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**PUBLIC SCHOOL CONSTRUCTION IN MARYLAND
 THE INTERAGENCY COMMITTEE ON SCHOOL CONSTRUCTION
 Report to the Education and Economic Development Subcommittee,
 House Appropriations Committee**

**Delegate Adrienne A. Jones, Chair of the Subcommittee
 Delegate Benjamin S. Barnes, Vice Chair of the Subcommittee**

David Lever
 Executive Director, Public School Construction Program
 February 9, 2015

Thank you for your continuing support for public school construction in Maryland, and for the opportunity to report today on the operating budget of the Interagency Committee on School Construction (IAC). We are highly appreciative of the support the Committee gave us two years ago for a position dedicated to the Baltimore City 10-Year Plan effort; this position has provided us with the capacity to become far more deeply involved in facility management issues in Baltimore than at any time before. We also appreciate your support for the Maintenance Inspection Program Manager position, which we are in the process of filling. With this position, we believe we will be able to correct the delays in reporting that have troubled the Maintenance Inspection Program since it was transferred to our agency in 2006.

In order to complete our organization of essential staff, we request your support for two new positions in the FY 2016 budget: An Assistant Program Manager to serve as critical backup for our Program Manager, who plays a daily role in the management of multiple funding programs; and an Assistant Information Technologies Officer to provide support for the information systems and computer technologies that have become essential to the daily functioning of our agency.

In this report we will respond to the analyst's questions, and will provide additional information that may be of interest to the members of the committee.

INTERAGENCY COMMITTEE ON SCHOOL CONSTRUCTION – OPERATING BUDGET

With a current working staff of 18, the Public School Construction Program (PSCP) manages the State financial contribution for approximately 2,967 projects with a total State contribution of \$1.6 billion.¹ The three traditional funding programs managed by the PSCP, specifically the Capital Improvement Program (CIP), the Aging Schools Program (ASP), and the Qualified Zone Academy Bond (QZAB) program, account for \$1.5 billion or 94% of the project funding. The remaining projects are within five funding initiatives that have been approved in fiscal years 2012 through 2014, all of which are currently active and involve our staff's attention. In addition, our agency assists the Maryland State Department of Education by managing the financial transaction aspects of the Non-Public Aging Schools program.

Below is a brief outline of the actions for which the PSCP is currently responsible. A number of these responsibilities cannot be fully addressed by the PSCP at this time due to staff limitations, which will be partially mitigated by the two new positions noted above. If staff is reduced, certain additional responsibilities will also be curtailed.

¹ CIP: 938 projects, \$1.5 billion; ASP: 78 projects, \$10.1 million; QZAB: 66 projects, \$12.7 million; Supplementary Appropriation: 39 projects, \$29.8 million; Security Initiative: 1,579 projects, \$24.77 million; Nonpublic ASP: 267 projects, \$2.9 million to date and \$3.5 million pending project approval for FY 15.

Financial Management:

- Capital Programming and Funding:
 - Development of the annual Capital Improvement Program recommendations to the Interagency Committee, and the Board of Public Works.
 - Approval of projects in the Aging School Program (ASP) and the Qualified Zone Academy Bond (QZAB) program.
 - Recommendations for approval of projects in special programs and initiatives:
 - FY12 Supplementary Appropriation
 - FY13 Energy Efficiency Initiative
 - FY14 Air Conditioning Initiative
 - FY14 Security Initiative
 - Relocatable Repair Fund
 - Financial Management of the FY 14 and FY 15 Nonpublic Aging Schools Program (in collaboration with MSDE Facilities Branch)
- Financial Research: Leadership of workgroups to develop recommendations on alternative financing, reliable funding sources, and related topics, in compliance with Governor Martin O'Malley's Executive Order of May 6, 2014.
- Financial Transactions:
 - Recommendations to the Interagency Committee for approval of all contracts in excess of \$100,000.
 - Processing, accountability for, and reporting on payment requisitions for State-funded projects.
 - Auditing of construction expenditures and procedural compliance.
 - Periodic reporting on all funding programs.
 - Maintenance of a detailed financial database of all transactions, for all projects.
- Financial Reports:
 - Quarterly reports on the Aging Schools Program, Qualified Zone Academy Bonds, the Nonpublic School Aging Schools Program, and Statewide contingency funds.
 - Annual reports on Qualified Zone Academy Bond and FY 2014 Security Initiative programs.

