

IAC MEETING

Friday, September 27, 2013

8th Floor Conference Room #1
8:30 a.m. – 11:00 a.m.

AGENDA

ITEMS FOR APPROVAL AND DISCUSSION

Section I – Approval of Minutes	NONE
Section II – Discussion Items and Deferred Items	
A. Baltimore City Public Schools - Memorandum of Understanding	1-2
B. Air Conditioning In Schools	3-4
C. Administrative Procedures Guide Revisions	5-6
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Section III – Approval of Contracts	
• See summary in Section III	1-5
• Details of Contracts	1-40
Section IV – Approval of Sites	NONE
Section V – Approval of Property Transfers	NONE
Section VI – Approval of Accounting Adjustments	
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C. Audit Exceptions	7
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Section VIII (A) – Information: Change Orders	1-2
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Section VIII (C) – Information: Other/ Name Change/Educational Function	NONE
Section IX Fund Adjustments	NONE

SECTION II-DISCUSSION ITEMS AND DEFERRED ITEMS

A. Baltimore City Public Schools – Memorandum of Understanding

During the 2013 legislative session, the General Assembly approved and the Governor enacted House Bill 860 / Senate Bill 743, the Baltimore City Public Schools Construction and Revitalization Act of 2013 (Chapter 647, Laws of 2013). The purpose of the law is to provide funding for the construction and renovation of a large number of school projects within the Baltimore City 10-Year Plan, approved by the Board of School Commissioners on January 8, 2013. The law established revenue sources to support the issuance of up to \$1.1 billion in tax-exempt bonds by the Maryland Stadium Authority (MSA), which would also be charged with a lead role in collaboration with Baltimore City Public Schools (City Schools) in the execution of the projects. MSA will undertake replacement projects and City Schools will undertake renovation projects. The number of replacement and renovation projects that will ultimately be carried out under this program will depend on construction cost escalation and future interest rates. In addition, systemic renovations and a small number of major projects may be funded through the annual Capital Improvement Program.

The General Assembly required that a Memorandum of Understanding (MOU) be developed among four Parties, namely Baltimore City Public Schools, the Maryland Stadium Authority, the City of Baltimore, and the Interagency Committee on School Construction. The MOU was required to address sixteen distinct items that concern the administration of the projects, the rights, roles and responsibilities of each of the Parties, the incorporation of recreational and community space within the projects, and overarching concerns such as the closure of existing school buildings, maintenance, and overall utilization. All four Parties must separately approve the MOU before it can be presented for approval by the Board of Public Works (currently scheduled for October 16, 2013).

The MOU was developed between mid-April and mid-September in a highly collaborative process among the four Parties. Attached is a presentation that was developed by City Schools that summarizes the main business points of each of the 16 MOU items. Attention is directed to Slides 7 and 8 (MOU Item #2 Educational Specifications, Feasibility Studies, Design Elements); Slide 10 (MOU Item #4 IAC Process); Slide 16 (MOU Item #11 Building Maintenance Plan); and Slide 17 (MOU Item #12 School Utilization Plan). These slides identify the role of the IAC at several critical junctures:

- *In the approval of projects within the 10-Year Plan.* MSA-Funded 10-Year Plan Projects will be reviewed on the same basis as major projects in the Capital Improvement Program, and no project will proceed until the IAC has given its approval. Subsequent project approvals by the Board of Public Works, including design and construction services and sale of the bonds, will occur through the actions of the Stadium Authority. Incorporated into the IAC approval process will be an evaluation of City Schools maintenance under a new Comprehensive Maintenance Plan (CMP) and the attainment of utilization targets specified in a Utilization Plan, both of which are required by the MOU and are currently in development, to be considered for approval by the IAC in the near future. Maintenance of both the new and renovated schools and of the existing schools in the system is an item of particular concern to the members of the Assembly. The IAC will have the authority to rescind approval of a project prior to the start of construction if critical factors, particularly those that affect systemwide school utilization, change after the time of first approval.
- *In the design review of the projects.* City Schools will undertake some 20 to 25 major renovations; for these projects, the IAC will retain its traditional approval of design documents. For the replacement projects that will be undertaken by MSA, the IAC will comment on designs but will not have approval authority.
- *In contributing to an Annual Report* by the four Parties to the Governor, the Board of Public Works, and the General Assembly. The IAC's particular areas of reporting will concern

SECTION II-DISCUSSION ITEMS AND DEFERRED ITEMS-cont'd

project approvals, maintenance and school utilization, as well as observations on project design and implementation.

- *In evaluating and commenting on amendments to the 10-Year Plan* that are proposed by the Board of School Commissioners. In particular, the IAC will comment on how the amendments may affect the systemwide utilization rate, with potential impacts on the IAC's ability to approve projects in the subsequent year.

Following approval of the MOU by the BPW in October, events that will concern the IAC in the near future include:

- December 3, 2013: Consideration of the first round of MSA-Funded 10-Year Plan project approvals, concurrent with approval of recommendations in the FY 2015 CIP. HB 860 states in Section 4 that "That it is the intent of the General Assembly that, as a part of the normal Public School Construction Program (PSCP) allocation, the Interagency Committee on School Construction consider the projects funded under this Act along with the ongoing capital needs in making annual PSCP allocations for the Baltimore City Public School System."
- December 15, 2013: Receipt of the City Schools Comprehensive Maintenance Plan for review and approval.
- December 31, 2013: Receipt of the City Schools Utilization Plan for review and approval.

Motion:

TO APPROVE THE MEMORANDUM OF UNDERSTANDING DATED SEPTEMBER 16, 2013, AMONG BALTIMORE CITY PUBLIC SCHOOLS, THE MARYLAND STADIUM AUTHORITY, THE CITY OF BALTIMORE, AND THE INTERAGENCY COMMITTEE ON SCHOOL CONSTRUCTION, IN ACCORDANCE WITH THE REQUIREMENTS OF HOUSE BILL 860 (CHAPTER 647, LAWS OF 2013), AND TO FORWARD THE APPROVAL TO THE BOARD OF PUBLIC WORKS.

IAC ACTION: THE ABOVE REFERENCED ITEMS WERE:						
	Approved	Disapproved	Deferred	Abstain	Recuse	
Dr. Lillian M. Lowery	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	
Mr. Richard Hall	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	
Mr. Alvin Collins	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	
Mr. Thomas Lewis	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	
Mr. Tim Maloney	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	

**MEMORANDUM OF UNDERSTANDING
FOR THE CONSTRUCTION AND REVITALIZATION
OF BALTIMORE CITY PUBLIC SCHOOLS**

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**MEMORANDUM OF UNDERSTANDING
FOR THE CONSTRUCTION AND REVITALIZATION
OF BALTIMORE CITY PUBLIC SCHOOLS**

THIS MEMORANDUM OF UNDERSTANDING (“MOU”) for the Construction and Revitalization of the Baltimore City Public Schools is made and entered into as of this _____ day of _____, 2013, by and between the **Maryland Stadium Authority** (the “Authority”); the **Mayor and City Council of Baltimore** (the “City”); the **Baltimore City Board of School Commissioners** (the “School Board”); and the **Interagency Committee on School Construction** (the “IAC”). The Authority, the City, the School Board, and the IAC are each a “Party,” and may be collectively referred to as the “Parties.”

RECITALS

WHEREAS, House Bill 860 (Ch. 647 (2013)), The Baltimore City Public Schools Construction and Revitalization Act of 2013 (the “Act” as defined herein), requires the Parties to enter into this MOU for the purpose of the construction, revitalization, relocation, and closure of certain Baltimore City public school buildings pursuant to the Act.

WHEREAS, a purpose of this MOU is to advance the beneficial relationships between the Parties to carry out their respective responsibilities under the Act in an effective and efficient manner.

WHEREAS, pursuant to the Act, the Parties are committed to providing Baltimore City Public School System students with better access to Baltimore City public schools (the “School Buildings” as defined herein) that support and encourage educational success.

WHEREAS, the Act authorizes the Authority to finance the Renovation and Replacement of School Buildings through the issuance of revenue bonds in an amount not to exceed \$1,100,000,000 and to carry out those Renovation and Replacement projects in accordance with the Baltimore City Public Schools’10-Year Plan approved by the School Board on January 8, 2013 (the “10-Year Plan” as defined herein), subject to certain limitations.

WHEREAS, the Parties acknowledge that the 10-Year Plan is a significant economic investment and that essential principles of this extensive undertaking are: flexibility, high-quality design and construction, sustainability, adaptability, and capacity to change in the interests of continual cooperation, efficiency, steadfastness, and the best interests of Baltimore City Public School System students.

WHEREAS, the Parties acknowledge that schools are the foundations of communities and neighborhoods and that in implementing the 10-Year Plan, the Parties will identify opportunities for students to gain work experience; for graduates of City Schools (as defined herein) to connect to career paths; for local residents, including minority and women-owned businesses, to access employment and other economic opportunities; for sustainable and green building practices to be implemented; and for stakeholders to engage in the planning process as each Renovation and Replacement project commences.

WHEREAS, except as agreed to in this MOU, the powers granted to the Authority under the Act may not in any way interfere with the enumerated powers of the School Board under Title 4, Subtitle 3, of the Education Article or the rights and responsibilities of the IAC for the design and construction of school facilities; and the powers of the School Board may not limit the ability of the Authority to carry out its obligations under the Act.

NOW, THEREFORE, in consideration of the mutual covenants, promises, conditions, representations, and agreements set forth herein, the Parties hereto **AGREE AS FOLLOWS**:

I. DEFINITIONS

For purposes of this MOU, the following terms have the following definitions:

“10-Year Plan” means the Baltimore City Public Schools’ 10-Year Plan approved by the School Board on January 8, 2013, as may be subsequently amended, for the renovation, replacement, and associated closures of certain Baltimore City public schools. **“Funded 10-Year Plan”** means the portion of the projected project list under the 10-Year Plan that will be financed by the Act.

“10-Year Plan Project” means a Replacement school constructed under the management of the Authority or a Renovation project performed under the management of the School Board pursuant to the Funded 10-Year Plan.

“Act” means House Bill 860 (Ch. 647 (2013)), The Baltimore City Public Schools Construction and Revitalization Act of 2013, as codified in various sections of the Annotated Code of Maryland (the “Code”) at Economic Article, Title 10, Subtitle 6; Education Article, Title 4, Subtitles 1 and 3, and Title 5, Subtitles 2 and 3; State Finance and Procurement Article, Title 6, Subtitle 2; and State Government Article, Title 9, Subtitle 1.

“Annual Report” means the report to be provided in accordance with §10-645(L) of the Economic Development Article of the Code.

“Beverage Container Tax” means the tax imposed by Baltimore City Ordinance No. 12-45 and enacted on June 26, 2012.

“Board of Public Works” or **“BPW”** means the Maryland Board of Public Works.

“Bonds” include a note, an interim certificate, refunding bond and any other evidence of obligation issued by the Authority to finance 10-Year Plan Projects in accordance with §§ 10-628 and 10-645(D) of the Economic Development Article of the Code.

“Capital Improvement Program” or **“CIP”** means the local school system capital improvement program developed consistent with COMAR 23.03.02.03.

“City Housing” means the Baltimore City Department of Housing and Community Development.

“City Recreation and Parks” means the Baltimore City Department of Recreation and Parks.

“City Planning” means the Baltimore City Planning Department.

“City Schools” means the Baltimore City Public Schools System, administered by the Chief Executive Officer under the direction and supervision of the School Board.

“Closure of a School Building” means that a School Building will no longer be retained by the School Board for public education purposes, but will instead be transferred to the City for surplus, pursuant to the procedures set forth at §§4-115 and 9-111 of the Education Article of the Code, COMAR 23.03.02, and School Board Policy FCA and FCA-RA.

“Closure of a School Program” means that a public school that occupies a School Building will be closed and will no longer enroll students. When the Closure of a School Program occurs, the School Building may be retained by the School Board for other public education purposes or transferred by the School Board to the City for disposition.

“Completion Date” of a contract for the Construction of a Replacement under the Funded 10-Year Plan occurs when (i) approvals from Life Safety Inspections are received, and (ii) the Authority provides written notice to City Schools that performance under the contract has been achieved.

“Construction”

- a. means the process of building, altering, repairing, equipping, or improving any structure, building, or other improvement to real property;
- b. includes demolition;
- c. includes any major work necessary to repair, replace, prevent damage to, or sustain existing components of an improvement to real property; and
- d. does not include Maintenance or the routine operation of an existing improvement to real property or activities related to an energy performance contract.

“Cooperative Use Space” means co-located or shared space in a School Building, including but not limited to community meeting, health, and recreational space, that is allocated to support community initiatives to serve school children and the general community.

“Coordinating Committee” means a work group of the Parties established by this MOU to maximize the coordination of community development and revitalization goals with the 10-Year Plan Projects.

“Day” or “days” means a day that the offices of the Executive branch agencies of the State of Maryland are open for routine business operations, unless expressly stated otherwise.

“Design” means the comprehensive development of plans, specifications, and related documents under the supervision and responsibility of an architect or engineer who is licensed to practice in the State.

“Design Development Phase” or “DD” means the phase in which design documents are continued from the approved schematic design phase, and which begins to identify site, mechanical, electrical, plumbing, structural and architectural details. This phase results in documents that include floor plans, sections, elevations, full dimensions, and narratives/outlines of material specifications.

“Education Facilities Master Plan” or **“EFMP”** means the local school system long range plan, required by §5-301(d)(3) of the Education Article of the Code and COMAR 23.03.02.02.

“Enhanced Approval Package” means a written and graphic proposal that includes:

- a. The research phase of a project, including:
 - i. site analysis;
 - ii. zoning requirements;
 - iii. jurisdictional restrictions; and
 - iv. educational specifications, feasibility studies, and design elements of educational buildings;

and

- b. Schematic design drawings, documents, or other media that illustrate:
 - i. concepts of the design (i.e. site plan, floor plan(s), elevations, and other conceptual/illustrative documents);
 - ii. spatial relationships, scale and form; and
 - iii. overall dimensions and square footage estimates (Gross/NASF) of each usage type and any other elements for program goal(s).

“Executive Committee” means a committee of the Parties established by this MOU to oversee implementation of the MOU.

“Facilities Fund” means the Baltimore City Public School Construction Facilities Fund established under §10-657 of the Economic Development Article of the Code.

“Feasibility Study” means a detailed investigation and analysis conducted to determine the financial, economic, technical, or other advisability of a proposed project.

“Financing Fund” means the Baltimore City Public School Construction Financing Fund established under §10-656 of the Economic Development Article of the Code.

“Green Building Standards” means a jurisdiction’s required standards regarding:

- a. Energy savings;

9.16.13

- b. Resource conservation;
- c. Storm water management;
- d. Environmental site design;
- e. Renewable energy; and
- f. Any other sustainability strategies to achieve budgetary and life-cycle cost savings, and health benefits for building occupants.

“**IAC**” means the Interagency Committee on School Construction or its designee, as the context requires.

“**IAC Approval**” means the decision by the IAC that a project under the 10-Year Plan, or an aspect thereof, may proceed in design and construction, subject to further reviews by the Parties.

“**Life Safety Inspection(s)**” means the inspection(s) to approve the use and occupancy of a School Building.

“**Maintenance**” means all activities that are performed to a School Building to:

- a. Continue operations or upkeep;
- b. Prevent deterioration; or
- c. Correct a deficiency, which is not a part of a Renovation that has been approved by the IAC.

“**MBE**” means a legal entity that is certified under the Maryland State Department of Transportation Office of Minority Business Enterprise.

“**Renovation**” means major Construction to restore, improve, modernize, expand, reduce, or upgrade an existing School Building or a portion of an existing School Building (and any necessary improvements to the related School Site) by the School Board to achieve the educational, building performance, and aesthetic qualities of a new school, in accordance with the Funded 10-Year Plan.

“**Replacement**” means the Construction of a new School Building on the same site as an existing School Building or on a new site by the Authority, in accordance with the Funded 10-Year Plan.

“School Board” means the Baltimore City Board of School Commissioners of the Baltimore City Public Schools System established under §§3-108.1 and 4-303 of the Education Article of the Code.

“School Building” means a public school facility that is held in trust by the City or the School Board for the benefit of City Schools, which is used primarily for educational instruction.

“School Site” means the real property on which a School Building exists or on which a School Building is to be constructed, renovated, or replaced.

“STAT Committee” means a committee of the Parties established by this MOU to implement and oversee the STAT reporting program for the Funded 10-Year Plan.

“State-Rated Capacity” means the number of students that the IAC, with input from the School Board, determines that an individual School Building has the physical capacity to enroll, in accordance with the process set out in COMAR 23.03.02.04.

“Swing Space” means a School Building, or an area of a School Building or improvement, that is temporarily used for a public education purpose.

“Table Games Proceeds” means the amounts paid by the State Comptroller to the City, via the State Lottery, from the proceeds of table games at the video lottery facility located in the City that are dedicated to school construction, in accordance with § 9-1A-27(d)(2)(i)(1) of the State Government Article of the Code.

“Utilization Rate” means the official system-wide enrollment on September 30th of each year divided by State-Rated Capacity of all School Buildings that serve students.

“Video Lottery Facility Rent” means the participation rent paid to the City by the operator of the video lottery facility located in the City, pursuant to the Ground Lease Agreement dated as of October 31, 2012 by and between the Mayor and City Council of Baltimore and CBAC Gaming, LLC.

II. SPECIFIC UNDERSTANDINGS OF THE PARTIES

1. ROLES, RIGHTS, AND RESPONSIBILITIES

A. General

The Parties agree that the charts for New School Construction (applicable to Replacements) and for Renovation Projects (applicable to Renovations), attached as

Exhibits 1 and 2 and incorporated by reference (collectively, the “Responsibility Charts”), establish the roles, rights, and responsibilities that the Parties will perform, follow, and fulfill for each of the 10-Year Plan Projects. Any change to a line item or any other subject governed by the Responsibility Charts shall be made by formal amendment, in accordance with the provisions of Part III, ¶5 of this MOU.

B. Work-Based Learning and Local Hiring

1. The City, the School Board, and the Authority agree to establish and participate in a collaborative group (the “Collaborative”) to work together to maximize the opportunities for City Schools’ students and City residents to be informed about, prepared for, and connected to work-based learning and employment opportunities created by the 10-Year Plan Projects. The City, the School Board, and the Authority shall each appoint representatives to the Collaborative, and the Collaborative will engage representatives from community, professional, and trade organizations to provide input for recommendations to the Executive Committee

2. The Mayor’s Office of Employment Development (“MOED”) will develop and administer a comprehensive local hiring plan to support the goals of the Collaborative and will report to the Executive Committee on these subjects. MOED will utilize the resources of its One Stop Career Center Network and work collaboratively with a broad range of City, workforce, faith-based, and community organizations to assist in the training and preparation of City residents for employment opportunities created by the Ten-Year Plan Projects.

3. The Collaborative and MOED will develop a plan to consider the hiring of State-registered apprentices if such a plan is determined to be in the best interest of community hiring outreach.

4. All entities performing any on-site work on a 10-Year Plan Project shall document the number of Baltimore City residents whom they have employed on a semi-annual basis, and shall report such information for each semi-annual period to City Schools (if they are working on Renovations) or the Authority (if they are working on Replacements). City Schools and the Authority shall report this data semi-annually to the Collaborative and the STAT Committee. City Schools shall also report semi-annually to the Collaborative and the STAT Committee on the number of City Schools’ students who have been engaged in any work-based learning opportunities coordinated or sponsored by the City Schools’ Learning to Work Office (or its successor) during each semi-annual reporting period.

C. MBE Participation

1. The Collaborative and the Mayor’s Office of Minority and Women-Owned Business Development (“MWBD”) will work to maximize the utilization of State-certified locally based minority and women-owned businesses. The Collaborative and MWBD will develop an outreach and inclusion plan, in compliance with Maryland State procurement guidelines, to be administered by the Authority in partnership with MWBD for Funded 10-Year Plan Projects, and to make recommendations to the Executive Committee to implement this goal.

2. The Authority’s MBE liaison, in conjunction with MWBD, will oversee the administration of the Collaborative’s work in this area and will report to the Executive Committee on this subject.

D. Executive Committee

1. The Executive Committee, comprised of at least one (1) representative from each of the Parties, shall meet quarterly (or as frequently as otherwise agreed by the Executive Committee) for the following purposes:

- a. to oversee, review, and monitor the performance of the Parties under this MOU;
- b. to review and consider proposed amendments to this MOU;
- c. to review, mediate, and resolve certain disputes among the Parties as set forth in this MOU; and
- d. to develop the Annual Report.

2. The Executive Committee will schedule public forums to provide opportunities for public questions and comments about the 10-Year Plan.

3. Decisions and actions by the Executive Committee will be determined by majority vote, with each Party having one (1) vote.

4. The Executive Committee shall initially appoint (by majority vote) one (1) member to serve as chairperson. The chairperson will serve a one-year appointment, after which the position will be rotated among the Parties on a yearly basis.

5. In furtherance of the goals of transparency and accountability, the meetings of the Executive Committee will be conducted in compliance with the terms and provisions of the Open Meetings Act, codified as Title 10, Subtitle 5 of the State Government Article of the Code.

2. EDUCATIONAL SPECIFICATIONS, FEASIBILITY STUDIES, AND DESIGN ELEMENTS

A. General

1. The School Board shall have final approval authority over educational issues, including, but not limited to:

- a. Educational programs;
- b. 10-Year Plan amendments (subject to §3, below);
- c. Educational specifications;
- d. Educational aspects of Feasibility Studies;
- e. Design elements of School Buildings identified in the Enhanced Approval Package; and
- f. Placement of students.

2. The Parties will make maximum effort to ensure that scope, schedule, and budget for each Renovation and Replacement is agreed upon as final by no later than the date the Enhanced Approval Package is approved by the School Board for each project.

3. The Parties will make maximum effort to ensure that the building floor plan for each Renovation or Replacement is locked by the end of the Design Development Phase for each project.

4. All Replacements will meet or, to the extent possible, exceed the State's Green Building Standards applicable at the time that the Enhanced Approval Package for the Replacement is approved by the School Board.

5. All Renovations will meet or, to the extent possible, exceed the City's Green Building Standards applicable at the time that the Enhanced Approval Package for the Renovation is approved by the School Board.

6. To assess consistency with the goals of the City's adopted Sustainability Plan, City Schools and the Authority will meet with City Planning to obtain input on educational specifications, design standards, and Feasibility Studies. Sustainability and greening strategies shall be included throughout the Funded 10-Year Plan.

B. Feasibility Study

1. During the preliminary phase of each Feasibility Study for each Renovation and Replacement, the following shall occur:

- a. City Schools, the Authority, and their consultants will meet with the Coordinating Committee and the IAC to obtain City staff and IAC input on each project;
- b. Before any Feasibility Study is finalized, City Schools, the Authority, and their consultants will present the proposed final version of the Feasibility Study to the Coordinating Committee for its final review and comment;
- c. City Schools and the Authority will provide a synopsis of the proposed process for community input and engagement on each Renovation and Replacement to City staff for review and comment; and
- d. City Schools will coordinate with City Recreation and Parks and/or other City agencies to incorporate community input on community and recreational uses at School Sites, as appropriate.

2. Prior to the completion of each Feasibility Study for a Renovation or Replacement, City Schools and the Authority will meet with the Baltimore Office of Promotion and the Arts ("BOPA") and the Public Art Commission ("PAC") to incorporate public art in the Renovations and Replacements to the extent possible.

3. Prior to the completion of each Feasibility Study for each Renovation, City Schools and the Authority will consult with BOPA and PAC to assess the potential future use and condition of existing City-owned public art at each project.

C. Cooperative Use Space

1. City review of city-wide educational specifications and design standards will focus on those that impact community development, including community access to and recreational uses of Renovations and Replacements.

2. The final Master Educational Specification and Design Guideline documents for each Renovation and Replacement will include:

- a. Cooperative Use Space in addition to education program space, as appropriate; and
- b. Efficient design for Cooperative Use Space and associated public access to shared spaces to maximize benefits for City Schools, the City, and neighborhood residents.

3. Notwithstanding the provisions in this § 2.C, the City and City Schools agree to take no action that would adversely affect the tax-exempt status of the Bonds.

3. TEN-YEAR PLAN AMENDMENTS FOR CHANGES IN PROJECTS

A. City Schools shall comply with the timing and process for submitting proposed amendments to the 10-Year Plan as set forth in the Timeline that is attached as **Exhibit 3** and incorporated by reference.

B. City Schools' description of proposed amendments to the 10-Year Plan shall consist of a written analysis that includes:

- 1. Building, program, and community analyses;
- 2. Additional district or city-wide changes that will impact facility usage; and
- 3. Conformity with the Utilization Plan outlined in §12 of this MOU.

C. City Schools shall submit proposed 10-Year Plan amendments, with written analyses and written statements of impact (if any) on the expected Closures of School Buildings set forth on **Exhibit 6** to this MOU, for review by representatives of the following:

1. The Mayor's Office;
2. City Planning;
3. The Authority; and
4. The IAC.

D. The scope of the Authority's review power over proposed 10-Year Plan amendments will depend upon the nature of the proposal:

1. If an amendment relates to a Replacement, then the Authority shall have the right to review and approve the proposed amendment. If the Authority does not approve a proposed amendment relating to a Replacement, it may decline to fund the project set forth in the amendment after providing written justification of its decision. The Authority's decision shall be appealable to the Executive Committee in accordance with the dispute resolution process set forth in § 15.B of this MOU.

2. If an amendment relates to a Renovation, then the Authority shall have the right to review and comment on the proposed amendment.

E. The Mayor's Office, City Planning, the Authority, and the IAC will notify City Schools in writing of any objections or exceptions to the proposed amendments.

F. City Schools shall take into account any comments by the Mayor's Office, City Planning, the Authority, and the IAC, when City Schools submits proposed amendments to the School Board for review and decision.

G. Before the School Board decision, City Schools will share proposed amendments to the 10-Year Plan with the public in mid-November of any given year and the School Board will convene a public hearing.

1. Time limits on the submission of oral or written testimony and data shall be clearly defined in the notification of the School Board's public hearing.

2. The School Board will consider public input and recommendations prior to its final vote on any amendment to the 10-Year Plan.

H. The School Board will review any proposed 10-Year Plan amendments, and reject, modify, or approve them as final amendments by mid-December of any given year.

I. Any 10-Year Plan amendments approved by the School Board will then be reflected in the July EFMP and the October CIP submissions.

4. IAC AND BPW PROCESSES

A. General Procedures

1. City Schools shall update the IAC facility database upon substantial completion of each 10-Year Plan Project and for each School Building designated as an adjacent school.
2. For Replacement projects constructed by the Authority, IAC regulations with respect to procurement, change orders, and State payments do not apply.
3. For Renovation projects constructed by City Schools, project procurement shall be in accordance with COMAR 23.03.02, except that IAC regulations with respect to change orders and State payments do not apply.
4. The IAC shall develop procedures to record the close-out of the 10-Year Plan Projects.
5. Reconsideration of decisions of the IAC related to 10-Year Plan Projects may be requested in accordance with the IAC reconsideration process. If the IAC rejects a request for reconsideration, then the dispute resolution procedures set forth at §15.B of this MOU shall apply.

B. Educational Facilities Master Plan (“EFMP”)

1. Annually, by the date the IAC specifies, City Schools shall submit to the IAC an EFMP approved by the School Board.
2. The EFMP shall reflect amendments to the 10-Year Plan approved by the School Board in the preceding calendar year.
3. The EFMP shall include community development goals to maximize the benefits of the investments in the 10-Year Plan Projects.
4. The School Board will report projected and proposed system-wide Utilization Rates for the next 5, 7, and 10 years as part of the annual EFMP.
5. The IAC or its designee shall:
 - a. Review the EFMP; and

- b. Notify City Schools in writing of any clarifications or revisions needed to the EFMP.

C. 10-Year Plan Project Submissions

Beginning in calendar year 2013, requests for IAC Approval of 10-Year Plan Projects will be submitted at the same time as, but separately from, the City Schools' annual CIP submissions. The requests shall:

1. Be submitted in calendar year 2013 by City Schools, with approval from the School Board, for IAC Approval of 10-Year Plan Projects for the next fiscal year, and then annually thereafter by a date the IAC specifies; and
2. Be reviewed by the IAC for concurrence between the 10-Year Plan Projects submission and the 10-Year Plan amendments approved by the School Board in the preceding calendar year.

D. Design Review

1. A 10-Year Plan Project cannot proceed to further stages of Design or to Construction until it receives approval of the Enhanced Approval Package submission from the IAC or its designee.
2. For Replacement projects undertaken by the Authority, schematic and design development documents shall be submitted to and reviewed by the IAC or its designee for confirmation of adherence to the educational specifications approved as part of the Enhanced Approval Package.
3. For Renovation projects undertaken by City Schools, the IAC or its designee shall approve design development and construction documents in accordance with applicable regulations and procedures.
4. If the IAC or its designee does not approve a schematic or design development document submission for a Renovation project, it shall refer the submission for resolution through the dispute resolution process set forth in §15.B of this MOU.

E. IAC and BPW Approvals

1. IAC Approval is required before a 10-Year Plan Project can proceed. After IAC Approval, projects will be submitted to the Board of Public Works as follows:
 - a. The Authority will submit Replacements to the BPW for approval at four (4) stages:

1. Bond issuance;
2. Design contract;
3. Pre-Construction contract; and
4. Construction modification (if applicable).

- b. The Authority will submit Renovations to the BPW for approval at the stage of Bond issuance. Design and construction contracts for Renovations will be subject to approval by the School Board and the Authority.

2. Subject to the limitation in §5 of this MOU, the IAC may rescind approval of a 10-Year Plan Project if there is a material change in any of the following factors used to determine the original approval prior to Construction, and subject to the IAC appeal process:

- a. Changes in enrollment projections;
- b. Changes in educational program;
- c. Changes in the surplus of adjacent schools;
- d. Changes in Utilization Rate.

3. IAC will not rescind approval if there is a material change to any of the factors listed above after Construction has commenced, but it shall include the change of justification in the Annual Report, and it may disapprove future proposed projects based on such material changes.

5. PROCUREMENT

A. Replacements

1. The Authority's procurement policies and procedures shall apply to:
 - a. All procurements for the Design and Construction of Replacements; and
 - b. Any change orders, bid protests, or contract claims related to the Design and Construction of Replacements.

2. IAC procedures and BPW regulations used by IAC with respect to procurement, change orders, and State payments shall not apply to Replacements undertaken by the Authority.

3. All Replacements shall comply with the prevailing wage rate requirements that would apply to similar State-supported projects.

B. Renovations

1. City Schools shall procure the Design and Construction of all Renovations in accordance with School Board procurement regulations DJA-RA, IAC procedures, and relevant BPW regulations set forth in COMAR 23.03.02.03, except for contact approvals, change orders, and State payments.

2. All Renovations shall comply with the prevailing wage rate requirements that would apply to similar State-supported projects.

C. Policies and Procedure

Copies of the Authority's procurement policies and procedures and City Schools' procurement policy and regulations, all of which may be amended and supplemented from time to time, are attached as Exhibits 4 and 5, respectively, and are incorporated by reference.

6. BALTIMORE CITY'S PLEDGE

A. Pledged Funding

Beginning on July 1, 2013 and continuing until the Bonds that have been issued to finance the 10-Year Plan Projects are no longer outstanding and unpaid, the City pledges, subject to annual appropriation, the following funds solely to the Financing Fund:

1. All revenues and receipts from the Beverage Container Tax; and
2. Ten percent (10%) of the Video Lottery Facility Rent.

B. Deposit of Pledged Funding

The pledged funds, together with the Table Games Proceeds required by §10-645(G)(1)(II) of the Economic Development Article of the Code, shall be deposited into the Financing Fund on a semi-annual basis, on or before November 1 and May 1 of each

year beginning in Fiscal Year 2014 and continuing thereafter until the Bonds are no longer outstanding and unpaid.

C. Excess Funding

1. The Authority may transfer excess funds to the Facilities Fund at any time to be used by the Authority if the total amount of Beverage Container Taxes, Video Lottery Facility Rent, and Table Games Proceeds deposited into the Financing Fund during any semi-annual period exceeds the amounts required under §10-645(G)(2) of the Economic Development Article of the Code.

2. From any excess funds transferred to the Facilities Fund in accordance with §6.C.1, above, the Authority shall retain up to Two Million Five Hundred Thousand Dollars (\$2,500,000) in any given year, with a cumulative maximum of Twenty Million Dollars (\$20,000,000), as a reserve to pay any future shortfall between the amount required to be deposited by the City into the Financing Fund during any semi-annual period and the amount actually deposited.

3. If the total of excess funds transferred to the Facilities Fund in accordance with §6.C.1, above, exceeds Two Million Five Hundred Thousand Dollars (\$2,500,000) in any given year, or the cumulative maximum reserve of Twenty Million Dollars (\$20,000,000), then the Authority may use the excess amounts for the purposes permitted by §10-657(C) of the Economic Development Article of the Code.

4. Beginning on July 1, 2014, and on July 1 of each year thereafter, the City shall provide the Executive Committee with revenue projections for the Beverage Container Taxes, Video Lottery Facility Rent, and Table Games Proceeds for the next five (5) years.

5. Based on the revenue projections for the Beverage Container Taxes, Video Lottery Facility Rent, and Table Games Proceeds, the Executive Committee shall have the right, in its sole discretion, to increase the required reserve amount to be held in the Facilities Fund at any time.

6. Three (3) years prior to the final maturity of the Bonds, the Executive Committee shall have the right to use a portion of the reserve (as defined in § 6.C.2, above) held in the Facilities Fund, less the amount that the Executive Committee determines to continue to hold for projected under attainment in the final two (2) years, for the purposes permitted by §10-657(C) of the Economic Development Article of the Code.

7. COORDINATING COMMITTEE

A. The Coordinating Committee, comprised of representatives of the City (Mayor's Office), City Schools, the Authority, City Housing, City Parks and Recreation and City Planning, will work, in accordance with the 10-Year Plan, to maximize the mutual benefits of the investments in 10-Year Plan Projects and community revitalization efforts within and across City neighborhoods.

B. The Coordinating Committee will meet at least quarterly.

C. City Schools and the City will coordinate the timing, location, and scope of the school facility investments and community development efforts to support the City's revitalization and stabilization goals as appropriate.

D. Discussion at the quarterly meetings may include, but is not limited to, the following topics:

1. Coordination of the construction of Renovations and Replacements with City-sponsored neighborhood redevelopment efforts;

2. The potential for use of school and community building sites by both City Schools and the broader community to support community development efforts;

3. Citywide or specific school-level education specifications and design standards that impact community development, such as community access, recreational uses, and sustainability;

4. Location of School Sites that would benefit both City Schools and planned revitalization efforts;

5. The possibility of locating other City facilities on or adjacent to School Sites, including but not limited to, recreation facilities, community centers, libraries, health facilities, and senior centers;

6. Community and stakeholder engagement for construction projects relevant to community development;

7. The identification and use of vacant School Buildings consistent with City Schools' annual utilization plan and the potential reuse of surplus or vacated School Buildings and facilities by the City and/or others in accordance with § 10 of this MOU;

8. Input on each Feasibility Study for Renovations and Replacements during each study's preparation phase, and the opportunity for review and comment before each Feasibility Study is finalized;

9. Proposed changes and amendments to the 10-Year Plan;

10. Development of funding strategies to implement improvements not eligible for financing under the Bonds; and

11. Other topics deemed appropriate by the Coordinating Committee.

8. COMMUNITY AND RECREATIONAL SPACE OPPORTUNITIES

A. For 10-Year Plan Projects, School Buildings shall be designed to allow for recreational opportunities for the community and other Cooperative Use Space.

B. Recreational opportunities for the community and other Cooperative Use Space may include, but are not limited to:

1. Athletic fields and tracks;

2. Playgrounds;

3. Game courts;

4. Gymnasiums;

5. Pools and associated locker rooms;

6. Multi-purpose designated and resource rooms;

7. Cafeterias;

8. Libraries; and

9. Bathrooms.

C. The multi-purpose designated rooms shall be made available for community meetings and events as provided in a separate agreement between the City and City Schools.

D. Decisions regarding recreational opportunities for the community and other Cooperative Use Space at each 10-Year Plan Project will be informed by community input and by discussions between the City, City Schools, and the Authority.

E. Decisions regarding recreational opportunities for the community and other Cooperative Use Space at each 10-Year Plan Project shall be made on a case-by-case basis, and be reflected in each Feasibility Study, Enhanced Approval Package, and subsequent design submission as agreed to by the Parties.

F. The City agrees that any direct and ancillary costs for the current operation of any such program under the auspices of City Recreation and Parks shall remain the responsibility of the City.

G. The City and City Schools agree to enter into a separate MOU to further define the parameters of after-hours property use, including but not limited to:

1. Access;
2. Operations;
3. Costs;
4. Security;
5. Liability insurance;
6. Permit processes; and
7. Maintenance.

H. Notwithstanding the provisions in this § 8 regarding the use of space in the 10-Year Plan Projects, the City and City Schools agree to take no action that would adversely affect the tax-exempt status of the Bonds.

9. UDARP ARCHITECTURAL PLAN REVIEW AND PERMIT PROCESS

A. The architectural plans for the construction of all Renovations and Replacements shall be submitted to the Baltimore City Planning Department's Urban Design and Architectural Review Panel ("UDARP") for review and comment on both schematic and final Design.

1. Submittals and presentations will comply with current UDARP requirements as published on the City Planning website.

2. Submittals shall be presented at the following design stages:
 - a. Initial presentation will be made at approximately 30% Design completion;
 - b. Final presentation will be made at approximately 90% Design completion.

3. A follow-up presentation will be made to UDARP if significant changes are proposed to a School Building, School Site, or site landscaping following the 30% Design presentation.

4. City Schools and the Authority will work with City Planning to ensure that all necessary plan reviews are coordinated with appropriate City agencies. Plan reviews include, but are not limited to:

- a. Site Plan Review;
- b. Forest Conservation requirements;
- c. Critical Area requirements;
- d. Flood Plain requirements; and
- e. Storm Water Management requirements.

B. The applicable building permit process for all Renovations and Replacements will be as follows:

1. For Renovations conducted by City Schools, the City's process shall apply. The City agrees to waive the permit fees on City Schools' Renovations.

2. For Replacements or Renovations conducted by the Authority, the Authority's process shall apply per §10-620(e) of the Economic Development Article of the Code. The Authority will consult with the City for building code review and comment on plan submissions and project inspections, as needed.

10. SCHOOL CLOSURES

A. General Process

1. Pursuant to and in compliance with School Board Policy FCA and COMAR 13A.02.09.01, City Schools shall prepare the necessary study whenever the closure of a school is proposed.

2. Consistent with the requirements of § 4-115 of the Education Article of the Code, no later than thirty (30) days after receipt of the City Schools' study, City Planning shall provide a recommendation with respect to the proposed Closure of a School Building. The recommendation will be based on factors that may impact or contribute to community development goals derived from the City Comprehensive Master Plan, recent neighborhood planning efforts encompassing or adjacent to the subject site, knowledge of community association or other stakeholders' interests, and knowledge of the needs of public agencies. The School Board shall consider City Planning's recommendations before taking final action on the Closure of a School Building. If no recommendation is submitted by City Planning within thirty (30) days, then the course of action recommended in the City Schools' study will be deemed to be accepted by the City.

3. City Schools has compiled a list of the School Programs and School Buildings that it expects to close, and their dates of expected closure, under the Funded 10-Year Plan, which list is attached as **Exhibit 6** and incorporated by reference. Based on the information available as of the date of this MOU, the Parties have further set forth on **Exhibit 6** whether tax-exempt debt will remain outstanding on the dates provided by City Schools for the Closures of the School Buildings.

4. At least sixty (60) days prior to making a final decision to proceed with the Closure of a School Building, the School Board shall notify the Authority, the City, the IAC, and the Director of Debt Management for the State Treasurer's Office ("STO") of the proposed closure. The City and STO shall have forty-five (45) days from the date of receipt of written notice to conduct their analysis of tax law implications and other financial issues presented by each Closure of a School Building, and each shall provide all Parties with separately completed checklists for each such closure in a form acceptable to the Executive Committee.

5. City Planning may make specific recommendations as to the development potential of a School Building or School Site to be closed and the highest and best future use of each. City Planning may request that School Buildings and/or School Sites be transferred to the City.

6. The checklists for the Closure of School Buildings from the City and STO and the recommendations of City Planning will be sent to the School Board for consideration before making a final decision to retain a property for an educational use or

to transfer the property back to the City for disposition. Any change in use of a School Building will be made with paramount consideration of the Funded 10-Year Plan and applicable federal tax laws.

7. After the School Board gives final approval for the Closure of a School Building, it shall then begin the process of transferring the School Building for surplus, as provided by §§4-115 and 9-111 of the Education Article of the Code, COMAR 23.03.02, and Board Policy FCA and FCA-RA. Any School Building transferred to the City shall be in the same structural and operational condition as existing when last occupied by students. The School Board shall also provide all available floor plans, system schematics, and other relevant building documents to the City at the time of transfer.

B. Financial Issues

1. Upon the Closure of a School Building, to the extent required by State law, the City shall reimburse the State for any outstanding State debt service on the School Building, in accordance with §5-308 of the Education Article of the Code. The City may request flexibility from the Board of Public Works in the terms of such reimbursement, to the extent feasible and legally permissible.

2. Continued reporting following the Closure of a School Program or the Closure of a School Building shall be required as follows:

- a. Retained Facilities. Beginning on June 30, 2014 and continuing on each June 30 thereafter, the School Board shall report to the City and the STO on the use of any School Building that the School Board retains after the Closure of a School Program, including, but not limited to, whether the retained School Building is used by a charter school. The report shall be in a form acceptable to the Executive Committee.
- b. Transferred Facilities. Beginning on June 30, 2014 and continuing on each June 30 thereafter, the City shall report to the School Board and the STO on the use of any School Building that the City retains after it has been closed by the School Board and transferred to the City. The report shall be in a form acceptable to the Executive Committee.
- c. Subsequent Changes in Use. In addition to the reporting requirements set forth above, the School Board and the City shall each give written notice of any change in the dedicated

use of a School Building that has been closed or transferred to the City at least thirty (30) days prior to entering into any legally binding agreement that involves a change in the use of the School Building, including, but not limited to, an agreement to use the School Building as a charter school. Written notice shall be in a form acceptable to the Executive Committee and shall be provided as follows:

<u>If building is:</u>	<u>Then, notice to:</u>
Retained by School Board	STO and City
Transferred to City	STO and School Board

- d. Reporting Period. The reporting requirements set forth herein shall apply to all School Buildings within the control of the City or City Schools, respectively, so long as any School Board, City, or State tax-exempt bonds remain outstanding on the subject School Buildings.

C. Delay or Failure to Close

1. The Authority shall have the right to withhold funding for future Renovations or Replacements (which are not yet in Construction) if the School Board fails to proceed with the Closure of a School Program or the Closure of a School Building as reflected on Exhibit 6, unless: (i) in the case of a delay in the Closure of a School Program or the Closure of a School Building, the School Board provides justification acceptable to the Authority; or (ii) in the case of a decision not to proceed with the Closure of a School Program or the Closure of a School Building, the School Board provides justification acceptable to the Authority that includes the substitution of another closure with subsequent approval of an amendment to the 10-Year Plan to be incorporated in accordance with the School Board’s timeline for 10-Year Plan Amendments as set forth on Exhibit 3.

2. In the event of its acceptance of a delay or failure to close as set forth in this §10.C, the Authority will update Exhibit 6 accordingly, without any necessary amendment to this MOU. Any such updated version of Exhibit 6 shall become a part of this MOU, and copies thereof shall be provided to all Parties and the STO.

11. COMPREHENSIVE AND BUILDING MAINTENANCE PLANS

A. Comprehensive Maintenance Plan General Provisions

City Schools shall develop, for approval by the IAC, a Comprehensive Maintenance Plan (“CMP”) for preventative and ongoing maintenance of all School

Buildings, which shall provide for sufficient funding to implement the CMP. The following requirements shall apply to the CMP:

1. The CMP shall be a written plan approved by the School Board that describes a strategy for maintaining all School Buildings and for achieving progress toward the Metrics that are described below.
2. The CMP shall ensure that Maintenance is performed for all School Buildings for which City Schools has operational responsibility.
3. The CMP shall apply to all School Buildings, which include:
 - a. The 10-Year Plan Projects under the Act;
 - b. All existing School Buildings for which the School Board has operational responsibility; and
 - c. All other School Buildings that the School Board replaces or funds improvements for through the CIP.
4. The CMP will be submitted for IAC Approval, with comment by the Authority, by December 15, 2013.
5. The CMP shall be updated annually in accordance with the BPW Regulations (COMAR 23.03.02) and shall be submitted annually by October 15 of each year.

B. Required Content of CMP

At a minimum, the CMP must demonstrate specific staffing, budget, and organizational components to make significant improvement over the five (5) years following the date of approval of the CMP by the IAC, as measured by the Metrics agreed to by the IAC and the School Board in § 11.E, below. The content of the CMP shall be as provided in **Exhibit 7**.

