back into that area as improvements. The initial increment from an RDA is typically very small and increases over time if the RDA is successful in its revitalization objective.

Older RDA's reflect a negotiated percentage share that the district receives from the RDA proceeds. Newer agreements reflect a pass-through amount established by prescribed formula, unless those pass-through proceeds have been assigned to a joint project.

The district should seek annual verification from the city/county administering the RDA that the full increment has been forwarded to the district. If the city/county holds district increment, then the interest from that increment also belongs to the district.

Bonds are sometimes issued by an RDA to pay for projects. The bond payments are made from the annual tax proceed increment. A district may sign over its increment in participation with the RDA in mutually beneficial projects.

USES: This is a funding source that can be used for district administrative and district services projects, such as a transportation/maintenance facility, central kitchen, or district office.

NEXUS REQUIREMENTS: The district must demonstrate that the funds were used for projects that benefit the redevelopment area. Administrative and district level projects qualify since they benefit all students in the district thus satisfying the nexus that RDA area students benefit. Alternately a project may actually be part of the redevelopment that occurs, also satisfying the benefit requirement.

CERTIFICATES OF PARTICIPATION (COP)

This funding mechanism is available to school districts and is essentially a loan. Due to the tax exempt status of the district it has certain advantages over regular private loans. The COP will have a payment schedule with annual or semi-annual payments.

USES: This type of loan is typically used to finance long-term assets that are otherwise unfunded, such as buses and modular buildings. It can be used for building entire schools if desired. It is used as a source of bridge financing.

NEXUS REQUIREMENTS: Payment of the loan is guaranteed by the general fund of the district. Fiscal audit criteria apply.

LEASE-LEASE BACK

The ed code allowing this financing for school construction was initially provided for colleges. Districts have used it for developer funded projects for many years and have recently begun to use it for State Facilities Program (SFP) projects, though the methodology used must comply with public contract code if it is used with SFP funds.

The financing mechanism uses a lease of district property to another entity that then builds a facility on that site and then leases it back to the original public entity until the development is paid for (the lease back.) Typically this has been used for developer built schools.

Because the process allows the public entity to hire the contracting company outside the low bidder environment, it allows greater flexibility in compiling the design/build team. OPSC and others have expressed concern with the process as it relates to bid requirements.

USES: Capital projects.

NEXUS REQUIREMENTS: Meeting the requirements of the L-LB agreements and local audit requirements. When used for OPSC projects, care should be taken to meet all SFP program requirements.

STATE FUNDING SOURCES

The state of California offers several funding programs. Some are administered by the Office of Public School Construction (OPSC) and some are administered by the California Department of Education – School Facilities Planning Division (CDE).

SCHOOL FACILITIES PROGRAM – NEW CONSTRUCTION

The School Facilities Program (SFP) new construction program is designed to provide matching funds to districts who have established growth in eligibility under the SFP regulations. The district must provide their 50% match in advance of receiving the state funds and must bring their project to a construction ready status in order to apply for the funds.

This program is funded through passage of statewide general obligation bonds which require a majority vote to pass. The bonds are put before the electorate by passage of a bill that requires a 2/3 vote of the legislature. Distribution of program funds has been, from time to time, interrupted by a lack of available funds. The OPSC typically maintains lists of qualifying projects during these times so that they can be included in the first available funding cycle once a bond is passed.

Districts typically continue to work on their district eligibility and process their projects even when the state lacks funding so that they can be in line when funding becomes available.

Voters passed Proposition 1D in November 2006, providing additional program funding and several increases to SFP grants. Qualifying projects can receive additional new construction funds for Site Development.

USES: The funds must be used to do the project that generated the eligibility as submitted to California Dept of Ed – School Facilities Planning Division (CDE), and as reviewed by the Divi-

sion of the State Architect (DSA), and approved for funding by OPSC. A wide range of projects are allowed but they must be built as submitted. Districts may enhance a project beyond the funding level of the SFP using other funds in addition to the required match funds, providing they are not participating in the Financial Hardship component of the program.

Any remaining project funds may be declared “savings” at the end of the project and may be used for other district capital projects, providing they are not participating in the Financial Hardship component of the program. If the savings are used as match funding or to supplement another OPSC project, they must be used in the same category, such as modernization for mod, new construction for new.

