05 DEPARTMENT OF EDUCATION

071 SCHOOL FACILITIES SERVICES TEAM

Chapter 61: STATE BOARD OF EDUCATION RULES FOR MAJOR CAPITAL SCHOOL CONSTRUCTION PROJECTS

Summary: This Chapter defines the conditions under which the State will subsidize Major Capital School Construction projects.

SECTION 1 DEFINITIONS

For the purposes of this Chapter, the following terms have the following meanings:

1. "Approved Projects List" – Projects from the Final Priority List that have been designated by the State Board of Education for funding.

2. "Arbitrage" – In the municipal market, the difference in interest earned on funds borrowed at a lower tax-exempt rate and interest on funds that are invested at a higher-yielding taxable rate. Under the 1986 Tax Act, with very few exceptions, arbitrage earnings must be rebated back to the federal government.

~~3. "Audit" – A financial examination of the school administrative unit's school construction project accounts.~~

~~4. "Audit Staff" – Staff within the Department of Education having the responsibility of auditing a school administrative unit's financial records relating to a school construction project.~~

~~5.~~3. "Bond" – The written evidence of debt, bearing a stated rate or stated rates of interest, or stating a formula for determining that rate, that matures on a date certain on which date and upon presentation a fixed sum of money plus interest is payable to the holder or owner.

~~6.~~4. "Bond Anticipation Note (BAN)" – A note issued in anticipation of a later issuance of bonds, usually payable from the proceeds of the sale of the bonds or of renewal notes. BANs can also be general obligations of the issuer. A general obligation bond is a bond secured by the pledge of the issuer's full faith, credit, and taxing power.

~~7.~~5. "Bond Bank" – The Maine Municipal Bond Bank created by 30-A ~~M.R.S.A.~~ MRSA §~~5953(E)~~5951. The Bond Bank may make loans to ~~a school administrative unit~~ an SAU to promote efficient capital financing activities for the construction, renovation and maintenance of school facilities.

~~8.~~ ~~"Capital Renewal" – The substantial renewal or replacement of fixed assets (e.g., replacing a roof covering, replacing a boiler, new windows).~~

~~9.~~6. "Career and Technical Education" - A course or program of education designed to create or improve job-related skills that is part of a secondary school curriculum and approved by the commissioner according to 20-A MRSA §8301-A~~(2-A)~~, sub-§2-A. ~~A school administrative unit~~

~~shall make career and technical education available to persons residing in the school administrative unit who are eligible to receive free public secondary education.~~

~~10.~~7. "Career and Technical Education Center " - An administrative entity established pursuant to this chapter that provides career and technical education to secondary students. Unless otherwise specifically provided for by 20-A MRSA §8301-A~~(3)~~, sub-§3. For purposes of this chapter, a center is governed, operated and administered by a single ~~school administrative unit~~ SAU. A center shall make its programs available to serve secondary students from ~~school administrative units~~ SAUs with which it is affiliated. A center may include within its administrative structure career and technical education satellite programs operated by ~~school administrative units~~ SAUs with which it is affiliated.

~~11.~~8. "Career and Technical Region" - A quasi-municipal corporation established by the Legislature to provide career and technical education to secondary students that is comprised of all the ~~school administrative units~~ SAUs within the geographical boundaries set forth for each career and technical education region in 20-A MRSA §8451. A region is governed by a cooperative board formed and operating in accordance with 20-A MRSA Chapter 313.

~~12.~~9. "Commissioning" – A systematic documented process by an independent entity which shall include ~~including~~ visual examination and functional performance testing to demonstrate that installed components or systems meet the intent of the original design.

~~13.~~10. "Completed Building Project" – The project is considered completed when all punch list items are completed~~,~~; all invoices have been paid~~,~~; all existing litigation/arbitration issues have been resolved~~,~~; all applicable arbitrage computations have been prepared by bond counsel, the ~~school administrative unit~~ SAU auditor, or other authorized person~~,~~; and no further financial transactions are anticipated. Where required, certificates of occupancy shall have been obtained.

11. "Compliance Review" - An examination of the SAU's school construction project.

12. "Compliance Review Staff" - Staff within the Department of Education having the responsibility of reviewing an SAU's records relating to a school construction project.

~~14.~~13. "Concept Approval" – The initial approval of a school construction project by the ~~s~~State ~~b~~Board which indicates:

A. Acknowledgement of the local need;
B. Approval of the preliminary design;
C. Approval of estimated costs; and
D. The ~~s~~State ~~b~~Board's intent to issue ~~final~~ Design and Funding ~~a~~Approval subject to a favorable local vote and approval of final cost estimates.

~~15.~~14. "Contingency Funds" – Bid contingencies are project funds that have been set aside or reserved to cover bidding overruns. Construction contingencies are used to cover project errors and omissions and miscellaneous project expenditures not part of the initial project budget but necessary to complete the project.

~~16. "Core Capacity Technology Infrastructure" – Essential built-in elements that are necessary to implement all technology applicable to the project. This budget line item may include, but not be limited to, cables, hubs, conduits, access points, wide area networking and general infrastructure to support education, security, and other technology and communications systems.~~

~~17.~~15. "Debt Service Costs" – Defined in 20-A ~~M.R.S.A.~~ MRSA §15672~~(2)(A)~~, sub-§2-A as principal and interest on approved school construction costs ~~as described in subsection 8, paragraph A,~~ excluding payments made with funds from State and local government accounts established under the Federal Internal Revenue Code and regulations for disposition of excess, unneeded proceeds of bonds issued for a school project.

~~18.~~16. "Debt Service Principal" –The face amount of a bond exclusive of accrued interest and payable at maturity.

~~19.~~17. "Department" - The State of Maine Department of Education.

~~20.~~18. "Design and Funding Approval" - An approval by the State Board indicating that a Major Capital School Construction project's drawings and specifications have been developed to 100% completion, the project has gained the recommendations of the Department and the ~~school administrative unit~~ SAU is authorized to seek bids for the work.

~~21.~~19. "Educational Specifications" – ~~The means by which a~~ An SAU's ~~school administrative unit~~ written description of ~~describes~~ its educational goals and activities, and the interrelationships between those educational goals and activities and their associated facilities, that need to be provided in a proposed new or renovated school facility.

~~22.~~20. "Emergency Project" - Any school construction project requiring the replacement of all or a significant portion of a school facility, resulting from an unanticipated and sudden natural or human disaster, and which is declared uninhabitable by an authorized local, state or federal government agency or individual (e.g., the State Fire Marshal's Office).

~~23.~~21. "Facilities Team" – Staff within the Department ~~of Education~~ having the responsibility for administration of all programs relating to school facilities, including but not limited to Major Capital School Construction, Leased Space, Revolving Renovation Fund, and Federal School Construction/Renovation Grants.

~~24.~~22. "Final ~~Audit~~ Compliance Review" – ~~An audit~~ A review of the school construction project that is conducted after the completion of the project.

~~25.~~23. "Final Funding Approval" – Approval granted to a Major Capital School Construction project that has gone through the bid process, and the Commissioner has adjusted the state/local budget based upon the low bid and the Facilities Team's recommendation.

~~26.~~24. "Final Priority List" – ~~After the Priority List goes through the Administrative Review (appeals process) and is approved by the State Board of Education, it becomes the Final Priority List~~ A list of projects that has been approved by the State Board after all opportunities for appeal have been exhausted.

~~27.~~25. "Industry Training Center" – A facility which has the potential to be available 24/7 to provide workforce training to meet industry standards and exposure to a variety of career pathways.

~~28.~~26. "Initial Priority List" – A needs-based priority list developed by the Facilities Team and recommended to the Commissioner.