C. Building Maintenance Plan

1. The CMP shall contain a template or templates for the Building Maintenance Plan (“BMP”) of individual new, renovated, and existing School Buildings.
2. City Schools shall develop a BMP for the entire School Building, inclusive of custodial requirements, during the Design phase of any project in or about a School Building for which City Schools has operational responsibility, including:
 - a. Replacement schools;

- b. Renovations (major or systemic); and
 - c. Science classroom renovations.
3. The BMP must include at a minimum:
- a. The staffing plan for the School Building;
 - b. The budget required to support the BMP; and
 - c. Custodial requirements.
4. The BMP submitted shall be in accordance with the appropriate template.
5. The BMP is supplemental to and complementary to the Operations and Maintenance (O&M) manuals that are required as a condition of the contract.
6. At substantial completion of a 10-Year Plan Project, the BMP will be finalized as modified per the commissioning agent's requirements and will be submitted to the Authority for review and comment.
7. After the initial submission of the BMP, the IAC will review the BMP during the course of annual maintenance inspections of major new, replacement and major renovation projects that are funded through the CIP.

D. School Building Maintenance Performance Metrics

1. The CMP shall contain specific Metrics (as defined in §11.E, below) for the system-wide maintenance and performance of all School Buildings.
2. Within six (6) months of approval of the CMP by the IAC, City Schools will:
- a. Establish a format and annual assessment of the Metrics; and
 - b. Establish a multiple-year projected budget to achieve progress towards the Metrics.
3. The IAC, with comment from the Authority, must approve the Metrics and the annual assessment format.

4. The School Board will submit an initial report on achievement of the Metrics to the Parties within twelve (12) months of the approval of the CMP.

5. City Schools will assess the Metrics annually no later than June 30th, and a report on the progress toward attainment of the Metrics shall be included in the CMP submitted to the IAC in accordance with COMAR 23.03.02.18.

6. City Schools' annual maintenance budget shall include funds sufficient to achieve progress toward the attainment of the Metrics.

7. Progress toward attainment of the Metrics shall be a factor considered by the IAC in the review of 10-Year Plan Projects for approval and the recommended approval of future CIP projects, consistent with COMAR 23.03.02.03.B(1) and 23.03.02.03.B(2). The IAC will assess progress toward attainment of Metrics in the Annual Report submitted by the Parties.

E. Metrics

City Schools shall measure and report to the STAT Committee for inclusion in the STAT reporting program the progress toward attainment of the following metrics (the "Metrics"):

1. Staffing parameters, measured as:
 - a. Target staffing and organizational structure.
 - b. Target square footage per FTE for various categories of work (HVAC, roofing, electrical, etc.).
2. Work order parameters, measured as:
 - a. Turn-around time for work orders in various categories (HVAC, roof leak, electrical, etc.).
 - b. Number of outstanding work orders permissible at any time.
 - c. Work orders received and completed, measured as both raw data and as percentages.
3. Inspection parameters:
 - a. Routine scheduled tours of all School Buildings by maintenance teams.

- b. Roofing inspections.
 - c. Other inspections: HVAC, boilers, bleachers, etc., as defined in Standard Operating Procedures.
3. Implementation of a CMMS system:
- a. In Replacement and Renovations, including all necessary staffing and computer resources.
 - b. In all other School Buildings, as budget and staffing permit.
 - c. Ratio of scheduled to unscheduled maintenance work orders.
 - d. Percentage of major building systems operating within industry age standards.
 - e. Deferred maintenance backlog (as percentage of total building plant value).
 - f. Other metrics, as agreed upon between City Schools and the IAC.

F. Release of Construction Funding

1. The Authority will release Construction funds for a specific 10-Year Plan Project, taking into account the project schedule, after:
- a. The BMP provided by City Schools for the subject school is received and approved by the IAC with comment from the Authority; and
 - b. The maintenance Metrics have been established and the annual CMP that has been submitted as required by § 11.D.5, above, demonstrates progress acceptable to the IAC with comment by the Authority.
2. Any dispute regarding the release of Construction funds shall be resolved in accordance with the dispute resolution procedures set forth at §15.A of this MOU.

12. SCHOOL UTILIZATION PLAN

A. General

1. A primary goal of the 10-Year Plan is to increase the average Utilization Rate of School Buildings upon completion of the 10-Year Plan Projects and the closing and surplus of existing School Buildings.

2. The School Board will establish both a final Utilization Rate target to be met upon completion of the 10-Year Plan Projects, as well as intermediate Utilization Rate targets to be met at intervals to be agreed upon by the Parties by December 31, 2013.

3. The intermediate and final Utilization Rate targets must be approved by the IAC.

4. The IAC and City Schools will collaborate on Utilization Rates as outlined in §12.B, below.

5. Future IAC project approvals may be withheld if projected Utilization Rates do not meet the established Utilization Rate targets.

B. Utilization Plan

1. City Schools and the IAC shall jointly agree on the following:

a. The factors that will be included in the annual calculation of the Utilization Rate.

b. Utilization Rate shall be calculated annually in two (2) ways: (i) including Swing Space; and (ii) excluding Swing Space.

c. A methodology for designating certain schools as “adjacent” to a School Building submitted for IAC Approval under the 10-Year Plan or CIP.

1. City Schools shall record these adjacencies in the IAC facilities inventory database.

2. City Schools shall update the database each year no later than June 30.

- d. Projected 5, 7, and 10 year kindergarten to grade 12 total enrollments each spring as required pursuant to COMAR 23.03.02.02.

2. City Schools shall provide projected 5, 7, and 10 year prekindergarten total enrollments each summer.

3. City Schools shall track past, existing, projected, and proposed, system-wide school Utilization Rates based on agreed upon:

- a. Total enrollment projections for prekindergarten to grade 12;
- b. State-Rated Capacities of all buildings for which the School Board is responsible; and
- c. Current Construction project schedules.

4. City Schools will report projected and proposed system-wide Utilization Rates for the next 5, 7, and 10 years as part of the annual EFMP.

5. The IAC shall review and comment annually on the projected and proposed school Utilization Rates reported in the EFMP.

6. The IAC will incorporate the School Board's attainment of the Utilization Rate targets as a factor in the approval of 10-Year Plan Projects and the recommendation of CIP projects that affect capacity.

C. School Board Review

1. The School Board shall review facility utilization issues on an annual basis, as part of the 10-Year Plan amendment process described in Section 3, above.

2. The School Board will make necessary adjustments towards meeting the Utilization Rate targets.

3. Progress on achieving the Utilization Rate targets will be included and set forth in the Annual Report submitted by the Parties.

13. STAT REPORTING PROGRAM

A. General

The STAT reporting program for the Funded 10-Year Plan will be a performance measurement and management tool to make government more efficient through a process of continually evaluating and refining State performance.

B. Software Program

1. The Authority will procure a comprehensive Project Management Software Program (“PMSP”) that will:

- a. Assist tracking and reporting the status of:
 1. Schedule;
 2. Budget;
 3. Contracts;
 4. Procurements;
 5. Change Orders;
 6. Payments;
 7. Contingency;
 8. MBE participation; and
 9. Project documentation.

- b. Assist tracking and reporting during the following stages of the 10- Year Plan Projects:
 1. Planning/Pre-Design
 - i. Educational Specifications, Feasibility Studies and Schematic Design Schedules; and
 - ii. Budget/Cost Modeling.

 2. Replacements managed by the Authority
 - i. Design;
 - ii. Bidding Phases;
 - iii. Construction; and
 - iv. Warranty/Maintenance.

3. Renovations managed by the School Board
 - i. Design;
 - ii. Bidding Phases;
 - iii. Construction; and
 - iv. Warranty/Maintenance.
 - c. Allow for real time snapshots of project status and reporting capability based on parameters established per project (i.e., weekly, monthly, quarterly, annually).
 - d. Be available for access and/or use by the Parties.
2. City Schools will be included as a PMSP selection committee member.

C. STAT Committee

1. A STAT Committee will be comprised of representatives from each Party and chaired by the Authority.
2. The STAT Committee shall hold meetings monthly (or as otherwise agreed by all Parties) to review the data in the PMSP, once selection of design consultants for 10-Year Plan Projects is complete.
3. All Parties will jointly determine the format and timing of the reports to be provided in advance of each monthly meeting of the STAT Committee.
4. At least two (2) days prior to each meeting of the STAT Committee, the Authority will deliver a set of standard reports on the status of progress in the areas outlined above in §§ 13.B.1.a and 13.B.1.b to all Parties.
5. If a Party seeks information that is not available in the standard reports or otherwise accessible via the PMSP, the Parties agree to use their best efforts to provide that information along with the standard reports in a reasonable amount of time but at least two (2) days prior to the next meeting of the STAT Committee.
6. The STAT Committee will review the data and updates in the PMSP.
7. The STAT Committee will review the data of Baltimore City resident employment and work-based student learning opportunity engagement.

8. The STAT Committee meetings shall be a forum for the Parties to raise any questions or issues regarding the management and/or financing of the 10-Year Plan Projects.

9. Each Party shall ensure the attendance of appropriate staff representatives who will be able to respond substantively to questions and issues at the meetings of the STAT Committee.

10. The STAT Committee will report status updates regularly to the Executive Committee.

11. As work progresses on the 10-Year Plan Projects, the Parties may determine that there are other areas not outlined above that shall be included in the standard, periodic reporting.

14. INDEMNIFICATION AND INSURANCE

A. Prior to Completion of Projects

1. Indemnification

Contracts for the Construction of any Renovation or Replacement shall require the contractors to defend, indemnify, and hold harmless the School Board, City Schools, the City, the Authority, the State, and each of their architects/engineers, elected/appointed officials, employees, and agents from and against any and all claims, demands, damages, actions, suits, or proceedings of any kind whatsoever for damages, losses, liabilities, liens, or costs of any kind or type (including reasonable attorneys' fees as and when incurred) (collectively, the "Claims") that are caused by or arise from any direct or indirect, willful or negligent, act or omission of the contractor, its officials, employees, and agents, *unless* such Claims are the sole result of intentional conduct or gross negligence by the Party seeking to enforce this right of indemnification.

2. Insurance

During the Construction of any Renovation or Replacement, the following insurance shall be required of all architects, engineers, and contractors, as applicable: Professional Liability Errors and Omissions, Commercial General Liability, Commercial Umbrella/Excess Liability, Workers' Compensation, Commercial Automobile Liability, Environmental Liability, and Builders' Risk. Coverage limits shall be established on a project-by-project basis, subject to the review and approval of the Authority. All parties with an insurable interest in the Renovation or Replacement (i.e., the City, the Authority, and City Schools) shall be covered by endorsement as additional insureds, and

requirements as to notice of cancellation, acceptability of insurers, verification of coverage, and the inclusion of subcontractors as insureds shall be determined on a project-by project basis, subject to the review and approval of the Authority. Any and all amounts paid to any Party under such policies for damages or loss to a Funded 10-Year Plan Project shall be deposited into the Facilities Fund and used for restoration or reconstruction of the applicable Renovation or Replacement. During the Construction of any Replacement, the Authority shall also be named an additional insured with respect to any property insurance covering any portion of the School Site on which the Replacement is being constructed.

3. **Project-by-Project Review and Comment**

City Schools and the City shall have the right to review and comment on the insurance requirements set forth in §14.A.2, above, in accordance with their assessment of the scope of work, and the size and cost of the specific project involved.

B. Post Completion of Projects

Upon receipt of approvals from Life Safety Inspections and written notice from the Authority that the performance under a contract for the Construction of a Replacement has been achieved (the “Completion Date”), City Schools shall assume immediate responsibility for the operation, management, and maintenance (both preventative and ongoing) of the Replacement, in accordance with the standards and requirements set forth in §11 of this MOU.

1. **Indemnification**

As of the Completion Date of a Renovation or Replacement, City Schools shall, to the fullest extent permitted by law, defend, indemnify and hold harmless the State, the Authority, the City, and their architects, agents and employees, from and against any and all claims, demands, damages, actions, suits or proceedings of any kind whatsoever for damages, losses, liabilities, liens, or costs of any kind or type (including reasonable attorneys’ fees as and when incurred) (collectively, the “Claims”) that are caused by or arise from (i) performance under a Design or Construction contract;(ii) Construction or tear-down activities at a School Site; or (iii) any occurrence within a School Site, whether or not proximately caused by or attributable to any act or omission by the State, the Authority, the City, or their architects, agents, or employees, *unless* such act or omission by the State, the Authority, the City, or their architects, agents, or employees was intentional or the result of the gross negligence of any of them. The terms of this subsection shall extend to any Claim for actual or threatened bodily injury, sickness, disease or death and to any Claim for actual or threatened injury to or destruction of property including the loss of use resulting therefrom, and including but not limited to purely economic loss.

2. Insurance

City Schools shall procure and maintain the following insurance coverage (or any higher or broader coverage), to be effective as of the Completion Date of each Renovation and Replacement and to continue throughout the period of use of each Renovation and Replacement.

- a. **Property Insurance.** Each Renovation and Replacement shall be covered against loss, damage, or destruction under the All-Risk Master Commercial Property Insurance Policy, the City Property Insurance Fund, the Self-Insurance Fund and any other insurance or excess insurance policies maintained or administered by the Office of Risk Management in the Department of Baltimore City (the “Office of Risk Management”), in accordance with Subtitles 10 and 12 of Article 5 of the Baltimore City Code. City Schools shall take all action necessary to ensure that each Renovation and Replacement is added as a covered property under all policies and insurance funds, as of the Completion date for each Renovation or Replacement. Commercial Property insurance policies applicable to the Renovations and Replacements shall meet the following requirements:
 - i. Commercial Property coverage shall be written on an all-risk policy to include flood and earthquake losses;
 - ii. Commercial Property coverage shall be written on a “replacement cost” basis in the amount that it would cost to rebuild the same building as of the time of loss;
 - iii. The value of each Renovation and Replacement shall be adjusted annually to reflect updated replacement costs for Commercial Property coverage;
 - iv. The self-insured property deductible shall be in an amount that City Schools can afford to pay in the event of a loss;
 - v. Commercial Property coverage shall be procured from a carrier that is rated “A-” or

above by A.M. Best, or a comparable ratings institution; and

- vi. City Schools shall comply with any property improvement recommendations that the Commercial Property insurance carrier may make over the life of the insured building.
- b. **Liability Insurance.** Each Renovation and Replacement shall be covered against third-party general liability and any other categories of claims and losses consistent with the insurance and risk management program purposes of the Self-Insurance Fund and any other insurance or excess insurance policies maintained or administered by the Office of Risk Management, in accordance with Subtitle 12 of Article 5 of the Baltimore City Code. City Schools shall take all action necessary to ensure that each Renovation and Replacement is included and/or added as a covered property under the Self-Insurance Fund and any other available insurance or excess insurance policies, as of the Completion date for each such project.
 - c. **Proof of Coverage.** Prior to the use or occupancy of any portion of a Renovation or Replacement, City Schools shall provide the Authority with written proof, issued by the Office of Risk Management, of the School Board's and City Schools' good standing, coverage and participation under the insurance funds and policies set forth in this §14. Annual certificates of insurance, updated to include the current financial ratings of the applicable carriers, shall be provided by City Schools to the Authority.
 - d. **Continuous Coverage.** City Schools shall make all required payments to the City in accordance with the Memorandum of Understanding Concerning Self-Insurance, dated July 1, 2006, by and between the City and City Schools, in order to maintain continuous coverage under the funds and policies set forth in this §14. The coverage afforded by the funds and policies set forth in this §14 shall not be cancelled or materially changed in any respect (by the City or the insurer) unless at least ninety (90) days' prior written notice is provided to the Authority. Upon receipt of any notice of cancellation or material change, the Authority shall have the right to determine if the cancellation or change results in a

failure to meet commercially reasonable standards for insuring against losses potentially arising from the Renovations and Replacements. In the event of such determination, the Authority may require City Schools to secure additional or other amounts of insurance coverage, upon thirty (30) days' prior written notice.

15. DISPUTE RESOLUTION

A. Disputes Regarding Funding, Scheduling, Procurements

Resolution of any disputes pertaining to or having an impact on project budget, financing, and/or scheduling, shall occur as follows:

1. **Procurements**: All bid protests and third-party procurement claims related to any Replacement projects shall be resolved by the Authority pursuant to its Procurement Policies and Procedures. All bid protests and third-party procurement claims related to any Renovation projects shall be resolved by City Schools, with review and comment by the Authority, in accordance with the School Board's Procurement Policies and Procedures.

2. **Project Budget, Financing, and Scheduling**: The Authority shall review and decide all disputes that pertain to or have an impact on project budget, financing, and/or scheduling of Renovation or Replacement projects, as follows:

- a. Such disputes or claims may be submitted by any Party at any time to the Authority.
- b. The Authority shall provide a timely written decision on any such disputes or claims.
- c. The CEO of City Schools shall have the right to appeal to the Board of the Authority from any written decision provided pursuant to § 15.A.2.b, above. Any such appeal shall be in writing and shall identify the nature of the dispute and the relief sought. City Schools may include a request for a hearing before the Board of the Authority in its written notice of appeal. The Board of the Authority will provide a prompt written decision on the appeal, which decision shall be final and not subject to further appeal.

B. All Other Disputes

Unless a review process is otherwise specifically set forth in this MOU (e.g., §§ 4, 5, 10, 11 and 15.A), the resolution of all other disputes between or among the Parties shall be determined by the Executive Committee, as follows:

1. A Party seeking resolution of a dispute shall submit a written claim to the Executive Committee, describing the dispute and providing any relevant information and/or documents.

2. Provided that a written claim of dispute is received at least five (5) days in advance, then the Executive Committee shall consider the dispute at the first regularly scheduled Executive Committee meeting following receipt of the written claim. If the written claim of dispute is received by the Executive Committee fewer than five (5) days in advance of a scheduled meeting, then the Executive Committee may consider the dispute at the next subsequently scheduled meeting.

3. The Executive Committee shall attempt to resolve the dispute by way of a unanimous vote at a regularly scheduled meeting. If the Executive Committee is unable to reach a unanimous decision within five (5) business days after the meeting at which a dispute has been considered, then the claim of dispute shall be re-submitted at the next scheduled meeting, at which point resolution shall be determined by majority vote of the Executive Committee. Any such decision by the Executive Committee shall be final.

4. If the Executive Committee is unable to render a decision via majority vote at the second hearing on the claim of dispute, then the claim of dispute shall be forwarded to the State Superintendent of Schools for resolution. Any such decision of the State Superintendent of Schools shall be final and not subject to further appeal.

III. MISCELLANEOUS

1. This MOU shall be effective upon execution by all Parties and approval by the Board of Public Works, and it shall remain in effect until the Bonds are no longer outstanding and unpaid or all Parties agree to terminate the MOU.

2. The City, the School Board, and the IAC understand that the Authority intends for the interest on the Bonds to be exempt from federal income taxation under Section 103 of the Internal Revenue Code. Neither the City nor the School Board nor the IAC will perform, or permit to be performed, any act that would adversely affect

the tax-exempt status of the interest on the Bonds, or fail or refuse to perform any act, the result of which failure or refusal would adversely affect such tax-exempt status. Each of the City, the School Board, and the IAC agrees that it will cooperate fully with the Authority in maintaining the tax-exempt status of the Bonds including, without limitation, entering into tax certificate and compliance agreements upon the issuance of each series of Bonds, the performance of post-issuance compliance monitoring, and the submission of annual compliance reports to the Authority.

3. Upon reasonable advance notice, each Party, or its auditor or designee, shall have the right, upon request and during normal business hours, to examine the books and records of each Party which relate to the use, expenditure, or accounting of any disbursements from the Bond proceeds, the Facilities Fund, or the Financing Fund.

4. On an annual basis, the Authority will perform agreed upon procedures relating to all expenditures by the Authority from the Bonds, the Facilities Fund, and the Financing Fund.

5. Any of the Parties may request amendments to this MOU if any change in law or circumstance impacts the implementation of the Act or this MOU. Except for as provided in §10.C.2, above, any amendment to this MOU must be in writing, executed by all Parties, and approved with the same formality as that approval required for this MOU. Approved amendments will become a part of this MOU as if they had been original terms and conditions of the MOU.

6. If any of the provisions in this MOU is found by a court of competent jurisdiction to be void or unenforceable, then that provision shall be deemed to be deleted and the remaining provisions of this MOU shall continue in full force and effect.

7. If the Authority should undertake a Renovation as defined in this MOU, all Parties agree that the provisions and procedures set forth in this MOU with respect to the Authority's Design and Construction of a Replacement shall govern and apply to the Authority's Renovation.

8. This MOU shall inure to and be binding upon the Parties hereto, their respective agents, successors, and assigns. No Party shall assign its interests in this MOU without the prior written consent of all Parties.

9. This MOU and the rights and responsibilities of the Parties hereto shall be governed in accordance with Maryland law.

10. The Parties to this MOU shall retain all documents and records pertaining to each of the 10-Year Plan Projects until the later of: (a) three (3) years after the expiration of any warranty period applicable to each Renovation or Replacement; or

(b) the date that destruction of the documents and records is permitted pursuant to the Party's established document retention policy.

11. This MOU shall not be construed to provide a private right of action for or by any person or entity that is not a Party to this MOU.

12. The headings used in this MOU are for convenience only and shall not control or affect the meaning or construction of any of the provision of this MOU.

13. If the context of this MOU requires, words or terms used in the singular shall be deemed to be plural, and vice versa.

14. All notices required in this MOU shall be in writing and shall be made by hand delivery, by certified mail return receipt requested, or by next-business-day delivery/signature required messenger or courier service. Notices shall be given as follows:

If to the AUTHORITY:

Name: Gary McGuigan, LEED AP
Title: Project Executive
Maryland Stadium Authority
The Warehouse at Camden Yards
333 West Camden Street, Suite 500
Baltimore, Maryland 21201-2435
Phone: 410-333-1560
Email: gmcguigan@mdstad.com

with a copy to:

Name: Cynthia M. Hahn
Title: Assistant Attorney General
Office of the Attorney General
200 Saint Paul Place, 20th Floor
Baltimore, Maryland 21202
Phone: 410-576-6319
Email: chahn@oag.state.md.us

If to the IAC:

Name: David Lever
Title: Executive Director
Interagency Committee on School Construction
200 W. Baltimore Street
Baltimore, Maryland 21202
Phone: 410-767-0610
Email: dlever@msde.state.md.us

with a copy to:

Name: Elliott Schoen
Title: Assistant Attorney General
Office of the Attorney General
200 Saint Paul Place, 19th Floor
Baltimore, Maryland 21202
Phone: 410-576-6453
Email: eschoen@oag.state.md.us

If to the CITY:

Name: Stephanie Rawlings Blake
Title: Mayor
Mayor and City Council of Baltimore
100 N. Holliday Street, 2nd Floor
Baltimore, Maryland 21202
Phone: 410-396-3835
Email: mayor@baltimorecity.gov

with a copy to:

Name: George A. Nilson
Title: City Solicitor
Baltimore City Law Department
100 N. Holliday Street, Suite 101
Baltimore, Maryland 21202
Phone: 410-396-7359
Email: george.nilson@baltimorecity.gov

If to CITY SCHOOLS or the SCHOOL BOARD:

Name: Tisha S. Edwards
Title: Interim Chief Executive Officer
Baltimore City Public Schools
200 E. North Avenue, Room 405
Baltimore, Maryland 21202
Phone: 410-396-8803
Email: tsedwards@bcps.k12.md.us

with a copy to:
Tammy L. Turner, Esq.
Chief Legal Counsel
Baltimore City Public Schools
200 E. North Avenue, Room 405
Baltimore, Maryland 21202
Phone: 410-396-8542
Email: tturner@bcps.k12.md.us

Any Party may change its address or recipients for notices by providing the other Parties with written notice, to be effective upon receipt.

15. This MOU may be executed in counterparts, each of which shall be deemed to be an original, and such counterparts shall constitute one and the same instrument.

The remainder of page intentionally left blank.

9.16.13

IN WITNESS WHEREOF, each Party hereto has caused this Agreement to be executed on its behalf by its duly authorized representatives, the day and year first above written.

WITNESS:

**MARYLAND STADIUM AUTHORITY,
a body politic and corporate and a public
instrumentality of the State of Maryland**

BY: _____ (SEAL)

Approved as to form and legal sufficiency this

_____ day of _____, 2013.

Name:

Assistant Attorney General

The remainder of page intentionally left blank.

9.16.13

**MAYOR AND CITY COUNCIL OF
BALTIMORE**

_____ BY: _____ (SEAL)

Approved as to form and legal sufficiency this
____ day of _____, 2013.

Name:
Chief Solicitor
City of Baltimore

Approved by the Board of Estimates this ____ day of _____, 2013

Clerk

The remainder of page intentionally left blank.

**BALTIMORE CITY BOARD OF
SCHOOL COMMISSIONERS**

_____ BY: _____ (SEAL)

Approved as to form and legal sufficiency this

_____ day of _____, 2013:

Name:

Assistant General Counsel

The remainder of page intentionally left blank.

9.16.13

**INTERAGENCY COMMITTEE ON
SCHOOL CONSTRUCTION**

_____ BY: _____ (SEAL)

Approved as to form and legal sufficiency this

_____ day of _____, 2013:

Name:

Assistant Attorney General

The remainder of page intentionally left blank.

**BOARD OF PUBLIC WORKS OF THE
STATE OF MARYLAND**

BY: _____ (SEAL)
MARTIN O'MALLEY, GOVERNOR

ATTEST:

Sheila C. McDonald
Executive Secretary
Board of Public Works

BY: _____ (SEAL)
NANCY K. KOPP, TREASURER

BY: _____ (SEAL)
PETER FRANCHOT, COMPTROLLER

STATE OF MARYLAND, COUNTY OF _____, TO WIT:

I HEREBY CERTIFY that, on this _____ day of _____, 2013, before me, the subscriber, a Notary Public of the State and County aforesaid, personally appeared MARTIN O'MALLEY, Governor, NANCY K. KOPP, Treasurer, and PETER FRANCHOT, Comptroller, constituting the Board of Public Works of the State of Maryland, known to me (or satisfactorily proven) to be the persons whose names are subscribed to the within Interagency Agreement, who signed the same in my presence and acknowledged that they executed the same for the purposes therein contained.

AS WITNESS my hand and Notarial Seal.

Notary Public

My commission expires: _____

9.16.13

Approved by the Board of Public Works of the State of Maryland at a meeting held on the ___ day of _____, 2013 as Item No. ____ on the _____ Agenda.

EXHIBIT LIST

1. Responsibility Chart for Replacements (w/key)
2. Responsibility Chart for Renovations (w/key)
3. Timeline for 10-Year Plan Amendments, EGO Report, COMAR, Renewal Process Annual Calendar from July 1 – June 30 (w/key)
4. Authority Procurement Policies
5. School Board Procurement Policies
6. List of Expected Closures of School Buildings
7. Maintenance Plan Appendix

EXHIBIT 1

**MSA/BCPS/PSCP/Balt City
Responsibility Matrix
New School Construction**

No.	ITEM	MSA	BCPS	IAC/PSCP	Balt City
A.	Develop Program/Project Scope				
1	Program/EdSpec	Review & Comment	Develop & Approve	Review & Approve	Review & Comment
2	Feasibility Studies	Review	Develop & Approve	Review & Comment	Review & Comment
3	Community Meetings/Input	Assist	Conduct		Notify
3a	Work Based Learning Collaborative	Establish & Participate	Establish & Participate		Establish & Participate
3b	Woman and Minority Owned Business Collaborative	Execute, Oversight and Participate	Participate		Participate
4	Project Justification	Review	Develop	Approve	Notify
5	Enhanced Approval Package	Approve	Develop & Approve	Approve	Approve
B.	Budget				
1	Design, Construction, & FFE Cost Estimates (begin at Feasibility submission/approval)	Develop & Manage	Review	Review	
2	Funding	Execute	Contribute	Notify	Contribute
C.	Schedule				
1	Schedules for Procurements, Design, Cost Estimates, Construction	Develop & Manage	Review & Comment	Notify	Notify
D.	Procurement				
1	Architectural/Engineering (A/E)	Lead and Approve	Participate & Comment		
2	Construction Management (CM)	Lead and Approve	Participate & Comment	Notify	
3	Program Manager	Lead and Approve	Participate & Comment		
4	Commissioning Agent (Cx)	Lead and Approve	Participate & Comment		
E.	Design and Construction Administration				
1	Design and Construction Services	Manage	Review and Comment		
2	Surveys (Alta, etc...)	Review and Comment	Provide Site Development Ready		Review & Comment
3	Testing/Inspection	Manage	Review and Comment		
4	Design and Owners Meetings	Lead	Attend	Attend	
5	Life Cycle Costs	Develop	Review and Comment		
6	Building Permits	N/A			
7	Fire Marshal Design Review/Inspections	Lead	Review and Comment		Review and Comment/Inspect
8	Project Status Reporting (budget, schedule, quality, etc...)	Prepare and Issue	Participate	Review	Participate

**MSA/BCPS/PSCP/Balt City
Responsibility Matrix
New School Construction**

No.	ITEM	MSA	BCPS	IAC/PSCP	Balt City
E.	Design and Construction Administration (cont)				
9	Design Submissions (e.g., SD, DD,CD)	Develop/Confirm & Approve	Review & Comment	Review & Comment	DOP Review & Comment 30/90% design stages
9a	Design Submissions (SD/DD) to IAC for verification of Program/Ed Spec	Manage	Review & Comment	Review & Comment	
10	Develop FFE Program	Review & Comment/Manage	Develop and submit by Design Development Phase		
11	Approvals from MDE, FCP, ARB, MHT, and others AHJ's as required	Obtain	Review and Comment		Assist
12	Changes to the Program (no schedule or cost impacts as determined by MSA)	Review and Execute	Request	Review and Comment	
13	Changes to the Program (schedule/cost impact as determined by MSA)	Review/Approve	Request	Review and Comment	
14	Changes to Estimate (i.e. VE or other issues)	Review and Approve	Participate, Review and Comment	Review	
15	Certificate of Payments	Review and Approve	Participate, Review and Comment		
16	Change Orders	Review and Approve	Review	Review	
17	Contract Claims/Termination	Negotiate/Manage	Notify, Review and Comment	Notify	
18	MBE Compliance	Establish, Review and Approve	Review	Review	Participate
19	Prevailing Wage	Establish, Review and Approve	Review	Review	
20	Punch List	Develop and Issue	Participate, Review and Comment		
21	Substantial/Final Completion	Develop and Issue	Participate and Comment	Review	
22	Maintenance Plan	Review	Develop Program, Submit	Approve	

**MSA/BCPS/PSCP/Balt City
Responsibility Matrix
New School Construction**

No.	ITEM	MSA	BCPS	IAC/PSCP	Balt City
23	Maintenance Plan Execution	Review and Comment through Warranty Period	Assume upon substantial Completion/Occupancy	Inspect and Comment	
24	Warranty	Assist thru Builder's Warranty Expiration	Contact and Report issue(s)		

Terminology

“Approve” means the authority of a party to approve a submission, document, procedure or contract before further action may be taken.

“Assist” means the responsibility of a party to assist the party that conducts or manages an event or series of events or a management process related to the execution of subject projects.

“Assume” means the authority of a party to take over responsibility for the further management of a facility.

“Attend” means the authority of a party to be present at a meeting or process that is led or managed by another party.

“Comment” means the authority of a party to submit comments that must be taken into account by the submitting party.

“Conduct” means the authority of a party to initiate, schedule, organize, and record an event or series of events .

“Confirm” means the authority of a party to inspect submissions for conformance to previous agreements .

“Contact” means the responsibility of a party to communicate an issue with another party.

“Contribute” means the authority of a party to provide funding in support of subject projects.

“Develop” means the authority of a party to initiate, develop, and finalize a submission, document, or procedure.

“Establish” means the authority of a party to develop a framework for a process or procedure .

“Execute and Oversight” means the authority of a party to issue bonds for the purposes of undertaking projects and to monitor, record, and manage all aspects of the transaction, subject to the authority of the Board of Public Works.

“Inspect” means the authority of a party to inspect the works as needed, without prior approval of the party authorized to Manage the project.

“Issue” means the responsibility of a party to distribute documentation of materials to all relevant parties .

“Lead” means the authority of a party to initiate, schedule, and organize the procurement of a service with the assistance of other parties.

“Manage” means the authority of a party to initiate, schedule, organize, record, and make significant decisions on a process related to the execution of subject projects, with or without the assistance of other parties, and subject only to rights of comment and approval by other parties.

[or: "Manage" means the authority of a party to procure, contract for and administer the planning, architectural/engineering, construction, commissioning, and other services required to execute a subject project.

[or: "Manage" means the authority of a party to procure, contract for the planning, architectural/engineering, construction, commissioning, and other services required to execute a subject project and to administer the execution of the project.]

"Negotiate" means the authority of a party to enter into discussion with vendors on matters of cost and price and to achieve resolution of contractual issues, subject only to rights of comment and approval by other parties.

"Notify" means the authority of a party to receive notification of an event or series of events or of a process related to execution of subject projects.

"Obtain" means the responsibility of a party to gain access to documents or services.

"Participate" means the authority of a party to review and comment on the procurement of a service.

"Party" means the Baltimore City Board of School Commissioners, the Government of the City of Baltimore, the Board of the Maryland Stadium Authority, or the Interagency Committee on School Construction.

"Prepare" means the responsibility of a party to develop documentation and distribute it to all relevant parties.

"Provide" means the responsibility of a party to deliver documents or services to other parties .

"Request" means the authority of a party to initiate an inquiry to be conducted by another party.

"Review" means the authority of a party to receive and study a submission, document, or procedure.

"Submit" means the responsibility of a party to provide documentation to another party or to a governmental entity.

EXHIBIT 2

**MSA/BCPS/PSCP/Balt City
Responsibility Matrix
Renovation Projects**

No.	ITEM	MSA	BCPS	IAC/PSCP	Balt City
A.	Develop Program				
1	Program/EdSpec	Review & Comment	Develop & Approve	Review & Approve	Review & Comment
2	Feasibility Studies	Review	Develop & Approve	Review & Comment	Review & Comment
3	Community Meetings/Input	Assist	Conduct		Notify
3a	Work Based Learning Collaborative	Establish & Participate	Establish & Participate		Establish & Participate
3b	Woman and Minority Owned Business Collaborative	Execute, Oversight and Participate	Participate		Participate
4	Project Justification	Review	Develop	Approve	Notify
5	Enhanced Approval Package	Approve	Develop & Approve	Approve	Approve
B.	Schedule				
1	Schedules for Procurements, Design, Cost	Review & Approve	Develop & Manage	Review	Notify
C.	Budget				
1	Design, Construction, & FFE Cost Estimates	Participate & Approve	Develop & Manage	Review	
2	Funding	Execute & Oversight	Contribute	Review	Contribute
D.	Procurement				
1	Architectural/Engineering (A/E)	Participate & Approve	Lead & Approve		
2	Construction Management (CM)	Participate & Approve	Lead & Approve	Review	
3	Program Manager	Participate & Approve	Lead & Approve		
4	Commissioning Agent (Cx)	Participate & Approve	Lead & Approve		
E.	Design and Construction Administration				
1	Design and Construction Services	Review & Inspect	Manage	Review & Comment	
2	Surveys (Alta, etc...)	Review & Comment	Provide Site Development Ready		Review & Comment
3	Testing/Inspection	Review & Comment	Manage		
4	Design and Owners Meetings		Lead		

**MSA/BCPS/PSCP/Balt City
Responsibility Matrix
Renovation Projects**

No.	ITEM	MSA	BCPS	IAC/PSCP	Balt City
E.	Design and Construction Administration (cont)				
5	Life Cycle Costs	Review & Comment	Develop		
7	Building Permits		Obtain		Permit/Inspection fee waived as project partner
6	Fire Marshal Design Review/Inspections		Lead		Review & Approve/ Inspect & Approve
8	Project Status Reporting (budget, schedule, quality, etc...)	Review	Prepare & Issue	Review	
9	Design submissions (e.g., SD, DD, CD)	Review & Comment	Develop & Approve	Review & Approve	DOP Review & Comment 30/90% design stages
9a	Design Submissions (SD/DD) to IAC for verification of Program/Ed	Review & Comment	Manage	Review & Approve	
10	Develop FFE Program	Review & Approve	Develop & Manage	Review & Comment	
11	Approvals from MDE, FCP, ARB, MHT, and others AHJ's as required	Review & Comment	Obtain		Assist
12	Changes to the Program (no schedule or cost impacts as determined by MSA)	Review & Execute	Request	Review & Comment	
13	Changes to the Program (schedule/cost impact as)	Review/Approve	Request	Review and Comment	
14	Changes to Estimate (i.e. VE or other issues)	Review & Approve	Participate, Review, & Comment	Review	
15	Certify Payments	Review and Approve	Review & Approve		
16	Change Orders	Review & Approve	Prepare & Approve		
17	Contract Claims/Termination	Notify, Participate, Review and Comment	Negotiate/Manage	Notify	
18	MBE Compliance	Participate, Review, & Approve	Establish, Manage, & Approve	Review	Participate
19	Prevailing Wage	Participate, Review, & Approve	Establish, Manage, & Approve	Review	
20	Punch List	Participate, Review, & Comment	Develop & Issue		
21	Substantial/Final Completion	Develop, Issue, & Approve	Approve	Review	
22	Maintenance	Review and Comment Through Warranty	Develop Program, Assume upon Substantial Completion and/or	Review & Comment	
23	Warranty	Assist thru Builder's Warranty Expiration	Contact and Report issue(s)		

Terminology

“Approve” means the authority of a party to approve a submission, document, procedure or contract before further action may be taken.

“Assist” means the responsibility of a party to assist the party that conducts or manages an event or series of events or a management process related to the execution of subject projects.

“Assume” means the authority of a party to take over responsibility for the further management of a facility.

“Attend” means the authority of a party to be present at a meeting or process that is led or managed by another party.

“Comment” means the authority of a party to submit comments that must be taken into account by the submitting party.

“Conduct” means the authority of a party to initiate, schedule, organize, and record an event or series of events .

“Confirm” means the authority of a party to inspect submissions for conformance to previous agreements .

“Contact” means the responsibility of a party to communicate an issue with another party.

“Contribute” means the authority of a party to provide funding in support of subject projects.

“Develop” means the authority of a party to initiate, develop, and finalize a submission, document, or procedure.

“Establish” means the authority of a party to develop a framework for a process or procedure .

“Execute and Oversight” means the authority of a party to issue bonds for the purposes of undertaking projects and to monitor, record, and manage all aspects of the transaction, subject to the authority of the Board of Public Works.

“Inspect” means the authority of a party to inspect the works as needed, without prior approval of the party authorized to Manage the project.

“Issue” means the responsibility of a party to distribute documentation of materials to all relevant parties .

“Lead” means the authority of a party to initiate, schedule, and organize the procurement of a service with the assistance of other parties.

“Manage” means the authority of a party to initiate, schedule, organize, record, and make significant decisions on a process related to the execution of subject projects, with or without the assistance of other parties, and subject only to rights of comment and approval by other parties.

[or: "Manage" means the authority of a party to procure, contract for and administer the planning, architectural/engineering, construction, commissioning, and other services required to execute a subject project.

[or: "Manage" means the authority of a party to procure, contract for the planning, architectural/engineering, construction, commissioning, and other services required to execute a subject project and to administer the execution of the project.]

"Negotiate" means the authority of a party to enter into discussion with vendors on matters of cost and price and to achieve resolution of contractual issues, subject only to rights of comment and approval by other parties.

"Notify" means the authority of a party to receive notification of an event or series of events or of a process related to execution of subject projects.

"Obtain" means the responsibility of a party to gain access to documents or services.

"Participate" means the authority of a party to review and comment on the procurement of a service.

"Party" means the Baltimore City Board of School Commissioners, the Government of the City of Baltimore, the Board of the Maryland Stadium Authority, or the Interagency Committee on School Construction.

"Prepare" means the responsibility of a party to develop documentation and distribute it to all relevant parties.

"Provide" means the responsibility of a party to deliver documents or services to other parties .

"Request" means the authority of a party to initiate an inquiry to be conducted by another party.

"Review" means the authority of a party to receive and study a submission, document, or procedure.

"Submit" means the responsibility of a party to provide documentation to another party or to a governmental entity.

EXHIBIT 3

EXHIBIT 3

Timeline for 10-Year Plan Amendments, EGO Report, COMAR, Renewal Process Annual Calendar from July 1 – June 30	
Performance data becomes available (MSA, HSA, grad rates, etc.)	July-August
Renewal applications submitted by schools	Early September
Internal Data and Recommendation Review – EGO, COMAR, 10-Year Plan, Renewal	September- October
CIP Due to State – aligns with 10-Year Plan	Early October
Notice to Authority, City, IAC, and STO of potential changes in 10-Year Plan	Mid October Date must allow for at least 60 days between receipt of notice and School Board vote
Internal School Board Work Sessions	Middle - End of October
Brief Advisory Group, Elected Officials, and MOU Parties	2 weeks prior to public announcement
Public Announcement - Recommendations presented to School Board at public meeting for: 10-Year Plan Amendments, EGO report, COMAR closures and Renewal Recommendations	Mid-November
School-based COMAR sessions held by COS, EDs, and ONI and school level meetings	Within 2 weeks of announcement
Special Board session to allow for public comment from school communities	Two dates between release and vote
CIP Revisions are due to the State	End of November
City and STO report on any outstanding debt remaining on School Buildings subject to changes in 10-Year Plan	End of November Date must be 45 days from receipt of notice of potential change in 10-Year Plan
School Board votes on 10-Year Plan Amendments, EGO Report and renewal recommendations	Mid-December Date must allow for at least 30 days between the recommendation announcement and School Board vote in order to fulfill COMAR requirements
CEFMP due to State – aligned with 10-Year Plan Amendments	End of June

Key:

CEFMP – Comprehensive Educational Facilities Master Plan

CIP – Capital Improvement Plan

COS – Chief of Staff

EXHIBIT 3

EDs – Executive Directors. EDs lead Network teams that offer support to City Schools and programs.

EGO – Expanding Great Options. EGO is the process City Schools uses to manage its portfolio of schools. Through EGO, City Schools conducts an annual review of its schools and programs, reviewing academic performance within the context of enrollment trends, facility needs, the range of options for families in a given geographic area and opportunities for new school creation.

HSA – High School Assessments

MSA – Maryland State Assessments

ONI – Office of New Initiatives. ONI works closely with the Chief Executive Officer, Chief Academic Officer, and Cabinet in the planning and analysis for school creation. ONI oversees the application process and start-up of new Baltimore City Public Schools (charter, contract, and Transformation Schools).

STO – Director of Debt Management for the State Treasurer’s Office

EXHIBIT 4

**MARYLAND STADIUM AUTHORITY
RESOLUTIONS
PROCUREMENT POLICIES AND PROCEDURES**

WHEREAS, the Maryland Stadium Authority desires to formalize its policies and procedures with respect to procurement; and

WHEREAS, the goals of The Maryland Stadium Authority are to:

- A. Provide public confidence in the Authority's procurement procedures;
- B. Ensure the fair and equitable treatment of all persons who deal with the Authority;
- C. Provide economy in the Authority's procurement activities and maximize to the fullest extent the purchasing power of the Authority;
- D. Meet the Minority Business Goals as established by the State of Maryland;
- E. Provide safeguards for the maintenance of a procurement system of quality and integrity; and
- F. Complete projects on time and within budget.

NOW, THEREFORE, BE IT RESOLVED, that the Maryland Stadium Authority will utilize a fair and equitable competitive process in soliciting and awarding procurement contracts. Solicitations will be tailored for each project to obtain the best value for the State, taking into account all factors which the Authority determines to be important for a particular procurement, such as price, key personnel and staff, Minority Business Enterprise participation, schedule, and/or bidder's capability to perform the work and performance history. The Authority recognizes that certain projects are very time sensitive and must be completed on time so as to meet significant deadlines and budget limitations, that certain projects are funded by private and/or multiple sources of public money and the procurement will have input from such funding partners, and that the Authority has certain obligations to its private tenants. In furtherance of these goals and considerations, the Authority adopts the following Procurement Policies and Procedures:

1) DEFINITIONS

The following terms have the meanings indicated:

- (a) "Authority" means the Maryland Stadium Authority.
- (b) "Change Order" means a written order by the Procurement Officer or designee directing the bidder to make changes to the work.
- (c) "Contract amount" means the value of the entire contract, including any option years.

- (d) “Days” are calendar days. If a deadline falls on a weekend or State holiday, the deadline will be extended to the next business day.
- (e) “Executive Director” means the Executive Director of the Maryland Stadium Authority.
- (f) “Minority Business Enterprise” (MBE) is defined in COMAR 21.01.02.01B(54). All MBEs must be certified pursuant to COMAR 21.11.03.15.
- (g) “Procurement Officer” means the person(s) designated as Procurement Officer by the Executive Director with approval by the Authority to administer Authority Procurement Contracts.
- (h) Proposal:
 - 1. “Proposal” means the response by an offeror to a solicitation to obtain supplies, services, or construction.
 - 2. “Proposal” may include, without limitation, an offeror’s price, description of technical expertise, work experience, and other information requested in the solicitation.
- (i) “Responsible” means a person or entity who has the capability in all respects to dutifully perform fully the contract requirements with the integrity and reliability that ensure good faith performance.
- (j) “Responsive” means a bid or offer submitted in response to a solicitation that conforms in all material respects to the requirements contained in the solicitation.
- (k) “Services” means the rendering of time, effort, or work, rather than the furnishing of a specific physical product other than reports incidental to the required performance.
- (l) “Supplies” means all tangible personal property, including furniture, commodities, equipment, leases of equipment, and insurance, including any incidental services.
- (m) “Authority Procurement Contract” means a procurement identified in paragraph 2, below.

