

Getting a Piece of the Pie: Schools Need to Be Proactive, Flexible When Pursuing Stimulus Funding

By Steven R. Turckes

To take advantage of new funding for school facility related projects, school districts will need to be very proactive, think ahead, and act smartly about their prospective projects.

On February 17, 2009, in the midst of economic turmoil and one of the worst recessions since the Great Depression, President Obama signed into law the American Recovery and Reinvestment Act of 2009 (ARRA). This law is intended to: promote job preservation and creation; investment in infrastructure projects; increasing economic efficiency; and help stabilize State and local government budgets. Furthermore, ARRA authorizes the federal government to spend \$787 billion, most of it within the next 18 months, on a variety of items. To take advantage of this new funding for school facility related projects, school districts will need to be very proactive, think ahead, and act smartly about their prospective projects.

Of particular interest to the reader is what is contained in the enacted bill that might impact school facility related projects. Unfortunately, the short answer is: not as much as we might like and certainly not as much as is warranted by the state of the nation's schools. As the legislation hit the floor of the Senate, an important

provision providing approximately \$14 billion specifically for educational facility projects was stripped from the bill. While the enacted ARRA no longer contains this provision, it does provide several notable avenues that can be explored to garner funds for construction.

Title XIV – State Fiscal Stabilization Fund (SFSF)

The State Fiscal Stabilization Fund, which will be administered by the Department of Education, provides a monstrous \$53.6 billion in funds for education. The \$53.6 billion will be divvied up as follows:

First, subtract approximately \$5.3 billion right off the top including:

- \$268M for “outlying areas on the basis of their respective needs,”
- \$14 million for administration and oversight of the fund, and
- an additional \$5 billion for grants (State Incentive

Grants and an Innovation Fund), which U.S. Secretary of Education Arne Duncan will award based on criteria outlined in the bill.

The balance of \$48.3 billion will be divided and distributed to each state governor based on:

1. their state’s “relative population of individuals aged 5 through 24” (61 percent of the \$48.3 billion), and
2. each state’s “relative total population” (39 percent of the \$48.3 billion).

Of this \$48.3 billion balance destined for the states, governors are required to allocate the overwhelming majority – 81.8 percent, or approximately \$39.5 billion – to an education fund “for the support of elementary, secondary, and postsecondary education and, as applicable, early childhood education programs and services.”

As many state coffers have been severely damaged by reduced revenues, this large sum of money is intended to help states restore (to the extent possible) the healthy funding of various education programs and avoid teacher lay-offs. Approximately \$8.8 billion (or the remaining 18.2 percent) must be used by the governor “for public safety and other government services, which may include assistance for elementary and secondary education and public institutions of higher education, and for modernization, renovation, or repair of higher education facilities, including modernization, renovation, and repairs that are consistent with a recognized green building rating system.” Therefore, as Dr. Appu Kutten, Chairman of the National Education Foundation noted in an interview “the possible dollars that might flow to facilities-related projects as a result of the Stabilization Fund ranges from zero to 18.2 percent...some states, such as California, that have more pressing educational needs, might not allocate any funding toward facilities.”

The money that does flow toward school construction has a number of noteworthy prohibited uses including:

1. “payment of maintenance costs;
2. stadiums or other facilities primarily used for athletic contests or exhibitions or other events for which admission is charged to the general public;
3. purchase or upgrade of vehicles; or
4. improvement of stand-alone facilities whose purpose is not the education of children, including central office administration or operations or logistical support facilities.”

When ARRA was signed into law on February 17, 2009, the clock

started ticking on a 45-day window for each state to claim the funds allocated to it. This window closed on April 3, 2009, and should a governor decide not to accept the funds (and a few, like South Carolina Governor Mark Sanford, have stated that intent), then the state’s legislature has the option to make arrangements to receive the funds. Given the narrow 45-day window, states and their constituents, have raced to line up their requests for funding, including construction projects, to submit for consideration.

Tax Credit Bonds for Schools

Two types of tax credit bonds are also available to help finance school construction projects: one old and one new. While both of these types of bonds require repayment by the school, the bond purchasers receive federal tax credits in lieu of interest thereby affording the school an interest free loan over a term of 15 years. Given the historic rate of inflation, most schools see an approximate 30 percent savings on the use of the money (large projects can save more). While not as lucrative as an outright grant, the tax credit bonds afford an attractive alternative to more traditional means of financing.

Familiar to many, the pre-existing Qualified Zone Academy Bonds (QZAB), now have additional funding totaling \$1.4 billion for both 2009 and 2010. The current QZAB rules and regulations remain in tact including the limitations on the types of projects that can be done as well as the requirement to have a 10 percent fund match from a partner.