~~29.~~ ~~"Initiation Date" – The date established by the Department on which the school administrative unit may start the construction phase on a new or renovation construction project.~~

~~30.~~27. "Integrated , Consolidated 9-16 Educational Facility" – A facility that includes: a regional high school fully integrated with a career and technical high school (center/region); a higher education center offering courses and degrees from the University of Maine System and the Community College System; and a center providing industry-specific training.

~~31.~~28. "Interest Expense" – Interest paid ~~on funds borrowed~~ on loans, ~~bond anticipation notes~~ BANs, and other project revenue.

~~32.~~29. "Interest Income" – Interest earned ~~on funds~~ on loans, ~~bond anticipation notes~~ BANs , bonds, and other project revenue.

~~33.~~30. "Interim ~~Audit~~ Compliance Review" – ~~An audit~~ A review of the school construction project accounts prior to the completion of the project.

~~34.~~31. "Life Cycle Costs Analysis" – An analysis of alternatives with the objective of selecting the most cost-effective building systems for the project.

~~35.~~32. "Local Only" – The portion of the project budget that is 100% locally funded.

~~36.~~33. "Long-Term Tuition Contract" – Ten years or maximum permitted by law.

~~37.~~34. "Maintenance" – Those activities having to do with scheduled and unscheduled repairs, upkeep, minor alterations and enhancements of buildings. Maintenance is also defined as preventive maintenance work necessary to achieve the design life expectancy of building systems and components.

~~38.~~35. "Major Capital School Construction Project" – New construction and major renovation projects that meet the educational program needs of the school.

~~39.~~36. "Moveable Equipment" – Equipment, including technology, for a school construction project that supports the educational program. Moveable equipment has an expected life of at least five years and is not attached to the building.

~~40.~~37. "Non-Allowable Expenditures" – Expenditures that are not included in the approved project budget.

~~41.~~38. "Notes" – Short-term promises to pay specified amounts of money. Notes may be secured by specific sources of future revenues, such as taxes, federal and state aid payments, and bond proceeds.

~~42.~~39. "One Campus" – The campus contains the elements of an integrated, consolidated 9-16 educational facility promoting the development of a design where all facilities are located on one site and provide a streamlined and integrated learning experience for eligible students.

~~43.~~40. "Project Budget" – The listing of line item costs allocated to complete a school construction project that is finalized at the time of Final Funding Approval by the Commissioner.

~~44.~~41. "Proposed Priority List" – A needs-based list recommended by the Commissioner and received by the State Board ~~of Education~~ and continuing through the Administrative Review (appeals) process.

~~45.~~42. "Project Funds" - BAN proceeds, bond proceeds, note proceeds, loan proceeds for initial start-up costs, local appropriations, gifts, grants, and all other project resources.

~~46.~~43. "Punch List" – A list of unfinished or incorrect building items identified at project end that must be completed or corrected to complete the project.

~~47.~~44. "Rating Cycle" – A period of time, established by the State Board, during which the Facilities Team accepts applications from ~~school administrative units~~ SAUs for Major Capital School Construction projects, visits each facility, rates each facility, and develops a priority list to be recommended to the Commissioner.

~~48.~~45. "Regional High School" – Two or more high schools that have combined (at the time of or since the Sinclair Act) or that are combining in the new innovative, consolidated 9-16 educational facility, (or a high school organized to serve two or more communities).

~~49. "Regional Service Center" – A city or town included on the most recent listing of regional service centers as promulgated by the State Planning Office.~~

~~50.~~46. "School Administrative Unit (SAU)" – Defined in 20-A ~~M.R.S.A.~~ MRSA, Chapter 609, §15901, sub-§6.

~~51.~~47. "State Board" – The State Board of Education.

~~52.~~48. "State/Local" – The portion of the project budget that has been approved for State subsidy.

~~53.~~49. "Substantially Renovated" – Any renovation for which the cost exceeds 50% of the building's current value prior to renovation.

SECTION 2. MAJOR CAPITAL SCHOOL CONSTRUCTION PROJECT FLOW CHART, APPLICATION FORM AND SUBMISSION DEADLINES

1. **Categories of School Construction Projects**

   A. **Major Capital School Construction Projects –** Major Capital School Construction projects are new construction and major renovation projects that meet the educational program needs of the school. Costs necessary to bring a building into conformance with current state recognized building and safety codes shall be included in the project budget.

   B. **Emergency projects** will be dealt with on a case-by-case basis as deemed appropriate by the State Board ~~of Education~~.

2. **Major Capital School Construction Project Flow Chart**

   Each ~~school administrative unit~~ SAU developing a school construction project shall follow the steps in the order in which they are outlined on the Major Capital School Construction Project Flow Chart.

3. **Application Form**

   Each ~~school administrative unit~~ SAU seeking state funding for a proposed school construction project shall submit a completed application form to the Department. Application forms are available from the Department. All parts of the application must be completed.

4. **Submission Deadlines**

   If a Major Capital School Construction project is to be considered for a given rating cycle, a completed application must be received by the Department by the date established by the Department.

5. **Waivers**

   One or more of the requirements of any provision of this Chapter may be waived under any of the following conditions:

   A. The ~~school administrative unit~~ SAU has filed a request for a waiver with the Department at least 30 days prior to the meeting of the State Board, at which the waiver is to be considered.

   B. The Commissioner submits a request to the State Board for a waiver.

   C. The State Board finds reasons for pursuing a waiver.

   D. Waivers of time deadlines shall be to a time specific.

   The State Board will provide in writing its reasons for granting or denying a waiver request.

SECTION 3. RATING SYSTEM

1. The rating system set forth in ~~paragraphs~~ subsections 5 and 6 of this section and the "hold harmless" provision shall be used to rate each Major Capital School Construction project application when it is applicable. "Hold harmless" means the rating points assigned to a project application that relate directly to health, safety and energy efficiency as outlined in Priority A may not be reduced by health and safety, and energy efficiency improvements made to existing buildings. This "hold harmless" provision will only apply if the project received a rating on the ~~most recent~~ previous school facilities Proposed Priority List.

2. In order to be visited and rated by the Facilities Team ~~T~~the application must be complete and for a public school that is currently housing students or has been officially condemned pursuant to Title 20-A §4102~~.2~~, sub-§2 within the last school year ~~in order to be visited and rated by the Facilities Team~~.

3. The Facilities Team will score each eligible project following ~~completion~~ submission of the application ~~form~~ by the ~~school administrative unit~~ SAU and an on-site visit by the evaluators. Once all visits have been completed, a proposed priority list will be developed based upon the scores assigned to each school. The assigned scores will change only if required by a review committee's decision pursuant to Section 4 ~~paragraph 3~~, subsection 3 of this Chapter.

   The ~~school administrative unit~~ SAU is responsible for notifying the Facilities Team of any changes in local conditions prior to the release of the Department's final recommended Priority List.