2) **AUTHORITY PROCUREMENT CONTRACTS**

- A. The following contracts are covered by these guidelines:
 - 1. **Professional Services**, including Architecture/Engineering, Construction Management, Financial Advisory Services and Bond Counsel.

2. **Construction**, including Contracts for At Risk Construction Managers and Trade Contractors.
 3. **Supplies**
 4. **Non-professional services**, including on-call contracts for staff to supplement Authority staff.
- B. These policies and procedures do not apply to the following:
1. Contracts with or procurements from:
 - (a) A State agency or unit,
 - (b) A political subdivision of the State,
 - (c) An agency of a political subdivision of the State,
 - (d) A government, including the government of another state or the United States,
 - (e) An agency or political subdivision of a government, or
 - (f) A bistate, multistate, bicounty, or multicounty governmental agency;
 2. Acquisition of real property or a permanent or temporary interest in real estate;
 3. Disposal of real or personal property;
 4. Contracts for confidential professional services in connection with threatened or pending litigation;
 5. Energy contracts, which are agreements for the provision of energy services in which a person or entity agrees to design, install, finance, maintain or manage energy efficiency of a building or facility in exchange for an investment in the facility; or
 6. Agreements with professional sports teams.

3) **METHODS OF PROCUREMENT**

- A. **All Authority procurement contracts shall be awarded by one of the following methods:**
1. Competitive sealed bidding;
 2. Competitive sealed proposals;

3. Expedited procurement, when permitted by subsection D, below;
4. Small procurements, when permitted by subsection E, below; or
5. Noncompetitive negotiations:
 - (a) Sole Source, when permitted by F-1, below,
 - (b) Emergency, when permitted by F-2, below.

B. Competitive Sealed Bids

1. The Authority may require prequalification of bidders.
2. Bids shall be submitted in a sealed envelope marked with the bidder's name. All bids will be publicly opened at the time and place stated in the request.
3. The Authority shall award the contract with reasonable promptness after the date of bid opening to that person or entity with the lowest bid which is both responsible and responsive.
4. All bids may be rejected if the Authority determines that it is in the public interest to do so.

C. Competitive Sealed Proposals

1. No special form or procedure is prescribed for procurement by competitive sealed proposal. A request for proposals shall describe the procurement in sufficient detail to provide an understanding of what is required, but should not be unnecessarily restrictive so as to preclude or limit competition. The request shall state applicable dates for submission of the proposal and any other information necessary and useful, including the evaluation criteria. The evaluation criteria may include price and technical criteria, as appropriate.
2. Precautions shall be taken to avoid prejudice in all selections, and to assure that a fair and reasonable price is obtained. This selection does not preclude the Authority from making an award when the Authority receives only one proposal after advertising.
3. The Authority may conduct oral negotiations before or after the receipt of proposals. The purpose of the negotiation is to promote understanding of the Authority's requirements and the offerors' proposals and to facilitate arrival at a contract that is most advantageous to the Authority. The Authority may require offerors to submit best and final offers after negotiations.

4. The Authority shall make an award to the offeror whose proposal or, if applicable, best and final offer, after giving effect to the understanding gained during negotiation, is determined to be most advantageous to the Authority.
5. The Authority may abandon a procurement by competitive proposal if it is determined by the Procurement Officer and the Executive Director to be in the public interest to do so.
6. The Procurement Officer, Executive Director, the Authority, and the Board of Public Works (if a Construction Contract) shall approve the selected proposal.

D. **Expedited Procurements:** This method may be used only in the limited circumstances described below.

1. Before using an expedited procurement, the following conditions must be met:
 - (a) The Procurement Officer makes a written determination that the use of this method is necessary:
 - (i) to avoid the late opening of a facility;
 - (ii) to meet commitments to private tenants with regard to the opening each season of an athletic facility; or
 - (iii) to complete unanticipated repairs to an athletic facility that must be completed between scheduled games; or
 - (iv) to complete time-critical feasibility and impact studies for new projects.
 - (b) The Procurement Officer prescribes a procurement methodology, including justification of any noncompetitive solicitation.
 - (c) The Executive Director approves the use of the expedited method for the particular procurement and the procurement methodology.
 - (d) The Authority has received prior notice of the intent to use the expedited method and the proposed procurement methodology.]
2. Competitive solicitation of bids or offers shall be the preferred method of making an expedited procurement, and may include public notice in a newspaper or trade publication, notice by posting on the Authority's website or on the eMaryland Marketplace website, or direct solicitation from persons who are believed to be qualified to perform the contract.
3. A noncompetitive source selection may be made if the time available is insufficient to permit a competitive solicitation or some other reason precludes the use of competitive solicitation.

4. The use of expedited procurement methods, including a description of the number of bids or offers received, and the prices submitted, shall be reported to the Authority on a regular basis.

E. **Small Procurements** - Authority Procurement Contracts for less than \$50,000 may be procured under this provision.

1. For contracts less than \$10,000, competition is preferred, but not required.
2. For contracts between \$10,000 and \$50,000, competition shall be sought to the extent practicable, as determined by the Procurement Officer, considering such factors as availability of vendors, dollar value of the procurement, cost of administering the procurement, time available to complete the procurement, including delivery time, and sound business judgment.

F. **Non-competitive Procurements:**

1. Procurement contracts of less than \$50,000, should be made as described in subsection E, above, rather than under the provisions of this subsection.
2. **Sole Source Procurement**
 - (a) Condition for Use - Sole source procurement is not permissible unless a requirement is available from only a single vendor.
 - (b) The determination as to whether a procurement shall be made as a sole source shall be made by the Procurement Officer, in writing, and must state the basis for the decision. The Procurement Officer's determination must be approved by the Executive Director and reported to the Authority.
3. **Emergency Procurement**
 - (a) Application - The Executive Director may award an emergency contract by means other than competitive sealed bid or competitive proposal.
 - (b) Scope - Emergency means a sudden and unexpected occurrence or condition which the Executive Director could not reasonably foresee and which requires action to avoid or to mitigate damage to the environment or to health, safety, or welfare. An emergency procurement is limited to the procurement of only those items necessary to avoid or to mitigate the damage to the environment or to health, safety, or welfare.
 - (c) The use of an Emergency Procurement shall be reported as expeditiously as possible to the Authority.

4) **PROJECTS WITH SIGNIFICANT NON-STATE FUNDS**

The Authority may approve exceptions to these policies for projects involving significant non-State funds with a written justification by the Executive Director that the exception is reasonable and necessary to carry out the objectives of these policies.

5) CONTRACT TERM LIMITATION

Term contracts, that is contracts for a duration of time, are limited to a maximum initial term of three years, with renewal options for a maximum total of five years.

6) MINORITY BUSINESS ENTERPRISES (MBE)

The Authority seeks to encourage the use of MBE firms on all projects, either as prime contracts, consultants, subcontractors, subconsultants, or suppliers, etc., and to meet the MBE goals established by the State of Maryland. To fulfill this goal, the following actions should be taken in connection with Authority Procurement Contracts:

- A. Prior to and during the procurement of construction contracts, Authority representatives should consider:
 - 1. Meeting with the MBE office of the local jurisdiction and MDOT;
 - 2. Meeting with and/or providing information regarding a project to local MBE groups;
 - 3. Holding and attending advertised MBE outreach programs; and
 - 4. Assisting contractors, consultants, etc., in locating potential MBE subcontractors or consultants.
- B. The Authority is bound by State Finance & Procurement Code, Title 14, Subtitle 3, Minority Business Participation, and shall follow all requirements stated therein.

7) ADVERTISING

- A. The Authority shall advertise its solicitations for Competitive Sealed Bids and Competitive Sealed Proposals.
- B. The Authority shall advertise, to the extent practicable, its expedited procurement solicitations.
- C. The eMaryland Marketplace website is the preferred advertising venue, but other venues, including the Authority's website, may be used where appropriate.

8) CONFLICT OF INTEREST

Members of the Authority, the Executive Director, and Authority staff are subject to the State ethics law and its provisions dealing with conflict of interest. Members of the Authority, the

Executive Director, and Authority staff may not accept or receive, directly or indirectly, any money, property, or other benefit from any person or entity doing business with, or interested in doing business with, the Authority. Members of the Authority, the Executive Director, and Authority staff may not have any financial interest in any firm or company doing business with the Authority, or in any contract to which the Authority is a party. Any exception to this policy requires the approval of the State Ethics Commission.

9) CONTRACT APPROVAL AUTHORITY

- A. All contracts of \$50,000 or more must be approved by the Authority, prior to execution, except in the case of Emergency procurements. The use of Emergency Procurements shall be reported to the Authority as expeditiously as possible following award. All contract modifications over \$50,000 must be reported regularly to the Authority.
- B. The award of contracts and the issuance of contract modifications between \$10,000 and \$50,000 must be approved prior to award by the Executive Director. The award of contracts and the issuance of contract modifications between \$10,000 and \$50,000 must be reported regularly to the Authority.
- C. The Procurement Officer is authorized to award contracts and approve contract modifications for \$10,000 or less.

10) BID PROTESTS

- A. Time Restrictions.
 - 1. A protest based upon alleged improprieties in a solicitation that are apparent before bid opening or the closing date for receipt of initial proposals shall be submitted to the Procurement Officer before bid opening or the closing date for receipt of initial proposals.
 - 2. In all other cases, protests shall be submitted to the Procurement Officer not later than seven days after the basis for protest is known, or should have been known, whichever is earlier.
 - 3. A protest received by the Procurement Officer after the time limits of subsections 1 and 2 above may not be considered and shall be denied as untimely.
- B. Form and Content of Bid Protests.

The written protest shall include as a minimum the following content:

 - 1. The name and address of the protestor;
 - 2. Appropriate identification of the procurement and, if a contract has been awarded, its number if known;

3. A statement of the reasons for the protest; and
4. Supporting exhibits, evidence, or documents to substantiate the reasons for the protest.

C. Authority Determination and Finding.

1. After a protest is filed, the Procurement Officer shall consider the protest, all supporting documentation, and any submissions from other bidders or offerors. This consideration is not a contested hearing subject to Title 10, Subtitle 2 of the State Government Article. After such consideration, the Procurement Officer must make a determination and finding regarding the protest.
2. For contracts valued at less than \$10,000, the Procurement Officer may make the determination and finding without consultation with the Executive Director.
3. For contracts valued at \$10,000 or more, the Procurement Officer shall provide a proposed determination and finding to the Executive Director. The Executive Director shall consider the protest and shall issue the determination and finding.
4. The determination and finding shall be forwarded to the protestor by certified mail, return receipt requested, or by any other method (such as facsimile transmission) which provides evidence of receipt.

D. Appeal.

1. The protestor may appeal the determination and finding to the Authority within seven days after receipt. The appeal must be in writing and must include a copy of the protest and the determination and finding. In addition, the appeal must contain all grounds for disagreement with the determination and finding. Appeals not received within seven days after receipt by the protestor shall be dismissed as untimely.
2. If the protestor desires a hearing on its protest, a request for a hearing must be made, in writing, at the time of the appeal. If a timely request for a hearing is received, the Authority will conduct a hearing in accordance with Title 10, Subtitle 2 of the State Government Article. In accordance with State Government Article §10-205, the Authority may delegate its authority to conduct this hearing to the Office of Administrative Hearings.
3. The Authority shall issue a decision on the protest, which is the final Authority decision. This final decision of the Authority is subject to

judicial review in accordance with the rules established by State Government Article § 10-222.

E. Contract Awards.

1. Generally, where a protest has been filed, the Authority will not award the contract until there is a final Authority decision on the protest.
2. The Authority may award a contract before there is a final Authority decision after making a determination and finding which considers:
 - (a) The merits of the protestor's complaint;
 - (b) The need of the Authority for the procurement which is the subject of the protest;
 - (c) The fluctuations in the market, which may impact costs;
 - (d) The unwillingness of the proposed awardee to extend its offer; or
 - (e) Other factors which impact on the public interest.

11) CONTRACTS VOIDABLE FOR NONCOMPLIANCE

- A. If the Authority determines that a procurement violates these policies and procedures, the Authority may determine that the procurement contract is voidable, rather than void, if the Authority finds that:
1. All parties acted in good faith;
 2. Ratification of the procurement contract would not undermine the purposes of this chapter; and
 3. The violation, or series of violations, was insignificant or otherwise did not prevent substantial compliance with these policies and procedures.
- B. If the Authority determines that a procurement contract is voidable under subsection A of this paragraph, and that the contractor has not acted in violation of the procurement policies and procedures, the Authority may:
1. Ratify the contract if it determines that ratification is in the best interest of the Authority; or
 2. Void the contract.
- C. If the Authority determines that a procurement contract is voidable under subsection A of this paragraph, and that the contractor has acted in violation of these policies and procedures, the Authority may:
1. Void the contract; or

2. Without prejudice to the Authority's right to appropriate damages, ratify the contract if the Authority determines that ratification is in the best interests of the Authority.

EXHIBIT 5

POLICY

BALTIMORE CITY BOARD OF SCHOOL COMMISSIONERS

PROCUREMENT AUTHORITY

I. Purpose

- A. To ensure that funds provided to the Board for materials, supplies, equipment, services, contract administration, and contractual services are expended and handled most effectively, prudently, and efficiently, and to ensure that bids are obtained for certain items, the Board prescribes that purchases be carried out in compliance with Section 5-112 of the Education Article of the Maryland Annotated Code and in accordance with the administrative regulations developed by the Chief Executive Officer.
- B. As it pertains to the Minority Business Enterprise and Women Business Enterprise, the Board abides by the goals of the State of Maryland or City of Baltimore, as appropriate.
- C. The Board will consistently encourage competitive bidding. When it is not practical to obtain competitive bids or when the need for supplies, equipment, materials, or services is of an emergency nature, then such purchases may be made without competitive bidding.

II. Legal and Policy References

A. Legal Authority

- § 4-303(d)(2), MD. CODE ANN., EDUC.
- § 4-310, MD. CODE ANN., EDUC.
- § 5-112, MD. CODE ANN., EDUC.

B. Policy References

Related Board Policies:
Replaces Board Rule Section 1001

C. Administrative Regulation References

DJA-RA

ADMINISTRATIVE REGULATIONS

BALTIMORE CITY PUBLIC SCHOOLS

PROCUREMENT

ARTICLE 1- GENERAL PROVISIONS

Part A. – Purposes and Application

1-101 Purposes, Rules

- (1) *Interpretation.* These Administrative Regulations shall be construed and applied to promote the following underlying purposes.
- (2) *Purposes.* The underlying purposes of these Administrative Regulations are:
 - (a) To simplify, clarify, and modernize the Administrative Regulations governing procurement by the Board;
 - (b) To provide for increased public confidence in the public procurement process;
 - (c) To ensure the fair and equitable treatment of all persons who transact business with the Board;
 - (d) To provide increased economy in the Baltimore City Public Schools (“City Schools”) procurement activities and to maximize, to the fullest extent practicable, the purchasing value of public funds of the City Schools;
 - (e) To foster broad-based competition within the free enterprise system; and
 - (f) To provide safeguards for the maintenance of a procurement system of quality and integrity.

- (3) *Singular-Plural and Gender Rules.* Unless the context requires otherwise:
- (a) Words in the singular include the plural, and those in the plural include the singular, and
 - (b) Words of a particular gender include any gender and the neuter, and when the sense so indicates, words of the neuter gender may refer to any gender.

1-102 Supplementary General Principles of Law Applicable

Unless displaced by a particular provision of these Administrative Regulations, the principles of law and equity, including the Uniform Commercial Code of the State of Maryland, the law merchant, and law relative to capacity to contract, agency, fraud, misrepresentation, duress, coercion, mistake, or bankruptcy shall supplement the provisions of these Administrative Regulations.

1-103 Requirement of Good Faith

These Administrative Regulations require all parties involved in the negotiation, performance, or administration of contracts to act in good faith.

1-104 Application of these Administrative Regulations

- (1) *General Application.* These Administrative Regulations apply only to contracts solicited or entered into after the effective date of these Administrative Regulations.
- (2) *Application.* These Administrative Regulations shall apply to every expenditure of public funds, irrespective of their source, unless otherwise specified by the Board notwithstanding Section 2-110. These Administrative Regulations shall not apply to either grants or contracts between City Schools and the Federal government or the State of Maryland or its political subdivisions or other governments, except as provided in Article 10 (Intergovernmental Relations). Nothing in these Administrative Regulations or in regulations promulgated hereunder shall prevent any governmental body, political subdivision or the Board from complying with the terms and conditions of any grant, gift, bequest, or cooperative agreement.
- (3) Materials of instruction and textbooks are excluded from quoting or bidding by state law (Annotated Code of Maryland, Education Article Section 5-112).

1-105 Severability

If any provision of these Administrative Regulations or any application thereof to any person or circumstances is held invalid, such invalidity shall not affect other provisions or application of these Administrative Regulations which can be given effect without the

invalid provision or application, and to this end the provisions of these Administrative Regulations are declared to be severable.

1-106 Effective Date

These Administrative Regulations shall become effective at 12:01 a.m. on **June 1, 2011**.

1-107 Savings Clause

The Policies and Procedures in effect prior to the adoption of these Administrative Regulations shall apply to contracts entered into prior to the effective date of these Administrative Regulations.

Part B - Determinations

1-201 Determinations

Written determinations required by these Administrative Regulations shall be in the appropriate official contract file of the Director of Materials Management (“Director”).

Part C - Definitions of Terms Used in these Administrative Regulations

1-301 Definitions

The words defined in this Section shall have the meanings set forth below whenever they appear in these Administrative Regulations, unless the context in which they are used clearly requires a different meaning; or a different definition is prescribed for a particular Article or provision.

- (1) *Assignment* means the transfer of the interest, rights, responsibilities, or payments of a contractor or vendor to another entity or person.
- (2) *Bid* means a statement of price, terms of sale, and description of the supplies, services, construction or construction- related services offered by a bidder in response to an Invitation for Bids.
- (3) *Bidding Time* means the period of time between the date of publication of the Invitation for Bids and the time and date set for receipt of the bids.
- (4) *Board* means the Baltimore City Board of School Commissioners.
- (5) *Business* means any corporation, partnership, individual, sole proprietorship, joint stock company, joint venture, or any other private legal entity engaged in an activity for gain or livelihood.

- (6) *Change Order* means a written order signed by the Director, directing the contractor to make changes pursuant to the changes clause of the contract. With regard to construction contracts, the provisions of the contract shall govern the processing of change orders.
- (7) *Commodity* means an item of purchase and may include office goods and materials, food, printing, building materials, and other items needed to support normal operations.
- (8) *Competitive sealed bidding* means the procurement process set forth in Section 3-103 of this Regulation.
- (9) *Competitive sealed proposals* means the procurement process set forth in Section 3-104 of this Regulation.
- (10) *Construction* means the process of building, altering, repairing, improving, or demolishing any public structure or building, or other public improvements of any kind to any public real property.
- (11) *Contract* means all types of agreements, regardless of what they may be called, for the procurement of supplies, equipment, services, professional services, or construction.
- (12) *Contract Modification* means any written alteration in specifications, delivery point, date of delivery, period of performance, price, quantity, or other provision of any contract accomplished by mutual action of the parties to the contract. It includes change orders or contract amendments.
- (13) *Contractor* means any person having a contract with the Board or a governmental body.
- (14) *Cost-Reimbursement Contract* means a contract under which a contractor is reimbursed for costs that are allowable and allocable in accordance with the contract terms and provisions of these Administrative Regulations, and a fee, if any.
- (15) *Data* means recorded information, regardless of form or characteristic.
- (16) *Day* means calendar day unless otherwise designated.
- (17) *Definite quantity contract* means a fixed-price contract that provides for delivery of a specified amount of goods or labor either at specified times or when ordered.
- (18) *Designee* means a duly authorized representative of a person holding a superior position.

- (19) *Director of the Office of Materials Management* (“Director”) means the person who heads the Office of Materials Management of the Baltimore City Public School System.
- (20) *Emergency* means a sudden unexpected happening or an unforeseen circumstance that calls for immediate action to protect public health, safety, or welfare or to procure needed supplies, equipment or services to prevent the disruption or interference with the education programs of the City Schools.
- (21) *Employee* means an individual drawing a salary from the Board, whether elected or not, and any non-compensated individual performing services for the Board.
- (22) *Established Catalogue Price* means the price included in a catalogue price, price list, schedule or other format that:
- (a) Is regularly maintained by a manufacturer or contractor;
 - (b) Is either published or otherwise available for inspection by customers; and
 - (c) States prices at which sales are currently or were last made to a significant number of any category of buyers constituting the general buying public for the supplies, equipment, services or construction involved.
- (23) *Fixed price contract* means a contract which provides for a firm price, or a price that may be adjusted only in accordance with contract clauses providing for revision of the contract price under stated circumstances.
- (24) *Form 254* means the Architect-Engineer and Related Services Questionnaire used in the Construction Management/Architect-Engineer Services Consultant Selection Procedures.
- (25) *Form 255* means the Architect-Engineer and Related Services Questionnaire for Specific Projects used in the Construction Management/Architect-Engineer Services Consultant Selection Procedures.
- (26) *Governmental Body* means any department, commission, council, board, bureau, committee, institution, legislative body, agency, government corporation, or other establishment or official of the executive, legislative, or judicial branch.
- (27) *Grant* means the furnishing of the State of Maryland or Federal government or any other public or private entity of assistance, whether financial or otherwise, to the Board to support a program. A contract resulting from such an award is not a grant but a procurement contract, unless otherwise determined by the Board.

- (28) *Indefinite quantity contract* means a contract or an indefinite amount of goods or labor to be furnished at specified items, or as ordered, that establish unit prices of a fixed-price type
- (29) *Invitation for Bids* means all documents, whether attached or incorporated by reference, used for soliciting bids under procurement by competitive sealed bidding.
- (30) *Invoice* means a vendor's written request for payment for supplies, commodities, services, maintenance, construction, construction-related services, professional services, architectural services, or engineering services performed or provided.
- (31) *May* denotes permissive.
- (32) *Minor irregularity* is one which is merely a matter of form and not of substance or pertains to some immaterial or inconsequential defect or variation in a bid or proposal from the exact requirements of the solicitation, the correction or waiver of which would not be prejudicial to other bidders or offerors.
The procurement officer shall either give the bidder or offeror an opportunity to cure the deficiency resulting from a minor informality or irregularity in a bid or proposal or waive the deficiency, whichever is in the best interest of City Schools.
- (33) *Most favorable* means that bid received from a responsible bidder that is the lowest price or lowest evaluated bid price.
- (34) *Multiple award* means the award of contracts to more than one vendor for the same goods or labor.
- (35) *Multi-year award* means a contract that requires appropriations for more than one fiscal year.
- (36) *Person* means any business, individual, union, committee, club, or other organization, or group of individuals.
- (37) *Piggyback Method* means a form of intergovernmental cooperative purchasing in which a large purchaser requests competitive sealed bids, enters into a contract, and arranges, as part of the contract, for other public purchasing units to purchase from the selected vendor under the same terms and conditions as itself.
- (38) *Procurement* means buying, purchasing, renting, leasing, or otherwise acquiring any supplies, services, including professional services, or construction. It also includes all functions that pertain to the obtaining of any supply, service, or construction, including description of requirements, selection and solicitation of sources, preparation and award of contract, and all phases of contract administration.

- (39) *Procurement Officer* means a member of the Procurement Department (including, but not limited to, Buyer, Contract Administrator, Purchasing Manager, Staff Specialist, etc.) duly authorized to enter into and administer contracts and make written determinations with respect thereto.
- (40) *Professional Services* means those services provided by an individual or entity that require advanced education and training and a high level of proficiency. This term also includes financial services and services provided by a licensed professional.
- (41) *Proposal* means the response to a Request for Proposals issued by a department to obtain goods or services. The response may include, but is not limited to an offeror's price and terms for the proposed contract, a description of technical expertise, work experience, and other information as requested in the solicitation.
- (42) *Purchase Description or Scope of Work* means the words used in a solicitation to describe the supplies, equipment, services or construction to be purchased and includes specifications attached to, or made part of the solicitation or purchase order.
- (43) *Purchase Order* means a document authorizing a procurement from a vendor. Upon acceptance by a vendor, the purchase order becomes a contract.
- (44) *Purchasing Agency* means any governmental body other than the Director that is authorized by these Administrative Regulations or its implementing regulations, or by way of delegation from the Director, to enter into contracts. Such Purchasing Agency must abide by the requirements of these Administrative Regulations.
- (45) *Regulation* means the Board's or a governmental body's statement, having general or particular applicability and future effect, designed to implement, interpret, or prescribe law or policy, or describe organization, procedure, or practice requirements, which has been promulgated in accordance with the law or these Administrative Regulations.
- (46) *Request for Proposals* means any document, whether attached or incorporated by reference, used for soliciting proposals from offerors under any method allowed under this policy, excluding competitive sealed bidding.
- (47) *Requirements Contract* means a form of indefinite delivery/indefinite quantity contract where the actual purchase requirements for specific supplies or services during the contract period are filled by the selected vendor(s).
- (48) *Responsible* means a person or vendor that has the capability in all respects to perform fully the contract requirements and the integrity and reliability that shall assure good faith performance.

- (49) *Responsive* means a bid or proposal submitted in response to an Invitation for Bids or Request for Proposals that conforms in all material aspects of the requirements contained in the invitation for bid or Request for Proposals.
- (50) *Services* means the furnishing of labor, time, or effort by a contractor, not involving the delivery of a specific end product other than reports that may be part of the required performance. This term shall not include employment agreements, professional service agreements or collective bargaining agreements.
- (51) *Shall* denotes the imperative.
- (52) *Sole source procurement* means a procurement which only one vendor possesses the unique and singularly available capability to meet the requirement of the solicitation, such as technical qualifications, ability to deliver at a particular time, or services from a public utility.
- (53) *Supplies* means all property, including but not limited to equipment, materials, including educational materials, printing, insurance, and leases of real property, excluding land or a permanent interest in land.
- (54) *Tie bids* are responsive bids from responsible bidders that are identical in price, terms, and conditions and which meet all the requirements and evaluation criteria set forth in the Invitation for Bids.
- (55) *Time-and-materials contract* means a contract that provides an agreed price for materials supplied and labor performed. Time-and-material contracts shall state a dollar ceiling that may not be exceeded without the proper authority approval.
- (56) *Using Department* means any division, unit or school of the Board that utilizes any supplies, services, or construction procured under these Administrative Regulations.
- (57) *Vendor* means a person or supplier who desires to enter into a contract with the City Schools.

Part D - Public Access

1-401 Public Access to Procurement Records

- (1) Procurement records shall be available for public inspection to the extent provided in the State of Maryland's Access to Public Records Act.
- (2) Confidential Information means any proprietary or confidential business information of a party, identified and disclosed by that party, to the City Schools.

ARTICLE 2 - PROCUREMENT ORGANIZATION

2-101 Creation and Membership of the Baltimore City Board of School Commissioners' Procurement Review Committee

- (1) There is hereby created the Board's Procurement Review Committee ("PRC").
- (2) The PRC shall consist of the Chief Executive Officer ("CEO"), Board Executive, Chief Financial Officer ("CFO"), Chief Academic Officer ("CAO"), Chief Operating Officer ("COO"), and Chief Legal Counsel ("CLC") or their designees. The CEO may designate other individuals to serve on the PRC.
- (3) The PRC is vested with the authority to review proposed procurement items before such items are submitted to the Board for its consideration.

2-102 Office of the Materials Management

There is an Office of Materials Management. The Office is headed by and is under the control of the Director. The Director shall provide support services to the PRC.

2-103 Procurement Authority

- (1) The CEO of City Schools delegates' authority to the Director of Materials Management to enter into contracts for the procurement of goods and services as the centralized purchasing agency for City Schools. The Board shall award all contracts that exceed delegated dollar thresholds. The Director of Materials Management is authorized to delegate purchasing authority to procurement buyers for the purchase of specified goods and/or services.
- (2) The Director of Materials Management has the responsibility and authority to negotiate, place, and (when necessary) modify invitation to bids, purchase orders, or other awards granted or issued by the Board. Assigned buyers may assist the Director of Materials Management in discharging these responsibilities. Excepting the CEO, no other City Schools official or employee is authorized to

order supplies, materials, or services; enter into purchase negotiations or contracts; or in any way obligate City Schools for any indebtedness. Any purchases ordered or contracts made that are contrary to these provisions and authorities shall be of no effect and void, and City Schools shall not be bound thereby.

- (3) Any school operated by a contractor or vendor may negotiate revisions to the procurement policy and regulations. Such alternative procurement policies or regulations shall be approved by the CEO or the Board in accordance with State law and shall be reflected in the contractual agreement with the Board.

2-104 Authority of the Director

- (1) The Director shall serve as the central Procurement Officer of the Board.
- (2) Consistent with the provisions of these Administrative Regulations, the Director shall adopt operational procedures governing the internal functions of the Office of Materials Management.
- (3) Except as otherwise specifically provided in these Administrative Regulations, the Director shall:
 - (a) procure or supervise the procurement of all supplies, equipment, and services, needed by the City Schools;
 - (b) establish and maintain programs for the inspection, testing, and acceptance of supplies, and services; and
 - (c) maintain a contract file on all matters regarding decisions made by the Office of Materials Management under these Administrative Regulations.
- (4) The Director shall have the authority and responsibility to recommend to the CEO for promulgation, Administrative Regulations governing the procurement management, and control of any and all supplies, equipment, services, and construction to be procured by the Board. The Director shall also consider Administrative Regulations governing the use of real or personal property of the Board including, leases, easements, right-of-way, and insurance and shall consider and decide matters within the provisions of these Administrative Regulations including those referred to it by any member of the PRC.
- (5) The Director shall prepare, issue, revise, maintain and monitor the use of specifications required by the Board.
- (6) The Director shall obtain expert advice and assistance from personnel of the using agencies in the development of specifications and may delegate in writing to a Using Department the authority to prepare and utilize its own specifications.

- (7) The Director may promulgate procedures governing the preparation, maintenance, and content of specifications required by the Board.
- (8) Any Assignment shall be at the discretion of the Director.

2-105 Delegation of Authority by Procurement

- (1) With the written approval of the CEO, the Director may delegate authority to a designee. City Schools has no obligation to reimburse companies or vendors for independent and unauthorized purchase or for purchases that are not in compliance with these regulations.

2-106 Centralization of Procurement Authority

- (1) All procurements up to \$24,999, including, but not limited to, supplies, equipment, services, architectural, engineering, professional services, inspection related services, construction or construction management services are under the authority of the Director.
- (2) All procurements \$25,000 or More: All contracts of \$25,000.00 or more for supplies, equipment, services, architectural, engineering, professional service contracts, inspection related services, construction or construction management services must be approved, in writing, by the Board. Once a contract has been approved by the Board, any proposed changes to the approved contract \$25,000 or more shall be in accordance with 3-301.
- (3) Real Estate Leases Regardless of Amount and Real Estate Transactions: All real estate leases, regardless of the amount of the lease, must be approved by the Board. All real estate transactions involving the sale, purchase, or the long-term use of real property must be approved by the Board.
- (4) Memorandums of Understanding (MOUs): The decision as to whether City Schools should participate in a MOU or cooperative agreement with another entity must be approved by the CEO. A report of MOUs and other similar agreements with no fiscal impact is available upon request to the Board.

An MOU is defined as a document describing a bilateral or multilateral agreement between parties. It expresses a convergence of will between the parties, indicating an intended common line of action. It most often is used in cases where parties either do not imply a legal commitment or in situations where the parties cannot create a legally enforceable agreement. Additionally, for purposes of this regulation an MOU shall also mean there is no cost to City Schools.

All MOUs will be reviewed and signed by Chief Counsel for legal sufficiency and the Director prior to approval of the CEO.

- (5) Professional Service Agreements: Professional services under \$25,000 do not require a Professional Service Agreement. A City Schools Purchase Order is an acceptable agreement.

2-107 CEO Procurement Administrative Regulations

- (1) Procedures shall be promulgated through the Director, in accordance with the applicable provisions of the law and these Administrative Regulations.
- (2) The Director shall not delegate its authority to promulgate procedures.

2-108 The Procurement Agenda

- (1) It is the responsibility of the Using Department to submit a purchase requisition signed by the CEO and a Board letter to Materials Management thirty days (30) days prior to Board meeting.
- (2) It is the responsibility of the Director to prepare, prior to a public meeting of the Board, a written procurement agenda that briefly describes the particular procurement items that the Board is being requested to review and approve.
- (3) In the event the Board is requested to review a procurement item that does not appear on the printed procurement agenda, it is the responsibility of the Using Department to do the following:
 - (a) To present to the Board, at its public meeting, a brief description of the agenda item. The presentation to the Board should include the same information which would have been included in the printed procurement agenda.
 - (b) To prepare a written description of the procurement item added to the procurement agenda, prior to the public meeting of the Board.
- (4) The Director may revise required content of the procurement agenda.

2-109 Collection of Data Concerning Public Procurement

- (1) The Director shall prepare statistical data concerning the procurement of all supplies, equipment, and services, and employ, in accordance with the budget, such trained personnel as may be necessary to carry out this function. All schools and using agencies shall furnish such reports as the Director may require concerning usage, needs, and stock on hand, and the Director shall have authority

to prescribe forms to be used by the schools and other using agencies in requisitioning, ordering, and reporting of supplies, equipment and services.

- (2) The Director shall prepare statistical data concerning the procurement and management of construction, leases, architectural, engineering, construction, and construction management services and inspection-related services, and employ, in accordance with the budget, such trained personnel as may be necessary to carry out this function. All schools and using agencies shall furnish such reports as the Director may require concerning usage and needs, and the Director shall have authority to prescribe forms to be used by the schools and using agencies in the procurement and management of construction, real estate leases, architectural and engineering services and related inspection services.
- (3) The Director shall prepare statistical data concerning the management and procurement of information technology equipment and services, and employ, in accordance with the budget, such trained personnel as may be necessary to carry out this function. All schools and using agencies shall furnish such reports as the Director may require concerning usage and needs, and the Director shall have authority to prescribe forms to be used by the schools and using agencies in the procurement and management of information technology equipment and services.

2-110 Legal Counsel

- (1) Before entering into a contract, the City Schools' Procurement Officer shall provide a draft of the contract to City Schools' legal counsel for written approval as to the form and legal sufficiency. This requirement does not apply to Purchase Orders.
- (2) The Office of Legal Counsel shall also provide necessary legal services to the PRC and the Director.

ARTICLE 3 - SOURCE SELECTION AND CONTRACT FORMATION

Part A – Methods of Source Selection

3-101 Methods of Source Selection

Unless otherwise authorized by these Administrative Regulations, all contracts shall be awarded by one of the following methods:

- (1) Small Procurement
- (2) Competitive sealed bidding
- (3) Competitive sealed proposals
- (4) Sole source procurement
- (5) Emergency procurement

3-102 Small Procurements

- (1) Any procurement under \$25,000 shall be considered a small procurement.
- (2) Small procurements are classified in two categories:
 - a. Category I – \$1000 or less
 - b. Category II – More than \$1000 but not more than \$24,999
- (3) The objective of soliciting bids or offers is to foster competition in obtaining needed items in a cost effective manner. In all small procurements, competition should be sought to the extent practical, considering factors such as availability of vendors, dollar value of the procurement, cost of administering the procurement, and time available to make the procurement including delivery time.
 - a. For Category I: responsive bids or acceptable offers from at least one vendor should be obtained.
 - b. For Category II: responsive bids or acceptable offers from at least two vendors should be obtained.
- (4) The acceptable methods of soliciting bids or offers from vendors for small procurements are oral solicitation or written solicitation.
- (5) The basis for award shall be:
 - a. For Category I: The judgment of the Procurement Officer.
 - b. For Category II:
 1. The most favorable bid price or evaluated bid price, or most advantageous offer, as specified in the solicitation; or
 2. In the event of tie bids, Section 3-103 (14) of this Regulation shall be utilized to determine the successful bidder.
- (6) Procurement requirements shall not be divided so as to constitute a small purchase under this Section.

3-103 Competitive Sealed Bidding/Invitation for Bids

- (1) An Invitation for Bids shall be used to initiate a competitive sealed bid procurement.
- (2) Unless an emergency has been declared by the CEO, the bidding time shall be a minimum of fourteen (14) days, beginning upon the first publicly advertised notice, issued in either a newspaper of general circulation in the City of

Baltimore, the City Schools' website or other electronic bid board, or any other source of publication.

- (3) A contract for the school building, improvements, supplies, or other equipment shall be awarded to the lowest responsible and responsive bidder.
- (4)
 - (a) Pre-bid conferences may be conducted by the Procurement Officer or designee to explain the procurement requirements.
 - (b) If a pre-bid conference is held, it shall be announced to all prospective bidders who were sent an Invitation for Bids or who are known by the Procurement Officer to have obtained the bidding documents.
 - (c) Any pre-bid conference should be held long enough after the Invitation for Bids has been issued to allow prospective bidders to become familiar with it, but sufficiently before bid opening to allow consideration of the pre-bid conference results in the preparation of bids.
 - (d) Attendance at the pre-bid conference is encouraged, but is not mandatory. Nothing stated at the pre-bid conference may change the Invitation for Bids unless a written addendum is made by the Procurement Officer.
- (5)
 - (a) Each addendum to an Invitation for Bids shall be identified as such and shall require that the bidder acknowledge its receipt at bid submission. The addendum shall reference the portion of the Invitation for Bids that it amends. The Procurement Officer must authorize the issuance of an addendum.
 - (b) Each addendum shall be sent to all prospective bidders who are sent an Invitation for Bids or who are known to the Procurement Officer to have obtained the bidding documents. Electronic transmission of a pre-bid conference satisfies the requirements of this regulation.
 - (c) Each addendum shall be distributed within a reasonable time to allow prospective bidders to consider them in preparing their bids. If the time and date for receipt of bids does not permit preparation, the time may be increased to the extent possible. Addendums must be issued at least 3 days before the deadline for submission of the bid or the timeline will be extended accordingly.
- (6) The Board or the Director, as Board's designee, may reject any and all bids and re-advertise for other bids.
- (7)
 - (a) Any bid received at the place designated in the solicitation after the time and date set for receipt of bids is late. Any request for withdrawal or

request for modification received at the place designated in the solicitation after the time and date set for receipt of bids is late.

- (b) A late bid, late request for modification, or late request for withdrawal shall not be accepted or considered.
- (8) Bids shall be opened publicly in the presence of one or more witnesses at the time and place designated in the Invitation for Bids. The amount of each bid, and such other relevant information as may be specified in the Invitation for Bid, together with the name of each bidder shall be recorded: the record and the amount of each bid shall be open to public inspection.
 - (9) Bids shall be unconditionally accepted without alteration or correction, except as authorized in these Administrative Regulations. Bids shall also be evaluated based on the requirements set forth in the Invitation for Bids, which may include criteria to determine acceptability such as inspection, testing, quality, workmanship, delivery, and suitability for a particular purpose and compliance with the Board's MBE/WBE requirements. Those criteria that will affect bid price and be considered in evaluation for award, shall be objectively measurable, such as discounts, transportation costs, and total or life cycle costs. The Invitation for Bids shall set forth the evaluation criteria to be used. No criteria may be used in bid evaluations that are not set forth in the Invitation for Bids.
 - (10) Technicalities or minor irregularities in bids, as defined in Section 1-301(28), may be waived if the procurement officer determines that it shall be in the City Schools' best interest. The procurement officer may either give a bidder an opportunity to cure any deficiency resulting from a technicality or minor irregularity in its bids, or waive the deficiency if it is in City Schools' advantage to do so.
 - (11) If the procurement officer knows or has reason to conclude that a mistake has been made, the bidder may be requested to confirm the bid. Situations in which confirmation should be requested include obvious, apparent errors on the face of the bid or a bid unreasonably lower than the other bids submitted. If the bidder alleges mistake, the bid may be corrected or withdrawn upon the approval of the Director if any of the following conditions are met:
 - (a) If the mistake and the intended correction are clearly evident on the face of the bid document, the bid shall be corrected to the intended correct bid and may not be withdrawn. Examples of mistakes that may be clearly evident on the face of the bid document are typographical errors, errors extending unit prices, transposition errors and arithmetical errors.
 - (b) A bidder may be permitted to withdraw a low bid if:

- (1) A mistake is clearly evident on the face of the bid document but the intended correct bid is not similarly evident; or
 - (2) The bidder submits proof of evidential value, which clearly and convincingly demonstrates that a mistake was made.
- (12) Mistakes may not be corrected after award of the contract except when the procurement officer makes a determination that it would be unconscionable to not allow the mistake to be corrected. Changes in prices are not permitted. Corrections shall be submitted to and approved by the Director.
- (13) When a bid is corrected or withdrawn, or correction or withdrawal is denied, the procurement officer shall prepare a determination showing that relief was granted or denied in accordance with these regulations.
- (14) A written determination of non-responsibility of a bidder may be made by the Procurement Officer and made available to the bidder. The failure of a bidder to promptly supply information with respect to responsibility may be grounds for a determination of non-responsibility with respect to such bidder or offeror.
- (15) Information furnished by a bidder pursuant to this Section shall not be disclosed to outside sources without the prior written consent of the bidder if the bidder has specifically identified the information as Confidential Information. The release of information is also governed by Section 1-401 of these Administrative Regulations. Where Confidential Information is sought from the City Schools, the bidder is placed on notice that the bidder shall defend the grounds of the non-release by the City Schools where the non-release is due to a claim by the bidder of Confidential Information.
- (16) Notice of the intent to award the contract will be provided with reasonable promptness by written notice from the Director or designee to the lowest responsible and responsive bidder whose bid meets the requirements and criteria set forth in the Invitation for Bids. Notice shall also be provided to unsuccessful bidders by the Director, or designee. The actual and final award of the contract shall only be made by the Board.
- (17) In the case of tie bids, a drawing shall be conducted. A witness shall be present to verify the drawing and shall certify the results on the bid tabulation sheet.
- (18) In the event all bids for a construction project exceed available funds as certified by the CFO, and the low responsive and responsible bid does not exceed such funds by more than five percent, the CFO, or designee, is authorized to negotiate an adjustment of the bid price, including changes in the bid requirements or a reduced scope with the low responsive and responsible bidder, in order to bring the bid within the amount of available funds in consultation with Using Department.

- (19) If only one responsive bid from a responsible bidder is received in response to an Invitation for Bids, and the Procurement Officer determines that other prospective bidders had reasonable opportunity to respond, an award under Section 3-106 may be made to that bidder.
- (20) An Invitation for Bids may be canceled, or any or all bids may be rejected in whole or in part when it is in the best interests of the Board.

3-104 Request for Proposals – Competitive Sealed Proposals

- (1) A procurement by competitive sealed proposals \$25,000 and over may be conducted once a determination that competitive sealed bidding cannot be used because:
 - (a) Specifications cannot be prepared in sufficient detail that would permit an award based solely on price; or
 - (b) Competitive sealed bidding is not practicable or is not advantageous to the City Schools and there is a compelling reason to use the source selection methodology set forth in this section.
- (2) The Director may, but is not required, to issue a Request for Proposals for the purchase of books and other materials of instruction as defined in the Maryland State Department of Education Financial Reporting Manual.
- (3) Unless an emergency has been declared by the CEO, the bidding time shall be a minimum of fourteen (14) days, beginning upon the first publicly advertised notice, issued in either a newspaper of general circulation in the City of Baltimore, the City Schools' website or other electronic bid board, or any other source of publication.
- (4) Proposals shall be opened so as to avoid disclosure of contents to competing offerors during the process of negotiation. A record of the proposals shall be prepared by the Office of Materials Management, and shall be open for public inspection after contract award.
- (5) The Request for Proposals shall state the relative importance of price and evaluation factors.
- (6)
 - (a) Pre-proposal conferences may be conducted by the Procurement Officer or designee to explain the procurement requirements.
 - (b) If a pre-proposal conference is held, it shall be announced to all prospective offerors who were sent a Request for Proposals or who are known by the Procurement Officer to have obtained the solicitation documents.

- (c) Any pre-proposal conference should be held long enough after the Request for Proposals has been issued to allow prospective offerors to become familiar with it, but sufficiently before the proposal due date to allow consideration of the pre-proposal conference results in the preparation of proposals.
 - (d) Attendance at the pre-proposal conference may be encouraged, but may not be made mandatory. Nothing stated at the pre-proposal conference may change the Request for Proposals unless a written addendum is made by the Procurement Officer.
- (7)
- (a) Each addendum to a Request for Proposals shall be identified as such and shall require that the offeror acknowledge its receipt. The addendum shall reference the portion of the Request for Proposals that it amends.
 - (b) Each addendum shall be sent to all prospective offerors who are sent a Request for Proposals or who are known to the Procurement Officer to have obtained the solicitation documents. Electronic transmission of a pre-proposal conference satisfies the requirements of this regulation.
 - (c) Each addendum shall be distributed within a reasonable time to allow prospective offerors to consider them in preparing their proposals. If the time and date for receipt of proposals does not permit preparation, the time shall be increased to the extent possible.
 - (d) Any proposal received at the place designated in the solicitation after the time and date set for receipt of bids is late. Any request for withdrawal or request for modification received at the place designated in the solicitation after the time and date set for receipt of proposals is late.
- (8) A late proposal, late request for modification, or late request for withdrawal shall not be accepted or considered.
- (9) Proposals shall be held in a secure place until the established due date. Proposals may not be opened publicly but shall be opened in the presence of at least two City Schools Procurement staff. After the established due date, a register of proposals shall be prepared that identifies each offeror.
- (10) The identity of an offeror may not be disclosed before the Procurement Officer makes a recommendation to award the contract pursuant to Section 3-104(12) of this Regulation. After contract award, only the proposal of the winning vendor shall be open to public inspection.
- (11) A written determination of non-responsibility of an offeror may be made by the Procurement Officer and made available to the offeror. The failure of an offeror to

promptly supply information with respect to responsibility may be grounds for a determination of non-responsibility with respect to such offeror.

