Utilizing State Capital Programs for School Districts

OSBA Bonds & Ballots 2016
The landscape for improving school facilities is changing!

- The 2015 Legislature made significant progress in recognizing that providing a quality education does not stop with the operating side of the budget.
- They concluded that without a significant increase in capital investments, Oregon’s educational goals cannot be met.

They approved two significant measures for facilities:

- SB 447 – Oregon State Capital Matching Program.
- Increased funding for seismic improvements.
SB 447 – Capital Matching Program
In the beginning...

- 2010 - voters pass M68. Authorized State GO bonds to match local school district GO bonds.

- 2013 - Legislature established School Facilities Task Force to recommend:
  - Funding for district capital needs;
  - Types of technical assistance needed; and
  - Appropriate role of ODE.

- Directed ODE to establish facility information database.
### Task Force Findings

The state of K-12 facilities:

- Crumbling buildings, obsolete systems, deteriorating sites.
- Deferred maintenance of at least $7.6 billion.
- Urgent needs include: full-day K; PE; early learning; security needs; and 21st Century updated teaching and learning.

The state of financing efforts:

- Local bonds are not keeping pace.
- Many districts have had no success with local voters at all.
- Voters rejected $2.2b in bond requests over past 10 years.

**Conclusion:** Oregon is out of step with other states in not having funding for school facilities.
Task Force Recommendations

- Authorize $125m in State bonds for matching grants for next 5 biennia.
  
  ✓ Funding formula should prioritize SDs with high poverty and low tax base per ADMw.

- Establish Office of School Facilities in ODE.

- Provide technical assistance grants for assessment and planning.

- Create School Facilities Database for data repository for future capital planning.
SB 447 - Oregon School Capital Improvement Matching Program (OSCIM Program)

- Introduced by Senator Richard Devlin in 2015 Legislature.

- Incorporated the provisions of the Task Force Report.

- Was approved without objection in both houses and signed into law on July 27, 2015.
SB 447- Priority Formula

- Formula (simplified version) is:
  - Calculate AV/ADMw.
  - Reduce AV/ADMw by % of students in poverty = Adjusted AV/ADMw

- Those with **SMALLEST** property values per kid and **HIGHEST** student poverty percentages will have highest priority ranking.
Goal: Districts should receive grant amount that provides ‘target’ amount of funding.

- Formula calculates actual amount per District. This is then compared to target.
- The **Grant amount** is difference between target and actual, adjusted by minimums and maximums.
- For majority of SDs, calculated amount is LESS than $4m minimum.
- Only 36 Districts are eligible for more than minimum.
- Only 14 SDs would be eligible for more than $8m if no maximum was set.
SB 447 – Matching Grants

- Based on bond proceeds
- 1:1 match for bonds up to $4 million
- Formula-based for higher bond amounts
- $4 million minimum match
- $8 million maximum match
Oregon School Capital Improvement Matching Program: $123 million expected
Total Funding: $126.2 million authorized

Fund Disbursement

- May-16
- Nov-16
- May-17

SB 447 – Fund Disbursement Between Elections
OSCIM Program Applications

- One application per district for both Priority List and First in Time funds.
- Application process centered around May and November elections.
- Fundamental goal of OSCIM Program is to provide incentives to local communities to pass bonds.
- Must include projects to be covered by proposed bonds.
- Must include evidence of district seriousness (board minutes, construction contracts, etc.).
- Must include both contact person and person authorized to sign.
OSCIM Program Applications (cont’d)

- DO NOT need facilities assessment or long-range facilities plans for 2015-17 biennium applications.
- Due about three months before county filing date.
- Final step in application process is the signing of a grant agreement with ODE after passage and sale of bonds.
- Each application process is self-contained.
- Districts need to resubmit an application for next cycle if that district withdraws from the current cycle.
OSCIM Program: Determining Commitments

- All received applications ranked according to priority list.
- Priority List funded first.
- Remaining applications grouped according to time received — Applications received during a given time period deemed to be received at same time.
- If not enough First in Time funds for a given time period, then lottery held for remaining districts.
• Waiting list created for each source of funds – First in Time and Priority.