4. The rating system is based on a total of 200 points for State Board priorities as follows:

   PRIORITY A: Buildings and Grounds – 90 points total

   PRIORITY B: School Population – 45 points total

   PRIORITY C: Program and Planning - 65 points total

5. **The Rating System: Criteria and Point Assignment**

PRIORITY A: BUILDINGS AND GROUNDS (Total 90 Points)

Criteria - Unsafe Conditions (Total of 55 Points)

Group 1: Building *(maximum 40 points)*

1. Building classification
2. Structure
3. Combustible
4. Access and egress
5. Boiler room
6. Electrical
7. Storage
8. Stairwells
9. Environmental hazards
10. Security

Group 2: Site *(maximum 15 points)*

11. Traffic/Circulation
12. Sewerage system
13. Environmental conditions
14. Water quality and quantity
15. Physical education and play areas

Criteria – Obsolete, Inefficient and/or Unsuitable (Total 35 Points)

Group 1: Program Related Facility Deficiencies and Inefficiencies *(maximum 20 points)*

16. Special areas - non-instructional
17. Special areas - instructional
18. Room size and arrangement
19. Effective program
20. Site size and location
21. Handicapped accessibility

Group 2: Mechanical and Building Systems Deficiencies *(maximum 15 points)*

22. Building Envelope
23. Heating
24. Ventilation
25. Plumbing
26. Electrical

PRIORITY B: SCHOOL POPULATION (Total of 45 Points)

Criteria - Overcrowding (Total of 27 points)

Group 1: Instructional Areas *(maximum 14 points)*

27. General classroom areas
28. Special areas

Group 2: Program Scheduling *(maximum 13 points)*

29. Extended school day
30. Student release: overcrowding
31. Classes scheduled in unsuitable areas
32. Scheduling in temporary facilities due to overcrowding

Criteria - Enrollment Estimates and Population Shifts (Total of 18 points)

Group 1: Enrollment Estimates *(maximum 10 points)*

33. Estimates based on enrollment projections

Group 2: Population Shifts and Other *(maximum 8 points)*

34. Unusual changes

PRIORITY C: PROGRAM AND PLANNING (Total of 65 Points)

35. Career Preparation/Guidance
36. English/Language Arts
37. Health and Physical Education
38. Mathematics
39. World Languages
40. Science
41. Technology/Distance Learning
42. Social Studies
43. Visual and Performing Arts
44. Library/Media
45. Special Ed/Gifted & Talented/Alternative Education
46. Early Childhood

~~6.~~ For both CTE Regions and Centers an individual rating will be done based upon CTE programs offered by the Region or Center. The individual ratings will also take account of programs the Region or Center seeks to offer but is unable to offer because of facility restraints.

~~7.~~6. The following steps shall be used by the Facilities Team to break ties that occur during the rating process for the purpose of placing the projects on the Priority List:

A. The project with more points in Priority A: Buildings and Grounds shall be placed first.

~~B. If a tie still exists, a project in a regional service center shall be placed first.~~

~~C.~~B. If a tie still exists, the project benefiting the larger number of students shall be placed first.

SECTION 4. PRIORITY LISTS, EVALUATION REPORT AND ADMINISTRATIVE REVIEW

1. **Priority Lists**

A. The Facilities Team shall develop a needs-based Initial Priority List for the Commissioner of those applicants for a given rating cycle based on the Rating System outlined in Section 3 of this Chapter. The Commissioner shall recommend a Proposed Priority List to the State Board. The Board will receive a Proposed Priority List.

If there are extremely hazardous conditions, the evaluators shall report the matter to the Commissioner who may refer it to the State Fire Marshal or other appropriate authority.

B. The Facilities Team will develop a priority list for the Commissioner of those applicants for an integrated, consolidated 9-16 educational facility.

Funds used for the integrated, consolidated 9-16 educational facilities selected may not impact the funds that would normally be used for new school construction projects that are prioritized and selected under the current guidelines set forth in this chapter. Implementation of this innovative model would occur only with a specific increase in debt service to create a pool of available funds for the model based on the criteria set forth in Section 15 of this rule.

2. **Evaluation Report**

After receipt of the Proposed Priority List by the Board, the Department will ensure the delivery of an individualized Evaluation Report to the office of the superintendent of schools of each evaluated facility. This report shall include the scores for each category and sub-category used by the Department to rate that facility.

3. **Administrative Review**

A. ~~A school administrative unit~~ An SAU may appeal its point rating. The unit must demonstrate by clear and convincing evidence that an error was made in the evaluation rating of the project application based solely on the information included in its project application and presented during the site visit. If ~~a school administrative unit~~ an SAU wishes to appeal its point rating a written request for administrative review along with a written demonstration of the alleged error shall be made to the Commissioner within 30 days of receipt of the ~~school administrative unit~~SAU's individualized Evaluation Report described in ~~paragraph~~ subsection 2 of this section. Forms to request administrative review may be obtained from the Department. A Review Committee consisting of the Commissioner or the Commissioner's designee and two members of the Department staff appointed by the Commissioner other than members of the Facilities Team will review the written demonstration submitted by the ~~school administrative unit~~ SAU and presented by the ~~school administrative unit~~ SAU at an informal hearing. The Review Committee may call upon others to provide relevant information.

B. Notification of the Review Committee's findings of fact and decision shall be made in writing within sixty (60) days of receipt of the request for administrative review.

C. The Review Committee's findings of fact and decision will constitute final agency action.

4. **Final Priority List**

A. Following either the close of the period in which appeals are permitted, or the completion of the Administrative Review process~~, as appropriate~~, the Proposed Priority List as recommended by the Commissioner and approved by the State Board ~~of Education~~ becomes the Final Priority List.

B. For the Integrated, Consolidated 9-16 Educational Facility projects following either the close of the period in which appeals are permitted, or the completion of the Administrative Review process, as appropriate, the Proposed Priority List as recommended by the Commissioner is submitted to the State Board. The State Board will select from the recommended Proposed Priority List a qualified applicant to implement the innovative model.

SECTION 5. APPROVED PROJECTS LIST

After the Final Priority List is established, the Commissioner shall recommend and the State Board shall designate projects from that list that it intends to fund for a given Rating Cycle. This will be the Approved Projects List. The number of designated projects for funding will be determined by available resources. Should resources permit, additional projects may be approved by the State Board and they shall be selected from the Final Priority List.

Placement on the Approved Projects List is an acknowledgement that the pupils in the rated facility have a significant need to be housed under improved circumstances. It does not assure replacement of the facility(ies) that received the rating.

If resources do not allow all the projects on the Approved Projects List to be funded, the unfunded projects will be placed at the top of the Approved Projects List of the next Rating Cycle.

SECTION 6. SCHOOL CONSTRUCTION ELIGIBILITY AND APPROVAL PROCESS

1. Adequate Education

In making a determination under 20-A ~~M.R.S.A.~~ MRSA §15905~~(2)~~, sub-§2 as to whether a proposed high school designed for less than 300 pupils will have an "adequate education program," the State Board ~~of Education~~ shall consider criteria listed below. The Board will obtain information from the Department ~~of Education~~ when available. Other data shall be provided by the applicant ~~school administrative unit~~ SAU. These data shall be submitted to the State Board ~~of Education~~ no later than 60 days after the State Board has designated the project for placement on the Approved Projects List. The State Board may consider such other information as it considers relevant to a given application. Similarly, the applying ~~school administrative unit~~ SAU may submit to the State Board any additional information it deems relevant.

After reviewing these materials, the State Board ~~of Education~~ will determine whether the ~~school administrative unit~~ SAU will have the capacity to provide an adequate education program. The State Board will have 60 days from the receipt of the following data to issue, in writing, its decision and the rationale for that decision.

A. **Faculty Quality** - The percentage of faculty holding provisional or professional certification shall be no more than one standard deviation below the State average for schools of 300 or less.

B. **Graduation Rate** - Starting with data for the 2008-2009 school year, the State Board shall review the graduation rates for each of the most recent five years; however, the data considered shall not include years prior to the school year 2005-2006. The average for those years shall be no more than one standard deviation below the State average for secondary schools of 300 or fewer students for the same period.

C. **Maine State Evaluation System** - For the preceding five years, the percentage of students who fall within the "Does Not Meet the Standard" category shall be no more than one standard deviation greater than the State average for this category for schools of 300 or less.

D. **Fiscal Sustainability** - The applicant ~~school administrative unit~~ SAU must demonstrate fiscal capacity to maintain both its facilities and an adequate education program based on data in the following areas:

(1) **Enrollment Data** - History for the last ten years (Department data) and a projection for the next ten years.

(2) **Budget History** - Revenues and expenditures for the last five years and projected budgets for the next five years based on EPS, mill rate, number of students, etc.

(3) **Income Data and Trends** - Household income data for the most recent five-year period for which they are available for all communities to be served.

