

**MINUTES**  
**of the**  
**SEVENTEENTH MEETING**  
**of the**  
**PUBLIC SCHOOL CAPITAL OUTLAY OVERSIGHT TASK FORCE**

**August 25, 2008**  
**Room 307, State Capitol**  
**Santa Fe**

The seventeenth meeting of the Public School Capital Outlay Oversight Task Force (PSCOOTF) was called to order by Representative Rick Miera, co-chair, at approximately 10:00 a.m. on Monday, August 25, 2008, in Room 307 of the State Capitol, Santa Fe.

**Present**

Rep. Rick Miera, Co-Chair  
Sen. Cynthia Nava, Co-Chair  
Sen. Vernon D. Asbill  
Cecilia J. Grimes  
Leonard Haskie  
Dr. Scott Hughes for Secretary Katherine B. Miller  
Sen. Timothy Z. Jennings  
Dr. Anna Lamberson  
Rep. Larry A. Larrañaga  
Sen. Carroll H. Leavell  
Sen. Lynda M. Lovejoy  
Rep. James Roger Madalena  
Kilino Marquez  
Elizabeth Marrufo  
Dr. John D. Mondragon  
Don Moya and Antonio Ortiz for Secretary  
Veronica Garcia  
Mike Phipps  
Rep. Henry Kiki Saavedra  
Tom Sullivan for Bud Mulcock  
Ernesto Valdez

**Absent**

Rep. Ben Lujan  
Rep. W. Ken Martinez  
Sen. John Arthur Smith  
Rep. W.C. "Dub" Williams

**Advisory Member**

Sen. Stuart Ingle

**Guests**

The guest list is in the original meeting file.

**Staff**

Sharon Ball, Legislative Council Service (LCS)  
Robert Gorrell, Public School Facilities Authority (PSFA)  
Frances Ramirez-Maestas, Legislative Education Study Committee (LESC)

Aldis Philipbar, LCS  
Dr. D. Pauline Rindone, LESC  
Paula Tackett, LCS  
Peter van Moorsel, LESC

## **Monday, August 25**

### **Review of Agenda**

To begin the meeting, Ms. Ball, LCS, reviewed each agenda item with task force members and provided brief background information where appropriate.

### **Auditing IT Hardware and Software Assets in Public Schools Statewide**

Jim Holloway, Ed.D., assistant secretary of the Rural Education Division of the Public Education Department (PED), discussed the success of "SchoolDude", the software brand school district maintenance program. He noted that 88 of the 89 school districts in New Mexico participate in the PSFA's Facility Information Management System (FIMS) program, which is operated with SchoolDude software, and nearly half of the 89 have purchased additional SchoolDude modules or services.

Dr. Holloway said that the SchoolDude's Information Technology Asset Management (ITAM) software can provide the districts, the PED and other state agencies with a cost-effective, scalable, on-demand method to allow for efficient management of district resources while providing consistent reporting to state entities. Some of the benefits of the ITAM program include ease of implementation and maintenance. He said that he hoped the task force would be able to support some small allocations from the Public School Capital Outlay Fund to begin implementing the program statewide to support the state's efforts at inventorying all school district assets. He noted that participating districts would be provided with free access to SchoolDude technical support to implement the statutorily required audit. He said that participating districts will be able to provide accurate, consistent data to the PED and the legislature. In addition, Dr. Holloway provided the task force with some projected costs of implementing the ITAM program and examples of the raw data produced by the system.

In response to questions from the task force, Andrew Rendón, bureau chief, Educational Technologies Bureau of the PED, said that SchoolDude tries to do one-year contracts with school districts. He said that if after 90 days the district does not like the program, the district will receive a 100 percent refund. Mr. Rendón and Dr. Holloway answered additional questions from the task force stating that training is not contracted out and it is a one-time cost. There are 14 project management programs that focus on different areas and can be sold a la carte. The self-identifying reporting of the system prompts questions before problems start. The panel said that money for the program would come out of the general fund.

In response to additional questions, Eric Reeves, SchoolDude legal counsel, stated that the ability to add costs to the information collected and the reports is included in the current program; therefore, the system can capture the original purchase price and will estimate

replacement dates and replacement costs for planning purposes. He added that the system will also keep track of lease and rental payments as well as component cost fields.

Representative Miera welcomed two new members to the task force: Mike Phipps, superintendent of Artesia Public Schools, and Ernesto Valdez, superintendent of Peñasco Independent Schools.

