

**PUBLIC SCHOOL CAPITAL OUTLAY COUNCIL MEETING
MINUTES**

October 18, 2019

**STATE CAPITOL BUILDING, ROOM 317
SANTA FE, NEW MEXICO**

Members Present: Mr. Joe Guillen, NMSBA Mr. David Abbey, LFC
Mr. Antonio Ortiz, PED Mr. David Robbins, PEC
Ms. Olivia Padilla-Jackson, DFA
Mr. Raul Burciaga, LSC (arrived 1:46)

Designee: Ms. Marit Rogne (for Ms. Rachel Gudgel, LESC)
Mr. Martin Romero (for Ms. Marguerite Salazar, RLD)
Mr. Daniel Schlegal (for Ms. Stephanie Rodriguez, Office of the Governor)

1. **Call to Order** – Chair Guillen called the meeting to order at 1:35 P.M.
 - a. **Approval of Agenda** – Chair Guillen asked if there was any objection to the agenda presented; as there was none the agenda was unanimously approved.
 - b. **Correspondence** – Mr. Chamblin made note of the letter from Mr. Eugene E. Gant, in reference of Columbia Elementary School in Las Cruces, NM.
2. **Public Comment** – Chair Guillen asked for public comment; Ms. Calabaza, of Bernalillo Public Schools thanked the PSCOC for all they do for public schools. Chair Guillen then had staff and those in the audience introduce themselves.
3. **PSCOC Financial Plan**

Mr. Evans reviewed the changes to the financial plan since the last meeting: Awards totaling \$16.4M were allocated to the FY20 Lease Assistance Program awards. The project award schedule was adjusted to reflect the movement of Española Abiquiu ES from FY20 to FY21; there was no effect to the financial plan as the amount remained the same at \$1.7M. Mr. Evans noted that the Lease Assistance award estimate changed from \$15.4M in the financial plan to an actual \$16.4M in awards. Revised revenue projections reflect an increase of \$25.7M in FY20; a decrease of \$25.4M in FY21; an increase of \$5.2M in FY22; an increase of \$2.7M in FY23 and an increase of \$16.1M in FY24. The operating budget increase of \$400K in FY21 is an unfavorable change to the plan, as well as the operating budget increases of \$700K in FY22-FY24. The FY20 award cycle is less than the financial plan projections by \$50.0M. Mr. Evans noted that during Subcommittee discussion, a recommendation had been made to add \$20.0M to SB9 for FY21-24 with the understanding that this change would require legislative approval for capital improvements to be increased by said amount. For FY21-22, the dollar amounts for Instructional Materials and Transportation were removed; Security awards were added back in to the financial plan for FY21 at \$10.0M, School Bus Replacement was added to FY20 for \$15.0M. In conjunction with the proposed increase to the SB9 Capital Improvements funding, the Systems-Based awards would be reduced by the same \$20.0M in

FY21-24. The new Teacherage/Retroactive Standards-Based awards program would add \$25.0M to FY21-22; \$5.0M would be added to the Contingency for Waivers for FY20. The PSCOC Fund balance is \$291,295,343.

Mr. Guillen asked that at some point there be a full Council discussion on the proposed changes, specifically noting the reduction in funding for Systems-Based awards and increasing the amount for teacherages.

4. Consent Agenda

- a. Approval of Minutes – September 9 & 10, 2019
- b. BDCP – 2019 Category 1 (Fiber) Awards - Final
- c. BDCP – 2019 Category 2 (Equipment) Awards – Final

Mr. Guillen read through the items listed within the consent agenda and asked members if any item needed to be pulled for discussion; as there was none, a motion to approve was made.

MOTION: Mr. Ortiz moved for Council approval of the consent agenda. Mr. Robbins seconded and the motion was unanimously approved.