(4) **Valuation** - Current and previous five-year valuation for the communities involved and any expected changes in the near future (e.g., new industrial complex planned, etc.).

(5) **Operational Costs** - Projected operational costs for the proposed facility for each of the next five years using the Department ~~of Education~~ model.

(6) **Financial Obligations** – A report of any projected increase/decrease in major financial obligations and the capacity of the communities to absorb them as anticipated for the next five years.

E. **Comprehensive Education Plan -** The applicant unit must demonstrate that it has a Comprehensive Education Plan that meets the criteria and standards established by the Department ~~of Education~~ and the State Board as set forth in Chapter 125 and also relevant sections of Chapter 127, with particular attention to the current and future education programs and recent results in the following aspects of the Comprehensive Education Plan:

(1) Access for all students to a curriculum that is fully aligned with the Maine ~~L~~learning ~~Results~~ standards.

(2) A comprehensive program with adequate resources and a component that assists all students in planning for post-secondary education.

(3) A comprehensive student support program designed to assist all students in meeting the Maine ~~L~~learning ~~Results~~ standards.

(4) A technology program that is fully integrated into the curriculum and provides all students with access to computing and other relevant technologies as they emerge.

Any denial of approval by the State Board ~~of Education~~ under these provisions requires a determination that alternative solutions are available. Such alternative solutions must respect distances, time on the bus, and health and safety concerns. In addition, an alternative solution, if it will include major capital school construction, must respect the considerations specified in Section 6, subsection 1, paragraph D, "Fiscal Sustainability," with particular attention to item (5), "Operational Costs."

2. **Eligibility for State Funding**

An analysis of the availability and accessibility of solutions, utilizing space at existing or new facilities in the region, shall be conducted prior to any decision on eligibility for state funding.

A. **Site Approval** – All projects must receive Site Approval by the State Board. In order to be considered for Site Approval, each ~~school administrative unit~~ SAU must, at a minimum, have successfully completed a site application. In considering new sites, schools should first refer to the requirements of Chapter 60~~,~~ which deals specifically with school siting. In instances where additional property is to be acquired, each ~~school administrative unit~~ SAU must have secured an option on said site and have obtained appraisals as outlined in Section 7 ~~paragraph~~ subsection 4 of this Chapter. Prior to Site Approval the ~~school administrative unit~~ SAU shall hold the first of two required public meetings to present the site to the public and to take and record a straw vote. If the State Board approves the recommendation for Site Approval, the Department will issue a ~~Certificate~~ Letter of Site Approval to the ~~school administrative unit~~ SAU. In considering applications for Site Approval the State Board ~~is~~ shall be guided by Chapter 60 of its rules. Consideration should be given to new facilities in service centers and in-town locations that offer such advantages as fewer students requiring bussing and the easy availability of utilities.

B. **Concept Approval** – The State Board will consider Concept Approvals at any of its regularly scheduled meetings based on the recommendations of the Commissioner. Concept Approval will be considered following Site Approval. Prior to consideration by the State Board for Concept Approval, the ~~school administrative unit~~ SAU shall provide to the Department a conceptual presentation of a proposed solution and conduct a second public meeting, prior to the State Board Concept Approval meeting, to present the same information to its public as it will to the State Board. There shall be a straw vote and the results must be reported to the State Board. The proposal shall include a projected preliminary budget that shall be the maximum total allowable budget for the project. The state/local share approved for inclusion for debt service at Concept Approval may not be exceeded without State Board approval and a subsequent local favorable referendum. If the State Board approves the recommendation for Concept Approval, the Department will issue a ~~Certificate~~ Letter of Concept Approval to the ~~school administrative unit~~ SAU.

C. **Approval of Local Voters -** Prior to requesting State Board Design and Funding Approval each school construction project must gain a favorable vote in a local referendum pursuant to 20-A ~~M.R.S.A.~~ MRSA §15904.

D. **Design and Funding Approval** – After drawings are 100% complete ~~T~~the State Board will consider Design and Funding Approval ~~after drawings are 100% complete~~ at any of its regularly scheduled meetings based on the recommendation of the Commissioner. If the State Board approves the recommendation for Design and Funding Approval, the Commissioner will issue a ~~Certificate~~ Letter of Design and Funding Approval to the school administrative unit.

E. **Final Funding Approval** – Final Funding Approval by the Commissioner will occur after contract bidding. All ~~school administrative units~~ SAUs shall comply with Section 11 of this Chapter. The Commissioner or the Commissioner's designee will establish a Final Project Budget at the time of Final Funding Approval. The Commissioner will issue a Certificate of Final Funding Approval ~~letter~~.

F. **Time Limitations -** The following time limitations apply to all Major Capital School Construction projects.

(1) Every project placed on the Approved Projects List will be assigned a calendar year within which Concept Approval shall be obtained. Failure to obtain Concept Approval within the designated year shall result in removal from the Approved Projects List unless a waiver is obtained from the State Board at least 30 days prior to the expiration of the ~~school administrative unit~~SAU's assigned year. To be considered for a waiver, the ~~school administrative unit~~ SAU must present to the State Board a proposed timetable and plan for obtaining Concept Approval. Approval by the State Board of the proposed timetable shall constitute a waiver.

(2) Within six months after the date of State Board Concept Approval, a project must secure a favorable local referendum vote. Projects not receiving a favorable local referendum vote within six months of Concept Approval will be removed from the Approved Projects List.

(3) Within nine months of a favorable local referendum vote, a project shall be presented to the State Board for Design and Funding Approval.

(4) Within nine months of State Board Design and Funding Approval, a construction contract shall be signed.

(5) In cases when the ~~school administrative unit~~ SAU's referendum includes the provision for Interest-Only Local Interim Financing and the referendum fails, the ~~school administrative unit~~ SAU shall return to the State Board for Concept Approval on the schedule originally assigned to it, and the provisions of paragraph F(1)~~-~~ thru (4) of this subsection shall apply.

G. **Building Standards** - All school construction projects involving state funds in the construction of new facilities, additions to existing buildings, or major alterations of existing buildings shall be designed and constructed with materials that provide long-term durability, meet energy efficiency standards as defined in 5 ~~M.R.S.A.~~ MRSA §§ 1762-1769, and Bureau of General Services Rule Chapter 60, and go through the stages of State Board approval outlined in this section.

All construction shall conform to conservation standards as specified by the ~~Department of Education School~~ Facilities Team.

H. **Construction Change Order Requests** – Owner-initiated change orders ~~are ones that reflect preferences on behalf of the owner and~~ require prior approval from the Bureau of General Services and the Facilities Team and will be at local cost. When an owner initiated change is considered necessary by the ~~State~~ Facilities Team, the change order may be at state/local expense. The Facilities Team shall determine the funding source of all change orders. Errors and omissions changes require approval from the Bureau of General Services and the Facilities Team.

SECTION 7. SITE SELECTION

To receive Site Approval by the State Board a site must conform to the following requirements:

1. **Site Requirements**

School building sites shall have sufficient usable land to provide for the following:

A. Such structures as are needed for the education program and any necessary adjunct services such as a well or septic system,

B. Safe access for vehicles and pedestrians including appropriate separation of private vehicles, school buses and service and delivery vehicles,

C. Reasonable future additions to the project,

D. Appropriate recreation areas and playing fields, and

E. Sufficient parking for staff, visitors and reasonable ~~continuing~~ community use.

Site requirements may be met by adding together non-contiguous parcels of land when those parcels safely support the educational programs of the school.

2. **Maximum State-Subsidized Site Size**

A. Maximum reimbursable site size for elementary schools is defined as 20 acres plus one (1) acre for each 100 students.

B. Maximum reimbursable site size for middle schools (any combination of two (2) or more grades (5 through 8)) is 25 acres plus one (1) acre for each 100 students.

