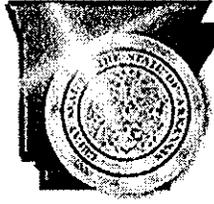

Arkansas Division of Public School



Academic Facilities & Transportation

**COMMISSION ON PUBLIC SCHOOL ACADEMIC FACILITIES
AND TRANSPORTATION**

Dr. Ken James, Chair

MEETING AGENDA

January 23, 2006

9:30 a.m.

Arkansas Department of Education Auditorium

Call to Order/Roll Call

1. Approval of December 19, 2005 Meeting Minutes
2. Presentation of Recommendations for Funding Transitional Academic Facilities Program
3. Request for Approval of Sole Source Architect/Engineer Contracts

MINUTES OF
COMMISSION ON PUBLIC SCHOOL ACADEMIC
FACILITIES AND TRANSPORTATION

Date: January 23, 2006

Place: ADE Auditorium, Little Rock, AR

Attendees: Dr. Ken James, Director, Arkansas Department of Education
Richard Weiss, Director, Arkansas Department of Finance and Administration
Mac Dodson, President, Arkansas Development Authority

Call to Order/Roll Call. Dr. Ken James called the ninth meeting of the Commission on Public School Academic Facilities and Transportation to order. All commission members were present. Two handouts were distributed (emergency rule prepared by legal and Statewide New Facility Costs based on R.S. Means).

1. Approval of December 19, 2005 Commission Meeting Minutes. Dr. James stated that the minutes were received and asked for questions or a motion. **Mr. Weiss moved to approve the minutes with the corrected spelling of Mr. Giddis' name on page 1. Mr. Dodson seconded the motion. The minutes of December 19, 2005 as submitted were approved unanimously.**
2. Presentation of Recommendations for Funding Transitional Academic Facilities Program. Dr. James recognized Doug Eaton who presented a list of projects reviewed by the Division of Public School Academic Facilities and Transportation (DPSAFT) and being recommended for Transitional funding. Mr. Eaton stated that the Transitional Program is a fund reimbursement program under Act 2206 in which districts submit projects to the state to request participation, but districts must be prepared to fund the projects in the event state participation is not available. DPSAFT used established criteria to weigh what the project was, whether or not it was prudent for the district, as well as a number of different factors that included the Wealth Index to rank order all projects that met the base criteria. The base criteria was that a project: 1) was to be have been funded between January 1, 2005 (or new debt incurred after January 1, 2005) and not after June 30, 2006; 2) was a new project or a renovation that was an upgrade; 3) was submitted by a specified date; and 4) could be built to the existing facility standards. All districts on the list met the criteria. The columns are labeled and consist of the basics: district name, project name, project description, date the project was to begin, anticipated completion date (not mandated under the guidelines but will enable DPSAFT to prorate the funds and come back to the Commission to request funds that are to be dispensed over the next year), date the debt was incurred (if new debt the date it was incurred by the district), total square footage (requested by the Commission), qualifying costs (not the project costs but the amount of money based on a formula that was used to apply the wealth index, the score (a system devised by the DPSAFT to look at a number of different factors and rank order all the projects), wealth index, and state financial participation (the amount of money DPSAFT recommends be given to a district for a particular project). The last column is a subtotal of all the state participation. The total amount of projects submitted on this list total just about \$300 million of which \$86 million would be state participation and the remaining \$214 million would be district funds, either in existing balances or in new debt. This is a substantial undertaking to upgrade school facilities across the state - \$300 million is a tremendous amount of money. Are there any questions?

Mr. Weiss asked for the total, not the state participation. Mr. Eaton replied about \$300 million and that project totals are not listed. Mr. Dodson asked if we have the \$85 million. Shane Broadway responded that there was \$20 million in the Immediate Repair Program, \$50 million in the Transitional Program and \$34 million in the Partnership Program. The Commission has the ability to move funds, so \$15 million was moved from the Transitional into Partnership, leaving \$35 million in the Transitional fund. Some districts have not incurred debt yet so some may drop off later on. But once the Commission receives certification that all these projects meet the qualifications, should be done, are being done, and the debt has been incurred the Commission has two options: 1) transfer money from the Partnership fund, or 2) certify to the chief financial officer to take money from the adequacy fund. The other issue is going to be cash flow. Some districts will be paid on a quarterly basis so the \$80 million figure will not be reached until maybe the fall of 2007. If adjustments need to be made in terms of dollars, it could be done in a special session or in the regular session that begins next January and if the qualifications are met the Commission does have the ability to transfer money to meet the need.