5. 2019-2020 Award Cycle

a. 2019-2020 Standards-Based Capital Outlay Awards

Ms. Cano reviewed information listed within the executive summary and noted there were 9 potential awards in 8 districts with a Phase 1 state match up to \$9.0M and a potential out-of-cycle state match of \$97.8M for a total 2019-2020 award state match of \$106.8M. Ms. Cano drew member attention to the meeting material which included additional detail on the specific requests received from the districts as well as information on the staff recommendations, including floor plans for the requested projects. Mr. Guillen requested a brief synopsis of the 9 projects, where they were from, what school the request was for and what the staff recommendation was; Ms. Cano reviewed the spreadsheet which reflected the standards-based capital outlay applications. The FY20 net state match after offsets is \$8.7M.

MOTION: Approval of the Awards Subcommittee recommendation to make capital outlay project awards under the standards-based capital outlay program to the districts set out in column AA of the award spreadsheet for the purposes and in the amounts specified, including any special conditions contained in the award language for each school (see attached). Each allocation is intended to fully complete the project, phase, or specified purpose. Out-of-cycle design or construction funding may be considered at any future regularly scheduled PSCOC meeting upon completion of early planning, construction documents or equivalent PSFA phase approval and conformance with all contingencies. As this was a Subcommittee recommendation a second was not needed and the motion was unanimously approved.

b. 2019-2020 Standards-Based Award Additional Conditions

Members were reminded that this was a normal corresponding part of the award that additionally guides how projects should be run. Ms. Cano noted that more comprehensive changes were made to the additional conditions in FY19 which appear to be working well, and therefore only minor technical changes had been made to the Additional Conditions for FY20.

MOTION: Approval of the Awards Subcommittee recommendation to make standards-based capital outlay awards, further subject to the Additional Conditions presented in the document in the meeting notebook. As this was a Subcommittee recommendation a second was not needed and the motion was unanimously approved.

c. 2019-2020 Systems-Based Capital Outlay Awards

Ms. Cano reviewed the spreadsheet which reflected the 10 systems-based capital outlay applications for 7 districts with a Phase 1 state match of \$7.1M. Ms. Padilla-Jackson sought confirmation that there were some waiver requests being considered; Ms. Cano replied in the affirmative and noted that there were three waiver requests for the Gallup-McKinley County Schools which have been deferred and the district has been invited to the November meetings to review their request for reconsideration.

MOTION: Approval of the Awards Subcommittee recommendation to make capital outlay project awards under the systems-based capital outlay program to the districts set out in column X of the award spreadsheet for the purposes and in the amounts specified, including any special conditions contained in the award language for each school (see attached). Each allocation is intended to fully complete the project, phase, or specified purpose. Out-of-cycle construction funding may be considered at any future regularly scheduled PSCOC meeting upon completion of early planning, construction documents or equivalent PSFA phase approval and conformance with all contingencies. As this was a Subcommittee recommendation a second was not needed at the motion was unanimously approved.

d. 2019-2020 Systems-Based Award Additional Conditions

Ms. Cano reminded members that these are smaller projects and per statute, once the district(s) have access to the funding they have three years to expend the funds. Members were reminded that the Additional Conditions were a normal corresponding part of the award and that more comprehensive changes were also made to the additional conditions in FY19 which appear to be working well, and that only minor technical changes had been made for FY20.

MOTION: Approval of the Awards Subcommittee recommendation to make systems-based capital outlay awards, further subject to the Additional Conditions presented in the document in the meeting notebook. As this was a Subcommittee recommendation a second was not needed and the motion was unanimously approved.

e. 2019-2020 Outside of Adequacy Appropriation Awards

Mr. Guillen noted this was a special appropriation provided during the last legislative session to provide assistance to districts for outside of adequacy projects.

Ms. Cano provided the background on this program, as listed within the executive summary, and noted the program was limited to a total of \$24.0M in state funds for 20 eligible school districts.

PSFA received 48 total requests from 17 of the 20 eligible districts with a total estimated project cost of \$68.3M and a net state funding requested of \$62.9M.

The Proportional Distribution Summary spreadsheet and the spreadsheet which identified the Outside of Adequacy Appropriation Applications received were reviewed and Ms. Cano noted that proportionally, as to the amount received in Impact Aid, the districts could potentially receive more of the \$24.0M that is available under the appropriation.