C. Maximum reimbursable site size for secondary schools is defined as 30 acres plus one (1) acre for each 100 students.

D. Maximum site size for other grade configurations shall be based on the highest grade level included in the project.

3. **Location**

A. The selection of sites for new school facilities shall be in compliance with the provision of 30-A ~~M.R.S.A.~~ MRSA Chapter 187, subchapter II, and any local ordinances governing the location of school buildings. 30-A ~~M.R.S.A.~~ MRSA Chapter 187, subchapter II, also known as the Municipal Growth Management Law, includes provisions for municipal development and administration of local comprehensive plans. Applications for school construction projects shall include reference to and assurance of compliance with local comprehensive plans~~,~~ when they exist.

B. **Site Investigation** - ~~A school administrative unit~~ An SAU shall conduct a Department of Environmental Protection Phase I Environmental Assessment of the prior uses of the proposed site ~~and take appropriate action~~.

C. Consideration should be given to providing the minimum travel distance for the maximum number of students.

4. **School Site Appraisal**

A. **Appraised Value** –

(1) Application~~s~~ for approval of a new school building site~~s~~ must be accompanied by an option to purchase the land and two certified appraisals based on similar recent purchases. The average of the two appraisals is defined by the State Board as the "appraised value." If the lower of the two appraisals varies from the higher by more than 25 percent of the lower appraisal, a third appraisal must be secured and the average of the three appraisals will become the appraised value.

(2) When information on similar recent purchases is not available, other methods of determining value may be used with the approval of the Commissioner.

B. **Cost Limitation** – The maximum amount eligible to be included in the state funding of school construction projects shall be the appraised value of each school site, ~~up~~ limited to the maximum approved site size.

C. **Title** – ~~A school administrative unit~~ An SAU must demonstrate to the State that the unit can obtain a clear title to the property without encumbrances.

5. **Funding Restrictions**

A. The cost of land acquired for a Major Capital School Construction project to the extent that it exceeds the maximum site size shall be entirely at the ~~school administrative unit~~ SAU's expense and shall not be eligible for state subsidy. State subsidy will only apply to the acreage approved by the State Board ~~purchase properties~~ and shall be at the rate of the average cost per acre for the entire site.

B. Sites acquired prior to receiving State Board Site Approval must meet all of the following requirements ~~will not be eligible for state subsidy except under all the following circumstances~~:

(1) the ~~school administrative unit~~ SAU is placed on the Approved Projects List; and

(2) the site receives State Board Site Approval; and

(3) the cost that is eligible for subsidy shall be either the purchase price of the site, or the current appraised value as determined by the procedure detailed in subsection 4 paragraph ~~4~~ A of this section, whichever is less.

6. **Approval by State Board**

The final decision on school Site Approval rests solely with the State Board ~~of Education~~, which shall be guided by the requirements of State Board Rules Chapter 60, New School Siting Approval.

SECTION 8. CONCEPT APPROVAL

Each ~~school administrative unit~~ SAU developing a construction or renovation project shall complete the work required by the Education Specifications: Designing Maine's Schools for Tomorrow's Students.

1. **Educational Specifications**

The Educational Specifications are to be used by the ~~school administrative unit~~ SAU, the Bureau of General Services, designers, and the Department in developing the plans and specifications for the proposed project.

2. **Space Allocation Workbook**

Each ~~school administrative unit~~ SAU shall submit a Space Allocation Workbook in a format acceptable to the Department. This workbook shall be based on the guidelines provided by the Department and periodically reviewed by the State Board. The Space Allocation Workbook shall guide the ~~school administrative unit~~ SAU, the designer, and the Department in determining the appropriate size of the new or renovated facility. For purposes of determining square footage of a facility, tuition students shall be considered as resident students provided that a long-term tuition contract exists.

3. **Community Use of School Facilities and Percent for Art**

A. Consistent with the provisions of 20-A ~~M.R.S.A.~~ MRSA §15911, the State Board encourages the public use of school facilities insofar as that use is compatible with regular school use.

B. The State Board encourages the inclusion of works of art as provided in the Percent For Art statute. Up to one percent of the construction cost or the maximum as defined in 27 ~~M.R.S.A.~~ MRSA, §§ 451-459, whichever is less, may be included in the project budget. All costs of building modifications, structural support or blocking, electrical power and installation are to be borne by the Percent for Art budget.

4. In accordance with 20-A MRSA §15908-A, ~~A~~all planning for the construction of a new school or for a substantially renovated school that is built, in whole or in part, with State funds including schools funded through State bonds or the ~~Maine Municipal~~ Bond Bank must demonstrate~~, in accordance with 20-A MRSA §15908-A,~~ consideration of the most energy efficient and environmentally efficient design suitable for the project by:

A. Considering architectural designs and energy systems that show the greatest net benefit over the life of the building by minimizing long-term energy and operating costs;

~~B. Including an energy use target that exceeds by at least 20% the energy efficiency standards contained in Title 10, §1415-D; and~~

~~C.~~B. Including a life-cycle cost analysis that explicitly considers costs and benefits over a minimum of 30 years and that explicitly includes the public health and environmental benefits associated with energy-efficient building design and construction to the extent these benefits can be reasonably quantified.

The life-cycle cost analysis should be combined with the Life Cycle Analysis required by Section 9, subsection 3 of these rules.

5. A school unit proposing to renovate a school that is on the Register of Historic Places or is eligible for nomination to the Register as defined in 20-A MRSA §15908-A, ~~4, A,~~ sub-§4(A) may receive a waiver of the energy requirements of this section if the school unit can demonstrate that it can meet two of the three provisions in 20-A MRSA §15908-A, ~~4, A (1), (2), and (3)~~ sub-§4(A). Waivers are granted by the State Board ~~of Education~~ in consultation with the Public Utilities Commission and the Director of the State Historic Preservation Commission. The local school authority must demonstrate that the renovation of the historic school building would not compromise the public health and safety requirements of this chapter.

SECTION 9. DESIGN AND FUNDING APPROVAL

Each ~~school administrative unit~~ SAU developing a construction or renovation project shall provide the following information to the Department.

1. **Proposed Building Technology Plan**

   ~~A school administrative unit~~ An SAU shall provide a written Technology Plan for the building to the Department prior to design development review.

2. **Facility Maintenance Plan**

   The State Board requires ~~a school administrative unit~~ an SAU applying for state funds for a school construction project to establish a facility maintenance plan for the projected life cycle of the proposed school building. Facility Maintenance Plans shall comply with:

   20-A ~~M.R.S.A.~~ MRSA Chapter 201, §4001, sub-§1 and sub-§7;
   20-A ~~M.R.S.A.~~ MRSA Chapter 609, §15901, sub-§2;
   20-A ~~M.R.S.A.~~ MRSA Chapter 609, §15905, sub-§6; and
   20-A ~~M.R.S.A.~~ MRSA Chapter 609, §15918.

3. **Life Cycle Analysis** is an analysis of energy related alternatives with the objective of selecting the most cost-effective building systems for the project relating to initial cost, maintenance cost, and the expected life of the system. ~~Life Cycle Analysis is defined in Title 5 M.R.S.A. §§ 1762 and 1764. The methodology for compliance is specified in the "Life Cycle Analysis" manual that has been published by the Bureau of General Services and the process is further explained in "Instructions to Architects/Engineers for Development of Life Cycle and Related Energy" (7-15-1985) which was also developed by the Bureau of General Services.~~

4. **Construction Estimates**

   Prior to Concept Approval, the architect shall prepare and provide to the Department ~~of Education~~ and the Bureau of General Services an estimate of the cost of the proposed facility. A second estimate, prepared by a party satisfactory to the Facilities Team, shall be submitted to the Department ~~of Education~~ and the Bureau of General Services prior to Design and Funding Approval. The estimates will guide the owner, the architect, and the Department in the decision to go forward or to reconsider elements of the design.