Support for Educational Facilities and Programs:

- Maintenance Inspection Program:
 - Annual maintenance surveys of approximately one-sixth of the schools in the state.
 - Detailed review and analysis of maintenance issues, including coordination with other state entities (limited).
 - Submission of an annual report to the Board of Public Works (delayed).
- Baltimore City Public Schools 10-Year Plan:
 - Participation in the four-party Executive Committee established by the Memorandum of Understanding of October 16, 2013. The IAC serves as Chair of the Committee for 2015.
 - Fulfillment of the IAC's specific duties within the MOU: approval of projects, approval of the Enhanced Approval Package, annual review of Utilization Rates, monitoring of the Comprehensive Maintenance Plan (CMP) and the Maintenance Performance Metrics required by the MOU.
 - Duties related to implementation of the Phase I 21st Century Plan projects.
 - Detailed review, analysis and monitoring of facility management issues that will affect the 21st Century Projects when completed and currently affect more than 100 schools (see analyst's summary, pages 15 – 19), including weekly meetings with City Schools staff on maintenance issues and bi-weekly meetings on the status of CIP, ASP and QZAB projects.

- Regulatory Compliance:
 - Monitoring of LEA procurements for compliance with Minority Business Enterprise, prevailing wage, high performance, and emergency shelter requirements, and with regulations for project procurement, delivery, and financing.
 - Recommendations for new policies, procedures and regulations to improve the design, construction, and project delivery of public school construction, and to ensure alignment of school construction with other State policies, e.g. Priority Funding Area requirements.
- Information Technologies: Maintenance of 10 databases associated with various financial and scope aspects of the Program, including a database of all school facilities in the state.²
- Other:
 - Updating of policies and procedures to incorporate legislative mandates and current best practices. The *Administrative Procedures Guide* has not been updated in its entirety since 1994.
 - Regular meetings and consultation with the Maryland State Department of Education (MSDE), Maryland Department of Planning (MDP), and Department of General Services (DGS), all of which have personnel assigned to the School Construction Program.
 - Technical assistance to the local educational agencies, particularly in the areas of project procurement and Minority Business Enterprise participation.
 - Tri-annual facility planners meetings to discuss legislation and PSCP procedures, and to disseminate best practices.
 - Membership in the Sustainable Growth Commission and participation in PlanMaryland.
 - Membership in the Maryland Green Building Council.
 - Investigation of special topics, e.g. public-private partnerships.
- Reports:
 - Annual reports on the use of alternative project procurement, delivery, and financing methods (statutory), high performance school initiatives.
 - Quarterly and annual reports on Minority Business Enterprise participation.

ISSUES

I. STATEWIDE AVERAGE FACILITY AGE

IAC should comment on the issues and potential solutions regarding the calculation for the age of the square footage of public school facilities (D25E03, page 3 and 10).

Issues Related to Calculation of Age of Square Footage

In fiscal year 2007, the IAC adopted the average age of school facilities as a measurement of school condition in each LEA. Age in this measurement stands as a surrogate for condition: the assumption is that the newer the age of the square footage, the better the condition of the building. In order to measure equity of facility condition among the school systems, the IAC proposed that the deviation of each LEA's age from the statewide average age of schools should narrow with increased State and local funding investment. In general, the results reported through our Managing for Results (MFR) analysis indicate that the average school age in Maryland has increased by only four years in the last nine fiscal years, and that the number of school systems with average age older than the statewide average has decreased from 11 in FY 2005 to seven in FY 2014.

There are several reasons why direct investment in the CIP and other funding programs does not translate directly to an improvement in the selected indicator, the average age of square footage:

- **Investments that do not affect the age.** Since FY 2006, approximately 29% of the total of \$3.5 billion in CIP, ASP and QZAB investment has been for projects that do not affect the age of square footage, according to the methodology used in Maryland for determining age. 26% of the

² Maryland is one of the few states in the country that maintains an educational facilities database.

total CIP funds have been for systemic renovation projects, which are effective in extending the useful life of the facility and in improving the environment for building occupants, but are not considered when calculating the age of the square footage. 3% of the funding has been dedicated to the ASP and QZAB programs, which almost entirely support systemic-like projects. Consequently, only 71% of the total funding has positively affected the average age of facilities.