- (12) (a) Information furnished by an offeror pursuant to this Section shall not be disclosed to outside sources until after Contract award by the Board. In addition, prior written consent of the offeror is required if the offeror has specifically identified the information as Confidential Information. The release of information is also governed by Section 1-401 of these Administrative Regulations.
- (b) Where Confidential Information is sought from the City Schools, the offeror is placed on notice that the offeror shall defend the grounds of the non-release by the City Schools where the non-release is due to a claim by the bidder of Confidential Information.
- (13) The evaluation of proposals shall be based on the evaluation factors set forth in the Request for Proposals and developed from both the statement of work and price.
- (14) Technical proposals and price proposals shall be evaluated independently of each other.
- (15) Proposals are evaluated by an evaluation committee. All information pertaining to the evaluation process (names of committee members, evaluation sheets, minutes of evaluation committee meetings, etc.) shall be held in strict confidence by Committee members and City Schools, both prior to and subsequent to final contract award.
- (16) (a) When more than one proposal has been received for a procurement, the evaluation committee, with approval from the Procurement Officer, may initially classify the proposals:
 - (1) Reasonably susceptible of being selected for award; or
 - (2) Not reasonably susceptible of being selected for award.
- (b) Offerors judged by the Evaluation Committee not to be responsible or offerors whose proposals are classified as not reasonably susceptible of being selected for award shall be so notified.
- (17) Discussions may be conducted with responsible offerors who submit proposals determined to be reasonably susceptible of being selected for award for the purpose of clarification to assure full understanding of, and responsiveness to, the solicitation requirements. All responsible offerors shall be accorded fair and equal treatment with respect to any opportunity for discussions. Revisions may be permitted after submissions and prior to award for the purpose of obtaining best

and final offers. In conducting discussions, there shall be no disclosure of any information derived from proposals submitted by competing offerors.

- (18) Award shall be made to the responsible offeror whose proposal is determined in writing to be the most advantageous to the Board taking into consideration price and the evaluation factors set forth in the Request for Proposals. The contract file shall contain the basis on which the award is made by the Director.
- (19) (a) Notice of the intent to award the contract will be provided with reasonable promptness by written notice by the Director to the selected offeror and to unsuccessful offerors.
 - (b) With regard to contracts for \$25,000.00 or more, that require the approval of the Board, the actual and final award shall be made by the Board. The decision of the Board is final.
- (20) (a) Unsuccessful offerors may be debriefed upon receipt of a written request submitted to the Procurement Officer within seven (7) calendar days of notification of non-selection. The debriefing shall be conducted by a Procurement Officer familiar with the rationale for the selection decision and contract award.
 - (b) The debriefing shall:
 - (1) Be limited to discussion of the unsuccessful offeror's proposal and may not include discussion of a competing offeror's proposal;
 - (2) Be factual and based on the evaluation of the unsuccessful offeror's proposal; and,
 - (3) Provide information on areas on which the unsuccessful offeror's technical proposal was deemed weak or deficient.
 - (c) Debriefing may not include discussion or dissemination of the thoughts, notes, or rankings of individual members of an evaluation committee, but may include a summary of the Procurement Officer's rationale for the selection decision and recommended contract award.
 - (d) A summary of the debriefing for procurements over \$200,000 shall be made a part of the contract file.
- (21) A Request for Proposals may be canceled, or any or all bids or proposals may be rejected in whole or in part when it is in the best interests of the Board.

3-105 Comparison of Invitation For Bid vs. Request For Proposal

- (1) Under an Invitation for Bid, judgmental factors may be used only to determine if the supplies, equipment, or construction item bid meet the purchase description.
- (2) Under a Request for Proposal, judgmental factors may be used to determine not only if the items being offered meet the purchase description but may also be used to evaluate competing proposals.
- (3) The effect of this different use of judgmental evaluation is that under an Invitation for Bid, once the judgmental evaluation is completed, award is made on a purely objective basis to the lowest responsive and responsible bidder.
- (4) Under a Request for Proposals, the quality of competing products or services may be compared and trade-offs made between price and quality of the products or services offered, as set forth in the request for proposal. Award under Request for Proposals is then made to the responsible offeror whose proposal is most advantageous to the Board.
- (5) Under an Invitation for Bid, no change in bids is allowed once they have been opened, except for correction of errors in limited circumstances as described in Section 3-103 (10).
- (6) The Request for Proposals method permits discussions after proposals have been opened to allow clarification and changes in proposals provided that adequate precautions are taken to treat each offeror fairly and to ensure that information gleaned from competing proposals is not disclosed to other offerors.

3-106 Sole Source

- (1) A sole source procurement is a procurement in which only one vendor possesses the unique and singularly available capability to meet the requirement of the solicitation, such as technical qualifications, ability to deliver at a particular time, or services from a public utility.
- (2) A contract may be awarded for a supply, equipment, school building construction or improvement, services, or certain professional services, without a competitive source selection when:
 - (a) Section 5-112 of the Maryland Annotated Code, Education Article, and Maryland Financial Reporting Manual applies;
 - (b) The Director determines that there is only one available source;
 - (c) The CFO determines it to be in the best interests of the Board to negotiate the renewal of an existing real property lease without soliciting other proposals;

- (d) The CEO, in writing, determines it to be in the best interests of the Board to award the contract without competitive source selection; or
- (e) The Board requires the professional services of a contractor in connection with actual or potential litigation, legal matters, appraisal of real property, collective bargaining, expert testimony or the services of an expert, or services related to administrative hearings.

3-107 Negotiation in Sole Source Procurement

The Procurement Officer shall conduct negotiations, as appropriate, as to price, delivery, and terms.

Part B – Emergency Procurement

3-201 Application for Emergency Procurement

An “emergency” means a sudden or unexpected happening or unforeseen circumstance that calls for immediate action to protect public health, safety or welfare or to procure needed supplies, equipment or services to prevent the disruption or interference with the educational programs of the City Schools. Emergency procurements are permissible for procurement of supplies, services, maintenance, commodities, construction, or construction-related services, when an Invitation for Bid or a Request for Proposals cannot be used in awarding or modifying a contract within the time constraints imposed by the emergency. Emergency procurements are not permissible for field change orders incidental to construction contracts.

3-202 Emergency Procurements

- (1) **Scope:** An emergency procurement must be limited to the procurement of only the types of items and quantities of items necessary to avoid or to mitigate serious damage to public health, safety, and welfare or to procure needed supplies, equipment or services to prevent the disruption or interference with the education programs of the City Schools. Emergency procurements shall not exceed one-year unless the City Schools is involved in litigation with a party contesting the emergency procurement.
- (2) **Authority:** The Director may award an emergency contract or make an emergency contract modification, only, with the written approval of the CEO.
- (3) **Source Selection:** The procedure used shall assure that the required items are procured in time to meet the emergency. Given this constraint, such competition as is possible and practicable shall be obtained.

- (4) Record and Review of Emergency Procurement: A record of each emergency procurement must be made as soon as practicable and shall include:
- (a) the basis and justification for the emergency procurement, including the date the emergency first became known;
 - (b) a listing of supplies, services, maintenance, commodities, construction, or construction-related services procured;
 - (c) the names of all persons solicited and/or a justification if the solicitation was limited to one person;
 - (d) the prices and times of performance proposed by the persons responding to the solicitation;
 - (e) the name of and basis for the selection of a particular contractor;
 - (f) the amount and type of the contract or contract modification;
 - (g) the identification number, if any, of the contract file.
- (5) Notice of Emergency Procurements

An action agenda item must be forwarded to the Board within 30 days of contract award or contract modification.

Part C – Contract Modifications

3-301 Contract Modifications (Fixed Price Contracts)

- (1) *Contract Modification* means any written alteration in specifications, delivery point, date of delivery, period of performance, price, quantity, or other provision of any contract accomplished by mutual action of the parties to the contract. It includes change orders or contract amendments.
- (2) Any Contract modification greater than \$25,000 or more requires the approval of the Board.
- (3) Any Contract modification less than \$25,000 requires the approval of only the Director.
- (4) Contract modification to extend the period of performance requires the approval of the Director.

- (5) Contract modifications that result in a contract exceeding \$25,000 during the contract period require the approval of the Board.
- (6) Contract modifications that result in a vendor name change, requires the approval of the Director.

3-302 Contract Modifications (Requirements Contracts and Time & Materials Contracts)

- (1) Contract modifications to requirement contracts up to \$50,000 require the approval of the Director.
- (2) Contract modifications to requirements contracts over \$50,000 and under \$100,000 require the approval of the Director with concurrence of the CFO.
- (3) Contract modifications to requirements contracts over \$100,000 require the approval of the Board.

Part D – E-rate Procurements

3-401 E-rate Program

- (1) The “E-Rate” Program is a program administered by The Schools and Libraries Program of the Universal Service Fund which makes discounts available to eligible schools and libraries for telecommunication services, Internet access, and internal connections. The program is intended to ensure that schools and libraries have access to affordable telecommunications and information services.
- (2) Procurements executed under the E-rate program must be an open and fair competitive bidding process and price must be the primary factor when selecting vendor.
- (3) E-rate procurements can be processed in two ways: Competitive Sealed Bidding or Competitive Sealed Proposals.

E-rate Competitive Sealed Bidding

- (1) The E-rate Competitive Sealed Bidding process is very similar to the Competitive Sealed Bidding process defined in the Administrative Regulation Section 3-103. The only definitive differences are bidding time, when the award can be made, and the mandatory requirement to submit various e-rate forms at various times.
- (2) Public notice of the Invitation for Bids (“IFB” or the “solicitation”) shall be given

at least 28 days before the bids are due. The bids are to be advertised in at least one newspaper of general circulation in the City of Baltimore or an electronic bid board.

- (3) Form 470 (Description of Services Requested and Certification) must be filed with the Universal Service Administration Company (USAC) prior to or on the same day the solicitation is made public so that USAC may post the 470 on its website for 28 days. ***Failure to submit Form 470 will deem the procurement e-rate ineligible.***
- (4) Contractors must obtain a Service Provider Identification Number (SPIN #) in order to respond to a 470 Solicitation on the USAC website (refer to <http://www.usac.org/sl/providers/>).
- (5) Pre-bid conference may be conducted by the Procurement Officer to allow prospective bidders the opportunity to become familiar with the solicitation and to ask any questions.
- (6) After the 28 days, bids shall be opened publicly in the presence of one or more witnesses at the time and place designated in the Invitation for Bids. The amount of each bid, and such other relevant information as may be specified in the Invitation for Bid, together with the name of each bidder and the amount of the bid, shall be read aloud, recorded and shall be open to public inspection.
- (7) Award shall be made to lowest responsible and responsive bidder whose bid meets the requirements and criteria set forth in the Invitation for Bids. ***Award can NOT be made until after the 28 day waiting period. Any awards made prior to the 28 day waiting period will deem the procurement e-rate ineligible.***
- (8) Notice of the intention to award a contract will be provided with reasonable promptness by written notice from the Director or designee to the recommended vendor as well as the unsuccessful bidders. The actual and final award of the contract shall only be made by the Board.
- (9) Once the Board has approved the Contract, City Schools must file Form 471 (Services Ordered and Certification Form) with USAC. ***Any 471 submitted without a signed contract will deem the procurement ineligible for services.***
- (10) City Schools Procurement must save all documentation pertaining to the competitive bidding process and vendor selection for five (5) years from last day of service. City Schools procurement must certify and acknowledge on both the 470 and 471 forms that they may be audited and that they must retain all records that can verify the accuracy of information provided.

3-403 E-rate Competitive Sealed Proposals

DJA-RA

Adopted 6/9/2009

Revised 9/13/2011

- (1) The E-rate Competitive Sealed Proposal process is very similar to the Competitive Sealed Proposal process defined in the Administrative Regulation Section 3-104. The only definitive differences are bidding time, when the award can be made, the mandatory requirement to submit various e-rate forms at various times and award basis.
- (2) Public notice of the Request for Proposals (“RFP” or the “solicitation”) shall be given at least 28 days before the bids are due. The RFP is to be furnished to a sufficient number of bidders for the purpose of securing competition.
- (3) Form 470 (Description of Services Requested and Certification) must be filed with USAC immediately upon solicitation being made public so that USAC may post the 470 on their website for 28 days. ***Failure to submit Form 470 will deem the procurement e-rate ineligible.***
- (4) Contractors must obtain a Service Provider Identification Number (SPIN #) in order to respond to a 470 Solicitation on the USAC website (refer to <http://www.usac.org/sl/providers/>).
- (5) Pre-proposal conference may be conducted by the Procurement Officer to allow prospective offerors to become familiar with the solicitation and to ask any questions.
- (6) After the 28 days, technical proposals and financial proposals must be submitted by the offeror in separate sealed envelopes. Proposals may not be opened publicly but shall be opened in the presence of at least two City Schools employees. After the established due date, a register of proposals shall be prepared that identifies each offeror.
- (7) The identity of the offeror(s) nor any other information pertaining offerors’ proposals and the evaluation of the proposals may not be disclosed before the procurement officer makes a recommendation of the award.
- (8) An evaluation committee consisting of a minimum of (5) individuals, to include at least one individual from the Information Technology (IT) Department shall evaluate the proposals. Technical proposals and price proposals shall be evaluated independently of each other. Technical proposals are evaluated prior to the price proposals being opened.
- (9) The Evaluation Committee may initially classify the proposals as:
 - (a) Reasonably susceptible of being selected for award;
 - (b) Not reasonably susceptible of being selected for award.

- (10) Offerors judged by the Procurement Officer not to be responsible or offerors whose proposals are classified as not reasonably susceptible of being selected for award shall be so notified.
- (11) Interviews/Oral Presentations may be held with the offerors who are reasonably susceptible of being selected for award to assure full understanding of City Schools' requirements of the qualified offerors proposals and abilities to perform and obtain the best price.
- (12) Qualified offerors shall be accorded fair and equal treatment with respect to any opportunity for discussions, negotiations, and clarification of proposals. The procurement officer shall establish procedures and schedules for conducting discussions. If discussions indicate a need for substantive clarification of or change in the Request for Proposals, the procurement officer shall amend the request to incorporate the clarification or change.
- (13) Upon completion of all discussions, the Procurement Officer shall make a determination recommending award of the contract to the responsible offeror whose proposal is determined to be the most advantageous City Schools considering price and the evaluation factors set forth in the Request for Proposals with price being the primary factor. ***Award can NOT be made until after the 28 day waiting period. Any awards made prior to the 28 day waiting period will deem the procurement e-rate ineligible.***
- (14) Notice of the intention to award a contract will be provided with reasonable promptness by written notice from the Director or designee, to the recommended vendor as well as the unsuccessful bidders. The actual and final award of the contract shall only be made by the Board.
- (15) Once the Board has approved the Contract, City Schools will be eligible to file Form 471 (Services Ordered and Certification Form) with USAC in accordance with filing window. ***Any 471 submitted without a signed contract will deem the procurement ineligible for services.***
- (16) City Schools Procurement must save all documentation pertaining to the competitive bidding process and vendor selection for five years. City Schools Procurement must certify and acknowledge on both the 470 and 471 forms that they may be audited and that they must retain all records that can verify the accuracy of information provided.

Part E – Types of Contracts

3-501 Contracts Types

- (1) Contracts used by City Schools include, but are not limited to, the following:

- (a) Purchase Orders
 - (b) Fixed-price contracts
 - (c) Time-and-material contracts
 - (d) Quantity contracts
 - (e) Multi-year contracts
 - (f) Multiple award contracts
 - (g) Requirements contracts
- (2) (a) The objective when selecting a contract type is to obtain the best value in the time required and at the lowest cost or price to the City Schools. In order to achieve this objective, the Procurement Officer, before choosing a contract type, should review those elements of the procurement that directly affect the cost, time and risk bearing on the performance.
- (b) Among the factors to be considered in selecting any type of contract are:
- (1) The type and complexity of the procurement;
 - (2) The difficulty of estimating performance costs such as the inability of the City Schools to develop definitive specifications, to identify the risks to the contractor inherent in the nature of the work to be performed, or otherwise to establish clearly the requirements of the contract;
 - (3) The administrative costs to both parties;
 - (4) The degree to which the City Schools shall provide technical coordination during the performance of the contract
 - (5) The effect of the choice of the type of contract on the amount of competition to be expected;
 - (6) The stability of material or commodity market prices or wage levels;
 - (7) The urgency of the requirement; and
 - (8) The length of contract performance.
- (3) Purchase Order means a document authorizing a procurement from a vendor. Upon acceptance by a vendor, the purchase order becomes a contract.
- (4) (a) A fixed price contract is a contract which provides for a firm price, or a price that may be adjusted only in accordance with contract clauses providing for revision of the contract price under stated circumstances. The types of fixed-price contracts are as follows:
- (1) Firm fixed-price contract means a fixed price contract that provides a price that is not subject to adjustment because of variations in the contractor's cost.
 - (2) Fixed-price contract means a contract which places responsibility on the contractor for the delivery of the product or the complete

performance of the services or construction in accordance with the contract terms at the price that may be firm or may be subject to contractually specified adjustments.

- (3) Fixed-price contract with price adjustment means a fixed price contract that provides for variation in the contract price under special conditions defined in the contract, other than customary provisions authorizing price adjustments due to modifications.
 - (b) A fixed-price contract is appropriate for use when the extent and type of work necessary to meet the City Schools requirements can be reasonably specified and the cost can be reasonably estimated. A fixed-price type contract is the only type of contract that can be used in competitive sealed bidding.
- (5)
 - (a) Time-and-materials contract means a contract that provides an agreed price for materials supplied and labor performed.
 - (b) Time-and-material contracts shall state a dollar ceiling that may not be exceeded without the proper authority approval.
- (6)
 - (a) A definite quantity contract means a fixed-price contract that provides for delivery of a specified amount of goods or labor either at specified times or when ordered.
 - (b) An indefinite quantity contract means a contract for an indefinite amount of goods or labor to be furnished at specified items, or as ordered, that establish unit prices of a fixed-price type.
- (7)
 - (a) A multi-year contract is a contract that extends more than one year. Unless otherwise provided, a contract for supplies, equipment, services, professional services or construction may be entered into for any period of time deemed to be in the best interests of the Board provided the term of the contract and conditions of renewal or extension, if any, are included in the solicitation and funds are available for the first fiscal period at the time of award. Payment and performance obligations for succeeding fiscal periods shall be subject to the availability and appropriation of funds.
 - (b) Prior to the utilization of a multi-year contract, it shall be determined that:
 - (1) Estimated requirements cover the period of the contract and are reasonably firm and continuing; and
 - (2) Such a contract will serve the best interests of the Board by encouraging effective competition or otherwise promoting economies in procurement.

- (8) When funds are not appropriated or otherwise made available to support continuation of performance in a subsequent fiscal period, the contract shall be canceled at no cost or expense to the Board.
- (9) A multiple award contract is the award of a contract to two or more vendors to furnish the same supplies, or services, where more than one vendor is needed to meet the contract requirements for quantity, delivery, services, availability, or for product compatibility. When a multiple award is made, the City Schools shall order all of its normal requirements for the specified supplies or services from vendors awarded the contract. In making a multiple award, care shall be exercised to protect and promote the principles of competitive solicitation. Multiple awards may not be made when a single award will meet City Schools' needs without sacrifice of economy or service.
- (10) A requirement contract means a form of indefinite delivery/indefinite quantity contract where the actual purchase requirements for specific supplies or services during the contract period are filled by the selected vendor(s).

Part F – Determinations and Reports

3-601 Finality of Determinations

The determinations made by the Board, CEO, and CFO are final and conclusive unless they are clearly erroneous, arbitrary, capricious, or contrary to law.

3-602 Reporting of Anti-Competitive Practices

When for any reason collusion or other anti-competitive practices are suspected among any bidders or offerors, a notice of the relevant facts shall be transmitted to the Board and the Office of Legal Counsel.

3-603 Retention of Procurement Records

- (1) All procurement records (electronic and/or hard copy) shall be retained for five (5) years after the termination date of the contract and shall be disposed of in accordance with procedures established by the Director. All retained documents shall be made available to the Internal Auditor upon request.
- (2) A contractor and such contractor's subcontractors, shall retain and, upon the request of the Board or the Internal Auditor, make available, all accounts, records or documents pertaining to any contracts awarded by the CEO or Board for at least three (3) years after final payment is made or any pending matters are concluded. The Board may audit and inspect all accounts, records or documents maintained by a contractor or by such contractor's subcontractors.

ARTICLE 4 - SPECIFICATIONS

4-101 Definitions

- (1) “Specification” means any description of the physical or functional characteristics, or of the nature of a supply, equipment, service, professional service, lease, construction, inspection related service, architectural/engineering service, or information technology equipment or service. It may include a description of any requirement for inspecting, testing, delivering or preparing a supply, equipment, service, professional, lease, construction, inspection related service, architecture/engineering service, or information technology equipment or service for delivery.
- (2) Specifications may not be developed in such a manner as to favor a single vendor over other vendors. When applicable, specifications shall include a statement concerning “brand name or equivalent.”
- (3) “Brand name or equivalent” means a specification that is identical in form, fit and function.

4-102 Maximum Practicable Competition

All specifications shall seek to promote overall economy for the purposes intended and encourage competition in satisfying the Board’s needs, and shall not be unduly restrictive. However the Board reserves the right to specify the quality or nature of the supplies, equipment, construction, construction services, services or professional services that it is seeking to satisfy the City Schools’ needs.

4-103 Specifications Prepared by Design Professionals

The requirements of this section regarding the purposes of specifications shall apply to all specifications, including, but not limited to, those prepared by architects, engineers, designers, and draftsmen for public contracts.

ARTICLE 5 - PROCUREMENT OF CONSTRUCTION, CONSTRUCTION MANAGEMENT (CM)/ARCHITECT-ENGINEER

5-101 Definition of Terms Used in this Article

“Architect-Engineer” are those professional services within the scope of the practice of construction management, architecture or professional engineering as defined by the laws of the State of Maryland.

5-102 Responsibility for Selection of Methods of Construction Contracting and Construction Management

- (1) The Board may contract with an external vendor the responsibility for construction contracting and construction management for the school system. The external vendor shall be bound by the requirements of these Administrative Regulations and the vendor's contract.
- (2) If the Board retains the responsibility for construction contracting and construction management, the Director shall promulgate Administrative Regulations providing for as many alternative methods of construction contracting and construction management as it may determine to be in the best interest of Board. These Administrative Regulations shall:
 - (a) set forth criteria to be used in determining which method of construction contracting and construction management is to be used for a particular project;
 - (b) grant to the CFO, or designee, the discretion to select the appropriate method of construction contracting and construction management for a particular project; and
 - (c) require the CFO to execute and include in the contract file a written statement setting forth the facts which led to the selection of a particular method of construction contracting management for each project.

5-103 Pre-qualification of Vendors

For architectural and engineering contracts:

- (1) Prospective vendors may be pre-qualified for particular types of supplies, equipment, services, professional services or construction. Solicitation mailing lists of potential contractors shall include but shall not be limited to such pre-qualified vendors.
- (2) Pre-qualification is not a conclusive determination of responsibility.
- (3) A pre-qualified bidder or offeror may be rejected as non-responsible on the basis of subsequently discovered information and may be removed as a pre-qualified bidder without undergoing the debarment process.
- (4) A prior failure to pre-qualify will not bar a subsequent determination that a bidder or offeror is responsible with respect to any given procurement.

5-104 Bid Security

- (1) Bid security shall be required for all competitive sealed bidding for construction contracts when the price is estimated by the CFO to exceed \$100,000.00. Bid security shall be a bond provided by a surety company authorized to do business

in Maryland, or the equivalent in cash, or otherwise supplied in a form satisfactory to the CFO. The CFO may require bid security on construction and construction management contracts under \$100,000.00 when the CFO determines that circumstances warrant the bid security.

- (2) The bid security shall always be in an amount equal to 2 % of the bid.
- (3) When the Invitation for Bids requires security, noncompliance rules requires that the bid be rejected unless the CFO determines that the bid fails to comply in a non-substantial manner with the bid security requirements.
- (4) The bidder shall not be allowed to withdraw its bid after the bid opening and shall forfeit its bid security.
- (5) Bid security may also be required for other solicitations as determined by the CFO or designee.
- (6) City Schools may require performance and payment bonds in other contract in excess of \$100,000 at the discretion of the Director.

5-105 Performance and Payment Bonds

- (1) When a construction contract is awarded in excess of \$100,000.00, the following bonds or security shall be delivered to the Board and shall become binding on the parties upon the execution of the contract:
 - (a) a performance bond satisfactory to the Board, executed by a surety company authorized to do business in this State or otherwise secured in a manner satisfactory to the Board, in an amount equal to 100% of the price specified in the contract, and
 - (b) a payment bond satisfactory to the Board, executed by a surety company authorized to do business in this State or otherwise secured in a manner satisfactory to the Board, for the protection of all persons supplying labor and material to the contractor or its subcontractors for the performance of the work provided for in the contract. The bond shall be in an amount equal to 100% of the price specified in the contract.
- (2) When a construction contract is awarded and the contract price exceeds \$50,000.00, but is less than \$100,000.00, an acceptable performance and payment bond for fifty percent (50%) of the amount of the contract shall be delivered to the Board and shall become binding on the parties upon the execution of the contract.
- (3) The CFO may reduce the amount of performance and payment bonds to a minimum of 50% of the contract price for each bond and with the Board's

approval may reduce the amount of the performance and payment bonds to below 50%.

- (4) Nothing in this section shall be construed to limit the authority of the Board to require a performance bond or other security in addition to these bonds, or in circumstances other than specified in this section.
- (5) Every suit instituted upon a payment bond shall be brought in a court of competent jurisdiction where the contract was to be performed, but no such suit shall be commenced after the expiration of one year after the day on which the last of the labor was performed or material was supplied by the person bringing the suit. The obligee named in the bond need not be joined as a party in any such suit.

5-106 Bond Forms and Copies

- (1) The Director shall determine the form of the bonds required by these Administrative Regulations.
- (2) Any person may obtain a copy of the bond required by these Administrative Regulations, from the CFO, upon payment of \$25.00. A certified copy of a bond shall be prima facie evidence of the contents, execution, and delivery of the original.

5-107 Construction Management/Architect-Engineer Services Consultant Selection Procedures

- (1) The Consultant selection procedure is used to procure services that will provide the highest quality and maximum value to City Schools. The City Schools shall advertise the solicitation to attract the most qualified firms. The City Schools will ensure an open, fair, competitive and documented consultant procurement process. The City Schools will develop a work scope and fee structure jointly with the firm to maximize the value to City Schools in terms of schedules, cost, construction, project management and building technology. The program manager/construction manager may serve as an advisor, as an agent or as a design-builder depending on the delivery approach agreed upon by City Schools and the selected firm. The program manager (PM) may be hired by City Schools for a particular project or facility program to come in and act as an owner's representative to manage the project architect, construction manager and contractor. The construction manager (CM) may be hired by City Schools to oversee such project and/or construction specific issues as schedule, cost, construction, project management and building technology.
- (2) Firms will be solicited in the areas of program management and/or construction management services as needed. Interested firms will submit written information in enough detail, as well as the applicable wage rates for each discipline; the

information will allow City Schools' Review Panel to determine their qualifications. The Review Panel will be comprised of a cross functional team depending on the specific requirements of the RFP. The role of the panel members will be to review, evaluate and rank each proposal for the basis of short-listing and consultant selection.

- (3) The City Schools shall place advertisements in appropriate publications indicating a request to procure consultant services. Interested firms will be requested to provide an Initial Technical Proposal Form 254 (which is an Architect-Engineer and Related Services Questionnaire). The purpose of the advertisement is to establish a list of pre-qualified consultants based on:
 - (a) being lawfully engaged in the practice of those professions;
 - (b) the P/CM is qualified to perform services;
 - (c) submission of qualification resumes; and
 - (d) other performance data on file or requested by City Schools.
- (4) The Review Panel, subject to the Board's approval, shall establish a pre-qualified listing of firms for projects where the fees are estimated to be less than \$200,000.00.
- (5) For fees estimated to be less than or equal to \$200,000, the Department of Facilities Planning and School Construction or the Department of Facilities Maintenance and Operations will select a firm on a rotating basis, negotiate the terms, conditions and compensation with a firm from the on-call listing.
- (6) On a semi-annual basis, the Department of Facilities will produce and deliver a report to the CEO and the Board that includes the vendor name, projects assigned (with fees), total value of work assigned and MBE/WBE utilization. The Department of Facilities will share the report, bimonthly, with the Facilities and Capital Budget Committee. The report will also list the specific vendors considered for each project and indicate the vendor selected to be awarded a contract.
- (7) All proposals exceeding \$200,000 must be approved by the Board.
- (8) For projects where the fees are estimated by the Department of Facilities to be greater than \$200,000, the Director of Facilities Planning and School Construction or the Director of Facilities Maintenance and Operations will develop the scope of work and, through the Materials Management Office, develop an RFP, solicit requests for Forms 254 and 255, and encourage a competitive process.

- (9) A Review Panel will be convened to review the proposals. The membership of the Panel will consist of City Schools staff and individuals external to the school system with particular expertise in program/construction management and general contracting.
- (10) Only those program or construction management firms that are short-listed based on their technical proposal will be requested to attend an interview with the Panel. The focus of the interview shall be primarily on the following items:
 - (a) The firms' understanding of the project challenges;
 - (b) How the firms would apply its experience and technical expertise (qualifications) to address these challenges: and
 - (c) How the firms' services would provide benefits to the City Schools in project programming effectiveness, efficiency, maintainability, life cycle and construction cost control, and external impacts.
- (11) The interviews will consist of a technical presentation and a question-and-answer session, after which the panel will discuss and rank the firms in order of their qualifications and presentation.
- (12) Cost proposals will be submitted seven (7) days after the interview process is completed.
- (13) The Review Panel shall make a recommendation to award contract to the responsible offeror whose proposal is determined in writing to be the most advantageous to the Board, taking into consideration price and the evaluation factors set forth in the Request for Proposal.
- (14) The Board may utilize the Mayor and City Council's established Administrative Regulations governing the selection of architect-engineer and land surveying services.
- (15) The Director, or designee, shall negotiate a contract with the highest qualified firm for architect-engineer or land surveying services at compensation, which is determined in writing to be fair and reasonable to the Board. In making this decision, the Director, or designee, shall take into account the estimated value, the scope, the complexity, and the professional nature of the services to be rendered. Should the Director, or designee, be unable to negotiate a satisfactory contract with the firm considered to be the most qualified at a fair and reasonable price, the negotiations with that firm shall be formally terminated and negotiations with the second, and if necessary, the third most qualified firm shall commence. Should the Director, or designee, be unable to negotiate a contract at a fair and reasonable price with any of the selected firms, additional firms shall be selected and ranked,

and negotiations shall continue until an agreement with a firm is reached or the procurement is withdrawn by the Director.

ARTICLE 6 – REPEALED

ARTICLE 7 - REPEALED

ARTICLE 8 - SUPPLY MANAGEMENT

Part A – Definitions

8-101 Definitions of Terms used in this Article

- (1) *Excess Supplies* means any supplies other than expendable supplies having a remaining useful life but which are no longer required by the Using Department in possession of the supplies.
- (2) *Expendable Supplies* means all tangible supplies other than non-expendable supplies.
- (3) *Non-expendable Supplies* means all tangible supplies having an original acquisition cost of over (\$ 100) per unit and a probable useful life of more than one year.
- (4) *Surplus Supplies* means any supplies other than expendable supplies no longer having any use to the City Schools. This includes obsolete supplies, scrap materials, and non-expendable supplies that have completed their useful life cycle.

Part B - Administrative Regulations Required

8-201 Supply Management Regulations Required

The Director may promulgate procedures governing:

- (1) The management of supplies during their entire life cycle;
- (2) The sale, lease, or disposal of surplus supplies by public auction, competitive sealed bidding, or other appropriate method designated by the requirements of the Director.
- (3) Transfer of excess supplies.

Part C - Proceeds

8-301 Allocation of Proceeds from Sale or Disposal of Surplus Supplies

Proceeds from the sale, lease, or disposal of surplus supplies will be revenue to City Schools' general fund and will be allocated in accordance with standard budget procedures.

ARTICLE 9 - LEGAL AND CONTRACTUAL REMEDIES

9-101 Authority to Resolve Protested Solicitations and Awards

(1) Right to Protest

Any bidder or offeror who responds to a solicitation and is aggrieved in connection with the solicitation or notice of intent to award a contract may protest to the Director. The protest shall be submitted, in writing, to the Director within five (5) business days after the basis for protest is known or should have been known, whichever is earlier.

- (a) A notice of protest that is not filed within this timeframe shall be dismissed by the Director.
- (b) A protest that is filed after the Board has approved the award shall be dismissed by the Director.
- (c) A protest that is filed when City Schools utilizes/piggybacks an existing Contract shall be dismissed by the Director.
- (d) Should a protest be dismissed for enumerated reasons (a) through (c), such dismissal is not appealable.

(2) Form

The written protest shall include, at a minimum the following:

- (a) The name and address of the protester,
- (b) Appropriate identification of the RFP or Bid;
- (c) A statement of reasons for the protest; and
- (d) Supporting exhibits, evidence, or documents to substantiate the reasons for the protest unless not available within the filing time, in which case, the expected availability dates shall be indicated. In all cases, supporting documentation must be provided by the Level I conference.

(4) Request for Information

Upon receipt of the protest, the Director may request information from the protestant. All requested information shall be submitted within five (5) business days after receipt of request or such other reasonable time as the Director may specify as necessary to expedite the protest. Failure of any party to comply with a request for information from the Director may result in a resolution of the protest, without consideration of any requested documents.

(5) Protest Conference

The CFO, , or a designee, shall have the authority to settle and resolve a protest of an actual bidder or offeror. Every effort should be made by the CFO or designee to schedule the Protest conference within five (5) business days after the filing of the protest. A written decision shall be issued within one business day of the conference. The decision shall:

- (a) state the reasons for the action taken; and
- (b) inform the parties of their right to file exceptions (“Exceptions”) as provided in these Administrative Regulations

(6) Notice of Decision

A copy of the decision under Subsection (5) of this Article, shall be mailed by certified mail to the protestant. The decision of the CFO or designee shall be final unless timely exceptions are filed pursuant to Section 7.

(7) Written Exceptions

- (a) Within five (5) business days after receipt of the decision from the CFO or designee, the Protestant may file written exceptions to the Director
- (b) Failure to file timely written exceptions to the Director shall render the CFO or designee’s decision final from which there lies no appeal.
- (c) Any response to the written exceptions shall be filed within ten (10) business days of receipt of the exceptions.
- (d) The proposed decision of the CFO or designee, and any written exceptions filed, and any responses thereto may be considered by the Board at an executive session. The Board shall accept, reject, remand or modify the proposed decision of the CFO or designee at a public board meeting. The Board’s decision shall be final and rendered in accordance with 9-101 (9).

(8) Stay of Contract award under protest

In the event of a timely protest, the Board shall not proceed further with the solicitation or with the award of the contract under protest unless:

- (b) the CEO has issued a written determination lifting the stay and awarding the contract without further delay because it is necessary to protect the substantial interest of the school system.

(9) Final Order

A written final order from the Board shall be provided by the Board Executive to the Protestant, the CEO, Director and CLC. The final order shall include:

- (a) A brief description of the controversy; and
- (b) A statement of the decision, which may make reference to supporting material.

9-102 Authority to Debar

- (1) After reasonable notice to the party involved and reasonable opportunity for that party to be heard, but within 60 days of notice, the Director after consultation with the Using Department and the Office of Legal Counsel, shall have the authority to debar a party for cause from consideration for award of contracts. The debarment shall not be for a period of more than three years unless the Board agrees to a time period of more than three. (3) years. .
- (2) The causes for debarment includes, but not limited to, the following:
 - (a) conviction for commission of a criminal offense related to obtaining or attempting to obtain a public or private contract or subcontract, or in the performance of such contract or subcontract;
 - (b) conviction under State or federal statutes of embezzlement, theft, forgery, bribery, falsification or destruction of records, receiving stolen property, or any other offense indicating a lack of business integrity or business honesty which currently, seriously or directly affects responsibility as a contractor with the Board;
 - (c) conviction under State or federal antitrust statutes arising out of the submission of bids or proposals;
 - (d) violation of contract provisions, as set forth below, of a character which is regarded by the Director to be so serious as to justify debarment action :

- (i) deliberate failure without good cause to perform in accordance with the specifications or within the time limit provided in the contract; or
 - (ii) a recent record of failure to perform or of unsatisfactory performance in accordance with the terms of one or more contracts; provided that failure to perform or unsatisfactory performance was caused by acts beyond the control of the contractor shall not be considered to be a basis for debarment ;
- (e) any other cause the Director determines to be so serious and compelling as to affect responsibility as a contractor with the Board and/or school system, including debarment by another governmental entity for any cause; and
- (f) for violation of the ethical standards set forth in these Administrative Regulations.
- (3) The Director shall issue a written decision to debar. The decision shall:
- (a) state the reasons for the action taken, and
 - (b) inform the debarred party involved of its rights to administrative review as provided in these Administrative Regulations.
- (4) A copy of the decision under Subsection (3) of this Section shall be mailed by certified mail to the debarred party and any other party intervening.
- (5) A decision under Subsection (3) of this Section shall be final and conclusive, unless fraudulent, or the debarred party appeals administratively to the Board. The Board may refer the appeal to an administrative hearing officer to conduct an administrative hearing in accordance with the Board's hearing procedures and these Administrative Regulations.
- (6) The Director, or designee, shall maintain a current record of all debarments , which shall include person/entity, debarred, date of action, and date of possible reinstatement.
- (7) The Director shall notify the appropriate State agency as to the debarred party.

9-103 Remedies

- (1) The provisions of this Section apply where it is determined administratively or upon judicial review, that a solicitation or award of a contract is in violation of law.

- (2) If, prior to award, it is determined that a solicitation or proposed award of a contract is in violation of law, then the solicitation or proposed award shall be:
 - (a) revised to comply with the law, or
 - (b) canceled.

- (3) If after an award, it is determined that a solicitation or award of a contract is in violation of law, then:
 - (a) if the person awarded the contract has not acted fraudulently or in bad faith:
 - (i) the contract may be ratified and affirmed, provided it is determined that doing so is in the best interest of the school system; or
 - (ii) the contract may be terminated and the person awarded the contract shall be compensated for the actual expenses reasonably incurred under the contract, prior to the termination;

 - (b) if the person awarded the contract has acted fraudulently or in bad faith:
 - (i) the contract may be declared null and void.

ARTICLE 10 - INTERGOVERNMENTAL RELATIONS

Part A - Definitions

10-101 Definitions of Terms Used in this Article

- (1) *Cooperative Purchasing* means procurement conducted by, or on behalf of more than one Public Procurement Unit, or by a Public Procurement Unit with an External Procurement Activity.
- (2) *External Procurement Entity* means any buying organization not located in this State which, if located in this State, would qualify as a Public Procurement Unit. An agency of the United States is an External Procurement Activity.
- (3) *Local Public Procurement Unit* means any county, city, town, and any subdivision of the State or public agency of any such subdivision, public authority, educational, health, or other institution, and-to the extent provided by law, any other entity which expends public funds for the procurement of supplies, services, and construction, and any nonprofit corporation. This term includes the Board.
- (4) *Public Procurement Unit* means either a Local Public Procurement Unit or any State Public Procurement Unit.
- (5) *State Public Procurement Unit* means the Office of the Chief Procurement Officer and any other Purchasing Agency of any State.

Part B - Cooperative Purchasing

10-201 Cooperative Purchasing Authorized

The Board, under the direction of the Office of Materials Management, may participate in, sponsor, conduct, utilize, or administer a cooperative purchasing agreement for the procurement of any supplies, equipment, construction services, services or professional services with one or more Public Procurement Units or External Procurement Entity in accordance with an agreement entered into between the participants. Such cooperative purchasing may include, but not be limited to, joint or multiparty contracts between Public Procurement Units and open-ended State Public Procurement Unit contracts, which are made available to Local Public Procurement Units. In instances where purchases are in excess of \$25,000, approval of the Board is required. Vendor selection pursuant to 10-201 is not subject to protest as set forth in Article 9.

10-202 Sale, Acquisition, or Use of Supplies by the Office of Materials Management

The Office of Materials Management may sell to, acquire, or use any supplies or equipment belonging to another Public Procurement Unit or External Procurement Activity independent of the requirements of Article 3 (Source Selection and Contract Formation) and Article 8 (Supply Management) of these Administrative Regulations.

10-203 Cooperative Use of Supplies or Services

The Office of Materials Management may enter into an agreement, independent of the requirements of Article 3 (Source Selection and Contract Formation) and Article 8 (Supply Management) of these Administrative Regulations, with any other Public Procurement Unit or External Procurement Activity for the cooperative use of supplies, equipment, construction services, professional services or services under the terms agreed upon between the parties.

10-204 Joint Use of Facilities

The Office of Materials Management may enter into agreements for the common use or lease of warehousing facilities, capital equipment, and other facilities with another Public Procurement Unit or an External Procurement Activity under the terms agreed upon between the parties. Any such agreement is subject to approval of the Board.

10-205 Supply of Personnel, Information, and Technical Services

- (1) *Supply of Personnel.* The Office of Materials Management is authorized, subject to the approval of the CEO, upon written request from another Public Procurement Unit or External Procurement Activity, to provide personnel to the requesting Public Procurement Unit or External Procurement Activity. The Public Procurement Unit or External Activity making the request shall pay the Procurement Office the direct and indirect costs of furnishing the personnel, in accordance with an agreement between the parties.
- (2) *Supply of Services.* The informational, technical, and other services of the Office of Materials Management may be made available to any other Public Procurement Unit or External Procurement Unit provided that the requirements of the Public Procurement Unit tendering the services shall have precedence over the requesting Public Procurement Unit or External Procurement Activity. The requesting Public Procurement Unit or External Procurement Activity shall pay for the expenses of the services so provided, in accordance with an agreement between the parties.

10-206 Use of Payments Received by a Supplying Public Procurement Unit

All payments from any Public Procurement Unit or External Procurement Activity received by the Office of Materials Management for supplying personnel or services shall be credited to the Education fund, for reuse at the discretion of the Board.

ARTICLE 11 – ETHICS IN PUBLIC CONTRACTING

11-101 Definitions of Terms

- (1) *Blind Trust* means an independently managed trust in which the employee beneficiary has no management rights and in which the employee-beneficiary is not given notice of alterations in, or other dispositions of, the property subject to the trust.
- (2) *Confidential Information* means any information that is available to an employee only because of the employee's status as an employee of the City Schools and is not a matter of public knowledge.
- (3) *Direct or Indirect Participation* means involvement through decision, approval, disapproval, recommendation, preparation of any part of a purchase request, influencing the content of any specification or procurement standard, rendering of advice, investigation, auditing, or in any other advisory capacity.
- (4) *Domestic Partner*, for purposes of this article, means any two people who have chosen to share the common necessities of life as indicated by the sharing of a common legal residence and the commingling of finances as evidenced by, but not limited to, joint accounts, powers of attorney and joint indebtedness.
- (5) *Financial Interest* means:
 - (a) Ownership of any interest or involvement in any relationship from which, or as a result of which, a person within the past year has received, or is presently or in the future entitled to receive, more than \$1,000.00 per year, or its equivalent;
 - (b) Ownership of such interest in any property or business as may be specified by the Board's Ethics Policy; or
 - (c) Holding a position in a business such as an officer, director, trustee, partner, employee, or the like, or holding any position of management.
- (6) *Gratuity* means a payment, loan, subscription, advance, deposit of money, services, or anything of more than nominal value, present, or promised, unless consideration of substantially equal or greater value is received.
- (7) *Immediate Family* means a spouse, children, parents, brothers and sisters, domestic partners, and such other relatives as may be designated by the Board.

11-102 Employee Conflict of Interest

- (1) It is a breach of ethical standards for any employee to participate directly or indirectly in a procurement when the employee knows that:
 - (a) the employee or any member of the employee's immediate family has a financial interest pertaining to the procurement;
 - (b) a business or organization in which the employee, or any member of the employee's immediate family, has a financial interest pertaining to the procurement; or
 - (c) any other person, business, or organization with which the employee or any member of the employee's immediate family is negotiating or has an arrangement concerning prospective employment is involved in the procurement.
- (2) If an employee or any member of the employee's immediate family holds a financial interest in a blind trust, the employee will not be deemed to have a conflict of interest with regard to matters pertaining to that financial interest, provided that disclosure of the existence of the blind trust has been made to the Board.
- (3) If an actual or potential conflict of interest is discovered, an employee shall promptly file a written statement of disqualification and shall withdraw from further participation in the transaction involved. The employee may request, at the same time that the Board, apply to the Board of Ethics for an advisory opinion as to what further participation, if any, the employee may have in the transaction.
- (4) Notice of this prohibition shall be provided by the Office of Materials Management.