• If district that received a commitment fails to pass their bond, then funding moves to first district on waiting list.

• District on waiting list must pass a bond to be eligible to receive funding commitment.

• Waiting lists operate independently of each other.

• If funds left over from one application process then move to next application process.
First Application Cycle for May 2016 Election

- 29 School Districts applied.
- Total OSCIM Program match request was over $113 million.
- $62.8 million was committed to districts for this cycle.
- 10 districts received a commitment from the Priority List.
- 6 districts received a commitment from the First in Time lottery process.
### First OSCIM Application – Priority List Commitments

<table>
<thead>
<tr>
<th>District Name</th>
<th>Bond Amount</th>
<th>Priority List</th>
<th>OSCIM Grant</th>
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## First OSCIM Application – First in Time Commitments

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## Qualifying Districts and Waiting List

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Denotes a district that will receive a commitment of OSCIM Program Funds.
OSCIM Program May 2016 - Next Steps

Recipients
✓ Bond resolution
✓ Election documents
✓ Bond passage
✓ Grant agreement

Waiting List
✓ Separate lists
✓ Must pass bond
✓ Grant agreement

Clarifications
✓ No serial bonding
✓ Net proceeds
✓ Revised OAR
Legal Implications – Election Resolution and Ballot Title

- Include language authorizing participation in SB 447 program in election resolution.
- Election resolution and ballot title due dates for Round 1 are as follows. Subsequent rounds will be similar:
  - Election resolution is due to ODE by February 25
  - Ballot title is due to ODE by March 8
  - Ballot title is due to County by March 17

- Ballot title description should cover projects that BOTH bond funds and match funds will be used for.
- Make sure your project development team understands the reimbursement nature of the grants in determining sizing and completion schedules.
Election Resolution and Ballot Title (cont’d)

- Do not separate out which funds will be used for which projects to avoid tying your hands in the future.
- If you have received a grant award by the time you file, it is factual information that can be included in ballot title and explanatory statement.
- If you did not receive a grant award but are on the “waiting list”, you can include that information if accurately stated.
- Make sure bond counsel has reviewed for accuracy and word count.
Federal tax rules are applicable if an issuer chooses to issue bonds as tax exempt (i.e. interest received by holders is not subject to federal income (or state income in our case) taxation).

Districts are only directly responsible to the IRS for the use and tracking of the proceeds of their tax exempt bonds.

Districts are NOT responsible to the IRS for the use and tracking of the grant proceeds.
However, since the State is planning to issue tax exempt bonds to finance SB 447 grants, they may pass some of the federal tax restrictions that apply to their bonds on to SDs through the grant agreement.

In addition, since the State has indicated that they will provide the grant money through a reimbursement process which may require a district to spend their GO bond proceeds and be reimbursed from grant funds, tracking of both sets of moneys will be necessary.
Federal Tax Rules – Reimbursement of GF Expenditures

- Federal tax law allow SDs to reimburse their GF from GO bond proceeds if they adopt a “reimbursement resolution,” or the expenditures are for preliminary expenses. The projects must also be in the ballot title.

- The time period for reimbursing is generally no longer than 18 months after the expenditure was made.

- No federal tax laws apply to SDs on grant funds to reimburse expenditures that SD made from their GF, however, there may be some ODE rule and grant agreement restrictions.
Federal Tax Rules – Reimbursement of bond expenditures

- Federal tax issues are related to spending and tracking requirements.
- SD must have a reasonable expectation at closing of the bonds to spend 85% of the proceeds within 3 years.
- Calculating this requirement could be complicated in the SB 447 context as the SD’s funds will not be considered spent until after the match funds have been spent if the SD funds were used to originally pay for the projects but then were reimbursed.
Grant Fund Reimbursement

- ODE has indicated that grant funds will be disbursed on submission of invoices for work done. Will be either paid directly to contractors or reimburse invoices already paid by District.

- If District uses bond proceeds to make the payment and then is reimbursed by State, federal tax rules may be implicated.

- Reimbursement of District GF payments from grant funds is limited to capital costs incurred after July 27, 2015 and approved by ODE.