In this respect the surrogate measure of age is somewhat misleading, since the very large investments in systemic renovations, ASP and QZAB projects have clearly had very beneficial effects on the condition of facilities. This is particularly true when an LEA carries out a sequence of individual systemic renovation projects at a single building over a number of years, resulting in an investment over time that may be nearly equivalent to that of a smaller renovation project.³

- **Baltimore City Impacts.** With approximately 17.5 million square feet of educational facilities and an average age of square footage of 41 years, Baltimore City Public Schools has a large impact on the statewide average age of facilities. In order to address serious deficiencies across the entire school system, City Schools has deliberately given preference to carrying out numerous systemic renovation projects, with only seven major renovation or replacement projects accomplished in the last ten years.⁴ Of a total of \$393.5 million allocated to City Schools from FY 2006 to FY 2015, 67% has been approved for systemic renovation projects and 33% has been approved for major projects that beneficially age the building plant. As a result, as of fall 2014 only 18% of the entire square footage of City Schools is less than 25 years old

As an outcome of the 21st Century Buildings Plan, 23 to 28 City Schools facilities will be replaced or renovated using Maryland Stadium Authority Bonds, and two major replacement projects that have been approved for planning in the Capital Improvement Program are likely to begin construction in 2016. In addition, Exhibit 6 of the MOU lists 26 school buildings that will be surplus to the City of Baltimore by 2025.⁵ While the impact of these actions will depend on the scope of the replacement and renovation projects and the final list of school buildings to be surplus, it is clear that by 2020 a greater proportion of the City Schools overall building plant will consist of new square footage. If these changes are carried out, they will not only substantially raise the average age of City Schools, but will have a positive impact on the average statewide age of square footage in Maryland.

- **Local investments and Federal and Private Sector investments.** All of the LEAs make local investments, some substantial, in school facility projects that do not have State funding. While much of this investment is for small and maintenance projects that are not generally described as “capital” projects, there are also small, entirely locally-funded renovations that would affect the overall age of the LEA’s facility plant if they were recorded. The PSCP database does capture the square footage and age of locally-funded additions, replacements and new schools, but it does not capture locally-funded renovations. Federal funds, including the very large allocation of American Reinvestment and Recovery Act (ARRA) funds made to three jurisdictions, are treated as local funds for purposes of the PSCP database. Our MFR report details the technical difficulties that would be involved in capturing this information. As a result, the actual condition of facilities may not align with the information in the PSCP database, which is the basis for determining the average age of facilities.

³ In 2004, the IAC terminated a project category called Multiple Systemic Renovation (MSR). In order to ensure that large investments in building systems would also involve educational enhancements, in 2008 the IAC approved a new project category, the Limited Renovation Project (LRP), which unlike a full renovation project, allows the LEA to return to the same structure within 15 years to carry out additional eligible work with State funding. For MSR projects and LRPs, the age of square footage is calculated using an adjusted formula that gives the facility an age half way between its original age and the age of a new or fully renovated facility.

⁴ The seven projects are: Baltimore School for the Arts Renovation/Addition, Highlandtown #237 E/M Renovation/Addition, Dunbar High Renovation, Violetville PK-8 Renovation/Addition, Carver High Renovation, Leith Walk PK-8 Renovation/Addition, Waverly PK-8 Replacement.

⁵ Amendments to Exhibit 6 have been presented by City Schools and are now under discussion among the four partners to the MOU. The amendments will be presented to the Board of School Commissioners of Baltimore City in the winter or spring of 2015.

- **Reporting.** The analyst notes that the PSCP relies on the LEAs to populate the facility inventory database when projects are completed. LEAs are required by regulation (COMAR 23.03.02.01-1) to enter every State-funded project into the database when the project is completed. To monitor this activity, the PSCP assigns a limited number of staff members to conduct audits of a sample of schools every summer. As noted in the MFR report, the methodology is time-intensive and involves certain methodological vulnerabilities. Discrepancies are brought to the attention of the LEA and corrections are generally made. However, since only a sample of schools can be audited under current staffing, the PSCP has no way of knowing if there are other discrepancies that should be corrected. Moreover, the PSCP recognizes that there are intensive staffing limitations at the local level, and maintenance of the PSCP database must compete with a host of other pressing local facility concerns. No LEA has a single individual dedicated to the task of maintaining the PSCP database.