### **Appropriate Uses for SB 9 Funds**

Antonio Ortiz, general manager of the Capital Outlay Bureau of the PED, indicated that the PED is requesting some guidance from the task force regarding appropriate use of SB 9 funds generated through the state guarantee. He explained that the current statutory source for the SB 9 state guarantee and for the \$5.00 per mill per student is supplemental severance tax bonds. He indicated that the State Board of Finance staff had expressed concerns to the PED staff about the fact that districts may have been using the supplemental severance tax proceeds to purchase consumable items for maintenance, such as cleaning solutions and supplies. He added that, as the result of recent statutory changes, the PED's Capital Outlay Bureau is now responsible for processing the requests. Directing task force members' attention to the handout he had provided, Mr. Ortiz presented the committee with a proposed list of appropriate uses of SB 9 funds, including:

- HVAC repairs and replacement;
- roof renovation and replacement;
- facility master plans and maintenance plans;
- architectural services for erecting new buildings;
- lighting, electrical and sound system improvements; and
- floor refinishing.

He also included a list of questionable uses, which included some of the following:

- cleaning supplies, including Pine Sol, Windex, chlorine for swimming pools, work gloves, pest control sprays and mousetraps;
- flags;
- uniforms for sports teams and band members;
- maintenance tools, equipment and vehicles;
- contracts to pick up trash;
- painting a mascot on a wall;
- dry cleaning carpets; and
- moving portable buildings.

Mr. Ortiz said that he and his staff currently receive a very wide range of reimbursement requests, and they are not sure which are appropriately paid for with severance tax bond money, since most bond proceeds are repaid long after the items purchased have been used up. He added that he is requesting some direction from the task force, especially in terms of any required new legislation or drafting of PED rules.

Rick Ferguson, superintendent of Jal Public Schools, indicated that recently his district

has used SB 9 funds primarily for roof repair, as well as for HVAC repair and replacement. He also discussed the importance of schools being able to use SB 9 funds to buy activity buses and technology — both of which the statute allows. He stressed, however, the importance of respecting a local school board's ability to decide the appropriate use of the funds. However, he agreed that SB 9 funds should not be used for salaries.

Dave Flood, operation/transportation director of Alamogordo Public Schools, said that the maintenance definition from the PED is too brief given all the new technologies in the school districts. He said that he only agrees with three or four items on the "disallowed list" and added that districts should be allowed to purchase vehicles for school activities because SB 9 funds are the only source available for that. He also agreed that SB 9 funds should not be used for salaries.

Gene Bieker, executive director of operations of Clovis Municipal Schools, said that the decision of how to use SB 9 funds should stay at the district level. He said that the guidelines for appropriate expenditure of SB 9 funds are not clear and that, for several years now, districts have had to deal with tightening operational budgets, a situation that has caused more dependence on SB 9 to pay for expenditures that were formerly paid from general fund dollars.

Yvonne Perez, business manager of Ruidoso Municipal Schools, said that the focus of district expenditures should, of course, always be the classroom and the goal of educating children. She stressed that finances for a smaller district in comparison to a larger district are very different and often more challenging. She said that the Ruidoso district has been relying more heavily on SB 9 funding since needs are so great in other areas, such as teachers' salaries. She said that many small districts do not have the capacity to bond because they are already fully bonded. She said that funding from the state equalization guarantee has not been sufficient to maintain the district's budget "status quo". She noted that the district has been forced to eliminate, through attrition, several teachers and other staff positions over the past two years. All classes are at capacity for student-to-teacher ratios. Ms. Perez said that the district currently purchases \$60,000-70,000 of custodial supplies with SB 9 funds. If those funds were unavailable, the district would have to dip into its operational fund, which would have a negative effect on instruction.

Bob Bitner of the PSFA said that, as he sees it, the biggest need is clarification on how SB 9 funds can properly be used. He said the funds could be used for maintenance training. Mr. Gorrell, director of the PSFA, said that janitorial services are as important to maintaining facilities as are certain pieces of equipment.

Many task force members expressed their concern about restrictions on SB 9 funds, particularly "over regulating districts". Panel members discussed the difference in uses for both SB 9 funds and HB 33 funds, stating that uses for SB 9 funds are generally more flexible because they allow for expenditures, including maintenance, some training and activity buses.

In response to additional task force questions and discussion, Representative Miera noted that approval for expenditures from state guarantee dollars, which are funded through state-

backed supplemental severance tax bond proceeds, must be considered differently from local district SB 9 funds, which are generated through a direct levy that has been approved by voters. He reminded the group, however, that no matter their source, all SB 9 funds must be expended in accordance with the Public School Capital Improvements Act. By consensus, the task force requested that involved staff work with school district representatives to make recommendations to the Public School Capital Outlay Council (PSCOC) on appropriate guidelines for establishment of relevant rules.