Mr. Eaton continued that this list is being presented to the Commission with two motions requested. In February or the next time we meet, DPSAFT will come back with a list of certified projects that are ready for funding. Projects shaded in gray are those projects districts have reported as being completed, and just about 95% of those projects have been inspected. The remaining projects still need to be reviewed to ensure that a facility in fact needs the work done and that the project results in the prudent use of state funds. As those reviews are completed, DPSAFT will come back to the Commission with an updated list that will allow funds to be dispensed for these projects. It is anticipated that beginning the first of July projects certified as a prudent use of funds and completed will be funded in full. The remaining districts with ongoing projects (with anticipated completion dates from two to three months or as late 2007)

will receive payments as the district makes payments to their contractors. If a district pays a contractor 40%, the district will be paid 40% of the state money and this will continue until the project is closed.

Currently the DPSAFT is working on a Partnership Agreement that will be a signed document between DPSAFT and a district that describes how the process will work and what is expected from the district. This agreement will list things the district will need to provide to assist the DPSAFT to make sure that there is protection of state funds dealing with insurance, inspections, maintenance programs, liability if a contractor defaults, etc. After both parties sign the agreement and all issues are addressed, the project can begin and the disbursement of funds can be started.

Before Dr. James made a recommendation regarding the motion, he stated that there is a need to change one of the rules and asked Scott Smith to come forward with an explanation. Mr. Smith stated that the handout given out at the beginning of the meeting and being presented for the Commission's consideration today is the Emergency Amendment to the Transitional Rules. The reason or rationale is that at the time this process was begun R.S. Means was not available. The options being made available now with regard to the funding is the position as seen in 6.01 of the rule (this is where the amendment is taking place). Districts will have the ability to chose between Option A or Option B. Option A is that either the R.S. Means amount or the \$90 per square foot (whichever is the higher amount) can be used. Option B is the actual contract dollar amount. Whichever of those two (Option A or Option B) is the lesser is what is required to be used. For example, a district may have an R.S. Means that is higher than \$90 and may want to chose the R.S. Means figure and use that as Option A; but that number would still have to be compared to the actual contract amount (Option B). This provides that no one would be provided more than their actual contract amount if the amount is less than the R.S. means figure.

Mr. Weiss asked for a definition of R. S. Means. Mr. Eaton responded that R. S. Means is a firm that specializes in collecting data and forecasting construction costs across the United States. Senator Broadway stated it was used on the statewide assessment and most districts use it when architects and engineers design. It is a national standard done on a regional average. Mr. Smith said it was a more detailed amount than the \$90 average that is being used and with this amendment R. S. Means will be incorporated as a possible option for the districts to take into consideration. The other amendment to the rule is that the term "debt" was amended to more properly coincide with the language of the statute. The Commission was asked to approve these two amendments on an emergency basis to go into effect immediately upon approval so it can impact whatever the Commission chose to do with regard to the districts listed on this exhibit. The Commission was also asked to grant approval for this to be put out for public comment on a permanent basis. **Mr. Weiss made a motion to support the recommendation of the Emergency Rule on a temporary basis and inherent in that motion also give approval to go forward and put it out for public comment. Dr. James noted the change in terms of the department is 3.021. Mr. Smith also stated that the only difference between the emergency rule and the permanent rule is that the emergency language would be struck. Mr. Dodson seconded the motion and with no comments or questions the motion was approved unanimously.**

Mr. Eaton asked to read a motion to the Commission but wanted to make sure any and all questions were answered beforehand. Mr. Weiss asked how much of the \$300 million dollars worth of school facilities projects had been done to date. Dr. James said the Transitional money was transferred earlier but did not have a running total. Mr. Eaton responded that all money given had been obligated in the Immediate Repair Program and \$15 million from Transitional, with a total of \$34 million obligated to the districts. Senator Broadway said the applications for the Immediate Repair Program totaled \$82 million so that amounts to close to \$400 million in only two programs and obviously not all of that is state share. Mr. Weiss said that in terms of what we keep hearing about what the state is doing for school districts it doesn't sound up to this point that we are making a significant stand. Mr. Eaton said the immediate repair program total was about \$80 million, of which the state's share was \$35 million. The Transitional program is \$300 million of which the state's share is \$86 million. Mr. Eaton asked if there were any other questions regarding the Transitional Program.