5. **Commissioning**

   Commissioning ~~will~~ may be supported with state/local monies ~~when authorized, based on an acceptable third-party proposal~~.

6. **Facilities Team Review**

   A review with the Facilities Team is required when the plans and specifications are at ~~approximately~~ 100% completion.

SECTION 10. FINAL FUNDING APPROVAL

1. **Final Funding Approval**

Final Funding Approval by the Commissioner establishes the Project Budget and takes place after construction bids have been received. At that time the Commissioner may reduce the budget to finance the project, thus providing additional funds for other projects. Expenditures from each line item shall not exceed the amount of that line item except as approved by the Facilities Team and the Bureau of General Services. The Commissioner's Certificate of Final Funding Approval ~~letter~~ will also specify the date of the bond sale for the project and the length of the bonding period.

2. **Approval of Contingency Usage```**

The bid and project contingency funds of each project budget ~~may not be committed except~~ will only be expended with the approval of the Facilities Team following ~~receipt of~~ a recommendation from the Bureau of General Services.

3. **Line Item Surplus**

When a line item of the Project Budget has surplus funds after all obligations have been met, the ~~school administrative unit~~ SAU shall not expend the surplus without the approval of the Facilities Team.

4. **Moveable Equipment**

A. **Budget Requirements**: Moveable equipment costs will generally constitute 9% of the building construction costs in a project budget. This percentage may be modified by the State Board upon recommendation of the Facilities Team. This budget may be adjusted by the Commissioner at the time of Final Funding Approval.

B. **Submission of Moveable Equipment List**: A Moveable Equipment List for the project shall be developed by the ~~school administrative unit~~ SAU and submitted to the Facilities Team within twelve (12) months of the signing of the construction contract. Items on the ~~school administrative unit~~ SAU's Moveable Equipment List must be approved by the Facilities Team~~,~~ and a copy of the approved list must be maintained by the Department.

C. Should the ~~school administrative unit~~ SAU wish to purchase an item or items not on its approved Moveable Equipment List maintained by the Facilities Team, the ~~school administrative unit~~ SAU shall submit a written request for permission to purchase the item or items. The Facilities Team shall approve or deny the request in a timely manner and notify the ~~school administrative unit~~ SAU of its decision.

D. ~~The cost of moveable equipment purchased that neither appears on the school administrative unit's approved Moveable Equipment List nor has received special permission to be purchased shall be a local expense.~~ Moveable equipment will be purchased with state/local funds when it has received prior approval by the Facilities Team.

5. **Monthly Budget Tracking**

The ~~school administrative unit~~ SAU shall track the monthly expenditures and revenues of the project using the format provided by the Facilities Team. This information shall be submitted to the Facilities Team and ~~Department audit~~ compliance review staff for periodic review ~~monthly with copies of the monthly bank statements for review by the Facilities Team and Department audit staff~~.

6. **Project Management**

The Department shall have a representative for each project whose responsibility will include but not be limited to the following: attending monthly requisition meetings, monitoring construction progress, reviewing proposed change orders, conducting monthly reviews of financial statements and acting as a conduit to the Department's Director of School Facilities and the ~~School Administrative Unit~~ SAU. The Commissioner may expand the authority of the representative to protect the interests of the State and the ~~School Administrative Unit~~ SAU. The representative may be funded by the project budget.

SECTION 11. FINANCING SCHOOL CONSTRUCTION

1. All school construction project funds (both State and Local) shall be deposited in a newly established school construction interest-bearing account with unused proceeds remaining invested at all times. School construction project funds maintained in bank and investment accounts shall not be commingled with non-project funds of the ~~school administrative unit~~ SAU.

2. Accurate financial records shall be maintained, in the ~~school administrative unit~~ SAU's accounting system, of all fiscal transactions and activities relative to the construction project, ~~involving but not limited to the following~~ including:

   A. cash receipts;
   B. all expenditures including ~~but not limited to~~ all expenditures from proceeds of notes and bonds issued for the project by date, payee and amount;
   C. all investment earnings on notes and bonds issued for the project by date, source and amount;
   D. short-term borrowing and investments of bond proceeds (particularly the dates and rate of interest);
   E. bank statements; and
   F. other related project documents.

   ~~All~~ ~~p~~Parties must maintain all ~~fiscal~~ records for which they are responsible. Parties that may be directly involved with maintaining ~~fiscal~~ records are municipal officials, the municipal finance director or town treasurer, the superintendent of schools, or the ~~school administrative unit~~ SAU's financial staff. Prior to the final ~~audit~~ compliance review conducted by ~~Department~~ ~~audit~~ the compliance review staff, all project-related ~~financial~~ records shall remain in a secure and accessible on-site location. After the final ~~audit~~ compliance review is conducted by the ~~Department~~ ~~audit~~ compliance review staff, all project-related ~~financial~~ records shall be retained for seven years. These records shall remain in a secure and accessible location for two years and then may be transferred to a secure location for the remaining five years. Department ~~of Education~~ personnel may meet regularly with ~~school administrative unit~~ SAU ~~financial~~ staff during the project to provide guidance on ~~financial~~ record-keeping.

   ~~All~~ ~~p~~Parties should retain records in accordance with the requirements certified by the ~~school administrative unit~~ SAU to ~~their~~ its lender for tax exempt bond financing and in anticipation of possible audits by the Internal Revenue Service.

   School Construction revenues and expenditures must be included in quarterly financial reporting to the Department's financial reporting system.

3. **State Funds**

   The Department shall include the appropriate amount of debt service principal and interest in ~~a school administrative unit~~ an SAU's debt service allocation.

4. **Investment of Project Funds**

   A. Unused portions of note proceeds, bond proceeds, and any interest earned thereon, shall be kept invested at all times with:
      (1) adequate consideration to safety of principal ~~and~~;
      (2) sufficient liquidity for project needs and~~/~~ subject to those paramount considerations~~,~~; and
      (3) the highest available interest rate.

(4) Such investments shall also be in accordance with 30-A ~~M.R.S.A.~~ MRSA §5706 and §5711.

B. If the ~~audit~~ compliance review reveals that project funds were not deposited in an interest-bearing account(s) and unused proceeds did not remain invested, the ~~Department audit~~ compliance review staff will prepare a cash flow analysis at the time of the final ~~audit~~ compliance review to determine the estimated amount of interest that would have been earned had funds been invested. The ~~school administrative unit~~ SAU will be required to pay ~~the Department~~ the amount of estimated net interest that would have been earned had project funds been appropriately invested.

C. ~~School administrative units~~ SAUs are required to ~~calculate~~ have calculated the amount of arbitrage rebate attributable to the investment of project funds that is currently due or estimated to be due to the Internal Revenue Service ~~attributable to the investment of project funds~~ prior to the final ~~audit~~ compliance review ~~of the project by the Department audit staff~~. Amounts due or payable to the Internal Revenue Service may be deducted from amounts required ~~by this Rule~~ to be returned ~~to the Department~~ in accordance with Section 13~~, Project Audits~~. When ~~a school administrative unit~~ an SAU selects the "two-year spending exception to rebate option pursuant to Section 1.148-7 of the U.S. Treasury regulations," the amount of interest reinvested in the construction project will be deducted from the amount of project costs to be subsidized. At the time the bond has been issued ~~A school administrative unit~~ an SAU must notify the Department that it has selected the two-year spending exception to rebate option ~~at the time the bond has been issued~~ and shall provide documentation that proceeds have been allocated to expenditures in accordance with the schedule pursuant to Section 1.148-7 of the U.S. Treasury regulations.

D. Interest earned from investment of project funds shall be determined at the time of the final compliance review of the project by the compliance review staff.