### **Improving Public Works Bidding for Public School Capital Outlay Projects**

Lisa Martinez, director of the Construction Industries Division (CID) of the Regulation and Licensing Department, began by discussing a survey that was sent out to various contractors regarding public works. Mr. Gorrell said that not a lot of money was spent on the survey, but that they received good feedback.

Mark Williams of the PSFA discussed the survey results, saying they found that subcontractors often have trouble finding out which contractors have public works contracts. He suggested that the task force look at the current laws and see if there are any steps that can be combined to make the process more efficient.

Dave McCoy, executive director of the New Mexico Sheet Metal Contractors Association, said that the construction industry is very technical and each person has a specialty or skill. Steve Crespino, executive director of the Mechanical Contractors Association, a member of the Construction Industries Commission, commented on the importance of apprenticeship programs in developing a work force trained and capable of meeting the construction industry's needs.

Ardist Allen, president of the New Mexico Roofing Contractors Association, said that the PSFA needs to know what an RFP is — it is not always the lowest bid. He said that costs go up because too many people get involved. Mr. Allen said that costs have gone up, but the quality remains the same.

Ms. Tackett, director of the LCS, said that the purpose of the presentation was to discuss the costs of construction and why the state has a hard time getting bids. She said the task force needed to get an idea of what the roadblocks are. Ms. Martinez said that they will have a limited number of bidders, but hopefully they will be qualified bidders. Mr. Gorrell added that they are trying to understand the difference in bids. For example, a new school for 100 students costs \$3.5 million in one area of the state and \$8 million in another. These differences are often due to location — rural versus urban — and a lack of commercial builders in those areas.

Task force members expressed their concern that some school districts are not receiving the same quality of service as others when it comes to electricians, carpenters, etc. There was also discussion about the Subcontractors Bonding Act, its triggers for application and the way in which prevailing wages are determined.

## **Legislative Finance Committee (LFC): Rio Rancho Public Schools (RRPS) Audit Report — Capital Outlay Issues**

Charles Sallee, program evaluation manager of the LFC, gave an overview of the LFC auditing process. He explained that yield controls put a cap on how much RRPS can collect. He added that increased property values lead to increased bonding capacity and that districts need financial planning for new schools. As an example, he said that the RRPS is having trouble with library costs, but that if a plan was in place to address potential issues like this, it would relieve some stress.

Representative Thomas E. Swisstack, mayor of the City of Rio Rancho, said that Rio Rancho does not mind being the first school district to be audited by the LFC, but said that the district wants to set an example because every other district would be following suit. He thanked the legislature for its support during Rio Rancho's formative years and said that the growth spurt will continue. Representative Swisstack said that Rio Rancho is only 27 years old, but it is already the third largest city in the state. He added that the district has opened a new school almost every year. The city has been working with Hewlett Packard for the past four weeks to bring 2,000 jobs to Rio Rancho. In addition, two other companies are looking at moving to the city and both Central New Mexico Community College and the University of New Mexico will be opening campuses in Rio Rancho in 2009.

Dr. V. Sue Cleveland, Ed.D., superintendent of RRPS, said that she found several items in the LFC audit very helpful and that the process was very cordial. However, she also found some of the results of the audit to be wrong, but had no due process to challenge these results. Dr. Cleveland then addressed her concerns with the audit. She noted that one disagreement had to do with the scope of the audit, mainly that it only looked at a snapshot in time of work done by RRPS. She discussed prior-year funding with the task force, stating that the average per-student unit value in New Mexico is 1.9, but, under the current formula, RRPS's new students generate only .5 units for the first year. She said that the district's cash balance continues to disappear, which also requires a reduction in teacher salaries. Dr. Cleveland added that implementation of the three-tier system caused some teachers in the district to jump the full \$5,000 in pay.

Dr. Cleveland added that she believes that RRPS practices good management in regards to new school buildings and that projects often finish on time and within budget. She said that the district looked at schools in various other states and did not find one without a performing arts center. In fact, she said, the first thing Hewlett Packard inquired about when speaking with the district was whether it had a performing arts center and sports facilities and what extracurricular activities the district offered. The district has built 11 new schools in 14 years, and Dr. Cleveland added that the cost of portable classrooms often offsets any savings during growth periods. She stressed that when building a new school, a principal is needed at least one year in advance of completion to make on-site decisions, order supplies and set the new curriculum. RRPS is currently working with a very lean administrative staff.

Debbie Hays, Sandoval County manager, also addressed some concerns with the LFC

audit of RRPS. Ms. Hays said that she had concerns with the methodology used by the LFC in that there was no way to correct the document before it was made public, and it will later be used as a reference in its uncorrected form. In reference to comments in the report about property assessments, she said the Sandoval County assessor has been working hard to implement new technology that will make property assessment more efficient. She noted that the county was not contacted prior to the publishing of the audit.