11-103 Employee Disclosure Requirements

- (1) Any employee who has, or obtains any benefit from, any Board contract with a business in which the employee has a financial interest shall report the benefit to the CEO, Board, and Board of Ethics. This provision does not apply to a contract with a business where the employee's interest in the business has been placed in a disclosed blind trust.
- (2) Any employee who knows or should have known of the benefit, and fails to report the benefit to the CEO, Board, and Board of Ethics, is in breach of the ethical standards of this Section.
- (3) Notice of this requirement must be provided by the Office of Materials Management.

11-104 Gratuities and Kickbacks

- (1) It is a breach of ethical standards for any person to offer, give, or agree to give any employee or former employee, or for any employee or former employee to solicit, demand, accept, or agree to accept from another person a gratuity or an offer of employment in connection with any:
 - (a) decision, approval, disapproval, recommendation, preparation of any part of a program requirement or a purchase request; or
 - (b) influencing the content of any specification or procurement standard; or
 - (c) rendering of advice, investigation, auditing or in any other advisory capacity in any proceeding or application, request for ruling, determination, claim or controversy, or other particular matter, pertaining to any program requirement or a contract or subcontract, or to any solicitation or proposal.
- (2) It is a breach of ethical standards for any payment, gratuity, or offer of employment to be made by or on behalf of a subcontractor under a contract to the prime contractor or higher tier subcontractor or any person associated as an inducement for the award of a subcontract or order.
- (3) The prohibition against gratuities and kickbacks prescribed in this Section must be conspicuously set forth in every contract and solicitation.

11-105 Prohibition Against Contingent Fees

- (1) It is a breach of ethical standards for a person to be retained, or to retain a person, to solicit or secure a Board contract: upon an agreement or understanding for a commission, percentage, brokerage, or contingent fee, except for retention of bona fide employees or bona fide established commercial selling agencies for the purpose of securing business.
- (2) Each person, before being awarded a Board contract, shall represent, in writing, that such person has not retained anyone in violation of subsection (a) of this section. Failure to do so constitutes a breach of ethical standards.
- (3) The representation prescribed in subsection (b) of this section must be conspicuously set forth in each contract and solicitation.

11-106 Use of Confidential Information

It is a breach of ethical standards for any employee or former employee to knowingly use confidential information for actual or anticipated personal gain, or for the actual or anticipated personal gain of any other person.

11-107 Civil and Administrative Remedies Against Employees Who Breach Ethical Standards

- (1) Civil and administrative remedies against employees that are in existence on the effective date of these Administrative Regulations will not be impaired.
- (2) In addition to existing remedies for breach of the ethical standards of these Administrative Regulations, the Board may impose any one or more of the following:
 - (a) oral or written warnings or reprimands;
 - (b) suspension with or without pay for specified periods of time; and
 - (c) termination of employment.

11-108 Civil and Administrative Remedies Against Non-Employees Who Breach Ethical Standards

- (1) Civil and administrative remedies against non-employees that are in existence on the effective date of these Administrative Regulations will not be impaired.
- (2) In addition to existing remedies for breach of ethical standards, the Board may impose any one or more of the following:
 - (a) Written warnings or reprimands;
 - (b) Termination of transactions; and
 - (c) Debarment or suspension from being a contractor or subcontractor under contracts.
- (4) All Administrative Regulations under this section must be in accordance with due process requirements, including a right to notice and an opportunity for a hearing prior to imposition of any termination, debarment, or suspension from being a contractor or subcontractor under a Board contract.

**ARTICLE 12 – MINORITY AND WOMEN’S
BUSINESS ENTERPRISES**

12-101 Definitions of Terms Used In This Article

As used in this article the following terms have the meanings indicated unless the context clearly requires a different meaning:

- (1) *Bidder*: one who submits a bid to the Board in response to an Invitation to Bid or to a Request for a Proposal.
- (2) *Certification*: the process by which the Minority Business Standards Committee determines a firm to be a bona fide minority or women’s business enterprise as set forth herein.
- (3) *Chief*: the Chief of the Equal Opportunity Compliance Office of the City of Baltimore (City).
- (4) *Contracting Agency*: the Board or its authorized representative, which issues Invitation for Bids or Request for Proposals.
- (5) *Contractor*: the person, firm, or legal entity with whom the Board has entered into a contract.
- (6) *Control*: the primary power to direct the management and operations of a business enterprise.
- (7) *Joint Venture*: an association that provides for the sharing of economic interest and equal proportionate control over management, interest in capital, and earnings. The Minority Business Enterprise/Women’s Business Enterprise joint venture must have proportionate interest in the control, management, and operation of the affairs of the joint venture.
- (8) *Minority Business Enterprise (MBE)*: a sole proprietorship, partnership, or corporation owned, and controlled by minority group member(s) who have at least 51% ownership. The minority group member(s) must have operational and managerial control, interest in capital, and earnings commensurate with the percentage of ownership. To qualify as a minority business enterprise, the enterprise shall be doing business in locality or localities from which the Board regularly solicits, or receives bids on or proposals for Board contracts within the minority business enterprise’s category of contracting.
 - (a) *Sole Proprietorship*: a legal entity that is 100% owned, operated and controlled by one minority group member.

- (b) *Partnership*: a legal entity where 51% of the assets and interest in the partnerships owned by one or more minority group members. For MBE purposes, minority group member partners must have a proportionate interest in the control, operation, and management of the partnership affairs.
 - (c) *Minority Corporation*: a legal entity where 51% of each class of the share of stock or other equitable securities is owned by minority group member(s). The minority group member(s) must have operational and managerial control, interest in capital, and earnings commensurate with their percentage of ownership.
- (9) *Minority Group Member(s)*: African Americans, Asian Americans, Native Americans, Latino Americans and Women legally residing in the United States or its territories, as defined:
- (a) *African Americans*: U.S. Citizen or lawfully admitted permanent resident who originates from any of the black racial groups of Africa as well as those identified as Jamaican, Trinidadian, or West Indies.
 - (b) *Asian Americans*: U.S. citizen or lawfully admitted permanent resident who originates from Far East, Southeast Asia, the Indian subcontinent, or the Pacific Islands.
 - (c) *Hispanic Americans*: persons of Mexican, Puerto Rican, Cuban, Spanish, or Central or South American origin regardless of race.
 - (d) *Native Americans*: U.S. citizen having origins in any of the original peoples of North America and who are recognized as “American Indian”, by either a tribe, tribal organization, or a suitable authority in the community.
 - (e) *Women*: means U.S. citizens that are female with racial origins of any of the above and Caucasian.
- (10) *MBE/WBE Subcontractor(s)*: an MBE/WBE having a direct contract with the contractor for the performance of a part of the work at the site.
- (11) *MBE/WBE Vendor(s)*: An MBE/WBE that furnishes needed items to the contractor and performs a commercially useful function in the supply process. The vendor must be involved in the manufacture or distribution of the supplies or materials, or otherwise warehouse and ship the supplies.
- (a) MBE/WBE manufacture is a firm, which produces goods from raw materials, or substantially alters or fabricates them before resale, and the

MBE/WBE assumes the actual and contractual responsibility for the materials and supplies.

- (12) *Segmentation*: the act of subdividing a contract to provide MBE/WBE's reasonable contracting opportunity.
- (13) *Subcontract*: an agreement between the contractor and another business entity for the performance of work.
- (14) *Women's Business Enterprise (WBE)*: a sole proprietorship, partnership, or corporation owned, operated, and controlled by women who have 51% ownership. The women must have operational and managerial control, interest in capital, and earnings commensurate with the percentage of women ownership. To qualify as a Women's Business Enterprise, the enterprise shall be doing business in a locality or localities from which the Board regularly solicits, or receives bids on or proposals for Board contracts within the women's business enterprise's category of contracting.

12-102 Statement of Policy and Goal

It is the policy of the Board to increase the use of minority and women's business enterprises to provide goods and services to the Board on a contractual basis. The provisions of the policy shall apply to certain contracts awarded by the Board.

12-103 Duties of the Chief Legal Counsel (CLC)

- (1) Where feasible, the CLC shall designate a staff person to serve as MBE/WBE Coordinator.
- (2) The CLC, or designee, shall compile, maintain, and make available source lists of MBE/WBE for the purpose of encouraging procurement from MBE/WBE.
- (3) To the extent deemed to be appropriate and as may be required by regulation, the CLC shall include MBE/WBE on solicitation mailing lists.

12-104 Contract Requirements

- (1) It is the policy of the Board that maximum feasible opportunity be provided to certified Minority and Women Business Enterprises to participate in the performance of Board contracts for goods and services needed by the Board.
- (2) Prior to the issuance of an Invitation for Bids or a Request for Proposals, the CLC shall determine whether the proposal contract is subject to the requirements of this Article.

- (3) When piggybacking method is used, the application of the requirements of this Article shall be a joint decision of the Director and the CLC.
- (4) If the CLC determines that the requirements of this Article apply to an Invitation for Bids or a Request for Proposals that is to be issued, the CLC shall:
 - (a) Determine whether a waiver of the requirements or goals of this Article should be granted; and/or
 - (b) Determine the goals to be established for the intended contract to be awarded.
- (5) The general goal of the Board is, that, in contracts valued at \$25,000 or more, the Awarded Bidder or offeror subcontract a given percentage to certified Minority Business Enterprises (“MBE”) and a given percentage of the total contract price to Women Business Enterprises (“WBE”).
 - (a) Unless otherwise provided by the CLC, interested bidders must complete the MBE and WBE Information and Utilization Form accompanying the Invitation for Bid and submit it as directed.
 - (b) The CLC or designee, will review and evaluate the submission on behalf of the Board to determine whether the firms listed by the interested Bidder are certified MBE/WBE firms, the percentage of MBE/WBE participation, and whether the interested Bidder has attained the Board’s MBE/WBE goals. The CLC or designee will submit its findings and any recommendations to the Board for its review and approval. The Board may accept, reject, or modify any findings or recommendations of the CLC.
 - (c) The Board may grant such exceptions, waivers, and reduction in the MBE/WBE goals as it deems to be in the best interest of the City Schools. The Board, in its capacity as the contracting authority, may also grant exceptions and waivers with respect to the MBE/WBE requirements, as it deems appropriate.

12-105 Compliance with Federal/State Requirements

Where procurement involves the expenditure of the State of Maryland or federal assistance or contract funds, the CLC, shall comply with such State and/or Federal law and authorized regulations that are applicable.

EXHIBIT 6

EXHIBIT 6

Expected School Building Closures Under 10-Year Plan as of October 1, 2013

	School Building Name School Building Number Address	Anticipated School Program Closure	Building Swing Space Utilization	Building Closure Date	State Bonds Outstanding* Y/N	City Bonds Outstanding* Y/N	School Board Bonds Outstanding* Y/N
1	Garrison Middle # 042 3910 Barrington Road, 21207	2013	3 swing space uses	2023	N	Y	Y
2	Laurence G. Paquin #457 2200 Sinclair Lane, 21213	2013	TBD	2013	Y	Y	Y
3	Patapsco #163 844 Roundview Road, 21225	2013	1swing space use	2017	Y	Y	Y
4	Waverly Middle (Building) #115 3400 Ellerslie Avenue, 21218	2015	TBD	2015	Y	Y	N
5	Winston Middle #209 1101 Winston Avenue, 21212	2013	1swing space use	2017	Y	Y	Y
6	Lombard #057 1601 E. Lombard Street, 21231	2013	1swing space use	2018	Y	Y	Y
7	Harbor City West Building # 413 1001 W. Saratoga Street, 21223	2015	3 swing space uses	2025	N	N	Y
8	Southeast Building # 255 6820 Fait Avenue, 21224	2016	2 swing space uses	2024	Y	Y	Y
9	Alexander Hamilton #145 800 Poplar Grove Street, 21216	2017	2 swing space uses	2022	Y	N	Y

EXHIBIT 6

Expected School Building Closures Under 10-Year Plan as of October 1, 2013

	School Building Name School Building Number Address	Anticipated School Program Closure	Building Swing Space Utilization	Building Closure Date	State Bonds Outstanding* Y/N	City Bonds Outstanding* Y/N	School Board Bonds Outstanding* Y/N
10	Claremont Special Ed. High #307 5301 Erdman Avenue, 21205	2017	TBD	2017	Y	Y	Y
11	Fairmont Hartford Building #456 2555 Harford Road, 21218	2017	2 swing space uses	2025	N	Y	Y
12	Langston Hughes #005 5011 Arbutus Avenue, 21215	2017	TBD	2017	Y	Y	Y
13	Northwestern High #401 6900 Park Heights Avenue, 21215	2017	2 swing space uses	2023	Y	Y	Y
14	Rognell Heights #089 4300 Sidehill Road, 21229	2017	1 swing space use	2019	Y	Y	Y
15	Samuel B. Morse Elem. #098 424 S. Pulaski Street, 21223	2017	2 swing space uses	2024	N	Y	Y
16	Lakewood Center #086 2625 Federal Street, 21213	2018	TBD	2018	N	Y	Y
17	Lois T. Murray #313 1600 Arlington Avenue, 21239	2018	TBD	2018	N	Y	Y
18	Sarah M. Roach PK -5 #073 3434 Old Frederick Road, 21229	2018	1 swing space use	2020	Y	Y	Y

* Identification of bonds as outstanding (or not) is as of date of anticipated Closure of a School Building and is based on information currently available as of date of the MOU.

EXHIBIT 6

Expected School Building Closures Under 10-Year Plan as of October 1, 2013

	School Building Name School Building Number Address	Anticipated School Program Closure	Building Swing Space Utilization	Building Closure Date	State Bonds Outstanding* Y/N	City Bonds Outstanding* Y/N	School Board Bonds Outstanding* Y/N
19	Sharp Leadenhall #314 150 W. West Street, 21230	2018	TBD	2018	Y	Y	Y
20	Westside Elementary #024 2235 N. Fulton Avenue, 21217	2018	TBD	2018	Y	Y	N
21	Joseph C. Briscoe #451 900 Druid Hill Avenue, 21201	2019	2 swing space uses	2021	Y	Y	Y
22	Westside (Edmonson Westside Skill Center) #400B 4501 Edmonson Avenue, 21229	2018	TBD	2023	Y	Y	Y
23	Thurgood Marshall # 170 5001 Sinclair Lane, 21206	2020	3 swing space uses	2024	Y	Y	N
24	Wm. Pinderhughes #028 701 Gold Street, 21217	2013	2 swing space uses	2020	N	Y	Y
25	William C. March #263 2050 N. Wolfe Street, 21213	2013	2 swing space uses	2020	N	N	N
26	Independence Charter (Modular Unit) #333 1250 W. 36 th Street, 21211	2017	TBD	2017	N	N	N

EXHIBIT 7

EXHIBIT 7

The CMP shall contain at a minimum the following categories of information, organized as seen fit by the School Board:

1. Executive Summary
2. An Overview which includes;
 - a. Mission statement and goals.
 - b. History of maintenance of public schools in Baltimore City, including budgetary history:
 - i. Past history
 - ii. Current accomplishments
 - iii. Prognosis
 - c. City Schools unique conditions that affect maintenance such as:
 - i. age of schools,
 - ii. past history of investment,
 - iii. 10-Year Plan,
 - iv. financial and other resources available,
 - v. community impacts such as vandalism,
 - vi. Other.
 - d. Connection between the maintenance program and the capital improvement program, including the projection of capital funding needed to contain the maintenance burden.
3. Definitions:
 - a. Scheduled maintenance:
 - i. Preventative maintenance
 - ii. Life-cycle or predictive maintenance
 - b. Unscheduled maintenance:
 - i. Corrective maintenance
 - ii. Emergency maintenance
 - c. Deferred maintenance
4. Organization:
 - a. Description of City Schools organizational structure for maintenance
 - b. General organizational chart: current and proposed
 - c. Departmental and divisional organizational charts to level of individual trades: current and proposed

- d. Coordination of activities and projects among the maintenance, capital planning, and plant operations departments
 - e. Descriptions of:
 - i. Central office responsibilities and staffing
 - ii. Sub-district or cluster responsibilities and staffing
 - iii. School-based responsibilities and staffing
 - iv. Specialized teams (HVAC, fire prevention, etc.)
5. Budget:
- a. Industry standards (e.g., as established by the Council of Great City Schools)
 - b. Regional or Maryland averages
 - c. Comparable urban school districts
 - d. Comparable large school district(s) in Maryland
 - e. City Schools:
 - i. current budget,
 - ii. budget required to achieve progress toward the metrics established in the Plan
 - iii. sources of revenue, and
 - iv. facility implications of budget shortfalls
6. Staffing parameters:
- a. Industry standards:
 - i. Minimum industry qualifications standards
 - ii. Minimum industry square footage per FTE standards
 - b. Comparable Maryland school systems
 - c. City Schools staff positions:
 - i. Current number and qualifications of positions under each category of work (HVAC, painting, electrical, etc.)
 - ii. Comparison to industry standards (number, qualifications, square footage per FTE)
 - iii. Comparison to comparable Maryland school systems (number, qualifications, square footage per FTE)
 - iv. Schedule for achievement of adequate staffing in each category of work
 - v. Positions currently approved by School Board
7. Procedures:
- a. Facility inspections and full-building audits
 - b. Computerized Maintenance Management System (CMMS)

- c. Work order protocols:
 - i. Scheduled work orders
 - ii. Unscheduled work orders
 - d. Construction/maintenance interface:
 - i. Procedures and protocols (from educational specification to project hand-over and warranty period)
 - ii. Commissioning requirements
 - e. Energy management and conservation practices
 - f. Sustainable maintenance practices
8. Training:
- a. Starting and on-going training for new and renovated schools
 - b. New staff training
 - c. Existing staff refresher training
9. Departmental and divisional action plans for upcoming fiscal year
10. Appendices:
- a. Board of School Commissioners policies on maintenance
 - b. State of Maryland regulations on maintenance (COMAR)
 - c. Industry literature
 - d. Glossary of terms
 - e. CMMS protocols
 - f. Inspection protocols
 - g. Standard Operating Procedures (all categories of work)
 - h. Templates for Building Maintenance Plan (BMP) for new, renovated, and existing facilities
 - i. Procedures for the amendment of the CMP and individual BMPs as warranted by changed circumstance.
 - j. Annually: Prioritized list of maintenance and capital replacement projects to be accomplished in the budget year and future fiscal years.
 - k. Other
11. Specific metrics of performance for facility maintenance.

SECTION II-DISCUSSION ITEMS AND DEFERRED ITEMS-cont'd

B. Air Conditioning in Schools

During discussions on school construction funding, the Comptroller has asked the Interagency Committee on School Construction to consider making “package” window and through-wall air conditioning units eligible for State funding under the Capital Improvement and other funding programs. We have informed the Comptroller and the other Board of Public Works members that such units are not eligible under the current procedures of the IAC. We continue to believe that package air conditioning units should not be eligible for State funding.

We recognize that in some circumstances, installation of package air conditioning units can be very beneficial. These units are relatively inexpensive and can be installed quickly, with modest modifications to windows or walls. Anecdotally, they appear to be popular with teachers and administrators, in spite of the noise they generate. There is no provision against a local educational agency (LEA) installing these units using local funds, and a number of LEAs have done so. However, the Designees do not recommend that these units be made eligible for State funding, for the following reasons:

- **Durability.** The expected working life of a window or through-wall air conditioning unit is usually less than 15 years. It is a consistent practice of the IAC to recommend or approve State funds for building components and systems that have at least a 15 year anticipated life. This timeframe corresponds to the repayment period for State tax-exempt bonds, the main source of funds for State-funded school construction projects in Maryland. This policy has been supported by the Department of Budget and Management and the State Treasurer’s Office (STO). According to the STO, the application of tax exempt bond proceeds to durable, long-lasting items is considered an aspect of sound financial policy and contributes to Maryland’s strong financial and debt management. Components and systems with less than a 15 year life, for example carpeting and painting, are not eligible as stand-alone projects when the capital funds consist of tax-exempt bond proceeds. These systems are eligible for State funding when they are incorporated into and form a subordinate part of work that has at least a 15 year life, for example a new school or a renovation. Unlike carpeting and painting, the mechanical components of a building cannot be considered a subordinate part.
- **Energy Efficiency.** Based on the standards published by the Department of Energy, the federal standards for minimum energy efficiency ratio (EER) are higher for central air conditioning than for through wall units or window units. Moreover, window and through-wall air conditioning units do not permit balancing of the mechanical system and the centralized, automatic monitoring and control of the units in coordination with other units in the building. As an example, in a central system it is possible to shunt heated air or water from the sunny side of a building to the shaded side during the “swing” months of spring and fall, or in winter on a sunny but cold day, thereby reducing the need for heating on the shaded side. Cooler air or water can likewise be moved to the sunny side of the building when needed. This energy-conservation measure is impossible to accomplish with window and through-wall units that operate in isolation and do not feed to a central air or water distribution system, and are not under a central control system.
- **Maintenance.** Window and through-wall air conditioning units require a higher level of maintenance than central units. Maintaining the proper schedule of filter changes and cleaning of filters and coils will be more labor intensive for multiple individual units than for a few large, centralized units. With maintenance budgets continually reduced as a proportion of the LEA’s total operating budget, and with the backlog of maintenance deficiencies typically growing as school buildings age, it is imperative that school districts install systems that are as maintenance-free as possible. When highly visible components like package air conditioning units are not well maintained, they deteriorate rapidly in both function and appearance, contributing to an overall quality of dilapidation at the school.

SECTION II-DISCUSSION ITEMS AND DEFERRED ITEMS-cont'd

- Cost. Although the expense of window and through-wall air conditioning units is certainly less than that of a central system, and they are faster to install, their cost is not negligible. The use of scarce State funds to support window and through-wall air conditioning units would reduce the funds that are available for the types of long-term facility improvements that result in well-integrated building systems and components. In addition, if State funds were used to install package air conditioning units in a school, State funding would not be available for a more permanent HVAC system for at least 15 years, and the likelihood is small that a local government would fund a permanent HVAC system on its own once it has invested in the package units.

Motion:

TO CONTINUE THE POLICY OF NOT ALLOWING WINDOW OR THROUGH-WALL AIR CONDITIONING UNITS TO BE ELIGIBLE FOR STATE CAPITAL FUNDING, AND TO REPORT TO THE BOARD OF PUBLIC WORKS ON THE REASONS THAT THE INTERAGENCY COMMITTEE ON SCHOOL CONSTRUCTION DOES NOT SUPPORT THE USE OF STATE CAPITAL FUNDS FOR THE INSTALLATION OF THESE UNITS IN SCHOOL BUILDINGS.

IAC ACTION: THE ABOVE REFERENCED ITEMS WERE:					
	Approved	Disapproved	Deferred	Abstain	Recuse
Dr. Lillian M. Lowery	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Mr. Richard Hall	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Mr. Alvin Collins	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Mr. Thomas Lewis	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Mr. Tim Maloney	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

SECTION II-DISCUSSION ITEMS AND DEFERRED ITEMS-cont'd

C. Administrative Procedures Guide: Revised and New Sections

The *Public School Construction Program Administrative Procedures Guide* (the APG) was last revised in its entirety in 1994. Since that time, many changes have taken place in legislation, school design, procurement methodologies, project delivery approaches, and project financing. A series of memoranda have been issued since 1994 to address changes within specific areas. In 2008, the staff of the IAC began a comprehensive review of the APG, prioritizing sections that were most critical for the execution of the program. A first set of APG sections consisting of seven (7) new sections and four (4) appendices was approved by the IAC in September 2011.

The following four (4) sections and one (1) appendix of the APG are submitted for your review and approval. Two Sections and one Appendix are new: Section 104 School Site Approval with Section 104 Appendix Sustainable Community Planning Practices, and Section 405 Finance. Section 102 Capital Improvement Program and Section 105 High Performance Schools have been modified to reflect a number of procedural and legislative changes that have occurred since they were approved in September 2011:

- Section 102 (all modified items are shown in highlight, as well as certain relevant items that were not changed):
 - Termination of certain BRAC funding provisions by the IAC for the FY 2014 and subsequent year CIPs.
 - The Baltimore City 10-Year Plan projects funded through the Maryland Stadium Authority (clarification that the IAC procedures are applicable, except as modified by the Memorandum of Understanding that will be approved by the Parties in September 2013).
 - Termination of the high performance schools additional funding in the FY 2014 and subsequent CIPs.
 - Clarification of the application of “expanded capacity” for replacement schools subject to the requirement to be located within Priority Funding Areas. Specifically, “expanded capacity” will now include the design and construction of an expanded core even if the actual capacity of a school is not indicated for expansion at the time of the planning or funding request, because the expanded core indicates an intention to add capacity at a later date.
 - Corrections of certain terms and technical provisions.
- Section 105: Termination of the high performance schools additional funding in the FY 2014 and subsequent CIPs.

All proposed sections have been sent to the local educational agencies, the Maryland Association of Boards of Education, the Maryland Association of Counties, and the Maryland Public School Superintendents Association. The sections have been reviewed by the Office of the Attorney General for legal sufficiency. Following approval, the IAC staff will continue the revision of further sections for your approval.

1. Section 102, Capital Improvement Program (revised)
2. Section 104, School Site Approval (new section)
3. Section 105, High Performance Schools (revised)
4. Section 405, Finance (new section)
5. Appendix 104, Sustainable Community Planning Practices (new appendix)

Motion:

SECTION II-DISCUSSION ITEMS AND DEFERRED ITEMS-cont'd

TO APPROVE THE ATTACHED REVISED AND NEW SECTIONS OF THE *PUBLIC SCHOOL CONSTRUCTION PROGRAM ADMINISTRATIVE PROCEDURES GUIDE*, CONSISTING OF REVISED SECTIONS 102 CAPITAL IMPROVEMENT PROGRAM AND 105 HIGH PERFORMANCE SCHOOLS, NEW SECTION 104 SCHOOL SITE APPROVAL, NEW SECTION 104 APPENDIX SUSTAINABLE COMMUNITY PLANNING PRACTICES, AND NEW SECTION 405 FINANCE.

IAC ACTION: THE ABOVE REFERENCED ITEMS WERE:					
	Approved	Disapproved	Deferred	Abstain	Recuse
Dr. Lillian M. Lowery	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Mr. Richard Hall	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Mr. Alvin Collins	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Mr. Thomas Lewis	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Mr. Tim Maloney	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

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102 PUBLIC SCHOOL CONSTRUCTION CAPITAL IMPROVEMENT PROGRAM

102.1 GENERAL

A. Purpose of the Public School Construction Capital Improvement Program

1. The Public School Construction Capital Improvement Program (CIP) is a six-year plan that identifies public school construction needs and establishes a reasonable schedule for funding and implementation.
 - a. The schedule for funding should reflect the anticipated availability of both local and State funds, the required or desired date for implementation of the educational program, and a realistic schedule for the planning, design, and construction of individual projects.
 - b. Since local capital needs for school construction projects far exceed both local and State resources, the CIP should prioritize projects in order to establish realistic expectations for project completion.
2. The CIP consists of the budget year request and anticipated requests for the following five (5) years.
3. Projects within the capital improvement program may be proposed in order to increase capacity, to support the implementation of State and local educational initiatives, or to improve building performance.
 - a. Eligible project categories within the CIP are defined in Section 102.1.C.
 - b. Projects not eligible within the CIP may be eligible in the Aging Schools Program (ASP, see Appendix #TBD), the Qualified Zone Academy Bond program (QZAB, see Appendix #TBD), the Recycled Tire Grant Program (RTG, see Appendix #TBD), or the relocatable classroom repair fund (see Section #TBD).
4. The capital improvement program implements the Educational Facilities Master Plan (EFMP), and consequently should be in alignment with the EFMP (see Section 101).

B. Submittal of Annual Capital Improvement Program

1. See Section 102.7 for typical schedule of CIP submission dates.
2. By mid July of each year, the PSCP will disseminate a letter containing the schedule for submission and meetings for the CIP to be submitted in the following autumn, the cost figure that will be used to calculate the cost of construction, and any special requirements different from or in addition to those in these procedures.
3. By a date in October specified by the PSCP each year, a six-year capital improvement program request approved by the local board of education is to be submitted to the IAC if State PSCP funds are to be requested for any project or projects within the next six years.
 - a. See Section 102.4 for general and specific submission requirements.
 - b. Projects requested in the CIP should be in agreement with the priority and needs described in the Educational Facilities Master Plan (See Section 101)
 - c. Prior to the CIP submission, the IAC staff may discuss with LEA representatives the projects that will be requested for planning and funding approval.

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- (1) This discussion is preliminary in nature and will not be viewed as a statement of the official CIP submission of a board of education.
 - (2) A meeting with IAC staff is strongly recommended if the LEA intends to submit a request for a new project category, if there have been concerns about prior year submissions, or if the LEA contemplates submitting a request for a limited renovation project.
4. During and following the IAC staff review of each LEA's annual program request, and before the staff submits funding recommendations for the next fiscal year to the IAC, meetings may be conducted with the LEA.
 5. By a date established by the PSCP in late November or early December of each year, amendments to the proposed CIP approved by the local board are to be submitted to the IAC. [An exception to this rule has been made for BRAC (Base Realignment and Closure)-related projects (see Section 102.6.E.4.c for definition of BRAC-related project).]
 6. Written local governmental support for the CIP request and amendments is required in order for the IAC to consider a project as a legitimate request. This letter of support must be received by the Executive Director of the PSCP by the date specified by the PSCP for receipt of final approved CIP amendments (see Section 102.7). The letter of support must address all amended as well as all unchanged project requests. The PSCP may request additional confirmation of support prior to making final recommendations to the IAC and following BPW approvals in May.
 - a. Any submitted project that is not approved by the local government will not be considered for recommendation by the IAC.
 - b. Any submitted project that is withdrawn by the board of education will not be considered for recommendation by the IAC.
- C. Project Classifications. Eligible projects address existing buildings, new construction, and relocatable classrooms. The project classifications under each category are provided below. No priority order is implied in the sequence in which the project classifications are presented.
1. Existing Buildings
 - a. Renovation (R): Includes projects to renovate all or part(s) of schools that have been in use for more than 15 years where the purpose is not to provide significant additional capacity, but to adequately support the educational program and/or extend the useful life of the part(s) being renovated. A renovation project achieves the current educational, building performance, and aesthetic qualities of a new school. Portions of the school may be replaced if dictated by the condition of the facility or by the educational program. A renovation project precludes further participation by the State within 15 years after the project is placed in service.
 - b. Limited Renovation (LR): Includes projects that upgrade or replace a minimum of five major building systems and include widespread educational or architectural enhancements in schools or part(s) of schools that have been in use for more than 15 years. A limited renovation upgrades an existing building and site, or a portion of a building and site, to achieve many, but not all, of the current educational, building performance, and aesthetic qualities of a new school. A limited renovation allows further participation by the State within 15 years after the project is placed in service for projects that were not included in the original awarded scope of the Limited Renovation.
 - c. Addition (A): Includes projects to construct additions to existing schools to provide additional student capacity, to enhance educational programs, or both.

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- (1) Within this classification, preference will be given to projects for kindergarten and pre-kindergarten programs, and to basic instructional spaces such as classrooms and laboratories.
 - (2) Limited funding will be provided for portions of the existing building that must be renovated in order to allow connection to the new addition(s).
 - (3) However, consideration should be given to the impact of the increased capacity on existing core spaces, and an addition or additions that provide additional space while also renovating or enhancing core functions in a significant manner will be eligible for funding as a Renovation/Addition project (see below).
 - (4) Additions for "limited use" such as auditoriums, gymnasiums, locker rooms, swimming pools, kitchens, and cafeterias are also included in this classification, but may be given lower priority than additions that provide instructional space.
 - (5) See Section 105 for high performance school requirements that may apply to addition projects under certain circumstances.
- d. Renovation/Addition (R/A) and Limited Renovation/Addition (LR/A): Includes projects to renovate all or part(s) of existing schools and to construct additions to these schools to provide additional student capacity, to enhance educational programs, or both. See Section 105 for high performance school requirements that may apply to addition projects under certain circumstances.
 - e. Science (Look of the Future) (SCI): Includes renovation of high school science classrooms and laboratories to support contemporary instruction.
 - f. Systemic Renovation (SR): Includes renovation, replacement or enhancement of a specific building system that will extend the useful life of the school facility for a minimum of fifteen (15) years. Systemic renovation projects are to be distinguished from routine corrective or preventive maintenance, which is a local obligation. Eligible project types include roofs, boilers, chillers, architectural and structural repairs, doors and windows, **ELECTRICAL AND** communication systems, and vertical conveyance systems. See Section 500 for more detail and Section 102.4.C.2.c for submission requirements, Section 102.4.C.3.c for eligibility requirements, and Section 102.6.E.2.f for funding methodology.
2. New Buildings
- a. General
 - (1) All new schools receiving State capital construction funding shall be high performance schools, unless waived by the IAC. See Section 105 for definitions, waiver conditions, and conditions for Additional State Funding.
 - (2) See Planning Options, Section 102.4.B.2
 - b. New School: Includes projects to build new schools where additions for additional capacity to schools in existing neighborhoods and communities are not possible or practical, or where existing schools cannot be renovated to accommodate programmatic requirements.
 - c. Replacement School: Includes projects to replace the majority of an existing school where the cost of renovation is prohibitive, or site and other technical factors make renovation of the entire structure infeasible.

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- (1) Replacement generally occurs on the same site, but a nearby site may be proposed when conditions on the original site are detrimental.
 - (2) Replacement may include expansion to increase capacity, when warranted by enrollment projections and when technically practicable.
 - (3) Replacement must be justified on the basis of a feasibility study (Section 102.4.B.4.c(2)ii and Section 203).
3. Relocatable Classrooms: Includes projects to relocate State-owned relocatable classrooms from one site to another, either within a school district or between school districts, based on projected enrollments, educational programs, or the need for temporary classrooms during construction. See Section 102.4.C.2.f.
- a. Requests for funds to repair or dispose of State-owned relocatable classrooms are made separately, not in the capital improvement program request. See Section #TBD for more detail.
 - b. The purchase or movement of locally owned relocatables are not eligible for State funding.
4. Other: The IAC may recommend that the BPW establish special funding initiatives for designated programs for a limited period of time.
5. Cooperative Use Space
- a. General. "Cooperative Use Space" means up to 3,000 s.f. of co-located or shared space within a school that supports LEA or community initiatives to serve school children and the general community, and which is funded in part by the State.
 - (1) To be eligible for State participation in funding of up to 3,000 s.f. of cooperative use space, the area requested must be in addition to and distinct from square footage typically provided by the Board of Education for the educational program, and must be clearly identified in all design and construction documents that are submitted for review.
 - (2) Examples of cooperative use space include but are not limited to health and wellness clinics, recreation centers, community centers, libraries, and community meeting rooms.
 - b. Additional space for these purposes in excess of 3,000 gross square feet (gsf) may be funded at local expense.
 - c. See Section 102.4.A.5 for submission requirements
- D. Definitions
1. "Building Cost" is the cost of constructing a building, not including site work.
 2. "Construction Cost" is the cost of constructing a building, including the cost of appropriate site work.
 3. "Forward Funded Project" means that the LEA has paid all or some of the State share of a project that has been approved for planning, or partial funding, or both, by the State. (See Sections 102.4.C.2.h and 102.6.E.2.g).
 - a. Normally, the LEA forward funds a project in order to maintain the project schedule and in expectation of eventual reimbursement from the State in future year allocations.

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- b. Forward Funded does not signify the practice by which an LEA pays for the contractor's requisition and shortly thereafter seeks reimbursement from the State for a project that has been funded by the State.
- 4. "Locally Funded Project" means that the LEA has proceeded with a major project prior to receiving State approval for planning. Locally funded systemic renovation projects are not eligible for State funding participation. (See Sections 102.4.B.4.h and 102.6.E.2.g).
- 5. "Maximum Gross Area Allowance" is the maximum number of gross square feet that are eligible for State funding participation. (See Sections 102.6.A and Appendix 102-B).
- 6. "Maximum State Construction Allocation" is the dollar amount approved for State funding, and is established at the time that the project is approved for construction funding by the BPW. (See Section 102.6.E.3).
- 7. "Offsite Work" is work performed outside of the school property.
- 8. "Project Cost" is the cost of constructing a building, including all associated costs for design, survey, permits, furniture, furnishings and equipment (FF&E), financing, move-in and storage, and other project-related costs.
- 9. "Site Work" is generally, but not exclusively, construction work performed on a site five feet or more beyond the perimeter wall of the building.
- 10. "Average statewide per square foot school building cost" is the cost of new construction that is used to calculate project allocations for purposes of State participation.
- 11. "Tentative Maximum State Construction Budget" is the dollar amount that is to be used for design purposes, and is established at the time that the project is approved for planning by the BPW. (See Sections 102.6.E.2).

102.2 REFERENCE

- A. Education Article, §5-301, Annotated Code of Maryland
- B. COMAR 23.03.01 and 23.03.02

102.3 APPLICABILITY

- A. These procedures are applicable to all facilities owned by local boards that are used primarily for educational purposes, including:
 - 1. Charter schools;
 - 2. Facilities owned by a private entity under an alternative financing arrangement that will become the property of the local board at a future date certain. (See COMAR 23.03.05.05)

3. PROJECTS IN THE BALTIMORE CITY 10-YEAR PLAN FUNDED THROUGH BONDS ISSUED BY THE MARYLAND STADIUM AUTHORITY, AS ESTABLISHED BY CHAPTER 647, LAWS OF 2013, EXCEPT AS MODIFIED BY THE MEMORANDUM OF UNDERSTANDING APPROVED BY THE BOARD OF PUBLIC WORKS ON OCTOBER 16, 2013.

- B. These procedures are not applicable to:

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1. Administrative and central office buildings that are not used primarily for educational purposes;
2. Projects that are not within the Project Categories described in Section 102.4.
3. Projects funded through other State funded programs (see *Administrative Procedures Guide* for relevant program); nor
4. Projects for the routine maintenance and repair of school facilities.

102.4 SUBMISSION REQUIREMENTS

A. General

1. The CIP is divided into the following six major segments which provide programming information for six fiscal years. The Forms, the attachments, a letter indicating approval by the local Board, and additional supporting documentation where appropriate, constitute a complete CIP submittal.
 - a. Requests for Approval for Planning for the upcoming fiscal year (Forms 102.1, Section 102.4.B)
 - b. Requests for Approval of Funding for the upcoming fiscal year (Forms 102.2, Section 102.4.C)
 - c. Future planning approval and funding requests for the subsequent five consecutive fiscal years (Forms 102.3, See Section 102.4.D)
 - d. Summary of Current and Future Project Requests (Form 102.4, Section 102.4.E.1).
 - e. Status of Previously Approved Projects (Form 102.5, Section 102.4.E.2)
 - f. Status of State-Owned Relocatable Classroom buildings (Form 102.6, Section 102.4.E.3).
2. Forms and Sequence of Priorities
 - a. Materials are to be bound, with separate sections for each section listed in Section 102.4.A.1 above, except that Forms 102.1 and 102.2 may be combined in a single section to preserve priority order among projects.
 - (1) Number all pages consecutively.
 - (2) Provide a table of contents and clearly mark the separate sections, preferably by page tabs or dividers that show the PSCP section (102.1, 102.2, 102.1/102.2, etc.).
 - b. Use the most recent PSCP Forms 102.1–102.6, to be found on the PSCP website at www.pscp.state.md.us. The electronic forms contain formulas that will calculate automatically.
 - c. All projects are to have a separate, unique and sequential priority number.
 - (1) Projects must be submitted in priority order established by the local Board, with a separate request for each project.
 - (2) Each project should have a single priority number, including different numbers for planning and funding requests for the same project. Do not use letters and numbers, number and hyphens, etc.
 - (3) Major projects require a separate submission for planning approval (Form 102.1) and funding (Form 102.2).

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- i. For major projects, receipt of BPW planning approval is a prerequisite to State construction funding.
 - ii. See Section 102.4.B.1.b for project categories that require and do not require planning approval.
 - iii. If requesting planning and construction in the same year for a project, submit a planning request (Form 102.1) and a construction funding request (Form 102.2), each with a separate priority number. A request for planning always precedes a request for funding for the same project, but the requests do not need to be in immediate sequential priority order.
 - d. If amendments are submitted prior to the date in November or December established by the IAC that change the priority order of projects, submit the projects in the new priority order, and change the table of contents and Form 102.4 appropriately.
3. Required Information for Forms (General)
- a. Complete all sections of Forms for each project requested. See Sections 102.4.B and 102.4.C for specific submission requirements for each project category.
 - b. The square footage and dates for existing buildings should correspond to those in the PSCP Facility Inventory Database, updated by each LEA as of the previous July.
 - (1) If project information differs from that provided in the Educational Facilities Master Plan (EFMP) of the previous July, provide an explanation of the discrepancy.
 - (2) For each major project, on Form 102.1 or an attachment, indicate a clear and concise linkage to the goals, standards, and timeframes provided in the EFMP .
 - c. For all projects submitted but not approved in a prior CIP, information on project costs, bid dates, enrollments, etc. should be updated.
 - d. For major projects, indicate if the project includes cooperative use space, and how much space.
 - e. The anticipated bid date should be the anticipated bid opening date.
 - f. FY 2010 through FY 2014 only: If project will be a high performance new school building, provide an "X" (capital) in appropriate line.
 - (1) The electronic form will calculate the 2% extra local costs and the State and local share automatically.
 - (2) Provide evidence of continuing commitment to achieve high performance certification.
4. Local Approvals
- a. The submittal must include a letter from the local board or the local superintendent indicating the Board approval of the CIP.
 - b. Original letters of financial support from the local government and addressed to the Executive Director are to be submitted as a separate document no later than the date specified by the IAC.

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5. Cooperative Use Space.
 - a. Requests for projects which contain square footage for cooperative arrangements must include a letter of commitment from the Board of Education regarding Board-sponsored activities, or a letter of commitment from a non-profit organization or another governmental agency to the Board, clearly agreeing to establish or continue the program for which the additional square footage is requested.
 - (1) The PSCP must receive such letters of support before it can recommend cooperative arrangement space for *funding* to the IAC; however, it is preferable to obtain such letters of support before requesting *planning* approval.
 - (2) In order for cooperative use space to be excluded from the calculation of State Rated Capacity (SRC) at a later date, the letter of support must indicate the intention of the Board and the non-profit organization or another governmental entity to establish a written agreement that defines mutual responsibilities, the term of the arrangement, and the consideration, if any.
 - b. To be eligible for State participation, the request must show that the area requested will be in addition to and distinct from square footage typically provided by the Board of Education for the educational program, and must be clearly identified in all design and construction documents that are submitted for review.
6. Enrollments
 - a. Enrollments should be shown for the school year of the request and for each school year to the 7th year thereafter.
 - b. By May 1, the LEA should review and evaluate the latest public school enrollment projections prepared by the Maryland Department of Planning (MDP).
 - (1) If the LEA agrees with the MDP forecast, submit a written statement of agreement. The written agreement must include a copy of the LEA's enrollment projections.
 - (2) If the LEA disagrees with the MDP forecast, the reply must include an explanation of the methodology used to prepare the projections.
 - (3) If MDP finds, after review of the response, a significant variance (greater than 5%) between the LEA's projections and those of MDP, MDP will schedule a meeting to discuss and resolve the variance.
 - c. The "Proposed Enrollment" figure in the Section "State Scope" is the number of students that are justifiable in the seventh year when the enrollment projection of the subject school is combined with the projections of the adjacent schools and the total is compared with the total current State Rated Capacity (SRC) of the subject school and the adjacent schools.
 - d. The "Proposed Enrollment" figure in the Section "Local Scope" should reflect the number of students the school is designed to house per Board policy or other factors not reflected in the enrollment projections. The school may be designed to house a number of students larger or smaller than the State-justified Proposed Enrollment. The smaller figure will always govern in the calculation of State participation.
 - e. These enrollment figures will not necessarily be the same as the eventual State Rated Capacity of the school, which is calculated during design and after construction to reflect the actual utilization of spaces in the school, and should be periodically updated.

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- f. If the actual enrollment data for the previous September 30 for each school in the school system is not available at the time of the October submission, provide updated information as soon as it is available.
 - (1) This information must be submitted by October 31st in order for PSCP staff to consider it in the November recommendations to the IAC.
 - (2) September 30 actual enrollment data and revised projections may be submitted at any time prior to March 31 of the following calendar year in order to be considered by PSCP staff in their interim and final recommendations to the IAC.