NEXUS REQUIREMENTS: The district must annually certify using SAB 50-06 with a Detailed Listing of Expenditures supporting all expenditures for the approved project. At the close of the project the district must submit the final SAB 50-06. Typically the district would also submit significant contracts, invoices, and warrant records as requested. If the OPSC disallows any expenditure the district must return the funds for that expenditure to the state – even if it has already been expended on the project. The district must maintain an ongoing commitment to a 3% expenditure level for specific building maintenance funds as a condition of accepting the state funds. This is annually certified in the fiscal audit. Intentional false certification of compliance documents can result in personal liability and criminal prosecution. The audit includes verification of contract dates and compliance with the program requirements. Failure to comply with program requirements can result in a repayment of all project funding back to the state.

SCHOOL FACILITIES PROGRAM – MODERNIZATION

Eligibility for the modernization program is established based on the age of the buildings to be modernized. The minimum qualifying age is 25 years for a permanent building and 20 for relocatable buildings. Fifty year old buildings now qualify for a higher funding level. The program is a 60/40 match program with the district providing a 40% match.

A modernization project on a campus may only address some of the buildings. There are limits on the uses of modernization funds. The grants do not typically fund all the work that would be needed to fully modernize a facility.

Prop 1D provided a new grant for Accessibility and Fire Code compliance. This increased funding requires the architect to submit a listing of costs to OPSC for review and approval.

USES: Typically districts use the funds to address building infrastructure replacement and modernization. Care should be taken to use the funds specifically as allowed by the SFP grant.

NEXUS REQUIREMENTS: The nexus requirements are similar to the new construction program and are also reported on SAB 50-06.

SCHOOL FACILITIES PROGRAM – FINANCIAL HARDSHIP

If a district has issued local indebtedness to sixty percent of the assessed valuation bonding capacity for the district, they can be considered “fully bonded” and qualify to become a financial hardship district. County Offices of Education also qualify to participate. The funds are administered under the SFP New Construction and Modernization programs, but the local district match is not required in the same manner.

Hardship districts undergo a review to determine the available district funds that can be contributed toward their facility projects. The district is then required to expend those funds toward the project expenditures and the state will fund the balance of the project. The district is never required to fund more than the established match in the regular program. The district may not supplement the project beyond the grant amount or those funds will be deemed as having been available to the project and may result in a requirement to return that amount to OPSC, even though it has already been spent and the district facility funds have been depleted; or the district may be required to refrain from participation in the state program for three years. It is critical that any district using the FH program maintain precise expenditure records and maintain a good understanding of the audit requirements.

USES: The uses are the same as for the SFP Modernization and New Construction programs.

NEXUS REQUIREMENTS: The same documentation is required as in the regular SFP program. Additional significant financial review by the OPSC is also required to establish available funds and ongoing financial status.

SCHOOL FACILITIES PROGRAM – CRITICALLY OVERCROWDED SCHOOLS

COS is a needs based program within the SFP. Qualifying districts receive the same amount of funding as districts in the regular SFP. The difference is that these projects qualify to have the funds reserved for them within the SFP for 4 years while they do complex site acquisitions, relocations, condemnations, and environmental clean-up. The concept is that if districts begin the process of these difficult site acquisitions, the state will be there with their share when the district is ready to go to construction. There is a requirement to verify continuing state program eligibility at the time the district requests funding.

COS eligibility is “needs based” if the available funding is insufficient to fund all the projects submitted. There are specific submittal windows set in the authorizing law and specific qualifying tests are required. If the fund is not fully utilized the remaining balance will be transferred to the regular program for distribution.

USES: Complex projects that are designed to address current overcrowding. The overcrowding nexus must be met per OPSC methodology. This program typically makes sense for the urban district with severe overcrowding and complex site acquisition issues.

NEXUS REQUIREMENTS: The eligibility requirements are very detailed and specific. Once funds are received all the audit requirements of the regular program apply in addition to the COS requirements. The verification of ongoing eligibility has proven difficult for many districts due to declining enrollment and various alterations to the requirements have been proposed. Any district verifying COS projects should maintain a close watch on changes to allowable methodology.

STATE EMERGENCY REPAIR PROGRAM (Williams Settlement/SB6)

Beginning in Fiscal Year 05/06 funds were made available to a School Facilities Emergency Repair Account for the purpose of reimbursing the cost of emergency repairs. The repairs must be at eligible school sites and must be for the purpose of mitigating conditions that pose a threat to the health and safety of pupils or staff. Each application should reflect the repair or replacement of one building component or system and related work.

These funds are not necessarily provided to fund the items found in the School Facility Needs Assessment. The Needs Assessment work is intended to be funded through the routine and deferred maintenance and repair programs of the district. These funds are to supplement those monies in districts facing extraordinary challenges to maintaining facilities for education.