Mr. Abbey explained how the Subcommittee came up with the recommendation (below) acknowledging that the Public School Capital Outlay Oversight Task Force (PSCOOTF) had considered this issue several times over the last year and through multiple Impact Aid discussions with districts about how to address capital outlay. Mr. Abbey stated that Mr. Chamblin had presented an evolution of the Adequacy Standards to the PSCOOTF which reflected that over time progress has been made and the facility condition index has improved significantly and over time Council has adjusted the standards to cover many things that had not been previously funded. The approach that the Awards Subcommittee made was to rely significantly on district preference. Mr. Abbey noted there was a real effort to accommodate district priorities.

Regarding the split vote, Mr. Ortiz commented that during Subcommittee there were some concerns that the projects being brought forth were self-reported by the districts and one of the concerns expressed was that the language of the law stated the \$24.0M in funding was for *“infrastructure/facilities that fall outside of the statewide adequacy standards”*. That being said, a lot of the projects listed are not outside of adequacy. Mr. Ortiz noted that some of the projects even fell under some of the current funding programs. Ms. Padilla-Jackson expressed her surprise at seeing requests for projects that are now within adequacy.

Mr. Guillen and Ms. Padilla-Jackson agreed that the districts should provide a justification as to why they felt their project was outside of adequacy and called for comment from the districts in attendance.

- Mr. Mike Hyatt (Gallup-McKinley County Schools Superintendent) stated that his district could not afford the match if the project was within adequacy and they would never be able to afford to do the projects. Mr. Hyatt noted that another issue was that the process was becoming more and more cumbersome.
- Ms. Jvanna Hanks (Gallup-McKinley County Schools Assistant Superintendent – Business Services) spoke about teacherages and noted that the district had presented a request for funding in June 2015 for teacher units and had been told

then that there were no written standards and funding could not be awarded and noted that now, in 2019 there are still no standards.

- Dr. George Bickert (Ruidoso Municipal Schools Superintendent) stated the district had applied for teacher housing because of verbiage listed within the application since there are currently no standards for teacherages.
- Mr. Dan Padilla (Jemez Mountain Public Schools Superintendent) stated they currently have 8 teacherage units that serve three different schools and noted the difficulty in attracting highly qualified teachers without housing.
- Mr. Luther Light (Ruidoso Municipal Schools Board of Education President) stated that within the last two years the district has had five teachers who have committed to contracts and subsequently backed out of said contracts because they could not find affordable housing.

Mr. Robbins added that the funding was provided by the Legislature for outside of adequacy and expressed concern that districts were applying for items that they cannot match because this funding doesn't require a match.

MOTION 1: (Awards Subcommittee Recommendation): Approval of the Awards Subcommittee recommendation to adopt the Scenario methodology to allocate funding under the outside of adequacy appropriation up to the maximum defined for each district by the proportion of impact aid received, as represented in Columns O and P of the Proportion Scenarios spreadsheet of this item. As this was a Subcommittee recommendation a second was not needed and the motion was unanimously approved.

MOTION 2 (Awards Subcommittee – Split Vote): Council approval to make awards under the outside of adequacy appropriation set out in the attached Scenario 2a award spreadsheet of this item, for the purposes as identified and in the amounts represented in Column M. Reimbursement of previous expenses are ineligible for funding under this program. Allocations for individual district priorities listed in the spreadsheet may be adjusted as determined appropriate by the District and identified in the award acceptance letter to be issued after award; the total shall not to exceed the maximum defined for each district. Districts seeking a change in scope will need to return to the PSCOC at a future meeting with a request for an award language change.