~~D.~~E. Interest earned as a result of the investment of insurance proceeds, ~~and~~ gifts or federal funds available to the project may be retained by the ~~school administrative unit~~ SAU and used for school purposes ~~only~~.

~~E.~~F. Subject to a deduction allowed for the interest expense of State/Local BANs, net interest earned on the project funds, including those held in ~~a school administrative unit~~ an SAU's investment account(s), shall be returned ~~to the Department~~ upon completion of the final ~~audit~~ compliance review ~~by the Department audit staff in accordance with Section 13, Project Audits,~~ and be applied as school construction audit recoveries in accordance with 30-A MRSA §6006-F, sub-§2 paragraph F except when the two-year spending exception to rebate option~~s~~ has been selected pursuant to paragraph C above. The deduction allowed for the interest expense of State~~\~~/Local BANs shall not exceed the income earned on State~~\~~/Local BANs and bonds except as otherwise allowed by this Rule.

~~F.~~G. Net ~~I~~interest earned on the local-only share determined at the time of the final ~~audit~~ compliance review may be retained by the ~~school administrative unit~~ SAU but used for school purposes ~~only~~.

~~G.~~H. Interest earned between the time of the final ~~audit~~ compliance review and payment of the final settlement ~~to the Department~~ may be retained by the ~~school administrative unit~~ SAU but used for school purposes ~~only~~.

~~H. Interest earned from investment of project funds shall be determined at the time of the final audit of the project by the Department audit staff.~~

5. **Temporary Borrowing or Bond Anticipation Notes (BAN)**

A. Temporary borrowing prior to the issuance of bonds shall be accomplished as follows:

(1) On a written, competitive basis at the lowest interest rate available, or by a method approved in writing by the Commissioner.

(2) ~~A school administrative unit~~ An SAU may borrow up to the estimated amount necessary to finance start-up costs until bonds are sold in accordance with the bond sale date provided in the Certificate of Final Funding Approval ~~letter~~ issued by the Commissioner, with the understanding that unused note proceeds shall be kept invested in accordance with subsection 4 paragraph ~~6~~A of this Section.

B. ~~A school administrative unit~~ An SAU shall include in the Concept Approval budget, as a local expense, any anticipated interest cost of temporary borrowing that exceeds anticipated interest income.

C. In the event the interest cost of temporary borrowing exceeds the interest income~~,~~:
(1) a detailed accounting of investments and costs shall be prepared by ~~Department audit~~ the compliance review staff at the time of the final ~~audit~~ compliance review~~.~~;
(2) ~~A~~any interest cost of temporary borrowing that exceeds interest income shall be the responsibility of the ~~school administrative unit~~ SAU~~.~~;
(3) ~~I~~in exceptional circumstances and upon approval of the Commissioner, the net interest cost of temporary borrowing may be included in the ~~administrative unit's~~ SAU's

~~(1)~~a. state/local allocation as a debt service cost, or

~~(2)~~b. as an audit adjustment to the ~~school administrative unit~~ SAU's subsidy calculation.

D. Interest costs of temporary borrowing shall be determined at the time of the final ~~audit~~ compliance review of the project by the ~~Department audit~~ compliance review staff.

E. Documentation of principal and interest payments on loans and ~~bond anticipation notes (~~BANs~~)~~ shall be submitted to the Facilities Team with the monthly report required by Section 10, subsection 5 of these rules.

~~F. Interest earned on the local-only share determined at the time of the final audit may be retained by the school administrative unit but used for school purposes only.~~

~~G. Interest earned between the time of the final audit and payment of the final settlement to the Department may be retained by the school administrative unit but used for school purposes only.~~

6. **Interest Lost**

A. Estimated interest lost because of the use of non-project local funds for incidental start-up costs, following placement of the project on the Approved Projects List and prior to receipt of temporary borrowing proceeds, will be determined by the ~~Department audit~~ compliance review staff at the time of the final ~~audit~~ compliance review of the project.

B. The amount of interest lost will be deducted from interest earned on the investment of project funds and may be retained by the ~~school administrative unit~~ SAU and used for school purposes only.

C This does not apply to projects during the period of interest-only interim local financing as defined in 20-A ~~M.R.S.A.~~ MRSA §15905~~(7)~~ sub-§7.

7. **Disposition of Unused Bond Proceeds**

A. Within thirty (30) days of the date of the final compliance review letter, and upon agreement to the final ~~audit~~ compliance review, ~~excess, unexpended, and unneeded~~ the balance of the unused bond proceeds identified after final close out of the ~~school administrative unit's~~ SAU's project shall be deposited in a segregated, interest-bearing escrow account.

B. After the final compliance review ~~A~~ ~~school administrative unit~~ an SAU shall use all ~~excess~~ of the unused bond proceeds ~~after final audit~~, and any accrued interest earned that is not subject to arbitrage rebate under the Internal Revenue Code, to pay down the debt service costs on subsidized school construction bonds.

C. ~~Within thirty (30) days, and upon agreement to the final audit and deposit of all unused bond proceeds in a segregated, interest-bearing escrow account, a school administrative unit~~ an SAU shall inform the ~~Department's School Finance and Operations Team~~ compliance review staff of the amount deposited in ~~the~~ a segregated account, the date that net proceeds from the account can first be used to pay down debt service costs, and an estimate of the amount of funds (principal and interest) in the account that is expected on that date.

D. Unused bond proceeds of $5,000 (five thousand dollars) or less are considered *de minimis* amounts and will not result in a reduction of the debt service subsidy.

8. **Non-Allowable Expenditures**

Non-allowable ~~expenses~~ expenditures shall be the financial responsibility of the ~~school administrative unit~~ SAU and will be determined at the time of the final ~~audit~~ compliance review by the Facilities Team and ~~Department audit~~ compliance review staff.

9. **Interest-Only Interim Local Financing**

A. The State Board may accelerate the dates on which it grants Concept Approval and Design and ~~f~~Funding ~~a~~Approval for a school construction project that has been placed on the Approved Projects List of the State Board, on the condition that the ~~school administrative unit~~ SAU provides interest-only interim local financing for the project.

B. The period of interest-only interim local financing must be determined by the State Board at the time Concept Approval is granted for a project and must be based on the time difference between the date that ~~f~~Final ~~f~~Funding ~~a~~Approval is expected to be granted on an accelerated basis and the date that ~~f~~Final ~~f~~Funding ~~a~~Approval would have been expected to be granted in the normal course.

C. Interest-only interim local financing shall be in accordance with 20-A ~~M.R.S.A.~~ MRSA §15905~~(7)~~, sub-§7.

SECTION 12. BONDING OF MAJOR CAPITAL SCHOOL CONSTRUCTION PROJECTS

Bonds for Major Capital School Construction projects shall be sold after favorable local referendum vote on a schedule approved by the State Board that accommodates the approved debt service limit as established by the Legislature.

1. The Commissioner shall be guided by the following table in determining the length of school construction bonding issues:

   A. Bond issues of $2,500,000 and under - 15 years
   B. Bond issues in excess of $2,500,000 - 20 years

2. **Sale of Bonds**

   A. The sale of bonds shall be consistent with Section 12 of this Chapter and bonds shall be sold by the bond sale date specified in the Certificate of Final Funding Approval ~~letter~~ issued by the Commissioner.

   B. Proceeds of the bond sale shall be used immediately or at the earliest possible date, whichever is in the best interest of the project, to pay principal and interest costs due to temporary borrowing or BAN.

3. The Certificate of Final Funding Approval ~~Letter~~ issued by the Commissioner shall specify the length of the bonding period.