- 7. Adjacent Schools
 - a. An adjacent school is an existing school or a proposed new school that:
 - (1) Is of the same type (elementary, middle, high, etc.)
 - (2) Has an attendance area that is geographically contiguous with that of the subject school, or
 - (3) Has an attendance area that is not geographically contiguous with that of the subject school but can be readily accessed for purposes of redistricting; or
 - (4) Forms part of a larger redistricting plan, i.e. houses students who will be sent to a school adjacent to the subject school when the capacity of the subject school becomes available.
 - b. For enrollments and capacities of adjacent schools, indicate if any of the geographically adjacent schools should not be considered in the calculation of available capacity, and why (e.g. board of education policies or practice regarding road crossings). This remark may apply to charter schools, see next item.
 - c. Include in the list of adjacent schools any charter school facilities that have been approved by the Board of Education, including charter schools in leased facilities.
 - d. No adjacent school should be used for more than one project justification unless an explanation is provided that shows that overcrowding at the adjacent school will be relieved by more than one capital project.

- 8. Costs
 - a. Show a breakdown of costs – construction, site development (if applicable), extra local costs associated with high performance school certification (if applicable), contingency, and other – on the appropriate lines of Forms 102.1 and 102.2 for all projects.
 - b. Round all figures to the nearest thousand.
 - c. Include design fees, permit charges, and other miscellaneous local expenses under “Other Costs”.
 - d. Total costs should correspond to total costs shown on Form 102.4.
 - e. Show budget year request on line of Form 102.2.
 - f. High Performance Schools (see Section 105)

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- (1) For schools subject to the high performance schools requirements, the extra local costs and the additional State funding [will be] **WERE** calculated automatically **FOR FISCAL YEARS 2010 THROUGH 2014** by use of the electronic Forms 102.1 and 102.2 (available on PSCP website at www.pscp.state.md.us).
- (2) For informational purposes, the LEA shall report to the extent feasible on the real cost of achieving high performance certification as projects move through design, construction, and close-out.

B. Current Year Requests for Local Project Planning Approval (Form 102.1)

1. General

- a. The annual CIP includes projects for which State planning approval is requested, generally for the next fiscal year. For locally funded projects and projects with smaller scope, planning approval may be requested in the same fiscal year as funding approval.
- b. Planning approval is required for all major projects as a precondition for approval of funding. The following categories of projects do not require planning approval:
 - (1) Systemic renovations (Section 500);
 - (2) Science classroom renovations;
 - (3) Open space pod conversions.
 - (4) Movement of State-owned relocatable classrooms;
 - (5) Small addition projects, at the determination of the PSCP/MSDE.
- c. Approval of planning represents a confirmation by the State that the project is needed and that the State will provide funding in a fiscal year, pending eligibility for funding (Section 102.5) and availability of funds at the time of the request.
- d. Planning approval does not guarantee that construction funding will be allocated by the State in a specific fiscal year.
- e. The request for planning approval should be based on a review of current SRCs and current and future facility, enrollment, and programmatic conditions, including the number of projects already approved for planning within the LEA, the capacity of the LEA to move projects previously approved for planning forward to construction, and the potential for future State and local funding at the time that it is needed. These same factors will be considered in the approval of planning by the IAC.
- f. Requests for planning approval must be supported by information provided in the Educational Facilities Master Plan (Section 101).
- g. Approval of planning does not automatically expire after a certain time. However, if a project has not been requested for funding within two years of approval of planning, the Designees may recommend rescission of planning approval to the IAC.
- h. Requests for approval of planning for new schools, and for replacement schools that involve an increase of State Rated Capacity, **INCLUDING REPLACEMENT SCHOOLS THAT HAVE AN OVERSIZED CORE AREA**, that are located outside of Priority Funding Areas, are subject to the requirements of Regulations .03, and .28 of COMAR 23.03.02, *Regulations for the Administration of the Public School Construction Program*. See Section 104.

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2. Planning Options

- a. Existing public school buildings should be renovated whenever it is possible and economical to retain the school building within the neighborhood or community and preserve and enhance prior State and/or local investments.
- b. The LEA should pursue the following progressive options to address problems related to school overcapacity (excessive enrollment) or educational inadequacy:
 - (1) Redistricting to use existing capacity in adjacent or nearby schools (projects for additional capacity will generally not be recommended for planning approval or funding where adequate capacity is available at adjacent schools, see Section 102.4.A.7);
 - (2) Renovation of an entire facility or a portion thereof, with or without additions as justified by enrollment projections or by the educational program. The availability of previously closed school buildings should be examined to determine if they can be reopened and renovated.
 - (3) Replacement of an existing facility, preferably on the same site, based on a feasibility study to justify the abandonment or demolition of the existing facility, with or without an increase of capacity (Sec. 203); and
 - (4) New school facility.

3. General Submission Requirements

- a. See "Required Information for Forms (General)" (Section 102.4.A.3), Enrollment (Section 102.4.A.6), State Rated Capacity (Section Appendix 102-A), Adjacent Schools (Section 102.4.A.7), and Costs (Section 102.4.A.8). Complete all sections of Forms 102.1 for each project requested.
- b. For planned new construction or replacement projects:
 - (1) Indicate anticipated transportation modal split (percent walking and/or biking, percent being bused and percent arriving by car). Contact the Maryland Department of Planning for further information.
 - (2) Indicate Priority Funding Area (PFA) status, local comprehensive plan designation, and water/sewerage status for each planning request for new construction, replacement, renovation, limited renovation, or addition project.
 - (3) Indicate if project utilizes a prototype or repeat plan,

4. Eligibility and Specific Submission Requirements

a. General

- (1) PSCP staff will not recommend planning approval for a new or replacement project until the site has been approved by the IAC. Show date of approval on Form 102.1.
 - i. The site must be reviewed and approved through the State Clearinghouse (or the individual agencies involved) and the site must be subsequently submitted to the IAC for approval no later than the second week of March following the date of the CIP submission in order for the project to be considered in the final round of CIP approvals.

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- ii. As the Clearinghouse process can take up to 60 days, it is advisable to submit to the Clearinghouse no later than the first week of the January that follows submission of the request.

- (2) A project at an existing school is eligible for funding approval if the facility, portion of the facility to be renovated, or building system to be upgraded or replaced, has been in use for more than 15 years and has not been renovated, upgraded, or replaced within 15 years, measured from the January 1st following submission of the CIP request

Exception: If a project has been previously approved for a Limited Renovation (LR) project, a new project in the area of renovation is eligible for approval if the system to be upgraded or replaced was not part of the approved and awarded scope of the LR project (see Section 102.4.B.4.d).

b. Projects for Enrollment Capacity.

- (1) New schools, replacement schools with enlarged capacity, and additions for capacity purposes must be justified on the basis of enrollment for the subject school and adjacent schools.
- (2) Such enrollment shall be consistent with the countywide enrollment projections agreed upon by the LEA and the Maryland Department of Planning.
- (3) Funding will be based on the projected enrollment, not on the Proposed Scope when the latter exceeds the former.
 - i. Before requesting funding for a project that has received planning approval, the LEA should verify any revisions to the previously approved enrollment figure based upon the most recent enrollment data.
 - ii. The approved scope and projected enrollment of a project will be shown in the final approved State CIP.
 - iii. The final projected enrollment will be determined at the time that funding is approved, and will not be adjusted thereafter, **with the exception of a BRAC-related project for capacity, see Section 102.6.E.4.c).**
 - iv. In cases in which the LEA Proposed Enrollment of the school will be less than the number justified by enrollment projections (e.g. because of policies regarding local rated capacity), the lower number will be used to determine State participation.
- (4) The majority of the enrollment for a proposed new school should be in the attendance area at the time of proposal. Nearby schools of the same type or grade structure as the proposed new school (elementary, middle, high) should be projected to be fully utilized or overcrowded within seven (7) years of the September 30 prior to the date of submission of the CIP request, and the proposed facility should be projected to be at least 50% utilized at the time of opening.
- (5) See Section 105 for requirements regarding High Performance schools.

c. Replacement or Renovation Projects

- (1) Conditions at an existing school must be such that work is clearly warranted to correct building or educational inadequacies and there will be continuing occupancy of the replacement or renovated school at reasonable levels.

(2) Feasibility Studies

- i. A feasibility study is recommended in all cases to determine the most educationally effective and cost efficient scope of work.
- ii. A feasibility study, including a 40-year life cycle cost analysis, is required to be submitted and reviewed to justify the abandonment of, or the demolition of more than 50% of, an existing facility. Requirements for the content of the feasibility study are provided in Appendix 203.

(3) For Complete Renovation projects, give the age of each portion of the building. Information should correspond exactly to data in the PSCP Facilities Inventory Database. The age categories and percentages of new construction funding are:

40 years & older	100%
31 – 39 years	85%
26 – 30 years	75%
21 – 25 years	65%
16 – 20 years	50%
0 – 15 years	0%

(4) See Section 105 for requirements regarding High Performance schools.

d. Limited Renovation Projects:

(1) Scope

- i. The scope must include at least five major building systems, as defined by the eligible systemic renovation categories listed in Section 500 (with lighting and electrical power counted as two separate systems). Generally, system upgrades will be considered to be building-wide in scope unless shown to be otherwise.
- ii. The scope must also include widespread educational and architectural enhancements that will benefit most of the students in the facility, consisting of comprehensive improvements to a variety of educational spaces that are distributed throughout the facility, or to selective educational spaces that are more concentrated but which are used by most or all students in the course of the normal school week.
 - Generally, educational enhancements will be specific to defined areas of the building unless shown to be otherwise.
 - A project that is so extensive as to renovate all but a small amount of the existing building will be considered a full renovation.
- iii. Provide clear descriptions of:
 - Building Systems: The major building systems that will be upgraded or replaced, with the same level of specific detail that would be required for an equivalent systemic renovation project (see Section 500);
 - Educational Enhancements: The educational and architectural enhancements . The scope of the educational enhancements must be clearly delineated, preferably using building plans (8-1/2"X11" or 11"X17") or in a feasibility study.

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- Other Work: Minor renovations and upgrades (e.g. lockers) that fall outside of the scope of the minimum of five major building systems.
- (2) Extensive discussion between the LEA and the staff of the PSCP may be required to ascertain the extent of the building and educational enhancements. In order not to impede the determination of eligibility and approval, these discussions should occur in the summer prior to submission of the request for approval of planning in an annual CIP.
 - (3) Following discussion and presentation of documentation, which may include building plans and descriptive material, the determination of the PSCP staff about the eligibility of the scope will be final.
 - (4) The total proposed construction cost of a Limited Renovation must be less than the calculated cost, per the State funding formula, of the complete renovation of the eligible portion of the facility. (Section 102.6.E.2.c).
 - (5) Documentation must be provided to identify previous State-funded work that will be removed or substantially altered by the limited renovation project. Provide:
 - i. Age of building system to be removed or altered;
 - ii. Age of building square footage that will be renovated or demolished;
 - iii. Amount of State funding associated with building systems to be removed or altered, or with square footage to be renovated or demolished.
 - (6) A school that has been approved for a Limited Renovation (LR) project may be eligible for planning approval in a later fiscal year for a portion of the school not previously renovated, or for upgrade or replacement of a building system not included in the approved scope of the LR work. The later request for planning approval should include graphic information that shows the area of the previous LR and the new proposed area of work.
- e. Career Technology Education (CTE) Programs
- (1) Projects involving separate career technology education (CTE) centers must have a letter of support from the Maryland State Department of Education Assistant State Superintendent, Division of Career and College Readiness (DCCR) before local planning approval and/or construction funding will be given by the IAC/BPW.
 - (2) Projects involving CTE programs of study in comprehensive high schools are eligible for local planning approval from the IAC/BPW, but must have a letter of support from the Maryland State Department of Education Assistant State Superintendent Division of Career and College Readiness (DCCR) before schematic design approval and/or construction funding will be given by the IAC/BPW.
 - (3) The MSDE DCCR letter of support indicates agreement with the proposed CTE programs of study in terms of their relevance to the current and projected labor market demand. MSDE DCCR support does not determine specific staffing or enrollment for the programs, guarantee IAC/BPW support for the project, or guarantee IAC/BPW approval at the projected enrollment and square foot area requested.
 - (4) Submission requirements are determined by MSDE/DCCR. PSCP/MSDE will assist the LEA in the review process.

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- (5) Submit a copy of the letter of support with the CIP request and/or the schematic design submission for the project.
- f. Special Education Programs
 - (1) Projects involving separate special education day schools must have a letter of support from the Maryland State Department of Education Assistant State Superintendent , Division of Special Education/Early Intervention Services before local planning approval and/or construction funding will be given by the IAC/BPW.
 - (2) Comprehensive schools with special education programs;
 - i. Projects involving regional special education centers are eligible for local planning approval from the IAC/BPW, but must have a letter of support from the Maryland State Department of Education Assistant State Superintendent, Division of Special Education/Early Intervention Services (DSE/EIS) before schematic design approval and/or construction funding will be given by the IAC/BPW.
 - ii. Regional special education center means a special education service location in a comprehensive school that provides special education programs and related services to students from outside their regular attendance area.
 - iii. Projects involving comprehensive schools with special education services only for students within their home attendance area do not require a letter of support.
 - (3) MSDE support will be based on a review of individualized education programs and documentation of the provision of supplementary aids and services as required by 34 Code of Federal Regulations (CFR) 300 Sections 28 and 300.130. MSDE support does not determine specific staffing or enrollment for the programs, guarantee IAC/BPW support for the project, or guarantee IAC/BPW approval at the projected enrollment and square foot area requested.
 - (4) Submission requirements to request a letter of support are determined by MSDE DSE/EIS. PSCP/MSDE staff will assist the LEA in the review process.
 - (5) Submit a copy of the letter of support with the CIP request and/or the schematic design submission for the project.
- g. Additions for programmatic purposes must be justified on the basis of an analysis of the existing school to demonstrate that the required program cannot be accommodated within existing or renovated spaces.
- h. Locally Funded Projects. The LEA may submit a request for planning approval for a locally funded project that has been initiated at the local level and has proceeded into the design phase, and possibly into or through the construction phase without prior IAC/BPW approval.
 - (1) The project request will be reviewed without prejudice.
 - (2) The capacity and scope eligible for State participation will be tentatively established when the project is approved for planning by the BPW.
 - (3) Projected Enrollment.
 - i. If the solicitation opening was between Oct. 1 and March 31, use the most recent prior September 30 enrollment.

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- ii. If the solicitation opening was between April 1 and September 30, use the enrollment reported for that same September 30 date. .
- (4) Square Feet per Student. Use the maximum gross area allowance per student figure in the State Space and Capacity Formula that was in effect on the date of the bid opening.
- (5) Cost per Square Foot. Use the PSCP published cost per square foot for the July that falls within the calendar year of the bid opening.
- (6) All MBE Participation information must be submitted with the CIP request for a locally funded project which has been or will be bid prior to the date of anticipated BPW approval. Use the "Minority Business Enterprise Procedures for State Funded Public School Construction Projects" that was in effect on the date of bid opening.
 - i. No locally funded project will be recommended for approval or planning if required MBE documentation has not been submitted.
 - ii. No locally funded project that has been approved for planning will be recommended for award of contract if required MBE documentation has not been submitted.
 - iii. Planning approval will be rescinded for a locally funded project that has been approved for planning but for which required MBE documentation that is submitted with the request for award of contract is found to be deficient.
- (7) For a locally funded new school, replacement, or large addition project that is required to be a high performance building, LEED Silver or comparable certification, evidence of the LEA's intention to seek certification, or a request for a waiver must be submitted. See High Performance Building requirements, Section 105.
- (8) A locally funded project that is approved by the BPW in an annual CIP may be classified as a forward funded project, depending on the level of prior local construction funding at the time of BPW approval.
 - i. "Forward-funded project" means a school construction project that the State has approved for planning and for which the LEA has paid some portion of the State share with local funds.
 - ii. For projects for which only Pay-go funds may be used to reimburse the State portion that has been locally funded, the anticipated availability of Pay-go funding may influence whether a project is recommended for planning approval.

C. Current Year Requests for Project Funding (Form 102.2)

1. General

- a. The annual CIP is a plan that addresses major projects, systemic renovations, and the movement of State-owned relocatables for which State funding approval is requested for the budget year.
- b. The number of projects requested should not exceed the number that can reasonably be executed by the LEA during the fiscal year.
- c. The funds requested should not exceed a reasonable estimate of the State funding that will be available for the LEA.

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- d. The number of projects and their cost should not exceed the capacity of the local government to provide matching funds if the projects are approved by the State.
- e. Requests for approval of funding for new schools, and for replacement schools that involve an increase of State Rated Capacity, **INCLUDING REPLACEMENT SCHOOLS THAT HAVE AN OVERSIZED CORE AREA**, that are located outside of Priority Funding Areas, are subject to the requirements of Regulations .03, and .28 of COMAR 23.03.02, *Regulations for the Administration of the Public School Construction Program*. See Section 104.

2. Submittal Requirements

a. General:

- (1) See "Required Information for Forms (General)" Section 102.4.A.3.
- (2) Complete all sections of Forms 102.2 for each project requested.
- (3) Funding and Cost Information
 - i. The funding request for the budget year should be shown in the line provided and should correspond to the amount shown in Form 102.4 column H.
 - ii. For each project, the total funding shown in Form 102.2 should correspond to the total shown in Form 102.4 column C.
 - iii. For projects that will require funding in more than one fiscal year, a "draw schedule" showing the anticipated expenditure schedule throughout the requested fiscal year and beyond should be provided. The draw schedule may be based on either monthly or quarterly anticipated requisitions.
 - iv. Budget year funding requests should not exceed the amount that will reasonably be needed during the fiscal year, based on the draw schedule. Proposed bid date should be reviewed in order to confirm that State funds will be needed in the budget year. Design documents and verifiable construction and draw schedules will be relied on to ensure that the progress of the project toward construction will warrant the funding requested in the CIP submission.
- (4) Additional submittal requirements for specific project categories are shown in the sections below.

b. Projects that have received prior year Planning Approval: All information on enrollments, age of component portions (existing buildings), scope of work (Limited Renovations), and Career Technology Education and Special Education populations should be updated.

c. Systemic Renovation projects (see also Section 500):

- (1) Systemic renovation projects require only a submission of Form 102.2. A request for approval of planning (Form 102.1) should not be submitted.
- (2) Project information should correspond to information provided in the Comprehensive Maintenance Plan (CMP) to be submitted by October 15 of each year.
- (3) Provide a complete breakdown of costs, including contingency (2.5% of State participation) and "Other" costs (design fees, permits, etc.).

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- (4) Provide a complete description and justification for each project. Describe all work to be included in the project in order to clarify:
 - i. The scope on which the cost estimate is based;
 - ii. If an entire system or portion of a system is to be replaced (e.g., all 37 windows in a school, or all windows (original) in the 1975 south wing, or all windows (1978) in the 1955 east wing); and
 - iii. All ineligible work that is proposed .
 - (5) Provide the age of the building system or the age and number of units (e.g. roof, boilers, windows) to be replaced.
 - (6) Roof Replacement Projects:
 - i. Address how the 1/4 inch-per-foot slope requirement will be met.
 - ii. Provide roof plans of the entire school on 8-1/2" X 11" pages, giving the square footage and age of each identified section and the total.
 - iii. Indicate on the plan the existing slope of the roof.
 - iv. Indicate the existing roof type(s) and the replacement roof type(s).
 - v. Describe any special features or equipment on the roof.
 - vi. Provide the three (3) most recent semi-annual roofing inspection reports completed by the LEA. **NO ROOF REPLACEMENT PROJECT WILL BE APPROVED FOR FUNDING IF THE ROOF INSPECTION REPORTS DO NOT DEMONSTRATE THAT ROOF INSPECTIONS ARE CONDUCTED AT LEAST SEMI-ANNUALLY.**
 - (7) Provide SRC and enrollment information only for the requested school. Generally, enrollments must show continuing utilization of at least 60% in order for the project to be justified.
- d. Look of the Future High School Science Classroom Projects. Provide for each request:
- (1) One or more 8 1/2"x11", single line drawing of the floor plan of the school with gross square feet (GSF) of the area for the proposed science project.
 - (2) List of existing and proposed science spaces with net square footages.
 - (3) Estimated cost and basis for estimate.
- e. Prekindergarten/Kindergarten Requests
- (1) For each prekindergarten and/or kindergarten project request, provide:
 - i. Number of classrooms at the school currently used for prekindergarten and/or kindergarten.
 - ii. Number of these classrooms that do not meet criteria defined in the Final Report of the Task Force to Study Public School Facilities (February 2004) for prekindergarten and/or kindergarten, including square footage, storage, adjacent toilet room, child height sink, and access to age-appropriate outdoor play equipment.

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- iii. Current number of students in other grades occupying relocatable classrooms who could be moved into appropriate permanent space after construction of prekindergarten and/or kindergarten addition(s) or renovation of other space(s).
- (2) On page 2 of Form 102.1 and Form 102.2:
- i. Current number of students in mandated prekindergarten and kindergarten.
 - ii. Projections of number of students in mandated prekindergarten and/or kindergarten programs for 7th year.
 - iii. Current State Rated Capacity of school.
 - iv. Projection of total number of students in all grades in the school for 7th year. It is not necessary to show adjacent schools.
- (3) Provide one or more 8 1/2"x11", single-line drawing(s) of the floor plan of the school with GSF of the area for the proposed kindergarten/prekindergarten project and related work, identification of existing and proposed K/PK spaces with net square footages, identification of existing and proposed spaces for grades 1-5 or 1-6 with net square footages, and the estimated cost and basis for estimate. Clearly label all spaces.
- (4) In some cases, the PSCP may request a listing of all kindergarten and/or prekindergarten spaces within a school district or school cluster in order to determine the total number of available and projected kindergarten and/or prekindergarten seats measured against the projected number of kindergarten and/or prekindergarten students.
- f. Relocatable Classrooms:
- (1) State-Owned Relocatables
- i. Show the same information as for a classroom addition project (i.e., description, justification, SRC of subject and adjacent schools, etc., see Section 102.4.B.4.b above).
 - ii. State-owned relocatable classrooms may also be used to provide temporary space during renovation of an existing facility.
 - iii. Requests should be budgeted at the LEA estimated cost but not to exceed \$50,000 total per classroom, with the State share based on the cost-share formula.
- (2) LEA-Owned Relocatables: State funding is not available for the purchase of LEA-Owned relocatable classrooms.
- g. Locally Funded Projects: The LEA may submit a request for funding approval concurrent with a request for planning approval for a locally funded project that has been initiated at the local level and has proceeded into the design or the construction phase without prior IAC/BPW approval.
- (1) The project request will be reviewed without prejudice.
 - (2) Clearly indicate the dates when local funds were provided.
 - (3) The capacity and scope eligible for State participation will be established when the project is approved for funding by the BPW.

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- (4) Projected enrollment:
 - i. If the solicitation opening was between Oct. 1 and March 31, use the most recent prior September 30 enrollment.
 - ii. If the solicitation opening was between April 1 and September 30, use enrollment reported for that same September 30 date.
- (5) Use the Square Feet per Student, the Cost per Square Foot, and the State-local cost-share percentage that were used for the request for approval of planning .
- (6) All MBE Participation information must be submitted with the CIP request for a locally funded project which has been or will be bid prior to the date of anticipated BPW approval. Use the "Minority Business Enterprise Procedures for State Funded Public School Construction Projects" that was in effect on the date of bid opening.
 - i. No locally funded project that has been recommended for approval of planning will be recommended for approval of funding if required MBE documentation has not been submitted.
 - ii. Planning approval will be rescinded for a locally funded project that has been approved for planning but for which required MBE documentation that is submitted with the request for approval of funding is found to be deficient.
- (7) Other Submissions. Submit all the appropriate drawings, specifications, high performance building information if applicable, forms, cost estimates, life cycle cost analysis (LCCA), and energy conservation studies, bidding documents, bid tabulations, contracts, or other information normally submitted for projects prior to or after contract award (depending upon the current status of the project).
- (8) Submit revised Assurance Form no later than date of final submission of amendments and local government assurance, accepting potential federal tax consequences associated with reimbursement of forward funded projects with State tax-exempt bond proceeds. The form will be provided no later than October 30 following the submission date.
- h. Forward Funded Projects:
 - (1) For locally funded projects for which bids have been or will be issued prior to the anticipated date of BPW approval of funding, provide all required MBE Participation documentation to PSCP.
 - (2) Projected Enrollment, Square Feet per Student, Cost per Square Foot, and State-Local Cost Share Percentage. Follow the same procedures as for Locally Funded projects described in 102.4.C.2.g above.
 - (3) Submit revised Assurance Form no later than date of final submission of amendments and local government assurance, accepting potential federal tax consequences associated with reimbursement of forward funded projects with State tax-exempt bond proceeds. The form will be provided no later than October 30 following the submission date.
 - (4) All MBE Participation information must be submitted with the CIP request for a forward funded project which has been or will be bid prior to the date of anticipated BPW

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approval. Use the "Minority Business Enterprise Procedures for State Funded Public School Construction Projects" that was in effect on the date of bid opening.

- i. No forward funded project that has been recommended for or approved for planning will be recommended for award of contract if required MBE documentation has not been submitted.
- ii. Planning approval will be rescinded for a forward funded project that has been approved for planning but for which required MBE documentation that is submitted with the request for award of funding is found to be deficient.

3. Eligibility

a. General

- (1) A project at an existing school is eligible for funding approval if the facility, portion of the facility to be renovated, or building system to be upgraded or replaced, has been in use for more than 15 years and has not been renovated, upgraded, or replaced within 15 years, measured from the January 1st following submission of the CIP request

Exception: If a project has been previously approved for a Limited Renovation (LR) project, a new project in the area of renovation is eligible for approval if the system to be upgraded or replaced was not part of the approved and awarded scope of the LR project (see Section 102.4.B.4.d).

- (2) Need for Funds. A request for funding will only be approved on evidence that the funds will be needed and expended in the fiscal year.
- (3) Provision of the detailed information outlined below will expedite project review, increasing the likelihood that a high-priority project can be recommended for approval in the January round of BPW approvals in order to be constructed during the following summer.

b. For major projects (renovation, limited renovation, renovation/addition, limited renovation/addition, addition, new, and replacement):

- (1) Submit educational specifications a minimum of 30 days prior to submission of the schematic design documents (see Section 102.7 below. See also Section 202 and Appendix 202).
- (2) Planning approval is a pre-requisite for approval of funding.
- (3) Submission of design documents:
 - i. To be considered for recommendation of funding in the January round of BPW approvals, submit schematic designs by September 1 and design development documents by November 1. Projects that do not meet these deadlines are still eligible for consideration in the final round of BPW approvals in May.
 - ii. Submit schematic design documents no later than March 15 of the following year in order for a project to be considered for recommendation of funding in the final round of BPW approvals.

c. A systemic renovation project is eligible for funding approval if the building system to be upgraded or replaced has been in use for more than 15 years and has not been upgraded or

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replaced within 15 years, measured from the January following submission of the Capital Improvement Program request

D. Future Project Requests – Form 102.3

1. Use Form 102.3 to provide information on the anticipated requests for the next five future fiscal years. A single Form 102.3 may be used to show more than one year's anticipated requests for a single project as long as the appropriate amounts and fiscal years are made clear.
 - a. The number of projects requested in each future year should not exceed the number that can reasonably be executed by the LEA during the fiscal year.
 - b. The funds requested in each future fiscal year should not exceed a reasonable estimate of the State funding that will be available for the LEA.
 - c. The number of projects and their cost should not exceed the capacity of the local government to provide matching funds if the projects are approved by the State.
2. For major projects, show specific projects rather than generalized categories of projects.
3. For smaller projects:
 - a. Use one Form 102.3 to show all systemic renovation requests for each single year, a separate Form 102.3 for all science classroom renovations for each single year, etc.
 - b. Whenever possible, identify specific projects and list them individually on the form, with estimated costs and State-local shares.
3. For major projects, use a separate Form 102.3 for each project, but showing planning and funding for each project on the same form.
4. All anticipated requests for future projects should be in constant current dollars.
 - a. Use the cost calculation methods outlined in Section 102.6 to determine the estimated future State and local costs.
 - b. Total estimated project costs should correspond to costs shown on Form 102.4.
5. All anticipated requests for future projects should be consistent with the EFMP.

E. Summary and Status Forms – Forms 102.4, 102.5, 102.6

1. Summary of Current and Future Project Requests (Form 102.4)
 - a. Use Form 102.4 to summarize the current requests for the next fiscal year and the requests anticipated for the succeeding five years.
 - b. Project priority, titles, descriptions, current year budget request, and total project cost on Form 102.4 should correspond to the information shown on Forms 102.1, 102.2 and 102.3. If discrepancies are found between Form 102.4 and other forms, the information provided in Forms 102.1, 102.2 and 102.3 will be used.
 - c. Future project needs on Form 102.4 should preferably refer to specific projects. If future requests are not yet well defined, provide place holders with an estimated cost for generic needs such as "Systemic Renovations TBD."

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- d. Indicate the planning year as LP (local planning). If LP and funding are anticipated to fall in the same year, provide two lines for the project.
 - e. When possible, spread project funding requests over two or three years on the 102.4 form. The amount shown for the budget year should correspond to the requested funding figure shown on Form 102.2.
 - f. Submit Form 102.4 in paper format with your CIP submission, and also electronically to the CIP Program Manager.
2. Status of Previously Approved Projects – Form 102.5
- a. Show all projects funded through State programs, including the Capital Improvement Program (CIP), the Aging School Program (ASP), Qualified Zone Academy Bond program (QZAB), and Emergency Repair Fund (ERP). Do not show projects in the Recycled Tire Grant (RTG) program.
 - b. Show actual dates for approval by the IAC of SD, DD, CD, and contract, as appropriate, not the dates of local board approval.
 - c. In column 7:
 - (1) If a project is not contractually closed out, show completion at 99%.
 - (2) If a project has been contractually closed out since the previous year's submission, show completion at 100%.
 - (3) Do not show projects that were closed out (100%) in Form 102.5 in the previous year CIP submission.
3. Status of State Owned Relocatable Classrooms – Form 102.6
- a. Use Form 102.6 to report the status of State-owned relocatable classrooms.
 - b. Provide information in Form 102.6 on the current use and the justification for keeping each State-owned relocatable which has been sited for more than two years. For relocatables that are justified by a need for additional seats, include the State Rated Capacity, FTE enrollment and two years of projections for the school and adjacent schools.
- F. Amendments
1. Amendments to Capital Improvement Program Requests.
- a. Amendments to the CIP request must be received by the date in late November/early December specified by the PSCP in the letter of the previous July.
 - (1) An original and six (6) copies should be submitted, preferably on colored paper to distinguish them from the original, and should be clearly marked "REVISED" and showing the date of their submission.
 - (2) Amendments must follow the same procedural steps as the original requests. The appropriate forms must be completed showing the amendments and must be clearly marked as amendments. All forms affected by the amendment must be revised, including Form 102.4.

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- (3) If amendments change the priority order of projects, submit the projects in new priority order, and change the Table of Contents and Form 102.4 appropriately.
 - b. All amendments must be approved by the local board of education. A cover letter signed by the superintendent indicating local board approval is sufficient.
 - c. The letter of support from the local government (see Section 102.1.B.6) must address all amended as well as unchanged project requests.
 - d. Late submission of extensive amendments to the scope or priority of projects, or inclusion of new projects, may jeopardize the inclusion of these projects in the recommendations that the PSCP staff will make to the IAC in early December for January approval by the BPW.
2. Amendments to an Approved Capital Improvement Program
- a. Amendments to an approved CIP may be requested at any time.
 - b. The LEA should prepare the appropriate Forms 102.1, 102.2, and 102.4, and submit them along with appropriate justification and back-up information.
 - (1) Forms shall be clearly marked "Amendment," dated, and must be approved in writing by the board of education and the local government.
 - (2) After review, the LEA will be informed of IAC staff recommendations and IAC and BPW action. Opportunities for LEA appeal before the IAC and the BPW are the same as for the normal CIP approval process.

102.5 EVALUATION AND APPROVAL OF PROJECT REQUESTS

A. General

1. Projects will generally be evaluated on the basis of past and projected enrollments, not only at the school in question, but at adjacent or nearby schools, and on consistency with the EFMP.
 - a. Projects for additional capacity may not be recommended for planning approval or funding where adequate capacity is available at adjacent schools. See Section 102.4.B.2. and 102.4.B.4.b.
 - b. In most cases, enrollment projections of the subject and adjacent schools must show that the school will be at least 50% occupied at the completion of the project and will be fully utilized within seven years of the date of project submission.
2. Priority Order.
 - a. Although the LEA establishes priorities for its local capital program, the evaluation of these priorities with respect to other projects in the State and the limited State funds available is a function of the IAC and the BPW.
 - b. Generally, the IAC will follow the local priority order to the extent that projects are eligible and funds are anticipated to be available. Exceptions may be made:
 - (1) To approve projects that address State statutory mandates (e.g. full day kindergarten or prekindergarten for economically disadvantaged children) or State initiatives (e.g. high school science classroom renovations).

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- (2) At the request of the local Board, with concurrence by the local government.
- c. Projects may be recommended for deferral or modification so that the most critically needed projects in the subdivision or in other subdivisions may proceed.
- d. The IAC may also place a higher priority on projects that respond to State mandates or initiatives.

B. Procedure

1. Projects will be evaluated and assigned a project status code of "A," "B," "C," or "D." Project approval status is determined and assigned to a project based upon an evaluation of project merit and a number of technical factors specific to the project type, as follows:
 - a. "A" - Approved for planning or construction funding. All PSCP and LEA staff questions, problems, or comments are currently resolved; the project is approved; and project development should proceed. (Note: Projects will be shown as "A" in CIP documents submitted to the BPW following IAC approval, pending approval by the BPW.)
 - b. "B" - Deferred but eligible for planning or construction funding. All PSCP and LEA staff questions, problems, or comments are resolved; the project is eligible for funding but is deferred due to fiscal constraints.
 - c. "C" - Deferred based on issues yet to be resolved. The project as currently proposed or as it currently stands in the planning process is not eligible for approval until outstanding technical questions or problems have been resolved. Problem areas differ for different types of projects, and may include but are not necessarily limited to: site approval, capacity/enrollment, scope, estimated cost, availability of local funds, alternative solutions available, master plan inconsistency, other agency approvals, and progress of educational specifications or design documents,.
 - d. "D" - Denied: Ineligible project. The Project does not meet PSCP funding guidelines and is therefore ineligible for State approval of planning or funding. Typical causes for denial include but are not limited to:
 - (1) Systemic Renovation project has a total construction value less than the required minimum;
 - (2) Project type does not correspond to a CIP category (Section 102.1.C). The project may be eligible through another State funding program.
 - (3) School was renovated or system was installed too recently (Section 102.1.C.1)
2. All projects will be reviewed periodically prior to mid-April based on the stated criteria in order to be considered for planning approval or funding in the next fiscal year. New information submitted by the LEA may be considered for reclassification of project approval status. LEAs will be regularly notified of project status and outstanding issues of concern through formal and informal communications.
3. All requests will be reviewed for consistency with existing State and local priorities, rules, regulations, procedures, and laws that are applicable to State funded public school construction projects.

C. State Prioritization Methodology for Planning Requests

1. Steps in the Planning Prioritization Process

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- a. For each submitted CIP project that is eligible for planning approval (Project Status Code B, see above Section 102.5.B.1), a numerical score will be calculated based on the factors in 2. below, and the criteria factors that involve judgment outlined in 3. below will also be reviewed.
 - b. The points are intended to provide guidance to the staff of the Program in developing recommendations for consideration by the IAC. Other factors, including the judgment factors cited below as well as knowledge of each school system's needs and priorities, will influence the recommendations.
 - c. For each LEA that submits a request for planning, the eligible project that has the highest local priority will be assessed in order to ensure that each LEA that makes a request for planning approval receives consideration for at least one project.
 - d. The prioritized list that results from Step (3) will be continually revised until early April to incorporate new project information received during the CIP process as well as new estimates of total project funding.
2. Quantifiable Planning Criteria (each factor has a range of 1 to 5 (low to high))
- a. State Educational Priority. Reflects scope of the project in terms of minor or major impact on educational programs and numbers of students, and whether the project addresses State educational mandates or initiatives, such as full day kindergarten, pre-kindergarten for economically disadvantaged children, or high school science.
 - b. Enrollment Priority. This factor measures the degree of overcrowding at a proposed school and its adjacent schools.
 - (1) For a renovation or addition project, the projected enrollment of the school for the seventh school year following the year of submission is divided by the current State Rated Capacity (SRC) to arrive at a decimal figure.
 - (2) For new schools, the aggregate projected enrollment of the adjacent schools for the seventh school year as shown in Form 102.2 is divided by their respective SRCs.
 - (3) The highest points go to the 20% of projects that have the greatest impacts, with lower point values awarded similarly by quintiles.
 - c. State Planning Goals. Reflects the impact that the proposed project will have on statewide planning goals to foster communities and mitigate sprawl. The possible points are awarded for school location as follows:

5 points: Community location (within Designated Neighborhoods or within corporate limits).
4 points: Certified Priority Funding Area adjacent to residential development.
3 points: Certified Priority Funding Area not adjacent to residential development.
2 points: County Growth Area with water and sewer planned.
1 point: Rural Area
 - d. Average Age of Building Area - This factor gives priority to older buildings. In order to determine the average age of the square footage for each building, the date of each addition and renovation is listed with its respective square footage. To determine the average of square footage:
 - (1) The proportion of area built or renovated in each year, based on the total square footage, is calculated.

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- (2) The age of each area of the building is multiplied by the proportion of total area it represents; the sum of these calculations is the average age of the building.
- e. Special Populations - Beyond a certain threshold for each category of student, this factor reflects the percentage of students at the school who are receiving special education services outside the regular classroom, are eligible for free and reduced price meals (FRPM), and/or are English language learners reported as Limited English Proficient (LEP). The respective thresholds are:
 - (1) Greater than 10% of students receive special education services outside of the regular classroom more than 60% of the time;
 - (2) Greater than 40% of students receive FRPM; and/or
 - (3) Greater than 10% of students are LEP.
- f. Other factors determined by the IAC, e.g.:

[(1) For certain fiscal years, one additional point is added for a BRAC-related project if the project also received a minimum of three points in the State Planning Goals category (Item c. above). See 102.6.E.4.c for definition of BRAC-related.]

[(2) One additional point for capacity projects that remove adequate public facility ordinance closure of housing in designated growth areas.]

3. Planning Factors That Entail Judgment.

- a. LEA's Backlog of Previously Approved Projects. If an LEA has a large backlog of projects to which the State has committed funds, additional projects will generally not be added to the list. If, however, the LEA is able to carry projects in the backlog to construction without immediate reimbursement from the State, planning approval for pressing new projects may be considered. Planning approval may also be considered to ensure that all LEAs that need them have future projects at some stage of development.
- b. Local Capacity to Proceed with the Project. Some LEAs and local governments may have the capacity to proceed with the design of a project even if they do not receive State planning approval; others may require the commitment of funding implicit in State planning approval before they will proceed.
- c. Total Cost of the Project, and When State Funds Will Be Required. A very large project, although it has a high priority, may block several other projects of lower priority; in this case, the State may, in consultation with the LEA, consider by passing the higher priority project. On the other hand, it may be that the costly project will extend over several years, and the impact on State funds will be relatively small in any one funding year.
- d. Eligibility for State Reimbursement Using Bond Proceeds. For a locally funded project that is submitted for both planning and funding approval, if a project schedule indicates that delayed approval will require the use of State Pay-go funds rather than bond proceeds for reimbursement, the project may receive higher consideration. However, a locally funded project that has been completed and is only eligible for reimbursement with State Pay-go funds will generally receive lower consideration, based on an assessment of Pay-go fund availability.
- e. Impact on Local Growth Outside of Priority Funding Areas. A capacity project in a county-designated growth area that is currently closed because of a local Adequate Public Facility Ordinance restriction may receive higher consideration.

- f. Other. Other factors will be considered that may be specific to a school system or to a particular school project. These may include the impact that the proposed school project will have on the fiscal viability of the school district; the effect of the project on significant student behavior and/or achievement issues; the requirements of rural schools; and schools where a safety issue is present.

102.6 STATE MAXIMUM CONSTRUCTION ALLOCATION

A. Maximum Gross Area Allowance

1. General

- a. The Maximum Gross Area Allowance is the size of the facility that, in the judgment of the IAC, can reasonably accommodate the number of students and the educational program.
- b. The Maximum Gross Area Allowance is the product of the approved student enrollment and the maximum gross area allowance per student.
 - (1) The maximum gross area allowance per student is set by the Board of Public works upon recommendation of the IAC.
 - (2) The PSCP will periodically review the allocation of area per student for different grade levels and for different educational programs and may recommend changes to the IAC. The review will be based on current educational practice.
 - (3) See Appendix 102-B for:
 - i. Currently approved gross area allowance per student.
 - ii. Gross area allowance for specific program elements.
- c. The maximum gross area allowance is the limit for State participation in a project. Costs of that part of a project which exceeds the maximum gross area allowance will be a local responsibility.
- d. The maximum gross area allowance shall not be considered a minimum State space design standard. An LEA may build a school to a size larger or smaller than that determined through the calculation of the Maximum Gross Area Allowance.
 - (1) If the project area is larger than the Maximum Gross Area Allowance, the excess area is ineligible for State participation.
 - (2) If the project area is smaller than the Maximum Gross Area Allowance, the State participation will be based on the actual size of the project.
- e. In some circumstances, the IAC may approve a Maximum Gross Area Allowance in excess of that derived from the Capacity and Space Formula. Examples include but are not limited to:
 - (1) Additions for programmatic purposes that result in a building that is larger than the Maximum Gross Area Allowance.
 - (2) Additions for capacity where the configuration of the existing building precludes renovation of existing spaces.

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2. For new schools, the Maximum Gross Area Allowance is the product of the approved projected enrollment and the square foot allowance per pupil or flat rate if applicable.
 3. For major renovation projects:
 - a. The Maximum Gross Area Allowance is the same as for a comparable new school of the same approved capacity.
 - b. Areas 15 years of age or less, including areas that have received major renovation within 15 years, are ineligible for State funding and will be deducted from the maximum gross area allowance.
 4. For additions to increase capacity, the Maximum Gross Area Allowance of the addition will be computed on the basis of the maximum gross area allowance for a comparable new school of the same approved capacity, less the area of the existing school that will remain.
 5. For additions for other purposes, see Appendix 102-B for gross square foot allowances.
 6. For additions with renovations or limited renovations: See Appendix 102-B.
 7. For Science Classroom Renovations: See Appendix 102-B.
 8. Other: See Section 102-B
- B. State-Local Cost Share Percentage.
1. The appropriate State-local cost share percentage shall be applied to the project costs that are eligible for State participation.
 2. The State-local cost share percentage is recalculated every three years based on the factors described in COMAR 23.03.02.05. See Appendix #TBD for current cost share percentages.
 3. The cost share is established at the time of first-time funding approval and is not changed thereafter. For multi-year projects that received first-time funding in an annual CIP, the cost share will be as shown on the CIP worksheet for the project. A project that received planning approval in an annual CIP without receiving funding will be subject to the cost share percentage applicable to the year in which it receives funding approval, or the year in which the bid is taken if it is a locally funded or forward funded project.
- C. Average Statewide Per Square Foot School Building Cost.
1. The IAC determines the most accurate average statewide per square foot school building cost by reviewing costs experienced by the LEAs in the previous six months for new construction. Various national and local costing services and construction management entities may also be used.
 2. This data is distributed to LEAs in July, and is applicable to projects for which contracts are awarded in the following July.
 3. The PSCP continues to gather information on project costs following distribution of the average statewide per square foot cost, and may make an adjustment prior to the final approval of projects.
- D. Local Costs. The LEA is required to have local funds available for the payment of ineligible project costs.
- E. Procedures for Calculation of Tentative and Maximum State Construction Allocation.