Additional Discussion: Mr. Guillen liked the idea of giving as much flexibility to the districts and understood the concern when looking at statute and an appropriation lists something that may or may not be eligible. Mr. Guillen also felt that every district could make the case as to why their submitted request was outside of adequacy and suggested that Council take some kind of action allowing districts to proceed with their requested projects and asking for justification as to why they feel it is outside of adequacy so that Council could have that information in case someone was to question the matter and suggested they could potentially be brought back if there wasn't sufficient justification. Mr. Abbey proposed adding verbiage to the second motion to read *"the award acceptance letter shall document how the final project list complies with legislative intent and the concept of outside adequacy."*

AMENDED MOTION 2: Mr. Abbey moved for Council approval to make awards under the outside of adequacy appropriation set out in the attached Scenario 2a award spreadsheet of this item, for the purposes as identified and in the amounts represented in Column M. Reimbursement of previous expenses are ineligible for funding under this program. Allocations for individual district priorities listed in the spreadsheet may be adjusted as determined appropriate by the District and identified in the award acceptance letter to be issued after award; the total shall not to exceed the maximum defined for each district. the award acceptance letter shall document how the final project list complies with legislative intent and the concept of outside adequacy. Districts seeking a change in scope will need to return to the PSCOC at a future meeting with a request for an award language change. Ms. Rogne seconded and the motion was unanimously approved.

Following the vote, Mr. Guillen opened the floor to any district that wanted to address the Council.

- Mr. T.J. Parks (Hobbs Municipal Schools, Superintendent) expressed appreciation for the opportunities given to the community through the assistance given by PSFA and PSCOC as opportunities would not be able to be provided to the kids.
- Mr. John King (Clovis Municipal Schools, Deputy Director of Operations) thanked the Council for their continued support of their schools and projects.
- Mr. Vance Lee (Grants-Cibola County Schools, Director of Facilities and Operations) thanked the Council for the opportunities provided to the district.
- Dr. Karen Trujillo (Las Cruces Public Schools, Interim Superintendent) thanked Council for their award which will allow the district to continue to shift and grow with the increase in the local population.
- Dr. Kimberly Mizell (Bloomfield School District, Superintendent) thanked Council for the opportunity to get some funding for their schools and looks forward to future work.
- Mr. Martin Romine (Zuni Public Schools, Director of Finance) thanked PSFA for their hard work and diligence in getting applications out and thanked Council for their award which will allow the district to make improvements to their facilities.
- Ms. Brenda Vigil (Tularosa Municipal Schools, Superintendent) thanked the Council for their award and noted that the district has three beautiful schools that are the result of Council funding and the community and students and staff greatly appreciate all of the work PSFA and Council does to help the schools.
- Mr. Mike Hyatt (Gallup-McKinley County Schools, Superintendent) thanked Council for their awards and acknowledged the work between the district and Council and PSFA to get to the point where there is true equity with finding for schools throughout the State.
- Dr. Susan Passell (Jemez Valley Public Schools, Superintendent) thanked Council for the funding provided for their requested project.
- Mr. Dan Padilla (Jemez Mountain Public Schools, Superintendent) thanked Council for their award and for the flexibility on how the funds will be used and

expressed appreciation for the opportunity to continue working with the Council and PSFA on future projects.

- Dr. Kurt Steinhaus (Los Alamos Public Schools, Superintendent) commented on his understanding of the Council's difficult job when making funding decisions and thanked Council for their work.
- Dr. Glenn Haven (Magdalena Municipal Schools, Superintendent) thanked Council for the district's award and noted it would be helpful when recruiting teachers who inquire about available housing.

f. 2019-2020 PSCOC Work Plan Timeline

Ms. Cano noted that the work plan/timeline includes proposed meeting dates for all Subcommittee and PSCOC meetings, funding program activity and planned PSCOC meeting items for other annual activities. Staff took into consideration Council's concerns regarding the timing of awards and noted the current proposed schedule will align the program for Council to make standards-based awards in July. Ms. Cano added that changes to the work plan/timeline, identified within the executive summary, may be necessary in order to accomplish making awards in July. The 2020-2021 draft funding program schedule spreadsheet was reviewed. Members discussed their standing conflicts and Mr. Guillen suggested that action not be taken and, prior to the next meeting, Members look at their respective calendars and provide feedback to staff.

MOTION: Council approval to adopt the 2020-2021 proposed PSCOC Work Plan/Timeline, subject to change as deemed necessary by the PSCOC. Action deferred until the next Council meeting.