- This is a shorter period of time for reimbursement than is generally allowed by federal tax rules for bond proceeds.
Federal Tax Rules – Private Use

- Private use federal tax laws that apply to SD GO bonds do not directly apply to use of state grant funds.
- These laws often prevent Districts from long term leases to private entities, sales of assets and/or require specific management contract provisions to name a few.
- Although not directly applicable, ODE has indicated that grant funds must be used for public K-12 schools.
- There may be further provisions in the grant agreement.
Federal tax law requires that Districts retain documentation for bond term plus 3 years (including refunding bonds).

Does not directly apply to grant funds but may appear in the grant agreement.

BOTTOM LINE IS THAT THESE ARE JUST A FEW THOUGHTS ON WHAT MIGHT ARISE AND BY NO MEANS COVER THE BREADTH OF QUESTIONS AND ANSWERS TO COME!
Levy rate implications of State match

Fiscal Year Ended June 30

- $4.0 Million State Match
- $9.4 Million 2016 GO Bonds

2017: $0.88
2043: $1.93
Examples of Ballot Title Language Descriptions

For those Districts that have qualified for State funding:

**CAPTION**: (10 word limit)
Bonds for new construction, repairs, renovations and increased enrollment.

**QUESTION**: (20 word limit)
Shall XYZ School District construct and improve schools by issuing $10,000,000 in bonds and receive $4,000,000 in State grants?
If the bonds are approved, they will be payable from taxes on property or property ownership that are not subject to the limits of sections 11 and 11b, Article XI of the Oregon Constitution.
SUMMARY: (175 word limit)
$4,000,000 in State funds have been awarded to District if voters approve this measure. If voters reject the measure, funds will be diverted to another district.

If approved, the bonds and grants are expected to fund:

[DESCRIPTION OF PROJECTS FOLLOW]
For those Districts that are on the waiting list:

- Unlikely to mention in Caption or Question.
- Unlikely to lead Summary with description.
- May add paragraph at end of Summary as follows:

“The district has applied for $4m in grant funds which will only be available if the bonds are approved. Otherwise these funds will be allocated to a different district.”
Technical Assistance Grants and Database

- Technical Assistance Grants will be available for long term planning and assessment as follows:
  - ✓ up to $20,000 for physical facility assessment;
  - ✓ $25,000 for seismic assessment; and
  - ✓ $25,000 for long-range facilities planning.

- After 2015-17, completing assessments and facilities plans will be a condition of receiving matching grant.

- Working on:
  - ✓ Application procedures
  - ✓ Provider Qualifications
  - ✓ Consistency with other programs
  - ✓ Summer 2016 rollout
Database

- Required as part of SB 447.
- Goal is current assessment of school facilities.
- Will be updated annually.
- Goal is to integrate with OSCIM Program.
Seismic Funding
Seismic Funding 101

- Program run by the Oregon Business Development Department (Business Oregon).
- $175 million for 2015-17 (up from $15 million in 13-15).
- Per Oregon Constitution: K-12 districts, ESDs and Community Colleges eligible.
- $1.5 million per eligible building; no match required but must demonstrate availability of funds to complete project.
Seismic Funding Eligibility

- Projects related to seismic upgrades, including structural improvements and non-structural elements if related.
- Architecture/Engineering/Project Management.
- Must have space with 250 capacity or greater.
- Not eligible: Demolition and Rebuild, new construction, Tsunami zones or solely non-structural.
Seismic Funding Application

- **Requirements**: Engineering Assessment or Report; Cost Estimate; Benefit/Cost Analysis Score; Photos; DOGAMI info. Reviewed by staff/advisory committee.

- **Scoring**: Based on Benefit/Cost Analysis; readiness; scope of work; financial feasibility; relation to community and mitigation efforts.
Seismic Funding Contacts and Fast Facts

- $1.5 million per project/bldg; no limit per district.
- Any application not funded will be considered in next round ($125 million) which opens July 1 and closes Sept 31.
- Agency Contact: Gloria Zacharias, (503) 986-0132 gloria.zacharias@oregon.gov.

http://www.orinfrastructure.org/Infrastructure-Programs/Seismic-Rehab/
Questions?
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Michael Elliott, Fiscal Analyst
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(503) 588-2800
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