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1. General
 - a. The tentative construction budget with State and local share will be determined prior to the approval of planning by the BPW. The State share of funding will be adjusted when construction funding is approved, and again when the contract is approved.
 - b. The PSCP will provide funds for a percentage of the eligible construction costs of an approved project. These percentages are set forth in Appendix #TBD.
 - c. The computation of the Tentative and Maximum State Construction Budget is generally based on the approved gross square feet in the project and the appropriate construction cost or building cost figure.
 - d. For some project types and in some circumstances, the Tentative and Maximum State Construction Allocation will be based on the estimated or the actual cost of the construction.
 - e. Prevailing Wage Rates
 - (1) Prevailing Wage Rates must be used for all State-funded school construction projects in which:
 - i. The total cost of construction exceeds \$500,000; and
 - ii. The State participation in the cost of construction is 50% or greater.
 - (2) A project that is required to have prevailing wage rates but is awarded without these rates will be funded by the State at 49.9% of eligible costs.
 - (3) If, there is uncertainty prior to solicitation whether a project will meet criteria i. or ii. above, bids may be solicited with a requirement for prevailing wage and an alternate removing the requirement (or vice versa), and based on the results of the solicitation, the LEA may:
 - i. Accept the bid or offer with prevailing wages, and receive full State participation; or
 - ii. Accept the bid or offer without prevailing wage rates, and receive State funding at 49.9% of eligible costs.
2. Tentative Maximum State Construction Budget.
 - a. General
 - (1) A tentative maximum State construction budget for a major project will be established when planning approval is recommended by the IAC and the planning project is approved by the BPW.
 - (2) When construction funding is approved, the maximum State construction allocation is established.
 - (3) In an existing building, areas 15 years of age or less, including areas that have received major renovation within 15 years, are ineligible for State funding (See Section 102.1.C.1).
 - b. For a new school, replacement school, or major addition for capacity purposes.
 - (1) The computation is the result of:

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- i. Multiplying the approved Maximum Gross Area Allowance by the building cost per square foot;
 - ii. Adding to this a site allocation of 12% of the building cost and a contingency of 2-1/2% applied to the sum of the building and site costs; and
 - iii. Multiplying the sum by the State-local cost share percentage.
- (2) For replacement projects, the cost of projects approved by the State within the previous 15 years for the facility that is being replaced is not subtracted from the Tentative Maximum State Construction Budget. An exception to this rule may occur when previously approved and executed plans to expand capacity or undertake major renovation did not take into account the future replacement of the facility.
- (3) For schools required to be high performance schools [,] THAT WERE APPROVED FOR FUNDING during FY 2010 through FY 2014, the State will participate in Additional State Funding equal to 50% of 2% added to the combined cost of building and site (see Section 105 and Forms 102.1 and 102.2 FOR PROJECTS SUBMITTED IN THAT TIMEFRAME)**
- (4) For an addition to a new or replacement school in which the core area was originally oversized in anticipation of the addition, the State share of the cost of the eligible oversized area will be added to the State share of the addition.
- i. The State share of the oversized area will be based on the construction costs that applied at the time of original project procurement.
 - ii. Throughout the design review process, the location and size of the oversized area must be clearly shown on design document submissions.
- c. For renovation work within an existing school.
- (1) The computation is the result of:
- i. Multiplying the approved Maximum Gross Area Allowance by the percentages of the building cost per square foot that vary according to the age of the building;
 - ii. Summing the above products and adding to this a site allocation of 5% of the building cost and a contingency allocation of 2-1/2% applied to the sum of the building and site costs; and
 - iii. Multiplying the sum by the State-local cost share percentage.
- (2) The percentage of building cost is based upon the age of the existing spaces in which renovation work is to take place. The percentages are:
- | | |
|------------------|------|
| 40 years or more | 100% |
| 31 to 39 years | 85% |
| 26 to 30 years | 75% |
| 21 to 25 years | 65% |
| 16 to 20 years | 50% |
| 0 to 15 years | 0% |
- (3) The age of each building portion is calculated by subtracting the year in which construction was completed or the project was placed in service, whichever was earlier, from the January 1 of the year following submission of the CIP request.

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- (4) The PSCP will provide an updated chart of dates for each age category in the letter that is distributed in July relative to the CIP for the following autumn.
 - (5) If the Maximum Gross Area Allowance is less than the area of the existing building, it will be applied to the oldest portions of the building first, then progressively to newer sections until it is fully used.
- d. An Addition Project Combined with a Renovation Project.
- (1) The renovation portion is calculated in accordance with Sections 102.6.A.3 and 102.6.E.2.c above, and the addition portion is calculated in accordance with Section 102.6.A.4 above.
 - (2) If the Maximum Gross Area Allowance is greater than the area of the existing building, it will be applied to the existing building first, with the remainder applied to the addition until it is fully used.
- e. Limited Renovations. If the total area of the existing school is larger than the Maximum Gross Area Allowance calculated from the projected enrollments, the cost of the work may be determined as a ratio of the Maximum Gross Area Allowance divided by the total area of the building, unless it can be shown that the work is restricted to specific areas of the facility.
- f. Systemic Renovation Projects. State funding shall be based on the State-local shared cost formula applied to the estimated cost of the project. There is no allocation for site work.
- g. Locally funded and forward funded projects.
- (1) The Tentative and Maximum State Construction Allocations will be calculated, as appropriate for the project type, based on either:
 - i. The enrollments, Square Feet per Student, the Cost per Square Foot, and the State-local cost-share percentage that were approved in the request for funding and planning (see Sections 102.4.B and 102.4.C); or
 - ii. The estimated or actual cost of the project, and the State-local cost-share percentage that was in effect at the time of solicitation.
 - (2) State funds, if provided for a contract previously awarded, will not include any financing costs incurred by the LEA.
 - (3) Local Boards and local governments are required to be aware of any tax liabilities that may follow on the use of State tax-exempt bond proceeds to reimburse costs paid for using local tax-exempt bond proceeds.
 - (4) State funds will not be provided for any work or items that are included in the contract documents which are ineligible for State funding at the time of State approval, irrespective of whether they were eligible at the time of project solicitation.
3. Maximum State Construction Allocation.
- a. General
- (1) The method for determining the Maximum State Construction Allocation for each type of project is the same as for determining the Tentative Maximum State Construction Budget at the time of planning approval.

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- i. New information will be considered, e.g. the current enrollment and projections, the current average State per square foot cost, the current age of building portions, and the current State-local cost share percentage)
 - ii. The estimated or actual cost of construction, if known, may be used in place of the cost developed through formula.
 - (2) At the time that a project is approved for funding by the BPW, a maximum State construction allocation is established for the project. All construction costs in excess of the established State share shall be the sole responsibility of the LEA.
 - (3) This maximum State construction allocation will not be supplemented with additional State funds from another funding program, for example funds from the Aging Schools Program, the Qualified Zone Academy Bond program, or the Emergency Repair Fund.
 - (4) The State share of funding for the project will not be subsequently increased, except for BRAC-related projects (see Section 102.6.E.4.c).
 - (5) If projected enrollments are based on a proposed change of educational program that does not subsequently occur, the State share of funding will be reduced to correspond to the actual enrollments and educational programs.
 - b. Adjustments to the Maximum State Construction Allocation
 - (1) If bids or proposals are received by the LEA and the cost of the lowest responsible bidder/proposer exceeds the combined State-local allocation, the local jurisdiction can:
 - i. Supplement the allocation (and assume responsibility for all change orders),
 - ii. Revise and solicit anew (with no subsequent adjustment in State funds), or
 - iii. Cancel the project. A letter requesting cancellation should be addressed to the Executive Director of the PSCP. The motion to rescind the project funding will be approved by the IAC.
 - (2) If the cost/proposal of the lowest responsible bidder or offerer is below the State maximum allocation, the maximum State construction allocation will be revised to reflect the State share of the actual construction costs.
 - i. An allowance of up to 2-1/2% will remain in the project's allocation for change orders. The balance, including any unused portion of the contingency, will revert to the Statewide Contingency Account.
 - ii. The LEA will be informed of the revised estimate of total State participation in the program.
 - iii. For funds allocated in fiscal year 2010 and subsequent fiscal years, the reverted funds may be used within two years of the reversion by the LEA for a) an eligible project submitted in one of those fiscal years that was not funded, or b) held in reserve for an eligible future fiscal year project. The LEA will be informed if the reverted funds are subject to these conditions.
4. Special Allocations

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- a. For approved replacement or renovation projects where declining enrollment has been experienced, the project capacity, scope, and tentative budget will be based upon a capacity that reflects the level at which the enrollment can reasonably be expected to stabilize.
- b. High Performance Schools: Additional State Funding will be provided for **PROJECTS THAT WERE APPROVED FOR FUNDING IN** fiscal years 2010 through 2014 (See Section 105).
- c. Base Realignment and Closure (BRAC) Related Projects.
 - (1) Applicability. This section relates only to school construction projects that are impacted by the 2005 Defense Base Closure and Realignment (BRAC) Commission Report, effective November 9, 2005.
 - (2) Definition of BRAC-Related Project.
 - i. Will provide additional capacity for students directly related to military or contractual employees at a base affected by BRAC, or
 - ii. Will provide new or renovated space for educational programs in preparation for new jobs on military bases that are related, as determined by the IAC or its designee.
 - (3) Criteria for Designation as a BRAC-Related Project.
 - i. School must be located within a certified Priority Funding Area and less than 10 miles from the perimeter of a BRAC-affected military base, or
 - ii. School must be located less than 20 minutes in driving time from the entrance gate of a BRAC-affected military base.
 - (4) For projects other than new, replacement, renovation, or limited renovation, LEA must submit with the local capital improvement program request a comprehensive plan to upgrade the condition of the entire facility to match the final condition of the proposed CIP project within six years of the application, or submit evidence that the facility is already in such condition.
 - (5) If a project that is approved to receive designation as a BRAC-related project is also approved as a project for planning and funding in an annual CIP:
 - i. The LEA may, in an annual capital improvement program, request approval of supplemental funding for the project after the elapse of a period to be determined by the IAC, but not less than 2 years from the time of project completion.
 - ii. No additional request for planning approval is needed.
 - (6) Basis for Supplemental State Funding.
 - i. The actual enrollments that have resulted from BRAC actions, according to criteria established by the IAC, that are in excess by a minimum of 5% of the enrollment projections that applied at the time of approval or bid date of the BRAC-Related project, whichever was earlier.
 - ii. The cost of construction that was applicable on the date of bid, according to either the formulas in Section 102.6 of this procedure, or the actual cost of construction, whichever is less.
 - iii. The cost share percentage that was applicable at the time of bid.

- (7) The request for supplemental funding is to be submitted as a new project request in the annual CIP, and will be considered for approval of funding according to the factors described in Section 102.5 of this procedure.

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102.7 CAPITAL IMPROVEMENT PROGRAM APPROVAL PROCEDURE - SUMMARY

- A. By May 1, review the latest public school enrollment projections prepared by MDP.
- B. Educational Facilities Master Plan or amendments must be submitted by July 1.
- C. Discussions between LEA and IAC staffs may take place to provide IAC staff information as to likely LEA high priority requests for the upcoming fiscal year. Review and preparation of CIP materials by both LEA and PSCP continues. Work on schematic and design development drawings continues for LEAs intending to request funds in the fall.
- D. By September 1, schematic documents must be submitted to PSCP (for project recommendations to be submitted by the IAC for approvals in the following January).
- E. By a date in October established by the PSCP, the LEA shall submit the Board of Education approved CIP to the PSCP.
- F. By October 15, the Governor announces the preliminary capital budget for school construction.
- G. During October and November, PSCP-LEA program review meetings take place.
- H. By November 1, design development documents, including cost estimates, life cycle costs, and energy conservation studies, must be submitted to PSCP (for project recommendations to be submitted by the IAC for approvals in the following January).
- I. In mid-November, IAC staff makes its program recommendations to IAC. These recommendations are communicated to each LEA. The LEA will notify the IAC of projects it intends to appeal.
- J. By a date in late November or early December established by the IAC, amendments to the CIP and a local government commitment of support must be submitted to PSCP.
- K. In December, IAC holds a public hearing to hear appeals for projects not recommended by PSCP staff. IAC decides upon the recommendations to be made to the BPW. The LEA and other concerned parties are informed of IAC recommendations and the LEA notifies the IAC of projects that will be appealed to the BPW.
- L. By December 31st, the IAC submits its recommendations to the BPW. Recommendations will account for not less than 75% of the Governor's preliminary public school construction funding for the fiscal year.
- M. In January, the BPW holds a public hearing to receive testimony on IAC recommendations and to hear appeals for projects not recommended by the IAC. The Board of Public works approves funding for projects not exceeding 75% of the Governor's preliminary public school construction funding for the fiscal year.
- N. Before March 1, the IAC recommends project funding totaling 90% of the Governor's proposed public school construction funding for the fiscal year.
- O. Between January and April, the Legislature considers the Governor's funding recommendations and approves an appropriation for public school construction funding for the upcoming fiscal year.
- P. In mid- to late-April, the IAC recommends to the Board of Public Works additional projects for funding and planning approval, based on the appeals made by the LEAs at the January meeting of the BPW, on additional information provided by the LEAs, and on the final funding level passed by the General Assembly and enacted by the Governor. Funds may also be added from the Statewide Contingency Account.

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- Q. The Board of Public Works approves the final allocation of funds. The total amount of the approved allocation will equal the approved funding.
- R. Throughout the year, amendments to the CIP may be submitted to the IAC for consideration as recommendations to the BPW.

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END OF SECTION

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APPENDIX 104 – SUSTAINABLE COMMUNITY PLANNING PRACTICES

In the review of proposed school sites, the Maryland Department of Planning will evaluate the site for opportunities to incorporate the following sustainable community planning practices:

Reference: Section 104.1.C

Resource: “Smart Growth, Community Planning and Public School Construction,” Maryland Department of Planning *Models and Guidelines* Series, Number 27. For a copy of the Models and Guidelines document, please see the Maryland Department of Planning website.

1. **Site Size**

School site size should reflect sustainable community planning practices while still supporting the educational program. Is the size of the school site minimized?

2. **Opportunities for Co-Location/Shared Use of School Facilities**

Maryland’s school districts are encouraged to fully examine all opportunities for developing shared use of public school facilities, when the arrangement is appropriate and will result in mutual benefit to the educational program and to the community. Different public agencies and related community uses should be considered for co-location at school sites. Examples include health centers, park and recreation facilities, fitness centers, libraries, and related publicly oriented uses.

3. **Community Residential Density**

Is the residential density of the area sufficient to encourage walking and biking?

4. **Walkability**

- a. Does the site have characteristics that encourage nearby students to walk or bicycle to school?
- b. Can the site be connected to residential development by a system of walkways or sidewalks?
- c. Is the site located away from arterials carrying significant volumes of commuter or truck traffic?
- d. What is the expected pattern of pedestrian and bicycle access, the volume of school bus activity, the expected number of student drivers and the ability of the adjacent roadways to accommodate increased traffic volumes?
- e. Is there more than one entrance/egress option from the public road system to the site?
- f. Is there adequate bus handling and storage on site? This requirement may be mitigated by site locations that are selected and designed to encourage pedestrian and non-automotive access.
- g. Are entry roads to elementary school sites coordinated with residential street patterns to avoid overwhelming individual streets with traffic and to provide options for bus, pedestrian and bicycle access?
- h. Are middle and high school sites located near the intersection of at least two roadways to improve bus and automobile access? Can necessary site improvements

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be made to assure safe bus entrance and egress and to mitigate the impact on the road network, including inappropriate off-site parking?

- i. Will the site configuration permit students to access the main entrance of the facility from neighborhood sidewalks without crossing any bus or automobile or service lane of traffic?

5. Public Transportation Options

Public transit access is highly encouraged at school sites where transit is available or planned. What are the public transit options within one mile of the school site?

6. Parking options

- a. What are the opportunities for shared parking facilities and structures with adjacent or co-located uses? Limitations on the size of parking areas are encouraged unless the provision of additional parking is shown to be necessary for shared, co-located uses at the school site.
- b. What are the opportunities for bicycle parking on the site?

7. Parks, Recreation Areas, Sidewalks, Trails and Bicycle Lanes

- a. What is the location of and access to community, district or regional parks within two miles of the proposed school site?
- b. What is the location of and access to existing and planned sidewalks, multipurpose trails, and bicycle lanes within two miles of the proposed school site?

104 – SCHOOL SITE APPROVAL

104.1 GENERAL

- A. The site approval procedure enables the State to objectively review the suitability and sustainability of locally selected school sites as well as their appropriateness to support educational programs.
- B. School facility planners are encouraged to work with planning and zoning officials to develop and use school land banking procedures so that an inventory of future prospective school sites are maintained in each jurisdiction in areas targeted for growth. It is important that future school sites are situated within neighborhood and that the sites be educationally suitable. Emphasis should be given to acquisition of future school sites associated with major subdivision approvals and municipal annexations. Consideration should also be given to school sites in existing communities where appropriate, such as in areas targeted for redevelopment.
- C. School sites should reflect sustainable community planning practices and be consistent with the requirements of the educational program. Community planning practices include: shared locations and use of sites, minimized school site sizes, public transportation, and shared parking options and densities that promote walking and biking. (See Appendix 104)
- D. All new school sites, and sites for replacement schools that have an increased capacity or an expanded core area, shall be located in a PFA unless a waiver is granted by the IAC. COMAR 23.03.03, .13, and 28.
 - 1. A waiver from the IAC will be required for the acquisition of school sites outside of PFAs.
 - 2. “Expanded core area” means core areas of the school, including but not limited to the cafeteria, gymnasium, health suite, library, etc., that exceed space required for the current or projected student enrollment but which may serve an increased occupancy at a later date.
- E. New school sites and reuse of existing school properties located in existing communities should be given preference over sites outside existing communities.

104.2 REFERENCE

- A. COMAR 23.03.02.03, Capital Improvement Program
COMAR 23.03.02.13 Site Selection
COMAR 23.03.02.28 Priority funding Area Waiver Criteria, and

104.3 APPLICABILITY

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- A. IAC approval and the approval of the State Superintendent of Schools are required for the acquisition of all new sites, whether for imminent use or site bank purposes, except as described in Section in B, below.
- B. If five acres or less is being added to an existing site, and the property to be acquired will remain unaltered, the acquisition is not subject to formal approval by the State Superintendent. The State Superintendent and IAC must be notified in writing by the LEA of the acquisition.
- C. IAC approval is required for the use of previously approved sites if the approval was given more than five years prior to the date when the LEA requests planning approval for a project at that site in an annual capital improvement program (CIP see section 102.4). The LEA must follow the procedure for new site acquisition as outlined in Section 104.4 below.
- D. Maryland State Clearinghouse review of all sites is required prior to IAC approval except if the site is five acres or less, is being added to an existing site, and the property to be acquired will remain unaltered. See Section 104.5.
- E. Priority Funding Area review shall be conducted by the IAC for sites for new schools and replacement schools on new sites that add capacity, including a school being built with an expanded core to accommodate projected future growth. See Section 104.7.

104.4 SITE VISIT

- A. The LEA shall request a site visit by a representative of the Maryland Department of Planning when an LEA determines that it intends to acquire a site for a new school or for the site bank.
- B. The site visit will occur before or shortly after the submission to the Clearinghouse for review.
- C. Prior to or at the visit, the LEA should be prepared to discuss the following information:
 - 1. The overall property boundaries and existing physical conditions.
 - 2. The LEA's planned acquisition schedule.
 - 3. A description of any potential physical problems with the site.
 - 4. Adjacent schools with boundaries that will be impacted by the new school.
 - 5. Comprehensive Plan Designation, Zoning Designation, Priority Funding Area Designation and Adequate Public Facilities information:
 - a. Explanation of how the proposed site is related to the county or municipal growth plan and to the State's growth policies;

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- b. A site location plan indicating existing or proposed land uses, zoning , roadways, sidewalks, trails, parks and other public uses within a one mile radius of the proposed site;
 - c. Sustainable community planning practices:
 - 1. Site Size;
 - 2. Opportunities for Co-Location/Shared Use of School Facilities;
 - 3. Surrounding Residential Density;
 - 4. Walkability;
 - 5. Public Transportation Options;
 - 6. Parking options;
 - 7. Parks, Recreation Areas, Sidewalks, Trails and Bicycle Lanes.
 - d. The PFA status for the proposed school site;
 - e. Adequate Public Facility Ordinances (APFO). If a county has an APFO for schools, and a development moratorium is in place inside a PFA, evidence that this site will address APFO restrictions inside the PFA and how the county will mitigate potential growth impacts outside the PFA resulting from the new school.
6. Sewer and Water Service. Indicate the existing or planned water and sewer service area for the site as defined in the water and sewer plan approved by the Maryland Department of the Environment.
7. A description of the proposed travel patterns for the site area consistent with the policies of the County Transportation Plan.
8. For high school sites, describe efforts to be made to minimize the amount of planned motorized vehicular travel.

104.5 MARYLAND STATE CLEARINGHOUSE REVIEW

- A. The LEA shall submit site selection materials to the Maryland State Clearinghouse with a cover letter requesting a review-
 - 1. Address: Maryland State Clearinghouse
Maryland Department of Planning
301 West Preston Street
Baltimore MD 21201

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2. Seven (7) copies of the Site Analysis Report (Form 104.1) and of the following attachments should be sent (copies also may be submitted electronically via e-mail, as a PDF file, or sent as a CD):
 - a. Small scale location/vicinity map;
 - b. Site plan showing:
 1. Metes and bounds;
 2. Topography;
 3. Floodplains and wetlands;
 4. Easements and rights-of-way affecting property;
 5. Sewer and water;
 6. Gas and electricity service;
 7. Sidewalks;
 8. Storm drains and swales;
 9. General features of land abutting property including existing and/or proposed street layout;
 10. The probable location of the building, parking and play fields.
 - c. A site location plan indicating:
 1. Existing or proposed land uses (1/2 mile radius of proposed site);
 2. Roadways, sidewalks, and trails (1/2 mile radius of proposed site);
 3. Public transit routes and stops (1/2 mile radius of proposed site);
 4. Parks and other public uses within the vicinity.
 - d. A letter from the LEA Superintendent indicating Board of Education approval of the site acquisition pending IAC approval;
 - e. IAC/PSCP Environmental Assessment Form (EAF) 104.2 required by the Maryland Environmental Policy Act;
 - f. A map indicating the Priority Funding Area status of the site;
 - g. Any other appropriate attachments.
3. Test borings and a preliminary environmental study are recommended for all new sites and all additions to existing sites if there is to be building construction on the

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additional land. The engineering summary report shall be submitted along with the site review materials, if available.

- B. The State Clearinghouse will disseminate copies of the above to the appropriate agencies requesting that comments and requirements be returned within 60 days. These comments and requirements will be forwarded to the LEA for inclusion with the site selection materials sent to the IAC for review and approval.
- C. State Clearinghouse review does not constitute approval of the site. Separate approval by the IAC is required following receipt of comments from the State Clearinghouse.

104.6 IAC APPROVAL

- A. Upon receipt of State Clearinghouse comments on the proposed site, and resolution of any issues brought up in the State Clearinghouse review, the package of site selection approval materials shall be submitted to the IAC for approval. The package shall include:
 - 1. A letter to the Executive Director of the PSCP requesting IAC approval to acquire the site. The letter should indicate the probable timetable for acquisition of the site and the proposed use, including acquisition for land banking purposes.
 - 2. IAC/PCP Forms 104.1 (Site Analysis Report) and 104.2 (Environmental Assessment Form) with the required attachments as listed on the forms, including the letter from the Clearinghouse with the comments and requirements for site approval.
 - 3. The Local Board of Education's approval of the site selection.
- B. The State Superintendent of Schools as required by §2-303 of the Education Article, and the IAC as required by Title 23.03.02.13 of COMAR, will both review the request for approval. The school system will be notified of action on the request by means of a single letter from the State Superintendent acting as such and as IAC Chairperson.
- C. The IAC shall consider information provided in Section 104.4 and 104.5 when approving a site.
- D. Approval by the State Superintendent and the IAC of the site does not imply agreement with the need for a new school on that site or in its general area, nor does it imply a State commitment to fund any improvements on the site.
 - 1. Site approval is a precondition for approval of planning for a new school or a replacement school on a new site in an annual CIP (See Section 102.4).
 - 2. In order for planning to be approved in an annual CIP:
 - a. The submission to the State Clearinghouse should occur no later than the first week of January that follows the submission of the request for planning approval;

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- b. The request for IAC approval should occur no later than the following March 15.

104.7 Priority Funding Area Review

Priority Funding Area review shall be conducted by the IAC for sites for new schools and replacement schools on new sites that add capacity, including a school being built with an expanded core to accommodate projected future growth.

A. Priority Funding Area Waiver Procedure.

1. An LEA may request in writing a waiver of site acquisition for a new school, or for a replacement school that adds capacity, located outside of a Priority Funding Area. See section 104.7 B., Priority Funding Area Criteria, for information that must be addressed in the request.
2. On confirmation by the Maryland Department of Planning that the proposed new school or a replacement school that adds capacity, or the site for same, is outside a Priority Funding Area, the IAC's designees shall make a recommendation to the IAC.
3. Based on the recommendation of the IAC designees, the IAC shall consider whether to grant a waiver for approval to acquire a site for a new school, or for a replacement school that adds capacity, outside of a Priority Funding Area.
4. After considering the criteria for a waiver in §B of this section, the IAC may:
 - a. Approve acquisition of a site for the new school, or for the replacement school that adds capacity;
 - b. Approve acquisition of a site for the new school, or for the replacement school that adds capacity with conditions; or
 - c. Deny acquisition of a site for the new school, or for the replacement school that adds capacity.
5. When considering whether to grant a waiver for acquisition of a site for a new school, or for a replacement school that adds capacity, outside of a Priority Funding Area, the IAC may consult with the Smart Growth Subcabinet.
6. The Board of Public Works shall make the final determination on the approval of a site for a new school or a replacement school that adds capacity that is outside a Priority Funding Area in the event of a conflict between the IAC and the Smart Growth Subcabinet.

B. Priority Funding Area Waiver Criteria.

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When requesting a waiver to the requirement that a site for a new school or for a replacement school that adds capacity be located inside a Priority Funding Area, the LEA shall provide to the Maryland Department of Planning the following information

1. Evidence of efforts made by the LEA and the local government to secure a site within a Priority Funding Area that is of a size, location, and configuration that can support the proposed educational program and serve an appropriate student body. For each evaluated site, criteria that must be considered include:
 - a. Costs of each site, including both quantifiable first costs and life cycle cost analysis (LCCA) inclusive of transportation costs, and non-quantifiable costs such as administrative inefficiencies or lost teaching time, in order to demonstrate that sites within the Priority Funding Area are more costly than those outside the Priority Funding Areas; and
 - b. Benefits of each site, including the impact of the proposed site on community life, walkability of students, access to public transportation, and access of students to educational programs and non-curricular activities.
2. Evidence that if a site outside a Priority Funding Area is selected because of inability to locate a site within a Priority Funding Area that is of a size, location, and configuration that can support the proposed educational program and serve an appropriate student body:
 - a. The new site for a new school or for a replacement school that adds capacity is located as proximate to the Priority Funding Area as possible;
 - b. How the LEA proposes to mitigate potential negative effects of the site on educational delivery and the community; and
 - c. The local government tools for control of land use, including the comprehensive plan and zoning, that will restrict the growth of housing development outside of the Priority Funding Area that may result from the new school or replacement school that adds capacity;
3. Evidence of efforts made by the LEA and local government to achieve the needed capacity through additions to existing schools inside the Priority Funding Area.
4. The location of the student body that will be served by the new school or replacement school that adds capacity.
5. The potential of the new school or replacement school that adds capacity to be permanently connected to existing or proposed municipal or county water and sewer service that is in the approved 6-year local government capital improvement program.
6. The effect of the new school or replacement school that adds capacity in relieving an Adequate Public Facilities closure within an existing Priority Funding Area or local growth area.

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7. Opportunities for co-location or joint use that the new school or replacement school that adds capacity may make possible.
8. Opportunities for reuse of an existing facility.
9. The increase of capacity for a replacement school is modest.
10. Other factors deemed appropriate by the LEA, or upon request from MDP or the IAC.

END OF SECTION

105 – HIGH PERFORMANCE SCHOOLS

105.1 GENERAL

- A. All new schools receiving State capital construction funding shall be high performance schools unless waived by the Interagency Committee on School Construction (IAC).
- B. A high performance school is defined as meeting or exceeding the requirements for a Silver rating in the LEED (Leadership in Energy and Environmental Design) for Schools rating system of the United States Green Building Council (USGBC), or achieves at least a comparable numeric rating according to a nationally recognized numeric sustainable rating system, guideline, or standard approved by the Secretaries of the Department of General Services and the Department of Budget and Management on the recommendation of the IAC.
- C. Certification shall be performed by a third party and is a requirement for compliance with State statute, regulation, and this procedure.

105.2 REFERENCE

- A. Article – State Finance and Procurement
 - 1. Section 3-602.1
- B. Article – Education
 - 1. Section 5-301 (d), 5-312
- C. COMAR 23.03.02

105.3 APPLICABILITY

- A. This procedure applies to all new school construction projects receiving any State Public School Construction Program (PSCP) capital funding for which the Request for Proposal (RFP) for architecture and engineering (A/E) design services is issued after July 1, 2009, unless waived by the IAC.
 - 1. An RFP is for specific design services for a specific project.
 - 2. Issuance of a generalized Request for Qualifications (RFQ) to pre-qualify A/E firms for upcoming work, or issuance of an RFP for a feasibility study to determine the scope of a proposed project, does not constitute an RFP under the requirements of this section.
- B. New schools include projects to expand or replace existing schools, or replace portions of existing schools, when more than 80% of the final built square footage is new. “Replace” means that all portions of the work are new, including foundations and all structural elements.
- C. This procedure does not apply to additions less than 80% of the total final built square footage or to complete renovations, limited renovations or systemic renovations.
- D. This procedure applies to locally-funded school construction projects, as defined above, that will be included in future CIP requests to the IAC.

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105.4 PROCEDURAL STEPS

- A. Other Than USGBC Certification. If an LEA wishes to use a nationally recognized numeric sustainable rating system, guideline, or standard (“comparable certification”) other than USGBC LEED for Schools Silver Certification, the following procedures must be followed:
1. The LEA should request the IAC to accept the comparable certification;
 2. The LEA shall submit the request and documentation of the comparable certification to the IAC prior to submission of the schematic design;
 3. The IAC may consult with the Maryland Green Building Council (MGBC) to determine acceptability of the proposed comparable certification;
 4. The IAC will recommend action on the comparable certification to the Secretary of the Department of General Services and the Secretary of the Department of Budget and Management;
 5. Use of the comparable certification will be granted on approval by the Secretary of the Department of General Services and the Secretary of the Department of Budget and Management;
 6. The LEA must have State approval of comparable certification for each specific project not later than approval to go to solicitation;
 7. The IAC will state in writing the reasons for disapproval.
- B. Planning, Design, Construction
1. The LEA shall notify PSCP of its intention to certify individual projects with USGBC or other certification, and include a statement of intent in its Capital Improvement Program (CIP) request, educational specifications and A/E selection documents.
 - a. PSCP will verify inclusion of statements in each submission.
 - b. Inclusion of statements will be a condition for eligibility for planning and funding approval (with other factors described in Section 102).
 2. The LEA shall submit at each stage of design a written description of high performance design principles that will be incorporated into the project, similar to the “Green Building Plan” required in the DGS Procedure Manual for Professional Services. This plan may take the form of preliminary and interim LEED scorecards, certified by a LEED-Accredited Professional.
 3. PSCP will review the documentation to verify progress toward certification. Notification of deficiencies in documentation will be included in comment and review letters at each phase.
- C. Certification
1. The LEA shall submit the project to the certifying entity for evaluation as required by the certifying entity.
 2. . The LEA shall send PSCP a copy of the final certification notice.
- D. Additional State Funding (ASF)

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1. The State [will allocate] **ALLOCATED** additional funds for 50% of the extra local costs during FYs 2010-2014 only. Extra local costs eligible for State participation [will be] **WERE** as shown in the list of eligible items in the *Administrative Procedures Guide* that [is] **WAS** current at the time of approval of project funding.
 - a. Additional funds [will be] **WERE** allocated only for applicable schools, as defined in Section 105.3 above.
 - b. If an applicable school that [is] **WAS** approved for funding in FY 2010 **MET OR** meets the requirements for certification as a high performance school, it [will be] **IS** eligible for additional State funding even if the RFP for A/E design services [is] **WAS** issued before July 1, 2009.
 2. Calculation of Additional State Funding.
 - a. Forms 102.1 and 102.2 [will] automatically [calculate] **CALCULATED** 2% of the combined building and site construction costs for the project.
 - b. The ASF [will be] **WAS** calculated as 50% of the resultant amount shown.
 - c. The ASF [will be] **WAS** added to the State cost for construction, site, and contingency to establish the maximum State construction allocation.
 3. The ASF [will be] **WAS** shown in the project worksheet, and [will be] **WAS** included in the approved allocation, pending availability of funds.
 4. The LEA may request reimbursement of the Additional State Funding (ASF) upon presentation of final certification from the certifying entity.
- E. Locally Funded Projects to Be Included in Future Year CIP Requests
1. The LEA shall notify MSDE of its intention to certify individual projects with USGBC or other certification, and include a statement of intent in its educational specifications and A/E selection documents.
 - a. MSDE will verify inclusion of statements in each submission.
 - b. Inclusion of statements will be a condition for eligibility for planning and funding approval by the IAC (with other factors described in Section 102).
 2. The LEA shall submit at each stage of design a written description of high performance design principles that will be incorporated into the project, similar to the "Green Building Plan" required in the DGS Procedure Manual for Professional Services. This plan may take the form of preliminary and interim LEED scorecards, certified by a LEED-Accredited Professional.
 3. MSDE will review the documentation to verify progress toward certification. Notification of deficiencies in documentation will be included in comment and review letters at each phase requiring approval by the State Superintendent of Schools.
- F. Waiver
1. The LEA may request a waiver of the requirement for high performance school certification. A waiver should not be assumed to be granted resulting from a failure of the LEA to achieve high performance building certification.

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- a. The request should be submitted with the request for planning or funding.
 - b. The request may be made after completion of the project if, following submission of all high performance documentation including interim certification scores, the certifying entity does not grant certification or if less than a LEED Silver or comparable certification level is achieved.
2. The LEA shall submit justification for the waiver in letter form to the Executive Director.
3. PSCP shall evaluate the request and recommend action to the IAC within 30 days.
- a. Waivers will be granted only on demonstration of substantial cause that achieving certification is not practicable.
 - b. The request must demonstrate that alternative approaches to achieving the needed points for LEED Silver certification or comparable certification have been fully explored.
 - c. Additional costs involved in achieving high performance certification will not be accepted as a cause for granting a waiver.
4. The IAC may approve or not approve the waiver. The IAC will state in writing the reasons for disapproval.
- a. If the waiver is approved at the time of planning or funding approval, the project may proceed without high performance certification, and will be eligible for the maximum State construction allocation without the ASF.
 - b. If the waiver is granted at the completion of the project (see 1.b above), no penalty of State funding will be assessed, and a determination will be made by the IAC as to the eligibility of the ASF. The LEA will be required to do the following:
 - (1) Provide information explaining why the certification was denied;
 - (2) Submit a copy of the certification to the IAC if certification is achieved in the future through additional local capital project funding;
 - (3) Document compliance with all third party certification prerequisites of the rating system (e.g. commissioning, ASHRAE compliance), certified by the A/E;
 - (4) Document that at minimum an Indoor Air Quality (IAQ) Management and Construction Waste Management Plan for the project has been implemented, and that the project has been designed to achieve an Energy Star rating from the Environmental Protection Agency (EPA).
 - c. If the IAC does not approve the request for waiver, the LEA may:
 - (1) Revise the scope of the project to achieve high performance certification, submitting appropriate documentation;
 - (2) Withdraw the project and proceed with it as a locally funded project which may not be submitted for PSCP funding in the future.
 - d. If the IAC does not approve the waiver and the LEA proceeds with the project without modification, the project will be deemed ineligible for State participation. If planning approval has been previously granted, it will be rescinded.

END OF SECTION

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405 – FINANCE

405.1 GENERAL

- A. It shall be the responsibility of each LEA that receives State funds for public school construction projects to:
 - 1. Maintain a separate and complete financial accounting of all projects funded by the State;
 - 2. Expend such funds on eligible items as defined in this Administrative Procedures Guide, and
 - 3. Maintain accountability, including identification of the purpose for which these public funds were expended and the manner in which the funds were applied.
- B. The Finance Office of the PSCP shall monitor all expenditures reported by the LEA as applicable to IAC approved contracts and maintain a detailed financial report of all projects funded on a current month basis.
- C. The LEA, as Owner, shall make every possible effort to process construction contractor or vendor invoices to the PSCP so that payments can be made by the State within twenty-five (25) calendar days from contractor submission of a properly executed invoice.
- D. It shall be the responsibility of the LEA to reimburse the State for the State share of energy conservation rebates, Section 405.5.B.3 below.

405.2 REFERENCE

- A. Code of Maryland Regulation 23.03.02.25
- B. Code of Maryland Regulation 23.03.03
- C. Code of Maryland Regulation 23.03.04
- D. Code of Maryland Regulation 23.03.05

405.3 APPLICABILITY

- A. The requirements of this section are applicable to all projects that have been approved for State funding and have a construction value greater than \$5,000.
- B. Projects that are procured by the LEA in the expectation that they will be funded in a future year Capital Improvement Program are required to follow State requirements and procedures for project procurement, project delivery, and alternative financing, as applicable.

405.4 PAYMENT PROCEDURES

- A. General
 - 1. It shall be the responsibility of the LEA to:
 - a. Determine the validity of the contractor's requisition for construction or vendor services.

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- i. All construction applications for payment must be certified by the contractor, project architect (if applicable), and an authorized official of the LEA prior to payment.
 - ii. The LEA shall assure that all charges applied to a project as a State expense are eligible for State funding.
 - b. Advise the State of the correctness of the requisition;
 - c. Maintain a detailed accounting of funds on a project specific basis;
 - d. Verify project balances with the State financial record on a monthly and project specific basis;
 - e. Determine the cause of any variances in financial records, and make adjustments where necessary;
 - f. Advise the State of any error on the Detailed Financial Report; and
 - g. Maintain such other fiscal controls as are required by prudent fiscal management and applicable Federal, State and local laws.
- B. Submission for Payment
 - 1. Upon review and approval by the LEA, approved contractor or vendor invoice(s) shall be listed by identifying number and amount on Form 306.1 Request for Payment to Contractor. The invoice(s) shall:
 - a. Be summarized by construction contractor or vendor;
 - b. Include an LEA voucher number and the payee's Federal Identification Number (FIN). If no FIN has been assigned, then include the payee's social security number.
 - c. Be certified by an authorized official of the LEA.
 - 2. Copies of the approved construction requisitions and related invoices shall be submitted to the PSCP for payment on IAC/PSCP Form 306.1 Request for Payment to Contractor and 306.2 Request for Reimbursement to LEA. The following standard forms are required for submission of supporting data:
 - a. "Certificates for Payment" – Current AIA Document or alternate approved by the county board.
 - b. "Standard Monthly Contractor's Requisition for Payment" (IAC/PSCP Form 306.4).
 - 3. A request by the LEA for reimbursement of payments made to contractors or vendors on current projects shall be listed on IAC/PSCP Form 306.2 and must:
 - a. Be supported by photocopies (front and back) of the bank cancelled check reflecting:
 - i. Payment made by the LEA to the construction contractor or vendor; or

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- ii. If payment was made by LEA to contractor through electronic transfer of funds (ACH), proof of transaction from the banking institution.
 - b. Have been paid from funds other than bond sale proceeds; and
 - c. Be certified by an authorized official of the LEA.
- 4. If a project was forward funded by the LEA, a request for reimbursement for the project must be supported by a summary of capital expenditures.
- 5. Requests for reimbursement of Additional State Funds (ASF) for high performance building costs of eligible projects approved during fiscal years FY 10 – FY 14 may be requested upon presentation of final certification from the certifying entity. See Section 105.
- C. Reimbursement to the LEA by the State Treasury for properly approved invoices up to the limit of approved State funding shall be made by:
 - 1. Direct payment in the form of a check drawn on the State Treasury;
 - 2. Direct deposit to the vendor's account by the State Treasury; or
 - 3. Reimbursement to the LEA by the State Treasury.
- D. Eligible payments made by the LEA directly to the construction contractor or vendor for approved State funded projects will be reimbursed by the State Treasury.
- E. Transmittals authorizing payment shall be prepared by PSCP for the State Treasurer weekly (or more frequently if necessary). The transmittal will include all properly executed requests for payment that have been received and reviewed by the PSCP.
- F. Upon receipt of notice from the State Treasury that payment has been made directly to the contractor or vendor, the PSCP shall return a copy of IAC/PSCP Form 306.1 or 306.2 to the LEA showing the warrant number and date of payment.
- G. If State funds are available, all approved invoices shall be paid in full up to the limit of State participation in the contract.
- H. Should the State's portion of the final approved construction cost be less than payments previously made, adjustments shall be made by the LEA accordingly.

405.5 PROJECT CLOSE-OUT

- A. In order for the IAC to verify payments made for work accomplished by the contractor, the procedures in this subsection shall be observed.
- B. Upon receipt of the approved close-out summary, the Finance Office of the PSCP shall review the report for completeness and accuracy of all balances reported.
 - 1. Any charges deemed to be ineligible for State funding will be reported to the LEA for removal from State expenditures.
 - 2. The amount of the ineligible expenditure will be reimbursed to the State by the LEA.

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3. Energy conservation rebates shall be reimbursed by the LEA to the State:
 - a. The calculation of the State's share of the reimbursement is made based on the State/local funding percentages of the original contract award, giving consideration to the base bid and approved alternates.
 - b. Change orders are not included in the calculation.
 - c. Rebates of A/E fees are not to be reimbursed to the State.

- C. Close-Out Cost Summary (IAC/PSCP Form 306.6).
 1. A project shall be considered complete when:
 - a. The construction work has been completed in accordance with the contract documents;
 - b. Final inspection has occurred;
 - c. The architect has issued a certificate of completion (if applicable);
 - d. The contractor has submitted the application for final payment;
 - e. The building is accepted by the LEA; and
 - f. The LEA has made final payment to the contractor.

 2. Upon completion of each project, a "Close-Out Cost Summary" (IAC/PSCP Form 306.6) shall be prepared, including all fiscal years in which the project was funded, and submitted with appropriate documentation to the PSCP Finance Office.
 - a. This submittal shall be made within 180 days after project is completed and/or the building is accepted by the LEA.
 - b. Include copies of the following:
 - i. The general contractor's final standard requisition for payment (ALL pages), including a listing of all approved change orders, distributing costs among the C.S.I. divisions;
 - ii. The Architect's Certificate of Completion (single page invoices may be submitted for systemic renovation, science and wiring projects); and
 - iii. The LEA's Certificate of Acceptance.

- C. A final audit shall be made by PSCP staff after the LEA submits the "Close-Out Cost Summary" (IAC/PSCP Form 306.6).

- D. Upon completion of the final audit, the finance staff will notify the LEA of any changes and submit final project costs to the IAC for approval. This will complete all action on this project.

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405.6 MINORITY BUSINESS ENTERPRISE DOCUMENTATION

- A. The following Minority Business Enterprise documentation is required:
1. Request for Payment/Reimbursement
 - a. Submit IAC/PSCP Form 306.4 Page 3 Certified MBE Participation Standard Monthly Contractor's Requisition for Payment , filled out and signed by contractor on each invoice and submitted with each request for payment;
 - b. Form 306.4 Page 3 must be project specific (i.e., if one bid/contract covered multiple projects, Attachment G must be calculated and submitted by contractor on a per-project basis);
 - c. Form 306.4 Page 3 must list all "Original" and "ADD" MBE sub-contractors, and if any MBE Original subcontractor has been removed, an explanation must be provided;
 - d. LEA should verify all information listed on Form 306.4 Page 3 (i.e. MBE Certification Status is current and valid; information is not duplicated from prior month/invoice; MBE has been paid prior monies due); and
 - e. If no MBE goal (and subgoals, as applicable) were set for the project at the time of solicitation, and/or a full waiver was granted for the solicitation goals and/or subgoals, Form 306.4 Page 3 should still be submitted by the LEA and should state that MBE participation was not applicable to this project.
 2. Close-Out Documents
 - a. Submit IAC-PSCP Form 306.4 Page 3 Certified MBE Participation Standard Monthly Contractor's Requisition for Payment reflecting:
 - i. All "Original" MBE sub-contractors listed at time of contract approval by IAC even if the MBE sub-contractor was not utilized on the project; and
 - ii. Any "ADD" MBE sub-contractors;
 - b. If any MBE sub-contractor listed at time of IAC Contract Approval is not utilized by the prime contractor, submit a letter from the contractor explaining the unavailability of said MBE sub-contractor, as well as documentation from the MBE sub-contractor verifying the statement made by the prime contractor.
 - c. Form 306.4 Page 3 should reflect:
 - i. The final payments made to the contractor, including any and all adjustments; and/or
 - ii. A copy of Form 306.4 Page 3 submitted by the contractor to the LEA with the Final Requisition.
 - d. If the project in question had multiple Trade Packages approved by the IAC, one Form 306.4 Page 3 must be submitted for each trade package.

405.7 AUDITING

- A. The objectives of the PSCP audit are:
1. To review the LEA's internal control and accounting procedures for State-funded school construction projects in accordance with the Laws of Maryland and the *Regulations for the Administration of the Public School Construction Program* (COMAR 23.03.02);
 2. To verify that actual expenditures are in agreement with the IAC approved funding allocations as approved by the Board of Public Works;
 3. To determine that all receipts, expenditures, reversions, cancellations, etc., are properly documented;
 4. To ensure that State laws regarding competitive procurement, the use of prevailing wage rates when applicable, and Minority Business Enterprise requirements have been followed.
- B. The PSCP audit staff may offer suggestions and assistance for improving funding management control techniques within each LEA.
- C. A financial audit will be conducted to encompass:
1. A review and evaluation of the adequacy and application of accounting, financial, and other internal operating controls; and
 2. An examination and testing of such financial transactions, accounts, and reports as are considered necessary in the circumstances.
- D. A compliance audit will be performed in conjunction with the financial audit to include:
1. The applicable Laws of Maryland;
 2. All Regulations that govern public school construction;
 3. The Public School Construction Program Administrative Procedures Guide;
 4. The Public School Construction Program "Minority Business Enterprise Procedures for State Funded Public School Construction Projects"; and
 5. Other procedures as applicable.
- E. A performance audit will be an integral part of the audit scope in order to:
1. Ascertain the reliability of management data developed and used within each LEA; and
 2. Appraise the quality of performance in carrying out assigned responsibilities within the LEA.
- F. All evaluations and recommendations will be compiled in a draft discussion note and submitted to the LEA.