Mr. Sallee explained that the audit was part of the LFC work plan and that it informed the LESC of its methods. He also said that RRPS was notified and that the LFC met with Dr. Cleveland and briefed the school district delegation. He noted that RRPS raised concerns with how the funding formula treated them in terms of growth. He said that the LFC was in continuous contact with RRPS staff, held briefings to discuss findings and met with the LESC, the PED and the Office of Accountability staff. He added that changes were made to the final report based on new information from RRPS and that they would be happy to include a formal response from Sandoval County. Dr. Cleveland reiterated that the process was very cordial and added that it involved hundreds of man-hours on each side. She said that there were tight deadlines and the schedule was not always flexible.

Task force members then discussed various topics related to the presentation. In response to questions from the task force, the panel said that it is inaccurate to say that better planning is needed when it comes to building new schools because it is impossible to put such a large amount of money aside when a district is opening a new school every year. Cooperation is needed. The task force asked about the total cost of the new RRPS school versus the new school on the West Mesa in Albuquerque. The Revenue Stabilization and Tax Policy Committee is looking at yield control. The task force was especially interested in what was learned from the audit and whether it was worth the time and resources.

### **PSCOC Standards-Based Grant Awards, 2008-09 Funding Cycle**

David Abbey, chair, PSCOC Awards Subcommittee, reported that the PSCOC had approved a total of \$93.4 million in state grants awarded through the standards-based process. He pointed out that a majority of the projects — 12 projects in 19 districts — received design funds, reflecting the continuing PSCOC emphasis on awarding construction funding at the time projects are actually ready to begin, thereby minimizing the cost of idle capital.

Mr. Abbey explained that, with this funding cycle, Albuquerque Public Schools (APS) has reduced its advances and offsets by \$75.6 million, an amount that includes repayment of the advances made for two new high schools. He said that, with awards in this cycle, APS will have reduced its direct appropriation offset to \$3.7 million. In response to a task force question, he said that he expected that the district would be able to retire all of its appropriations in the next cycle. He added, however, that with the large number of projects that APS has in the top 150 of the NMCI ranking list, the APS application can have a significant effect on the number and size of awards in the next cycle.

Mr. Abbey noted that this cycle is the first in which charter schools' needs have been

reflected in the NMCI ranked list, accounting for their needs along with the needs of other public schools. He explained that the PSCOC allocated only \$1.7 million from the Charter School Capital Outlay Fund for three charter schools in three districts. Two charter schools in two districts did not have requests funded at this time pending further study by the PSCOC. In response to a task force question, Mr. Abbey explained that these projects may be funded out of cycle if issues related to private ownership of facilities and/or property can be resolved. In response to additional questions, Mr. Abbey explained that state statute requires that charter schools must be in public buildings by 2010 at the time of their respective renewal dates. He agreed with task force members that a number of issues involving the charter schools in public buildings deadline still need to be resolved. In response to a question, Ms. Ball stated that these charter school facilities issues are tentatively scheduled for the October 31 PSCOOTF meeting. Mr. Abbey added that the council is considering increasing priority for awards to charter schools seeking to maximize the use of existing public facilities, including municipal, county and state facilities, before constructing completely new buildings.

Continuing the discussion, Mr. Abbey said that the council is changing from a one-time annual funding cycle to an ongoing examination of project readiness and making grant awards only when a project is able to make expeditious use of the funds. Directing members' attention to the handouts, he said that the PSCOC Awards Subcommittee is giving particular attention to PSFA's project time line "red flag" report, with consideration for funding given to districts that are making expeditious use of funds and sufficient progress in executing their respective projects. He said that the goal is for future PSCOC applications to be more fully advanced and to include credible project budgets, which should reduce out-of-cycle awards related to cost overruns.

In response to an additional question, Mr. Abbey indicated that next year's target for PSCOC funding should be between \$100 and \$150 million depending upon severance tax revenues of which the first \$18 to \$20 million goes to the SB 9 guarantee.

In response to a question about the Verde project to build a school for the Gadsden Independent School District, Mr. Abbey explained that, at first, the project was delayed because of the slowdown in the housing market. He added that, after passage of the constitutional amendment that allows for lease-purchase agreements, the Verde Group was considering using the lease-purchase mechanism to build the school but had some concerns about language in the enabling legislation. He said that the continuing slowdown in the housing market has reduced the need for an immediate solution to this issue.

There being no further business to come before the task force, the members agreed by consensus to adjourn at 4:50 p.m.