6. Out of Cycle Funding/Additional Funding/Emergency Funding/Award Language Requests

a. NMSBVI- P14-019- Quimby Gym- Additional Scope & Out year Estimate Update

This request is for additional scope and an out-year funding estimate update to complete the renovations at NMSBVI's Quimby Gymnasium. The current design estimate anticipates that the award amount is insufficient to complete the work as noted in the award language. The district anticipates releasing the RFP for construction in October and making a request for construction funding in December. The estimate also includes additional construction costs based on increased project scope and inflation which is not limited to wage rates and material costs. Mr. Avila drew member attention to the executive summary and noted the chart which reflected a cost breakdown of the additional scope. Ms. Patricia Beecher, NMSBVI Interim Superintendent, was in attendance. Ms. Rogne asked if Mr. Avila was able to get offset information about the school; Mr. Avila replied that staff did review the statute with respect to offsets and it appeared that offsets were eligible although it is up to the Council to determine whether or not to apply the offsets. The special schools first entered into the program in 2012; unlike traditional school districts; they do not have a tax base from which to draw from and were, in all subsequent awards made since 2012, asked to go find their share of the local match. Mr. Chamblin added that a preliminary list of direct appropriations from 2013 to present has been

compiled and the application of offsets is subject to Council direction. Mr. Guillen stated applying offsets to the two special schools may be something Council needs to look at more closely and did not feel it was something that needed to be taken care of today but did warrant further discussion. Mr. Avila added that with the remaining awards that are currently in hand and in process, that should complete the projects at NMSBVI and should make them whole.

MOTION: Council approval of the Awards Subcommittee recommendation to amend the 2014-2015 standards-based award to the NM School for the Blind and Visually Impaired for Quimby Gymnasium, to include replacement of windows, roofing, and parking lot, with an increase in the out-year estimated state share amount of \$610,193 (50%), and a corresponding increase to the out-year local share of \$610,193 (50%). The increase to the out-year local share shall not be funded through the HB55 appropriation, but shall be funded by NMSBVI through local sources. As this was a Subcommittee recommendation a second was not needed and the motion was unanimously approved.

b. BDCP- 2020- E-rate Program Support for Charter Schools

With approximately 100 charter schools in New Mexico with roughly 25,000 students, Mr. Viorica noted that approximately half do not apply for E-rate and do not know how to take advantage of the source of funding they are entitled to. The request is for a consultant to fill out the forms at the cost of approximately \$1,000 per school for 50 schools. Mr. Viorica noted that E-rate support is essential for the success of these projects and without that support, the schools do not know how to take advantage of the funding. This support is different than the state-wide support as it is a different skill set; the state-wide support that Council continues to provide for all the schools in the state provides high level support, reviews applications and FCC waivers and appeals to reverse the often denials. This work is also a significant effort on the BDCP team as small entities need help every step of the way and the team continues to hand off the libraries pilot that they continue to work on. It is expected that this small investment would have an approximate 10-20 times return. Mr. Viorica noted that this request will fit within the \$2.5M set aside by the Council that is already within the financial plan. Mr. Abbey suggested that verbiage be added to the motion that reads *“and for school districts less than 500 and no fiber construction assistance may be provided for E-rate to ineligible building types.”*

MOTION: Award up to \$50,000 for an agreement between PSFA and an E-rate Consultant to file E-rate applications on behalf of NM charter schools.

AMENDED MOTION: Mr. Abbey moved to award up to \$50,000 for an agreement between PSFA and an E-rate Consultant to file E-rate applications on behalf of NM charter schools and for school districts with less than 500 students and that no fiber construction assistance be provided for E-rate to ineligible building types. Ms. Padilla-Jackson seconded and the motion was unanimously approved.

7. Other Business

a. Recertification of SSTBs

Mr. Evans noted this was essentially a clean-up of a variety of bonds that had funds left over and using said funds to cover a majority of the standards and systems-based awards.

MOTION: Approval of the Awards Subcommittee recommendation to adopt the Resolution, Notification, and Certification amendment for reauthorization of unexpended bond proceeds as follows:

- SSTB18SB 0004 in the amount of \$1,144,527 to PSCOC awarded projects totaling \$1,144,527.
- SSTB18SD 0002 in the amount of \$38,008,800; to PSCOC awarded projects totaling \$38,008,800.
- SSTB19SB 0001 in the amount of \$6,140,732; to PSCOC awarded projects totaling \$6,140,732.