4. Bonds may be sold only in accordance with the dates specified in the Certificate of Final Funding Approval ~~letter~~ issued by the Commissioner. All notices of bond sale must contain the following stipulations:

   A. Bidders must state the rate or rates of interest per annum that the several maturities of the bonds are to bear.

   B. The principal pay down of the respective loan shall be structured in a manner that the principal repayments are level to the extent that such structure complies with industry standards. The number of principal payments shall not exceed twenty (20).

   C. Bonds sold during the fall (Fall Sale) of the first half of the fiscal year beginning July through December (i.e., last six calendar months) have respective first interest payments in the second half of the fiscal period from January through June (i.e., first six calendar months of the next calendar year), with principal and interest payments to commence in the following fiscal year's first half (i.e., the last six calendar months of the next year), and with subsequent interest and principal payments to follow each six months and twelve months respectively, until bonds mature.

   Note - Example of Fall Sale: bonds are sold in November 2014 – first State debt service payment will be interest only occurring in May 2015 (six months after the sale of bonds), second State debt service payment will be interest plus principal occurring in November 2015 (twelve months after the sale of bonds), with payments of interest occurring each May and principal and interest occurring each November thereafter until bonds mature;

   D. Bonds sold during the spring (Spring Sale) of the second half of the fiscal year beginning January through June (i.e., first six calendar months), have respective first interest payments in the first half of the following fiscal period from July through December (i.e.,

second six calendar months of that calendar year), with the following interest payment to be made in the subsequent second half of the fiscal year from January through June (i.e., the first six calendar months of the following calendar year), with principal and interest payments to commence in the following fiscal year's first half from July through December (i.e., the last six calendar months of the following calendar year), and with subsequent interest and principal payments to follow each six months and twelve months respectively, until bonds mature.

Note - **Example of Spring Sale**: bonds are sold in May 2014– first State debt service payment will be interest only occurring in November 2014 (six months after the sale of bonds), second State debt service payment will be interest only occurring in May 2015 (twelve months after the sale of bonds), and third State debt service payment will be interest plus principal occurring November 2015 (eighteen months after the sale of bonds) with payments of interest occurring each May and principal and interest occurring each November thereafter until bonds mature.

SECTION 13. PROJECT ~~AUDITS~~COMPLIANCE REVIEW

1. The ~~Department~~ ~~audit~~ compliance review staff may conduct interim ~~audit~~ compliance reviews of non-completed school construction projects in order to determine ~~the interest earned on the investment of project funds due the State~~ compliance as of the date of the ~~audit~~ compliance review.

2. All school construction projects will be subject to a final ~~audit~~ compliance review by the ~~Department audit~~ compliance review staff before a final settlement is established. The amount of the final settlement, if any, ~~will~~ must be submitted to the Department, made payable to the Treasurer of the State of Maine, and indicate that the payment is ~~in~~for final settlement of the school construction project. No further purchases from the construction account will be allowed once the project is determined to be completed. Completion date of the project shall be determined by the Facilities Team~~,~~. The completion date may be changed ~~except~~ upon written approval by the Commissioner. ~~Interest (determined by the Department audit staff) will be charged i~~In cases where delayed or staggered payments of final settlement due the State are made beyond the time specified in the final ~~audit~~ compliance review summary interest will be charged to the SAU. Interest due will be calculated by the compliance review staff.

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SECTION 14. NON-STATE FUNDED PROJECTS

Pursuant to 20-A ~~M.R.S.A.~~ MRSA §15905-A, ~~school administrative units~~ SAUs must obtain the approval of the Commissioner for non-state funded projects.

SECTION 15. INTEGRATED, CONSOLIDATED 9-16 EDUCATIONAL FACILITY

Except where language in this section specifies to the contrary, all provisions of Chapter 61, "Rules for Major Capital School Construction Projects," are applicable to projects authorized under Section 15.

1. A Major Capital School Construction Project for an Integrated, consolidated 9-16 Educational Facility shall articulate the following criteria:

   A. Facility will consolidate and integrate secondary and post-secondary education for:

      ~~•~~(1) A regional high school
      ~~•~~(2) A fully integrated career and technical education high school
      ~~•~~(3) A higher education center that will provide courses and degrees or licensure and certification from both the University of Maine System and the Maine Community College System; and
      ~~•~~(4) Industry training leading to recognized licensure and certification.

   B. Facility will promote 'one campus' design and each of the four components listed in subsection 1(~~a~~A) above, must have a physical presence on the campus and use facilities on that campus to deliver courses; each of the four components must also offer teacher and student interaction that is not separated in space, or space and time as characterizes distance learning, although the Internet, videoconferencing and other technology employed in distance learning may be used to complement or expand offerings. Courses may be provided using the Internet, videoconferencing and other technology employed in distance learning to complement real-time, shared-space learning.

   C. Administration of the four educational programs will be consolidated~~,~~ whenever possible.

   D. Long-term sustainability and cost reductions resulting from either consolidation and/or integration of programs over a ten year period will be explained.

   E. Implementation of an advisory body that is integrated with the local economy, includes students, citizens, business leaders, teachers, parents and organizations to promote both employment opportunities for students and citizens and a skilled workforce optimal for economic development.

2. **Rating Sheet for Consolidated, Integrated 9-16 School**

For schools applying for a major capital construction project under Section 15 of Chapter 61, this rating sheet shall be substituted for Section 3.

   A. Required elements articulated in Resolve, Chapter 223 ~~[~~(60 points~~]~~)~~. All elements in Part A need to be met. To be eligible for further consideration, all applications must include the following~~:

      (1) Approved minutes and other documents indicating that the governing bodies of at least two high schools or a regional high school together with a CTE school (center/region) have committed to participate in the proposed school.

      (2) Documentation as to the form of governance for the proposed school, including indication of the fiscally responsible entity.

(3) Evidence of a commitment by the University of Maine System, or a unit thereof to offer courses and degrees to students attending the proposed facility.

(4) Evidence of a commitment by the Community College System, or a unit thereof, to offer courses and degrees to students attending the proposed facility.

(5) Evidence of commitments by appropriate community businesses or business organizations to provide industry-specific training to students attending the proposed facility.

(6) Names and organization constituency for the Advisory body.

B. ~~Describe~~ A description of the integrated mission and goals and the long range plan for the implementation of an integrated, consolidated 9-16 educational facility (30 Points)

C. Integration of Programs (50 Points)

(1) Describe the way and extent to which the programs offered to traditional, college-bound students will be integrated with the programs focused on career and technical education. *(Integration requires more than opening courses and programs to cross registration.)*

(2) Describe and detail the programs to be offered in the regional high school.

(3) Describe the specific approaches to be used to assure that all students will be able to meet the Maine ~~L~~learning ~~Results~~ standards.

(4) List the strategies and approaches to be used to ensure that the higher education courses and programs are offered in facilities located on one site, providing a streamlined and integrated learning experience for students of all ages.

(5) Detail the industry-specific training to be offered to students at the proposed facility by business organizations. Describe the organization(s) that will offer the training.

D. Professional Training (20 Points)

Describe approaches and methods to be used to assist all faculty in carrying out the mission and goals of an integrated and consolidated educational facility

E. Administration of Proposed Facility (40 Points)

(1) Describe the way in which the administrations of the regional high school, career and technical high school, higher education programs, and industry training center will be integrated.

(2) Detail the cost savings anticipated as a result of the integrated administration.

(3) Implementation of the innovative models would occur only with a specific increase~~s~~ in the debt service to create a pool of available funds for the innovative model based on the criteria in Section 15 of this rule.

STATUTORY AUTHORITY: 20-A ~~M.R.S.A.~~ MRSA §3
20-A ~~M.R.S.A.~~ MRSA §405(3)(J)

20-A ~~M.R.S.A.~~ MRSA §15905, sub-§4
P.L. 2001, c. 439, Part 0000, §0000-3
P.L. 2007, c. 240, Part MM, Chapter 103-A
P.L. 2008, c.223

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