Methodologies for Determining School Facility Condition

To capture the true condition of all school facilities in Maryland, the most reliable method would be a uniform statewide facility assessment that would result in a Facility Condition Index (FCI) for each facility. FCI is a uniform, single-figure industry measure that is calculated as the ratio between the cost of correcting the deficiencies in a facility and the replacement cost of the facility; the higher the figure, the worse the condition of the facility. Per industry standards, an FCI below 10% indicates a good condition, requiring normal maintenance and scheduled life-cycle replacement of building systems; an FCI between 11% and 65% indicates that the building should be renovated to a greater or lesser extent; and an FCI above 65% indicates that either complete replacement or abandonment is warranted.⁶

FCI measures only building performance; LEAs often include an assessment of the educational adequacy of the facility in the survey as well. However, while the scope of the building performance assessment is well established by the industry, the scope of the educational assessment can vary considerably from one LEA to another: one LEA may be interested only in knowing whether its existing facilities meet basic standards of classroom size, adjacency, and wiring, while another may extend the study to capture additional square footage that must be built to reduce over-capacity problems. (It should be noted that the scope of the assessment described here is more detailed and more extensive than the survey conducted in the summer of 2003 by the Task Force on School Facilities, which examined the minimum adequacy conditions of schools rather than the complete condition of the facilities.)

At about \$.11 per square foot, it would require approximately \$8 million to engage a consultant to conduct a statewide facility assessment of the 72.6 million square feet in Maryland facilities older than 25 years (presuming that square footage younger than 25 years is likely to be in good condition). Considerable effort would be needed to establish the educational component of the assessment, and to ensure that the assessment was conducted uniformly by multiple teams across the entire geographic area of the state. To our knowledge, only New Mexico has conducted such a statewide facility assessment (other states, for example New York, use other methodologies).

Since it is unlikely that funds will become available for this purpose in Maryland, we believe that continuing to use the average age of facility square footage as a surrogate for facility condition, albeit with the limitations noted, should still remain as the best available measure of facility condition.

Potential Solutions Related to Calculation of Age of Square Footage

Using the current method – i.e. utilizing the average age of square footage as a surrogate for building condition – two potential areas could be improved to provide more accurate information:

- **LEA Reporting.** Timely reporting by LEAs on the completion of State-funded projects is critical to assessing the age of square footage of facilities. Greater emphasis would need to be given to this task through email and letter reminders, verbal notification via telephone and at the tri-annual Facility Planner meetings, and above all by an increase of the staff time dedicated to sampling the database, contacting the LEAs about discrepancies, and ensuring that discrepancies are

⁶ Jacobs Project Management, *State of School Facilities, Baltimore City Public Schools*, June 2012, page 25.

corrected. Within current staffing, these additional tasks could only be accomplished by reducing staff attention to other vital agency tasks. (For methodological and technical reasons, we have determined that it is not possible at this time to establish a system of automatic notifications of discrepancies.)

- **Accounting for Systemic Renovation Projects.** By developing an FCI for every school building in the state, the State of New Mexico on an annual basis is able to track the changes in the overall condition of its facilities as a result of State and local investments. New Mexico reports that between 2001 and 2013, statewide FCI improved from 71% to 35%. While New Mexico funds major renovations and replacement projects, it also funds a large number of individual building system replacements similar to Maryland's systemic renovation projects. Unlike Maryland, the investment in systemic renovations is accounted for in the condition of facilities statewide.

In New Mexico, the ability to report on the direct linkage between State investment and facility condition depends on the information provided through a statewide facility assessment, a task that appears to be beyond the financial capacity of Maryland at this time.⁷ While we recognize that Maryland's investment in systemic renovations is substantial, and that these projects provide very direct benefits to building occupants and buildings, we will determine if other methods are available for taking these investments into account in determining the average age of square footage.

II. COST CONTAINMENT

IAC should comment on how the agency anticipates implementing the 2% cost containment reduction in fiscal 2016 and the overall impact from all cost containment actions (D25E03, page 3 and 14).

The FY 2016 across-the-board agency reduction of 2% would be approximately \$38,000. The PSCP has been approved for two new positions in FY 2016, a Computer Information Specialist at grade 13 and an Assistant Program Manager at grade 17. The required 2% reduction would be implemented by delaying the appointment of the Computer Information Specialist position by 6.5 months and delaying the appointment of the Assistant Program Manager position by approximately 7 months (both delays include 2.5 months for the required 25% new position turnover deduction). However, this approach will be affected by the decisions taken regarding the FY 2015 Cost Containment, please see below.