The initial program was a reimbursement program. Subsequent legislation has enabled prior approval of repairs to assure that they are fundable. Both types of submittals are now accepted.

USES: Emergency repairs to schools on the CDE list (Deciles 1, 2, or 3).

NEXUS REQUIREMENTS: OPSC administered program has specific eligibility and reimbursement criteria that must be met. District may expend the funds to resolve the emergency prior to application for funding.

SCHOOL FACILITIES PROGRAM - OVERCROWDING RELIEF GRANTS

This new program is intended to create open space on crowded campuses through the replacement of portable classrooms with permanent facilities. The permanent facilities may be at the same, or a different site. It requires a reduction of the number of portable classrooms in a district. It does not require SFP new construction eligibility and participation does not decrease existing eligibility.

Funding will be released in three cycles in 2008, with a fourth cycle if funding remains. Funding priority will be provided to the most densely populated sites. The first funding cycle application deadline is January 1, 2008.

Uses: To reduce sites overcrowded to 175% of the CDE recommended levels to 150% of the recommended level, replacing relocatable classrooms with permanent facilities.

Nexus: Verification of required reductions and removal of portable buildings from the classroom inventory and compliance with standard SFP audit requirements.

HIGH PERFORMANCE INCENTIVE GRANT

This grant program provides additional funds to SFP projects to encourage the use of designs and materials that promote the efficient use of energy, water, natural light, and optimize indoor air quality, the use of recycled materials and materials that emit a minimum of toxic materials, the use of acoustics materials, and other characteristics of high performance “green” schools. (High performance refers to the building, not the teaching and learning.) The grant is determined based on qualifying points earned by the project design. The grants are available to new construction and modernization projects.

Uses: to fund or offset the cost of materials and methods required to achieve high building performance, without having to wait for the long term life cycle pay off. The grant is an augmentation of the SFP.

Nexus: Standard SFP audit. Verification that items resulting in the grant funding are not change ordered out of the project is anticipated.

SMALL HIGH SCHOOL PROGRAM

The SHSP provides funding for constructing new small high schools or the reconfiguration of existing high schools into two or more smaller learning communities. The educational plan is reviewed by CDE prior to submission of the project to OPSC for approval. The application deadline is September 2007.

Uses: To create smaller high school environments that foster academic achievement and student success. This requires a significant commitment to a different educational program when compared to the comprehensive high school.

Nexus: Subject to standard SFP program audit requirements.

CAREER TECHNICAL EDUCATION FACILITIES PROGRAM

This funding provides 50/50 funding for comprehensive high schools to encourage curricular programs in CDE recognized industry sectors. The funding requires no new construction or modernization eligibility. The grants shall not exceed \$3 million for new construction and \$1.5 million for modernization. Financial Hardship cannot fund the district share, but state loans are available under this program.

Uses: Constructing new facilities or reconfiguring existing facilities for career technical education purposes.

Nexus: Subject to OPSC audit for compliance with program requirements. (Too new to really know!)

STATE RELOCATABLE CLASSROOM PROGRAM

This lease program has provided classrooms from the state's supply of new and used relocatable classrooms. While this is not a funding source it has been a financing mechanism for acquisition of temporary buildings.

The OPSC has presented a Phase-Out plan to the State Allocation Board. The plan outlines a process for immediate disposal of all the State Relocatable Classrooms and permits school districts to purchase the relocatable classrooms.

The state is no longer accepting applications for this program.

SCHOOL FACILITIES PROGRAM – JOINT USE PROJECTS

The joint use program is designed to encourage districts to participate in projects that include financial partnerships other than the state. At least some of the partners must be financially contributing. The application deadlines and funding cycle are different than for other SFP programs. This program uses Lease Purchase Program (LPP) funds and therefore has different requirements.

USES: Typical projects include facilities that benefit the broader community, such as training facilities, libraries and gymnasiums.

NEXUS REQUIREMENTS: Specific program guidelines must be met. OPSC audit requirements will apply to these projects.

SEISMIC MITIGATION

This program is intended to provide assistance in the rehabilitation or reconstruction of the school facilities most vulnerable to seismic activity. The regulations for this program are still under discussion. Significant challenges exist in providing for the determination of which schools in California are at greatest risk. The program is intended to be a 50/50 program.

DEFERRED MAINTENANCE

This ongoing state program funds major maintenance of school district facilities including painting, roofing, plumbing, HVAC and electrical systems, flooring, etc. The district must submit a 5-year plan for maintenance of district facilities. Deferred maintenance projects are sometimes coordinated with modernization projects to more effectively use the funds available to the district.