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- G. After a reasonable period of time and if deemed necessary, an exit interview will be conducted, at which time those items considered minor will be eliminated in the final report.
- H. As a result of the final audit findings, the Designees will make recommendations to the IAC for specific action to be taken by the LEA to reconcile the exceptions and back-charges.
- I. Distribution of the formal audit report will be made to:
 - 1. State Superintendent of Schools, Maryland State Department of Education: Chair, Interagency Committee on School Construction;
 - 2. Secretary, Maryland Department of Planning: Member, Interagency Committee on School Construction;
 - 3. Secretary, Department of General Services: Member, Interagency Committee on School Construction;
 - 4. Two members of the public, Interagency Committee on School Construction
 - 5. Superintendent, Local Education Agency;
 - 6. Others – (as required)

405.8 FORMS

- Form 306.1 LEA Request for Payment to Contractor.
- Form 306.2 Request for Reimbursement to LEA.
- Form 306.4 Certified Minority Business Enterprise Participation Standard Monthly Contractor's Requisition for Payment (Attachment G).
- Form 306.6 Close-Out Summary.

END OF SECTION

SECTION II-DISCUSSION ITEMS AND DEFERRED ITEMS-cont'd

D. Maintenance Inspections

In 2006, the General Assembly supported the transfer of the School Maintenance Inspection Program from DGS to the Public School Construction Program (PSCP), with the approval of two maintenance inspector positions (but no additional administrative support). The Maintenance Inspection Program has proven to be of great value in a number of respects:

- It conveys to local boards of education, local governments, and local school administrators the State's keen interest in protecting State and local investments and in ensuring the safety and health of building occupants. The documentation developed through seven fiscal years of inspections has been particularly useful in highlighting maintenance as a key issue of the Baltimore City 10-Year Plan, funded through HB 860 of the 2013 session of the General Assembly.
- It allows the State to gain a close-up view of the condition of schools, identifying within each LEA and across the state the best maintenance practices as well as areas of weakness that need correction. Our in-field observations are now supplemented by robust data from seven years of inspections.
- It provides data that connects maintenance to the State's capital funding programs, for example, by identifying poor maintenance practices that may lead to premature capital replacement projects, as well as building systems and components that due to age and wear will require capital investment even if they are well maintained.
- It provides support to local administrators in their effort to protect and even enhance the maintenance budget, which is often reduced in the local budgeting cycle in order to provide funding for academic and administrative programs.

Between FY 2007 and FY 2013, the Maintenance Inspection Program has completed a total of 1,484 inspections and 30 re-inspections, or an average of 216 inspections per year.¹ In 2007, at the end of the first year of inspections, the PSCP set an internal target of 230 inspections per year, a figure that would allow all of the schools in the state to be inspected in a six-year round. After the PSCP reduced the number of inspections in fiscal years 2009 and 2010 to accommodate the budget reduction requirements of the Department of Budget and Management, the General Assembly made the figure of 230 inspections per year mandatory as a condition of future operational funding for the agency. In effect, an internal target became an official IAC policy.

Since resumption of the full 230 inspections in FY 2011, we have learned that this figure is unrealistic within current staffing parameters: while we have succeeded in conducting 230 new physical inspections and a small additional number of re-inspections each year, the writing of reports, in-office analysis of reports, correlation of reports with capital investment records and funding requests, communication, and record keeping dimensions of the Program require considerably more staff time per inspection than does the actual physical inspection. In combination with the four new funding initiatives approved by the General Assembly in FY 2012 – FY 2014, large new assignments related to the Baltimore City 10-Year Plan, and a concurrent reduction of PSCP staff positions, the FY 2011 and FY 2012 maintenance reports were significantly delayed.²

¹ Since the program was relocated to the PSCP in 2006, the agency has increased the number of inspections from approximately 100 per year to 230 per year, and has expanded both the number of elements and the detail of the building systems that are inspected, in order to more thoroughly assess the school buildings and to track data for longitudinal reports.

² The four new Initiatives were the FY 2012 Supplementary Appropriation (\$47.5 million); the FY 2013 Energy Efficiency Initiative (\$25 million); and the FY 2014 Air Conditioning Initiative (\$25 million) and Security Initiative (\$25 million). The FY 2014 Non-Public Aging Schools Program (\$3.5 million) is largely administered by MSDE, with assistance from the PSCP.

SECTION II-DISCUSSION ITEMS AND DEFERRED ITEMS-cont'd

In FY 2012 a vacant staff position was reclassified to provide staff support for the first time to the Deputy Director, who is charged with management of the Maintenance Inspection Program among other duties. With the assistance of this position, the delayed reports are in the process of being completed. However, the overwhelming amount of time that is required for the maintenance inspection program at the current rate of inspections means that the Deputy Director is not available to participate to the degree required or desired in the formulation of IAC policy and procedures for new initiatives, the updating of amendments and regulations, special projects, or research into the many areas of interest that come to our agency, from green school improvements to prevailing wages to the status of educational programs facilitated through capital investment.

With the overall increase of complexity of the Public School Construction Program in recent years, it has become critical for the Deputy Director to be involved in these multiple policy and administrative dimensions of the Program. This goal can only be achieved if the Maintenance Inspection Program is given the flexibility to achieve a higher level of self-administration by the maintenance inspectors themselves. This will require that the inspectors have more time in the office to develop reports and conduct analyses of the materials, collaborate with the other agencies in the IAC structure, correlate the inspections with the Capital Improvement Program and other funding programs, communicate with the school districts, and disseminate useful information for the benefit of the LEAs. Barring an increase of staff, this objective can be achieved by reducing the number of maintenance inspections performed annually.

We therefore request the support of the IAC to set the number of annual inspections administratively on a year-to-year basis, based on the agency workload and the observations, analysis and judgment of the Executive Director and Deputy Director. We have determined that at the average rate of 220 inspections a year, this agency will complete a second statewide round of surveys in FY 2019 and will begin the 3rd round in FY 2020. We therefore propose to reduce the number of annual inspections in FY 2014 from 230 to 220, with four (4) additional re-inspections.³ The PSCP will analyze the effectiveness of this approach over the course of the current fiscal year and will return to the IAC with a recommendation for the number of inspections to be conducted in FY 2015.

The PSCP will study the staffing configuration of the Maintenance Inspection Program, with the possibility that a new position will be required to manage the program. This study would be conducted in the context of a larger evaluation of the staffing needs of the Public School Construction Program, which are not now adequately aligned with the complexity and number of funding programs and other initiatives for which the agency has responsibility.

³ The decrease in the number of surveys in fiscal years 2009 and 2010 extended the timeframe to inspect all of the schools in the state from six years to six-and-a-half years. The completion of the first round of inspections thus overlapped with the beginning of the second round of total state inspections in FY 2013, the 7th year; 84 of the 232 schools surveyed in FY 2013 were in the second round, leaving 1,318 existing schools to be inspected.

SECTION II-DISCUSSION ITEMS AND DEFERRED ITEMS-cont'd

Motion:

TO REQUEST THE BUDGET COMMITTEES TO PERMIT THE INTERAGENCY COMMITTEE ON SCHOOL CONSTRUCTION TO ESTABLISH ON A YEAR-TO-YEAR BASIS THE NUMBER OF MAINTENANCE INSPECTIONS THAT WILL BE CONDUCTED IN THAT FISCAL YEAR BY THE PUBLIC SCHOOL CONSTRUCTION PROGRAM BASED ON AN EVALUATION OF THE AGENCY WORKLOAD, AGENCY STAFFING, AND THE EFFECTIVENESS OF THE PROGRAM.

IAC ACTION: THE ABOVE REFERENCED ITEMS WERE:					
	Approved	Disapproved	Deferred	Abstain	Recuse
Dr. Lillian M. Lowery	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Mr. Richard Hall	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Mr. Alvin Collins	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Mr. Thomas Lewis	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Mr. Tim Maloney	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

SECTION II – DISCUSSION ITEMS AND DEFERRED ITEMS-cont'd

E. Nonpublic Aging Schools Program (NASP)

The Maryland General Assembly is providing \$3.5 million in fiscal 2014 for grants to nonpublic schools currently participating in the Maryland Nonpublic Student Textbook Program for renovations and improvements to existing nonpublic school buildings. Funds are distributed to nonpublic schools for expenditures eligible under the Public School Construction Program (PSCP) Aging Schools Program. The maximum grant allocation is based on school year 2012-13 enrollments with \$50 for each student eligible for free and reduced price meals, \$35 for each student not eligible and a minimum allocation of \$5,000. The maximum grant allocation is \$68,200 to one school. The majority of grants are for \$5,000.

NASP grant money is distributed across the State, with the largest percentages going to nonpublic schools in Baltimore County, 21%; Prince George's, 16%; Montgomery, 15%; Baltimore City, 12% and Anne Arundel, 9%. Caroline, Dorchester, Garrett, and Kent counties have no schools participating in the textbook program. The program is administered by the Maryland State Department of Education and the PSCP.

359 nonpublic schools are eligible to participate. Procedures were issued August 1, 2013. Applications will be received until December 2, 2013. All projects must be under contract by June 30, 2014. We have made two presentations to the State Superintendent's Nonpublic Schools Workgroup and fielded numerous phone calls and questions. In addition, we plan to send out a second announcement about the program in October.

The PSCP Aging Schools Program requires all participating public schools to be 16 years or older. The Designees have made an exception to this rule for the nonpublic schools program to permit the funding of security-related capital improvements in younger buildings.

As of September 17, 2013, we have approved 23 NASP projects in 21 different schools with a total maximum grant allocation of \$311,625. One project was denied because it did not meet the definition of capital improvements. One school application was denied because of building age.

Projects include:

1 Boiler	1 Emergency generator	1 Windows
2 Carpeting	1 Porch renovation	6 Security Improvements
1 Electrical wiring	3 Roofing	<i>(surveillance,</i>
3 Exterior doors	1 Site drainage	<i>communications, locks,</i>
1 Fire & Life Safety	1 Flooring	<i>doors, entry renovations,</i>
1 HVAC	1 White boards	<i>card access, window shades)</i>

FOR INFORMATION ONLY
NO ACTION IS REQUIRED

SECTION II-DISCUSSION ITEMS AND DEFERRED ITEMS-cont'd

F. Emergency Shelter Compliance Procedures

In February 2011, the Governor requested the Interagency Committee on School Construction “to require that school construction projects receiving State funding...be pre-wired for emergency electrical power. The wiring should be sufficient to provide an adequate supply of electricity to those areas of the facility that are necessary for public safety when used as a public shelter....”

In the spring of 2011, the IAC recommended to the Board of Public Works a regulation on emergency power that was developed by the Designees in collaboration with the Department of Human Resources (DHR) and the Maryland Emergency Management Agency (MEMA). In October 2011, the Board of Public Works approved the regulation. COMAR 23.03.02.29. The regulation “applies to all school construction projects that include replacing or upgrading the electrical system.” Local officials are required to “consult with the Maryland Emergency Management Agency to determine which areas of the school facility may be designated for public shelter use during or after a federal, State, or local declared emergency”, and the “LEA shall ensure that the designated public shelter area is designed and constructed to be fully powered in the event of an emergency through installation of (1) An emergency generator; or (2) Other means to accept temporary emergency electrical power generation.”

To implement the regulation, in July 2011 the Designees required that LEAs indicate in their FY 2013 CIP submittals in the fall of 2012 whether the schools that involved replacement or upgrade of the electrical systems were designated as shelters.¹ The LEAs with relevant projects indicated that they had consulted with the Local Emergency Managers (LEMs); we have learned that they did not, as a rule, consult directly with MEMA. Similar procedures were used in the FY 2014 CIP.

Partly as a result of a misunderstanding of the relationship between MEMA and the LEMs, the Public School Construction Program and the Designees accepted the LEA attestations of contact with the LEMs as proof of compliance with the regulation. A similar model, which places the burden of compliance on the LEA, applies to requirements for LEA contacts with the Maryland Historical Trust on work at existing school buildings that may have historic significance. It was only in the spring of 2013 that the PSCP learned that although a facility may be designated as a shelter by the LEM, MEMA may want other facilities to be made ready to serve as shelters in the event of an emergency.

To correct this misalignment, and in order to use the school capital funding programs to eventually make all schools in Maryland ready to serve as shelters in order to increase Maryland’s resiliency in the face of unknown emergencies, the PSCP has worked closely with the Governor’s Office of Homeland Security (GOHS), DHR, and MEMA to develop the attached draft procedures. These procedures were sent to the LEAs on September 10, 2013. Extensive discussion on the draft was held with the LEAs at the Facility Planners meeting of September 12, 2013; representatives from DHR and MEMA joined the PSCP at the September 12 meeting to explain the initiative and to respond to the LEAs’ concerns. Written comments were received from eight LEAs and five Local Emergency Managers (LEMs) on September 20.

Attached is a summary of the comments presented verbally at the September 12 meeting and of written comments submitted by the LEAs. The comments may be classified into four general categories:

1. **The identification of the problem is unclear.** Since there is a current process in place to coordinate shelter use between LEAs and LEMs, some LEAs were unclear as to the purpose of implementing a separate shelter process. The relationship between MEMA and the LEMs needs to be clarified; there appears to be some conflict of authority. There is a need for

¹ July 1 letter to LEAs; this requirement was reiterated at the annual CIP seminar that was held in mid-July and was discussed in the October CIP meeting with each LEA.

SECTION II-DISCUSSION ITEMS AND DEFERRED ITEMS-cont'd

clear, unambiguous definition of critical terms: “electrical upgrade,” “fully power,” “shelter.”

- 2. **Timing of implementation.** A number of LEAs were concerned that the draft procedures were only presented for review and comment at such a late date, when local boards have already approved the FY 2015 CIP budgets. Concerns were expressed about the impact of the procedures on projects that are already in design or construction. Several parties requested a phase-in or delay of the requirement to allow time for the procedure to be fully worked out and for budgets to be adjusted.
- 3. **Applicability.** There is a need for definition of the specific scope of the requirement; a number of LEAs requested a prescriptive list of spaces and functions.
- 4. **Cost.** Since the determination of shelter needs depends on a walkthrough by MEMA and receipt of a subsequent Compliance Letter (Item XX.4.F and G), the potential impact on project budgets cannot be known at this time. Concerns were expressed about the cost estimates for the transfer switches, where the local funding would be obtained, and that the additional costs could lead LEAs to forego or postpone needed electrical work.

Given the extent of the comments received from local officials, we believe that more work is needed to formulate a reasonable and viable procedure for implementation of the emergency shelter requirement. The best method for developing this procedure is to implement the notification and walk-through provision of the draft procedure, and then refine the final procedure based on observations and the input of local officials. The Designees therefore recommend at this time that the IAC approve the attached preliminary procedures for electrical power at schools that will serve as emergency shelters in the event of an emergency, with the understanding that final procedures will be brought to the IAC for approval within six months of September 27, 2013.

Motion:

TO APPROVE PRELIMINARY PROCEDURES FOR ELECTRICAL POWER AT SCHOOLS THAT WILL POTENTIALLY SERVE AS EMERGENCY SHELTERS IN THE EVENT OF A FEDERAL, STATE, OR LOCAL EMERGENCY, WITH THE UNDERSTANDING THAT FINAL PROCEDURES WILL BE BROUGHT TO THE IAC FOR APPROVAL WITHIN SIX MONTHS BASED ON EXPERIENCE GAINED IN THE ACTUAL IMPLEMENTATION OF COORDINATED ACTIONS BY THE MARYLAND EMERGENCY MANAGEMENT AGENCY (MEMA), THE DEPARTMENT OF HUMAN RESOURCES (DHR), THE PUBLIC SCHOOL CONSTRUCTION PROGRAM (PSCP), THE LOCAL EDUCATIONAL AUTHORITIES (LEAS), AND LOCAL EMERGENCY MANAGERS (LEMS).

IAC ACTION: THE ABOVE REFERENCED ITEMS WERE:					
	Approved	Disapproved	Deferred	Abstain	Recuse
Dr. Lillian M. Lowery	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Mr. Richard Hall	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Mr. Alvin Collins	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Mr. Thomas Lewis	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Mr. Tim Maloney	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

XX – EMERGENCY SHELTER COMPLIANCE PROCESS

XX.1 GENERAL

- A. COMAR 23.03.02.29 states that for every school that undertakes a project involving a replacement or upgrade of the electrical system, the LEA is required to consult with MEMA to determine which area of the school may be used for public shelter in the event of a national, state, or local emergency event. In addition, the public school construction project is to include the capability to fully power those areas designated by MEMA.
- B. Purpose. The following steps outline the specific process that the Interagency Committee on School Construction (IAC) will require all Local Educational Agencies (LEAs) to complete in order to comply with the COMAR regulation 23.03.02.29.
- C. Definitions.
 - 1. "Replacement of the electrical system" means that a complete new electrical system is installed in an existing or new facility, including when major components of the pre-existing electrical system are either removed or abandoned in place.
 - 2. "Upgrade of the electrical system" means that an existing electrical system of a facility or a major portion of a facility is improved through either (a) the replacement or upgrade of existing components, or (b) through other improvements that alter the performance characteristics of the electrical system.
 - 3. "Fully power" means the capability to provide electrical power to the fixtures, services, appliances, and/or outlets within a specified facility or portion of a facility.

XX.2 REFERENCE

- A. COMAR 23.03.02.29

XX.3 APPLICABILITY

- A. This procedure is applicable to all projects that receive State funding participation.

XX.4 STEPS OF THE SHELTER COMPLIANCE PROCESS

- A. Application Submitted to PSCP. LEA submits application for a school construction project to PSCP. LEA indicates on application if project requires a Replacement of the electrical system or an upgrade of electrical system (reference IAC Memorandum of August 14, 2013 on Revised IAC/PSCP CIP Form 102.1 Request for Approval of Planning and Form 102.2 Request for Approval of Funding). PSCP will discuss applications with the LEA during the application process, and may require reconsideration of the application or additional information for projects in which it is unclear if the project involves Replacement of the electrical system or an Upgrade of electrical system.
- B. PSCP Enters Application Data into PSCP Share Point. In order to maintain accountability and transparency throughout the entire process, PSCP will immediately make application data specific to electrical and emergency shelter information available through the PSCP SharePoint portal.
 - 1. Reports of application status, site visit reports, and other relevant information will be made available as needed. Reports may be run in Excel or other format as needed.

**PRELIMINARY PROCEDURE FOR IAC APPROVAL
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2. Upon completion of each of the remaining steps of the COMAR 23.03.02.29 Compliance Process, the agency responsible for completing that step must record the date of completion in the PSCP Share Point database.
- C. LEA Completes Compliance Process. If project involves Replacement of the electrical system or Upgrade of electrical system, LEA shall complete COMAR 23.03.02.29 Compliance Process.
1. The LEA is responsible for contacting MEMA and completing the remainder of the COMAR 23.03.02.29 Compliance Process. To avoid delays, it is in the LEA's interest to initiate this process prior to submission of the funding application.
 2. PSCP will require confirmation of contact and completion of the Process as a condition for final project approval and release of construction funds (tentative approvals may be recommended prior to completion of the Process).
- D. LEA contacts MEMA. The LEA is responsible for contacting the Director of the Preparedness Directorate at MEMA to formally ask for a site survey of the facility and submit documentation required to complete the COMAR 23.03.02.29 Compliance Process to MEMA's Preparedness Director. Documentation required prior to a site survey is as follows:
1. Floodplain map of facility site; and
 2. Floor plan of any existing or planned structures involved in the project.
- E. MEMA schedules site visit
1. The MEMA Regional Liaison Officer coordinates the performance of a site visit and walkthrough which will occur 2-3 weeks after MEMA was first contacted by the LEA.
 2. The site visit will include representatives from the following:
 - a. Department of Human Resources (DHR) – Office of Emergency Operations (OEO);
 - b. Maryland Emergency Management Agency (MEMA) – Regional Liaison Officer (RLO); and
 - c. Local Educational Agency (LEA).
 3. The Local Emergency Manager (LEM) will be invited to participate in the site visit.
 4. The site visit may also include representatives from the following:
 - a. Local Department of Social Services (DSS);
 - b. Public School Construction Program (PSCP); and/or
 - c. Other relevant organizations as necessary.
 5. In order to begin the site visit, LEAs must have already submitted the required documents listed in paragraph D to MEMA's Preparedness Director.
- F. Site Visit and Walkthrough. The site visit and walkthrough is performed by the personnel outlined in paragraph E; the maximum time expected is 2-3 hours. Site visits and walkthroughs will contain informal discussions regarding the identification of those areas that would be used for sheltering before, during, or after an emergency event, and the requirements for back-up power. These discussions will not constitute formal guidance or decisions of any kind. Criteria for consideration will

**PRELIMINARY PROCEDURE FOR IAC APPROVAL
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be drawn from Federal and State Emergency Management guidance and plans, and nationwide best practices.

- G. MEMA will submit COMAR 23.03.02.29 Compliance Letter to LEA
 - 1. MEMA and DHR will work in close coordination to complete a formal letter which designates the area that is to be fully powered pursuant to COMAR 23.03.02.29. This designation is to be made on the best professional judgment of MEMA and DHR of which portions of the building would be used for public sheltering if events required use of this facility.
 - 2. MEMA and DHR will consider any evidence that the facility could not be safely used under any circumstances as a public shelter in the foreseeable future. If this evidence of lack of safety under all circumstances for the foreseeable future is compelling, then no areas of the facility are to be designated as necessary for public safety when used as a public shelter.
 - 3. MEMA will submit the letter to the LEA and copy the PSCP, DHR, and the LEM within two months of the site visit. This letter will include a floor plan with shelter areas highlighted for the LEA's reference.
- H. Construction design plans with backup power capabilities submitted to PSCP. Following project approval, LEA's will submit design plans to the PSCP which include provisions to fully power those areas designated by the Compliance Letter from MEMA. These plans must clearly indicate which specific electrical devices/mechanisms support backup power, thereby distinguishing them from other devices/mechanisms in close proximity which do not.
- I. PSCP reviews design plans submitted during #8. The PSCP will then review the construction design plans that have been submitted by the LEA and cross-reference them with the COMAR 23.03.02.29 Compliance Letter and attached floor plan that was submitted by MEMA to ensure total compliance with the regulation. PSCP (DGS) will note any questions or deficiencies; when addressed in the LEA response, PSCP will notify LEA.
- J. LEA submits final project close-out documents for approval. Following the completion of construction the LEA will submit final project close-out documents to the PSCP for approval, including proof of backup power installation. The close-out documents must be signed by the superintendent, verifying compliance with COMAR 23.03.02.29.

XX.5 CONTINGENCIES

- A. Appeal of MEMA's Decision
 - 1. In the event that a LEA or its legislative body requests an appeal of MEMA's School COMAR 23.03.02.29 Compliance decision, the PSCP is to notify MEMA.
 - 2. The LEA will then be asked to replicate the Process and MEMA will coordinate an additional site assessment in accordance with the requirements of the COMAR 23.03.02.29 Process (outlined above in XX.4(D) through XX.4(G)).
 - 3. The Executive Director of MEMA will then make the final determination based off of both site assessments.
- B. Accelerated COMAR 23.03.02.39 Process
 - 1. In the event that an urgent school construction project is submitted to the PSCP, there may be a need to accelerate the process for complying with COMAR 23.03.02.29.

**PRELIMINARY PROCEDURE FOR IAC APPROVAL
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2. The following changes will occur in the accelerated process:
 - a. LEA will indicate upon its first contact with MEMA that this is an accelerated project.
 - b. The site visit will be conducted within 1-2 weeks after the LEA contacts MEMA.
 - c. MEMA's COMAR 23.03.02.29 Compliance Letter will be completed 3-4 weeks after the site visit.
 - d. All appeals will be made to the IAC directly.
3. The PSCP shall make the determination as to which projects are "Urgent" based on internal criteria and comparisons with other project applications.

END OF SECTION

DRAFT

SUMMARY OF SECTION III CONTRACT AWARDS

The IAC staff has reviewed the contract procurement for the following State approved projects and recommends IAC approval.

	<u>Total Contract</u>	<u>State Funds</u>	<u>Local Funds</u>
<u>Anne Arundel County</u>			
1. Four Seasons Elementary PSC #02.010.14 LPC K Addition - Contract #1 (1 contract) Tech Contracting Company, Inc.	\$1,543,800 \$1,543,800	\$770,356	\$773,444
2. Chesapeake High PSC #02.012.13 ASP ASP - Window Replacement - Phase II Lyons Construction Company, Inc.	\$243,049 \$243,049	\$243,049	\$0
3. Waugh Chapel Elementary PSC #02.102.14 SR Systemic Renovation - Window/Door Replacement Lyons Construction Company, Inc.	\$573,000 \$573,000	\$285,927	\$287,073
<u>Dorchester County</u>			
4. New Directions Learning Academy PSC #09.008.12SA/13ASP/14ASP Systemic Renovation/ASP - Chiller Replacement 1 - HAVTECH 2 - Joseph M. Zimmer, Inc.	\$262,925 \$34,725 \$228,200	\$240,754	\$22,171
<u>Frederick County</u>			
5. Glade Elementary PSC #10.050.14 SR Systemic Renovation - Chiller Replacement Denver-Elek, Inc.	\$457,600 \$457,600	\$283,712	\$173,888
<u>Howard County</u>			
6. Running Brook Elementary PSC #13.066.13/14 QZ QZAB - Exterior Wall Restoration KaRon Masonry of Maryland, Inc.	\$574,000 \$574,000	\$500,000	\$74,000
<u>Montgomery County</u>			
7. Waters Landing Elementary PSC #15.153.14 LP Addition - Contract #1 (1 contract) CFI Construction Corporation	\$7,556,941 \$7,556,941	\$0	\$7,556,941
8. Waters Landing Elementary PSC #15.153.13 SR Systemic Renovation - HVAC Replacement CFI Construction Corporation	\$963,200 \$963,200	\$480,637	\$482,563

SUMMARY OF SECTION III CONTRACT AWARDS - Cont'd

	<u>Total Contract</u>	<u>State Funds</u>	<u>Local Funds</u>
<u>Montgomery County - Cont'd</u>			
9. Clarksburg Cluster Elementary PSC #15.274.14 LP New - Contract #1 (15 contracts)	\$21,754,982	\$0	\$21,754,982
6A - Steel Products, Inc.	\$408,804		
8A - Engineered Construction Products, Ltd.	\$558,105		
9A - JP Construction, Inc.	\$762,000		
10D - Steel Products, Inc.	\$89,498		
11A - 11400, Inc.	\$126,000		
15A - Towson Mechanical, Inc.	\$3,817,000		
15B - Advanced Fire Protection, LLC	\$195,000		
16A - Brandenburg Electric, Inc.	\$1,904,500		
CMR - Hess Construction & Engineering Services, Inc.	\$4,645,124		
2A - Kinsley Construction, Inc.	\$2,478,942		
2B - Allied Environmental Services, Inc.	\$611,000		
3A - Sody Concrete Construction, Inc.	\$660,000		
4A - KaRon Masonry of Maryland, Inc.	\$2,489,000		
5A - Kinsley Construction, Inc.	\$1,455,000		
7A - Interstate Corporation	\$1,555,000		
<u>Prince George's County</u>			
10. Eleanor Roosevelt High PSC #16.002.13 ASP ASP - Food Service Replacement CDCI, Inc.	\$59,851	\$56,851	\$3,000
11. Dwight Eisenhower Middle PSC #16.008.13 ASP ASP - Food Service Replacement CDCI, Inc.	\$39,149	\$36,149	\$3,000
12. Laurel Elementary PSC #16.009.13 ASP ASP - Food Service Replacement CDCI, Inc.	\$23,254	\$20,254	\$3,000
13. H. Winship Wheatley Special Education PSC #16.017.13 ASP ASP - Pool Repairs (Therapy Tank) Millennium Pool Service	\$33,600	\$28,600	\$5,000
14. C. Elizabeth Reig Special Education PSC #16.041.13 ASP ASP - Pool Repairs (Therapy Tank) Millennium Pool Service	\$33,600	\$28,600	\$5,000
15. James E. Duckworth Special Education PSC #16.042.13 ASP ASP - Pool Repairs (Therapy Tank) Millennium Pool Service	\$33,600	\$28,600	\$5,000

SUMMARY OF SECTION III CONTRACT AWARDS - Cont'd

	<u>Total Contract</u>	<u>State Funds</u>	<u>Local Funds</u>
<u>Prince George's County - Cont'd</u>			
16. High Bridge Elementary PSC #16.058.13 ASP ASP - Food Service Replacement CDCI, Inc.	\$21,197 \$21,197	\$18,197	\$3,000
17. Springhill Lake Elementary PSC #16.075.13 ASP ASP - Food Service Replacement CDCI, Inc.	\$21,416 \$21,416	\$18,416	\$3,000
18. High Point High PSC #16.085.13 ASP ASP - Food Service Replacement CDCI, Inc.	\$55,674 \$55,674	\$52,674	\$3,000
19. Suitland High PSC #16.087.13 ASP ASP - Food Service Replacement CDCI, Inc.	\$66,958 \$66,958	\$63,958	\$3,000
20. Margaret Brent Special Education PSC #16.100.13 ASP ASP - Pool Repairs (Therapy Tank) Millennium Pool Service	\$33,600 \$33,600	\$28,600	\$5,000
21. Valley View Elementary PSC #16.118.13 ASP ASP - Food Service Replacement CDCI, Inc.	\$21,353 \$21,353	\$18,353	\$3,000
22. Barnaby Manor Elementary PSC #16.123.13 ASP ASP - Food Service Replacement CDCI, Inc.	\$25,529 \$25,529	\$22,529	\$3,000
23. Heather Hills Elementary PSC #16.132.13 ASP ASP - Food Service Replacement CDCI, Inc.	\$22,009 \$22,009	\$19,009	\$3,000
24. Carrollton Elementary PSC #16.142.13 ASP ASP - Food Service Replacement CDCI, Inc.	\$24,091 \$24,091	\$21,091	\$3,000
25. Columbia Park Elementary PSC #16.147.13 ASP ASP - Food Service Replacement CDCI, Inc.	\$22,009 \$22,009	\$19,009	\$3,000

SUMMARY OF SECTION III CONTRACT AWARDS - Cont'd

	<u>Total Contract</u>	<u>State Funds</u>	<u>Local Funds</u>
<u>Prince George's County - Cont'd</u>			
26. James McHenry Elementary PSC #16.154.13 ASP ASP - Food Service Replacement CDCI, Inc.	\$22,408 \$22,408	\$19,407	\$3,001
27. Drew Freeman Middle PSC #16.159.13 ASP ASP - Food Service Replacement CDCI, Inc.	\$45,689 \$45,689	\$42,689	\$3,000
28. Ardmore Elementary PSC #16.164.13 ASP ASP - Food Service Replacement CDCI, Inc.	\$21,197 \$21,197	\$18,197	\$3,000
29. Robert Goddard Middle PSC #16.181.13 ASP ASP - Food Service Replacement CDCI, Inc.	\$39,389 \$39,389	\$36,389	\$3,000
30. Walker Mill Middle PSC #16.196.13 ASP ASP - Food Service Replacement CDCI, Inc.	\$40,510 \$40,510	\$37,510	\$3,000
31. Seabrook Elementary PSC #16.200.13 ASP ASP - Food Service Replacement CDCI, Inc.	\$21,742 \$21,742	\$18,742	\$3,000
32. Gwynn Park Middle PSC #16.211.13 ASP ASP - Food Service Replacement CDCI, Inc.	\$40,510 \$40,510	\$37,510	\$3,000
33. Kenmoor Elementary PSC #16.225.13 ASP ASP - Food Service Replacement CDCI, Inc.	\$21,197 \$21,197	\$18,197	\$3,000
34. Bowie High Annex PSC #16.262.13 ASP ASP - Food Service Replacement CDCI, Inc.	\$42,895 \$42,895	\$39,895	\$3,000
<u>St. Mary's County</u>			
35. Captain Walter Francis Duke Elementary PSC #18.033.12/14 LPC New - Contract #1 (1 contract) J. A. Schiebel, Inc.	\$23,920,000 \$23,920,000	\$7,070,000	\$16,850,000

SUMMARY OF SECTION III CONTRACT AWARDS - Cont'd

	<u>Total Contract</u>	<u>State Funds</u>	<u>Local Funds</u>
<u>Baltimore City</u>			
36. #480 Baltimore City College High PSC #30.110.10/13 C Science Renovation - Contract #1 (1 contract) E. Pikounis Construction Company, Inc.	\$1,973,000 \$1,973,000	\$1,832,000	\$141,000
37. #205 Woodhome Elementary PSC #30.196.12SA SR Systemic Renovation - Window Replacement J.A.K. Construction Company, Inc.	\$673,024 \$673,024	\$673,024	\$0
38. #251 Callaway Elementary PSC #30.257.12SA SR Systemic Renovation - Window Replacement E. Pikounis Construction Company, Inc.	\$602,300 \$602,300	\$602,300	\$0
Summary Totals			
Total Projects: 38	Total Contracts: 53	\$61,930,239	\$13,731,185
		\$48,199,063	

IAC ACTION: THE ABOVE REFERENCED ITEMS WERE:

	Approved	Disapproved	Deferred	Abstain	Recuse
Dr. Lillian M. Lowery	☑	☐	☐	☐	☐
Mr. Richard Hall	☑	☐	☐	☐	☐
Mr. Alvin Collins	☑	☐	☐	☐	☐
Mr. Thomas Lewis	☑	☐	☐	☐	☐
Mr. Tim Maloney	☑	☐	☐	☐	☐
WITH DISCUSSION		WITHOUT DISCUSSION			

SECTION VI - APPROVAL OF ACCOUNTING ADJUSTMENTS

A. PROJECT ALLOCATION REVERSIONS

The following projects have been completed but the accounts have not been audited or closed. The amounts indicated are apparently in excess and are recommended for transfer to the statewide contingency accounts.

<u>Project Number</u>	<u>Project Name</u>	<u>Amount</u>
<u>Anne Arundel</u> 02.008.2011	Linthicum Elementary	\$ 5,777 <u>\$ 5,777</u>
<u>Baltimore County</u> 03.184.2011	Riverview Elementary	\$ 1,133 <u>\$ 1,133</u>
<u>Calvert County</u> 04.017.2012	Plum Point Middle	\$ 55 <u>\$ 55</u>
<u>Carroll County</u> 06.025.2010	William Winchester Elementary	\$ 9,322 <u>\$ 9,322</u>
<u>Cecil County</u> 07.014.2008	Calvert County	\$ 21,314 <u>\$ 21,314</u>
<u>Charles County</u> 08.012.2012.SA 08.012.2012.SA 08.012.2012.SA 08.012.2012.SA	F. B. Gwynn Center F. B. Gwynn Center F. B. Gwynn Center F. B. Gwynn Center	\$ 5,640 3,200 280 135 <u>\$ 9,255</u>
<u>Frederick County</u> 10.062.2013	Oakdale Elementary	\$ 3,558 <u>\$ 3,558</u>
<u>Harford County</u> 12.059.2013	Red Pump Elementary	\$ 74,551 <u>\$ 74,551</u>
<u>Howard County</u> 13.019.2011	Mt. Hebron High School	\$ 64,424 <u>\$ 64,424</u>
<u>Baltimore City</u> 30.127.2008	#063 Rosemont PK-8	\$ 9,053 <u>\$ 9,053</u>

SECTION VI - APPROVAL OF ACCOUNTING ADJUSTMENTS-Cont'd

<u>Project Number</u>	<u>Project Name</u>	<u>Amount</u>
	Total Reversion:	<u>\$ 198,442</u>

MOTION:

TO APPROVE, SUBJECT TO FINAL AUDIT, THE REVERSION OF THE AMOUNTS IDENTIFIED ABOVE TO THE APPROPRIATE STATEWIDE CONTINGENCY ACCOUNTS.

IAC ACTION: THE ABOVE REFERENCED ITEMS WERE:					
	Approved	Disapproved	Deferred	Abstain	Recuse
Dr. Lillian M. Lowery	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Mr. Richard Hall	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Mr. Alvin Collins	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Mr. Thomas Lewis	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Mr. Tim Maloney	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

SECTION VI – APPROVAL OF ACCOUNTING ADJUSTMENTS-Cont'd

B. REPORT ON CLOSED PROJECTS

The projects listed below have received final audit and State funding shall be as follows:

<u>Project Name</u>	<u>Project Type</u>	<u>Approved Contracts Form 306.6</u>	<u>Final Project Cost</u>
<u>ANNE ARUNDEL COUNTY</u>			
1. Linthicum Elementary 02.008.2011 – BOND	Renovation	649,211	\$ <u>649,211</u>
2. Odenton Elementary 02.048.2009 – BOND	HVAC	1,174,000	\$ <u>1,174,000</u>
3. Severna Park Elementary 02.052.2007 – BOND 02.052.2010 – BOND	HVAC	6,977 491,149	\$ <u>498,126</u>
4. Maryland City Elementary 02.082.2012 – BOND	Electrical	31,424	\$ <u>31,424</u>
5. Hilltop Elementary 02.088.2010 – BOND	Renovation	646,372	\$ <u>646,372</u>
6. Hilltop Elementary 02.088.2010 – BOND	K/PK Addition	742,561	\$ <u>742,561</u>
7. Ridgeway Elementary 02.090.2011 – BOND	K/PK Addition	736,588	\$ <u>736,588</u>
8. Waugh Chapel Elementary 02.102.2011 – BOND	K/PK Renovation	914,376	\$ <u>914,376</u>
9. Oakwood Elementary 02.109.2011 – BOND	K/PK Addition	632,157	\$ <u>632,157</u>
<u>BALTIMORE COUNTY</u>			
10. Riverview Elementary 03.184.2000 – BOND 03.184.2011 – BOND	HVAC/Chiller	100,000 63,995	\$ <u>163,995</u>
<u>CALVERT COUNTY</u>			
11. Mutual Elementary 04.002.2012 – BOND	Roof	106,004	\$ <u>106,004</u>
12. Sunderland Elementary 04.014.2012 – SA	Roof	111,000	\$ <u>111,000</u>
13. Plum Point Elementary 04.015.2012 – SA	Roof	104,712	\$ <u>104,712</u>
14. Plum Point Middle 04.017.2012 – BOND	Roof	356,945	\$ <u>356,945</u>

<u>Project Name</u>	<u>Project Type</u>	<u>Approved</u>	<u>Final</u>
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SECTION VI – APPROVAL OF ACCOUNTING ADJUSTMENTS-Cont'd

		<u>Contracts</u> <u>Form 306.6</u>	<u>Project Cost</u>
<u>CALVERT COUNTY</u> – Cont'd.			
15.	Patuxent High 04.019.2012 – SA	Roof 194,288	\$ <u>194,288</u>
16.	William Winchester E. 06.025.2010 – BOND	K/PK Ren/Add 1,271,659	\$ <u>1,271,659</u>
<u>CECIL COUNTY</u>			
17.	North East Middle 07.012.2012 – SA	Flooring 61,232	\$ <u>61,232</u>
18.	Calvert Elementary 07.014.2006 – BOND 07.014.2008 – BOND 07.014.2009 – BOND	Ren/Add 91,238 4,893,323 1,000,000	\$ <u>5,984,561</u>
19.	Elkton Middle 07.029.2012 – SA	Flooring 11,800	\$ <u>11,800</u>
20.	Cecil Manor Elementary 07.030.2012 – SA	Flooring 9,289	\$ <u>9,289</u>
21.	North East High 07.040.2012 – SA	Track Resurfacing 187,562	\$ <u>187,562</u>
22.	North East High 07.040.2012 – SA	Roof 443,005	\$ <u>443,005</u>
<u>DORCHESTER COUNTY</u>			
23.	Hurlock Elementary 09.014.2012 – SA	HVAC 47,109	\$ <u>47,109</u>
<u>FREDERICK COUNTY</u>			
24.	Oakdale (East Co.) E. 10.062.2013 – BOND	Addition 522,442	\$ <u>522,442</u>
<u>HARFORD COUNTY</u>			
25.	Red Pump Elementary 12.059.2010 – BOND 12.059.2013 – BOND	New 919,784 8,814,665	\$ <u>9,734,449</u>
26.	<u>HOWARD COUNTY</u> Hammond High 13.016.2007 – BOND 13.016.2012 – BOND	Addition 2,020 362,816	\$ <u>364,836</u>

SECTION VI – APPROVAL OF ACCOUNTING ADJUSTMENTS-Cont'd

<u>Project Name</u>	<u>Project Type</u>	<u>Approved Contracts Form 306.6</u>	<u>Final Project Cost</u>
<u>HOWARD COUNTY – Cont'd.</u>			
27. Mt. Hebron High	Renovation/Addition		
13.019.1999 – BOND		142,510	
13.019.2006 – BOND		225,016	
13.019.2008 – BOND		6,761	
13.019.2010 – BOND		10,610,490	
13.019.2011 – BOND		2,215,712	
13.019.2012 – BOND		786,196	<u>\$ 13,986,685</u>
28. Bellows Spring E.	Addition		
13.078.2009 – BOND		1,163,000	<u>\$ 1,163,000</u>
<u>KENT COUNTY</u>			
29. Kent County High	Electrical		
14.007.2012 – SA		104,177	<u>\$ 104,177</u>
<u>MONTGOMERY COUNTY</u>			
30. Broad Acres E.	Roof		
15.035.2012 – BOND		375,927	<u>\$ 375,927</u>
31. Olney Elementary	Roof		
15.093.2012 – BOND		268,462	<u>\$ 268,462</u>
32. Walt Whitman High	Roof		
15.134.2012 – BOND		171,000	<u>\$ 171,000</u>
33. Sherwood High	Addition		
15.135.2009 – BOND		926,000	<u>\$ 926,000</u>
34. Rachel Carson E.	Roof		
15.163.2012 – BOND		446,883	<u>\$ 446,883</u>
<u>WASHINGTON COUNTY</u>			
35. Sharpsburg Elementary	Boiler		
21.019.2012 – SA		171,225	<u>\$ 171,225</u>
36. B. Ingram School for the Arts			
21.053.2011 – BOND		620,000	
21.053.2012 – BOND		634,000	
21.053.2013 – BOND		634,000	<u>\$ 1,888,000</u>
<u>BALTIMORE CITY</u>			
37. #063 Rosemont Elementary	Boiler		
30.127.2008 – BOND		300,000	<u>\$ 300,000</u>
38. #063 Rosemont Elementary	Chiller		
30.127.2008 – BOND		350,000	<u>\$ 350,000</u>

SECTION VI – APPROVAL OF ACCOUNTING ADJUSTMENTS-Cont'd

<u>Project Name</u>	<u>Project Type</u>	<u>Approved Contracts Form 306.6</u>	<u>Final Project Cost</u>
<u>BALTIMORE CITY – Cont'd.</u>			
39. #063 Rosemont Elementary 30.127.2008 – BOND	Unit Ventilators	362,133	\$ <u>362,133</u>
40. #150 Mary Winterling E. 30.225.2007 – BOND 30.225.2010 – BOND	HVAC	842,498 1,277,502	\$ <u>2,120,000</u>

MOTION:

TO APPROVE THE FINAL PROJECT COSTS AS REFLECTED ABOVE AND TO REMOVE THE PROJECTS FROM THE DETAILED FINANCIAL REPORT.

IAC ACTION: THE ABOVE REFERENCED ITEMS WERE:					
Approved	Disapproved	Deferred	Abstain	Recuse	
Dr. Lillian M. Lowery	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Mr. Richard Hall	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Mr. Alvin Collins	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Mr. Thomas Lewis	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Mr. Tim Maloney	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

SECTION VIII – INFORMATION

A. CHANGE ORDERS

(9/27/13)

SUMMARY

The following statistical information is for Change Order Letters dated September 27, 2013 to be included in the September 25, 2013 Agenda for IAC Meeting approval of Contracts & Items; Approval date September 27, 2013.

Number of LEA's Reviewed:	3 (4 schools)		
Total Change Orders Reviewed:	11		
Total Issues Reviewed:	11		
Total Credit Returned to the State:		\$	0
Total Participation in Change Orders by the State:		\$	<u>355</u>
Net Balance:		\$	355 Participation by the State

	<u>State</u>	<u>Local</u>	<u>Total</u>
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NOTE: Descriptions are provided for all Change Order Items that are \$15,000 and over.

Baltimore City

Thomas Johnson Elementary School #084
PSC: 30.044.11 SR (Chiller)

C.O. #1	(Add Chiller Condenser Water Bypass Loop)	0	24,955	24,955
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Howard

Northfield Elementary School
PSC: 13.048.09/10/11 LPC

C.O. #C1A-59		0	11,562	11,562
C.O. #C1A-60	(Claim – Contract Time Extension Costs)	0	17,378	17,378
C.O. #C15A-23		0	<3,114>	<3,114>
C.O. #C16A-34		219	273	492

Gorman Crossing Elementary School
PSC: 13.068.13/14 LPC

C.O. #C1A-1		0	744	744
C.O. #C16A-1		0	2,918	2,918

SECTION VIII – INFORMATION

A. CHANGE ORDERS – (Continued)

(9/27/13)

	<u>State</u>	<u>Local</u>	<u>Total</u>
<u>Washington County</u>			
Pleasant Valley Elementary School PSC: 21.022.13 SR (Boiler)			
C.O. #1	0	604	604
C.O. #2	0	3,743	3,743
C.O. #3	0	1,112	1,112
C.O. #4	136	55	191