The delay in filling the two positions will negatively affect the agency, since both positions need to be filled and trained as quickly as possible to assist on-going agency operations. The absence of an Assistant Program Manager in particular has had a very severe impact on this agency's ability to manage its multiple funding programs and to provide information in a timely manner. Since both positions will require several months of intensive training in their respective duties, delays in hiring the individuals will postpone the real benefits to the agency until late FY 2016 or early FY 2017.

Removing from PSCP employees' salaries in FY 2016 the COLA increases implemented in FY 2015, and concurrently not implementing the FY 2016 increment/merit increases that were anticipated, may have an impact on both employee morale and possibly retention. The reduced salaries may also make it difficult to attract capable people to fill the two positions described above, a difficulty already encountered in filling the Maintenance Program Manager position.

⁷ New Mexico's Deficiencies Correction Program, which represents one of the most highly developed programs in the country from a number of perspectives, was implemented in response to a lawsuit brought by a Native American tribe in 1999.

With respect to the FY 2015 Cost Containment reduction, the PSCP will propose to postpone the appointment of the Maintenance Inspection Program Manager position until June 10, 2015 and concurrently to vacate one lower-grade staff position by the beginning of March. The effect of vacating the position on agency operations would be very severe, as every staff position in our agency is fully occupied at all times on essential agency business; significant delays in processing contracts and requisitions, correspondence, reports, and accountability measures would likely result. The postponement in filling the Program Manager position would likely contribute to delays in meeting the reporting deadlines that have been recommended in the analysis (D25E03, page 7).

RECOMMENDATIONS

I. AVAILABILITY OF MAINTENANCE SURVEY DATA

The Department of Legislative Services (DLS) recommends that the committees add language restricting general funds in the IAC budget until annual maintenance reports for fiscal 2013 and 2014 are submitted (D25E03, page 7).

The PSCP has made every effort, within existing resources, to overcome past delays and to prevent their recurrence. While it is anticipated that filling the Maintenance Inspection Program Manager position will lead to an improvement in the overall timeliness of the maintenance reports, the PSCP has had considerable difficulty in finding a qualified individual at the base salary level offered. We are currently seeking funding that will allow us to make an offer to an individual who we believe is highly qualified. However, as noted above under Cost Containment, the 2% target reduction for FY 2015 may require our agency to further delay the filling of the position, which in turn will delay the training of the individual and therefore the timeliness of future maintenance reports.

- **FY 2011 and FY 2012 reports:** All reports have been completed and sent to the respective LEAs, and annual reports were submitted to the Board of Public Works in April 2014.
- **FY 2013 reports:** All 232 schools were surveyed on time; reports have been completed and sent to 12 LEAs. However, the remaining 12 LEAs represent more than 80% of the total of 232 inspections that were carried out in FY 2013. The IAC staff has developed a plan to accomplish these reports and develop the overall annual report by September 2015. When the FY 2013 reports are finished, the PSCP will have finished one complete round of school inspections since the Maintenance Inspection Program was transferred to our agency in 2006 (148 of the 232 schools are round 1 schools; the remaining 84 are round 2 schools). The annual report will summarize the entire first round, and will include an assessment of changes in maintenance at both the LEA and the statewide levels, and observations on areas of maintenance that may need improvement.
- **FY 2014 reports:** All 221 schools were surveyed on schedule in FY 2014, in spite of severe winter weather conditions and the termination of one of the maintenance inspectors in May 2014. After careful analysis, a plan has been developed for the IAC staff to complete the reports, send them to the LEAs, and develop the overall report by November 2015.

II. BALTIMORE CITY SCHOOL CONSTRUCTION MANAGEMENT CAPACITY

DLS recommends the adoption of committee narrative requesting that IAC provide an update to its November 2014 report informing the budget committees as to the status of any progress made by BCPSS in addressing the identified areas of concern (D25E03, page 19).

We agree with this recommendation. Currently, we provide regular updates to the IAC as to the status of facility administration issues in Baltimore City. We will continue to monitor these issues, and will provide the recommended update to the budget committee.