Mr. Eaton then read a motion for the committee to consider. *We hereby move to recommend to give conditional approval of the Transitional funding to those school districts and for the amount of funding recommended by the division as evidenced in Exhibit 2. This conditional approval is subject to each school district providing sufficient, accessible verification to the division that the district has incurred the proper debt or spent proper funds within the required time of January 1, 2005 to June 30, 2006 and met all of the legal requirements set forth in law or regulations for eligible academic facility D projects. This conditional approval allows the division permission to amend any district-approved amount for error or division determination that the approved amount of application funding is not prudent and in the best interest of resourceful expenditures of state funds with regard to public school district academic facilities.*

Mr. Weiss requested a copy. Dr. James said the key is conditional approval that gives us protection in moving forward. Mr. Dodson asked if the changes for different regions at different costs are built into this. Mr. Eaton said the

recommended list includes the regional means figures. Mr. Weiss asked for an explanation regarding the “division determination that the approved amount of application funding is not prudent.” Mr. Smith said the language comes directly out of the statute, part of the Commission statutory authority that gives the ability to approve an application in whole or in part based on that consideration to recognize that there may be an error or some issue with regard to these that once discovered may actually have a changing effect on the part or whole. Mr. Weiss wanted to make sure no arbitrary, capricious change would be made after the Commission voted on this list. Mr. Smith said no but actually the Commission has broad discretion in this area. Mr. Weiss said it looked like the division would make that change after the Commission voted on it and wanted to know if that was correct. Mr. Smith said the DPSAFT may note the factual error, factual changes but would have to come to the Commission for a final a determination in the matter. **Mr. Weiss moved to accept the recommendation as brought forth by the DPSAFT for Commission approval of Transitional funding and incorporated within that motion is all of the language contained in the motion brought before the Commission. Mr. Dodson seconded the motion and with no further questions or discussion, the motion passed unanimously.**

3. Request for Approval of Sole-Source Architect/Engineer Contracts. Mr. Eaton said sole-source contract is the method chosen because the contracts originally awarded in June were not extended in December. The DPSAFT was overtaken by events and takes responsibility for the contracts not being extended. The contracts are to be used for architectural teams to assist the DPSAFT in assessing the Master Plan projects presented by the various districts. The method used will be the same method used to assess the Immediate Repair projects and it was the intention of the DPSAFT to use the same individuals who have already been trained to extend into the Master Plan projects. Each of the firms has agreed to the existing terms with no changes to the terms or conditions of the original contract. In consultation with Mr. Giddis of DFA, it was determined that this was the most prudent and expeditious way to bring these firms on board. It is imperative the firms be on board as soon after the Master Plans are received as possible so a determination can be made about which projects are to be visited, in what order, and where in the state.

The process of these projects will begin when the final applications are received on March 1. The plan is to have all these projects reviewed and recommendations back to the Commission in May. Under the terms of the rules and guidelines of the law, DPSAFT must notify the districts on or about May 1, 2006 concerning the project status and a reasonable expectation of funding.

There are five identical contracts and are the same as approved in June 2005 for the Immediate Repair Program. The correspondence addressed to Mr. Giddis requesting this action is included in the back of Tab 3. Mr. Weiss asked the period of time. Mr. Eaton replied through June 2006 and there is a renewal clause that is standard. If all the assessments are done in May it may be possible to begin looking at the second-year Partnership projects. But our focus is on the first-year Partnership projects and when the amount of money expected to be in the projects is determined DPSAFT will bring that to the Commission. Dr. James said this would have come before the Commission in December but due to Dave Floyd leaving and Mr. Eaton coming on board, it got lost in that transition. **Mr. Dodson made a motion to approve the extension of the five sole-source architect/engineer contracts brought forward that are to extend between now and June 30, 2006. Mr. Weiss seconded the motion and with no further questions or discussion, the motion was approved unanimously.**

Dr. James asked if there was anything else to come before the Commission for approval or if there were other questions or concerns. Senator Broadway announced that on Thursday night the Facilities Oversight Committee would be meeting in Carlisle with the Carlisle School District who is considering a building under the Public-Public Partnership Program where cities, counties and schools are encouraged to go together and use facilities more resourcefully. J.J. Pickle Elementary in Austin, Texas will make a presentation to the Carlisle School Board and our Committee and invited the Commission to come and hear the presentation. Senator introduced two members of the Facilities Oversight Committee present at the Commission meeting: Representative Cook, Co-Chair, and Senator Mary Anne Salmon and said that two meetings of the Oversight Committee are scheduled, February 14 and February 28, for the Committee’s response to the recent Lakeview decision.

Senator Broadway said he was very excited about the man at the helm of the Division of Public School Academic Facilities and Transportation, that he and Representative Cook had spent the last several days with Mr. Eaton and his staff working through issues and had never gone into a meeting where depending on the question there was already a printout for the answer, not many times as a legislator had he had that kind of response. They are really on the ball over there and have a lot on their plate but thought the Commission should know and could be proud of the work that is being done sometimes under difficult circumstances.

With no further items to come before the Commission, Mr. Weiss made a motion to adjourn. Mr. Dodson seconded the motion and the motion was unanimously approved.