As this was a Subcommittee recommendation a second was not needed and the motion was unanimously approved.

b. Building System Program- Eligible Systems Types- *Informational*

Mr. Chamblin noted the executive summary provided a history of the systems-based program which dovetailed the systems-based program. For Council information and future discussion are concepts about the participation limits for building systems; if the program continues, ongoing conversations will need to occur to get greater clarity on the participation limits and what types of building systems are/are not eligible.

c. Draft FY19 PSFA Annual Report- *Informational*

Mr. Chamblin requested that members provide comments and feedback on the draft document so that it may be finalized and brought back for final approval at the November PSCOC meeting.

8. Informational

a. PSCOC Project Status Report- *Informational*

327 total projects are currently ongoing and 74% of the security projects are underway.

b. Master Plan Project Status Report- *Informational*

Information listed within the executive summary was reviewed.

c. FY20 Budget Projections and Personnel Update- *Informational*

PSFA is currently staffed at 83% of its approved FTE of 50; three positions are being recruited for with the hope of having them filled by years' end. Ms. Gudgel, Ms. Padilla-Jackson and Mr. Burciaga were thanked for their assistance with obtaining approval for PSFA to create their own salary structure.

9. Consideration for Approval to Adjourn to Executive Session Pursuant to the Open Meeting Act NMSA 1978, 10-15-1 (H)(2) for purposes of discussing PSFA Director Evaluation (Roll Call)

MOTION: Ms. Padilla-Jackson moved for Council approval to adjourn to executive session pursuant to the Open Meetings Act NMSA 1978, 10-15-1 (H)(2) for the purposes of discussing PSFA Director Performance Evaluation. Mr. Ortiz seconded and roll was called.

Roll Call:

Mr. Abbey – Yes	Mr. Schlegal – Yes	Mr. Robbins – Yes
Mr. Burciaga – Yes	Mr. Ortiz – Yes	Mr. Romero – Yes
Ms. Rogne – Yes	Ms. Padilla-Jackson – Yes	Mr. Guillen – Yes

Adjourned to executive session at 3:50 p.m.

10. Reconvene to Open Session (Roll Call)

MOTION: Mr. Burciaga moved for Council approval to reconvene from executive session pursuant to the Open Meeting Act NMSA 1978, 10-15-1 (H)(2) for the stated purpose of discussing the performance evaluation of the PSFA Director. Only the above referenced item was discussed and no votes were taken.

Roll Call:

Mr. Abbey – Yes	Mr. Schlegal – Yes	Mr. Robbins – Yes
Mr. Burciaga – Yes	Mr. Ortiz – Yes	Mr. Romero – Yes
Ms. Rogne – Yes	Ms. Padilla-Jackson – Yes	Mr. Guillen – Yes

Reconvened from executive session at 4:18p.m.

11. FY20 Legislative Pay Increase for PSFA Director

MOTION 1: Mr. Burciaga moved for Council approval to provide Mr. Chamblin with the 4% pay increase authorized by Governor Lujan-Grisham. Mr. Robbins seconded and the motion was unanimously approved.

MOTION 2: Mr. Robbins moved for Council approval to make the 4% pay increase retroactive to the first pay period in July which coincides with the beginning of the fiscal year.


Roll Call:

Mr. Abbey – Yes	Mr. Schlegal – Yes	Mr. Robbins – Yes
Mr. Burciaga – Yes	Mr. Ortiz – Yes	Mr. Romero – Yes
Ms. Rogne – No	Ms. Padilla-Jackson – Yes	Mr. Guillen – Yes

By a vote of 8 to 1 the motion was approved with Ms. Rogne voting in the negative.

12. Next PSCOC Meeting- Purposed for November 14, 2019

13. Adjourn – There being no further business to come before the Council, Mr. Robbins moved to adjourn the meeting. Mr. Romero seconded and the motion was unanimously approved and the meeting adjourned at 4:24 p.m.

 Chair
11/14/19 Date