NEXUS REQUIREMENTS: The district must report expenditures on SAB 184 and 184a. Supporting audit documentation may be required.

FACILITIES HARDSHIP

The Facilities Hardship program is for school facilities that are no longer usable from a health & safety perspective. These are funds used to assist schools after catastrophic events. The board must declare the school unsafe and unusable.

The funds may be used for replacement or rehabilitation. The program functions as the regular state programs function with 50/50, 60/40 matches applying and Financial Hardship status available if the district qualifies. However, the normal program eligibility requirements are waived.

USES: Typically used for recovery from catastrophic events or building failures.

NEXUS REQUIREMENTS: Project expenditures must be reported as with any other OPSC program and are subject to OPSC audit requirements.

PRE-SCHOOL MODERNIZATION

From time to time the CDE makes funds available for pre-school programs that have been in operation for many years, for the modernization of their facilities. The application requires that the project budget be submitted for review by CDE prior to funding.

USES: Modernization of preschool buildings and playgrounds.

NEXUS REQUIREMENTS: The district must submit a budget and subsequently, verifying documentation of the expenditures. Back up documentation must be made available if requested.

LIBRARY BONDS

Districts may participate as a partner if their local library system seeks a library bond. School participation increases the priority of the library proposal in seeking the grant.

This program requires a match by the library district. The school district's project share may be considered as the local library's match.

USES: Joint use library facilities.

NEXUS REQUIREMENTS: The school district must meet the requirements of any funding they use as the library's match and may be required to verify their expenditures for the facility.

FEDERAL FUNDING SOURCES

QUALIFIED ZONE ACADEMY BONDS (QZAB's)

These funds are made available through the California Dept. of Education - SFPD to qualifying projects for the equipping/renovation of school facilities. It is an interest free loan to the district that meets specific zone requirements. The projects must include public-private partnership. In recent years the program has been over prescribed and projects have been chosen through an annual lottery. The next round of QZAB's will be using a different lottery distribution model with a series of lotteries by project category.

The funding is available through a unique tax mechanism that allows the investors who buy the bonds to receive a tax credit instead of the interest they would normally receive for municipal bonds. Because no funds are expended by the district for the interest, the bonds are interest free to the districts. The federal government receives less revenue because they give the tax credit.

USES: Joint use projects in qualified federal zones. These funds have been used for very creative projects that are not typically funded by the state programs and have included academies that serve more than one school district, training facilities, concept schools, and joint use projects with the private sector.

NEXUS REQUIREMENTS:

Districts must verify expenditures for the project are per program requirements and must meet other partnership requirements.

FEDERAL RENOVATION FUNDS

This program was funded in 2001 to assist school districts nationwide in bringing facilities into compliance with the Americans with Disabilities Act, provide funding for urgently needed renovations, and to meet technology and charter school facility needs.

Program funding was provided through the California Dept. of Education – SFPD. These funds are not authorized for additional years, but continuing effort is made to reinstate this program. Additional programs have also been proposed at the Federal level and are under consideration. *(Californians for School Facilities can provide the latest information regarding these new proposals.)*

E-RATE

These federal funds are specifically allocated to school districts through an extensive application process. Research is required by the district to insure that funding application and vendor selection is per program requirements. Significant funding has been available in recent years for this program and can be an important source of additional funding to meet facility needs.

USES: Telecommunications, internet access and internal distribution systems to assist districts in obtaining and utilizing modern technology in schools.

NEXUS REQUIREMENTS: Specific application, bidding, and documentation requirements apply. Funding requires attention to every detail in the application process.

BROWNFIELDS

There are federal funds available from US-EPA under Subtitle A for clean up of school sites qualifying as brownfields. Specific clean-up requirements must be met. More information may be obtained from the Dept. of Toxic Substances Control (DTSC) website fact-sheet.

USES: When it will cost more to bring a property to a clean environmental state than the property is worth, it may qualify as a brownfield. These funds are intended to assist in bringing properties within a community to a usable state thus increasing property available for civic uses and reducing areas of environmental concern and ongoing blight. This is a long and difficult approach to school site acquisition but may be necessary in some urban environments; these funds can assist the district that finds itself with few options.

***There are specific funding programs for Charter Schools
that are not described in this document.***

Hopefully this document has been helpful to you. It has been designed for general education and overview; please obtain additional specific information from the appropriate source when using any of the described funding. If you have any questions regarding this document, please call or email us.

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