New to the scene, however, are the Qualified School Construction Bonds (QSCB) that have a possible total national limit of \$11 billion in both 2009 and 2010 (\$22 billion total). While financially structured similar to QZAB, these bonds do not require the 10 percent partner match. Of the total national bonding capacity it appears as though 40 percent is to be allocated to:

1. the “100 local educational agencies with the largest numbers of children aged 5 through 17 from families living below the poverty level, and
2. one of not more than 25 additional districts designated by the Secretary of Education that are deemed to be in particular need of assistance.

The balance of 60 percent of the national bonding capacity is allocated among States according to children ages 5 through 17.

As indicated in ARRA, these bonds “are to be used for the construction, rehabilitation, or repair of a public school facility or for the acquisition of land on which such a facility is to be constructed with part of the proceeds of such issue.” Therefore, as opposed to QZAB, these bonds can be used for new construction and the purchase of property. In addition to all of the aforementioned bonds, ARRA allocates an additional \$200 million in 2009 and 2010 “for the purposes of the construction, rehabilitation, and repair of schools funded by the Bureau of Indian Affairs.”

What School Districts Should Do

First, if you haven’t made and submitted your list of eligible projects that could be funded under SFSF, by the time you receive this publication, it may be too late. If you fall into this category, contact your state representative(s) immediately to check on any possible deadline extensions or alternative strategies that might get your projects considered. Remember, the SFSF is a grant that does not need repayment and it has a short shelf-life of two years so if you would rather fund educational needs keep this in mind – your funding will end after 2010.

Second, if you determine it isn’t too late to submit your list, be smart in putting your project list together. While it’s tempting to only consider the obvious short-term needs (like

that tuckpointing project that you've been putting off) be sure to put these projects in the context of your long-term educational and corresponding facility objectives. If you can, have the short-term projects support your longer-term vision and you'll be better off financially down the road. If you've missed the window for submitting your projects for the State Fiscal Stabilization Fund, think about submitting for the Qualified School Construction Bonds. While not nearly as lucrative, they still offer a financial saving.

Third, don't forget that one theme of the legislation is geared

toward making the United States more energy efficient. For instance, the funds available in the SFSF for construction related projects require that modernization, renovation, and repairs are consistent with a recognized green building rating system. This is an important message for school districts. Many green or sustainable strategies such as daylighting or improved indoor air quality have both operational and educational benefits. Consider consulting with someone who has both educational facility planning (i.e. REFP) and sustainable design (i.e. LEED AP) expertise on these sorts of projects to

create a holistic and sustainable vision for your district – you'll reap the benefits for years to come. ■

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Please note this article was completed in March 2009.

School Facilities and Tax Credit Bonds

Devoid of legalese, here is a simple description of what all this means.

By Frederick S. Edelstein

The tax credit portion of the **American Recovery and Reinvestment Act of 2009** (aka – the economic stimulus package or ARRA) has three different entities that can be used for various school construction including new, modernization, renovation and acquisition of sites for school projects. The bond rule notice and allocations have been issued by the U.S. Department of Treasury and the Internal Revenue Service, and the appropriate URLs are listed below for each type of bond. The bond components are:

Qualified School Construction Bonds (\$11 billion per year for fiscal years 2009 and 2010) have been created for the next two fiscal years. States and local school systems that

have school bonding authority or obtain it, but have not sold their bonds are eligible to participate. Each state will get an allocation to be set by the U.S. Department of Treasury. The language of the legislation also states that the 100 largest districts with school-age population in poverty plus 25 districts designated by the U.S. Secretary of Education will get 40% of these dollars and 60% will be sent to states to provide funding to other districts. The bonds can be used to fund new school construction, modernization, renovation and acquisition of sites for future school construction projects. The construction projects need not be completed during the fiscal years for which this program is authorized. Simply speaking, the federal government is

paying the interest on the bond issued by a state or local school system. Therefore 100% of the bond can be used for construction rather than using part of the funds to pay interest on the bond. Anyone can purchase the bond issued by a state or locality.

Specific information on these bonds can be found at: <http://www.irs.gov/pub/irs-drop/n-09-35.pdf> and it includes the allocations for FY 09 for both states and the 100 districts receiving 40% of the allocation.

For more information contact Aviva M. Roth on (202) 622-3980.

Qualified Zone Academy Bonds (\$1.4 billion per year for fiscal years 2009 and 2010) have been extended for an additional two