

INTERAGENCY COMMISSION ON SCHOOL CONSTRUCTION



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Meeting Minutes October 9, 2018

Call to Order:

Dr. Karen Salmon called the meeting of the Interagency Commission on School Construction to order at 9:05 a.m.

Members in Attendance:

Dr. Karen Salmon, State Superintendent of Schools, Chair

Denise Avara, Appointee of the Governor

Clarence Felder, Designee for Secretary Ellington Churchill, Department of General Services

Brian Gibbons, Appointee of the Speaker of the House

Barbara Hoffman, Appointee of the President of the Senate, participating via telephone

Gloria Lawlah, Appointee of the President of the Senate

Dick Lombardo, Appointee of the Governor

Secretary Robert S. McCord, Maryland Department of Planning

Todd Schuler, Appointee of the Speaker of the House

Revisions to the Agenda

Dr. Salmon noted that several Enhanced Approval Packages (EAPs) would be added to the agenda as item X.

Public Comment

Teresa Benson, representing CT Electrical Corp. provided public comment regarding her company's bid on certain jobs in Anne Arundel. She referred to forms created by the IAC and requested that additional information regarding Minority Business Enterprise (MBE) forms be provided. Dr. Salmon asked Ms. Benson to call the IAC staff to set up a time to meet to further discuss MBE procedures.

I. Consent Agenda

Upon a motion by Secretary McCord and a second by Mr. Gibbons, the members voted unanimously to approve the consent agenda. Members Avara, Lawlah, and Lombardo were absent for the vote.

- A. Approval of August 30, 2018 Meeting Minutes** **Motion Carried**
To approve the minutes of the August 30, 2018 Interagency Committee on School Construction Meeting.
- B. Approval of Contracts** **Motion carried**
To approve contract procurement as presented.
- C. Approval of Revisions to Previously Approved Contracts** **Motion Carried**
To approve the revisions to previously approved contract awards to accurately reflect the adjusted State participation.
- D. Approval of Revisions to Previously Approved Property Transfers** **Motion Carried**
To approve the revisions to previously approved items.
- E. Approval of Easements** **Motion Carried**
To approve the conveyance by the respective Boards of Education of the easements specified in the table presented.

II. Approval of Accounting Adjustments: Baltimore City Public Schools Cancellation of FY 2018 Capital Improvements Program (CIP) Projects and Amendment of the FY 2019 CIP **Motion Carried**

Mr. Gorrell briefly explained the Baltimore City request and introduced Jamie Bridges, Project Manager for the Interagency Commission on School Construction. Mr. Bridges noted that the request allows Baltimore City to move forward with eight projects, and was a collaborative effort between Staff of the IAC and of City Schools. Seven of the projects are mission-critical. In response to questions from the Commission, Mr. Bridges noted that projects were rescinded for a variety of reasons, including the impact of partial funding in prior year CIPs and because of issues with estimating projects, particularly because Baltimore City does not complete design until fully funded, meaning estimates are based upon a general scope rather than a specific design. Mr. Bridges noted that IAC staff has met with Baltimore City and learned that the auditors for City Schools had prohibited the use of funds for design prior to full allocation because they followed state procedures that are not applicable to them. IAC staff worked with the Department of Budget and Management to provide clarification that there are no restrictions known to DBM disallowing the use of local funding for design prior to receiving State funding of capital projects.

Upon a motion by Mr. Schuler and a second by Secretary McCord, the IAC voted unanimously to approve a request from Baltimore City Public Schools (BCPSS) to:

1. Rescind \$10,155,000 allocated to 10 projects (one FY 2012 Supplemental Appropriation project and nine FY 2018 CIP projects); and transfer \$10,155,000 to the Statewide Contingency Account reserved for Baltimore City Public Schools.
2. Amend the FY 2019 CIP to include eight projects; and allocate \$24,740,000 from the Statewide Contingency Account reserved for Baltimore City Public Schools to fund the projects.

Ms. Lawlah was absent for the vote.

III. Educational Specification Workgroup Appointments **Motion Carried**

Mr. Gorrell directed the IAC to documents in the agenda detailing tasks of the Educational Specification workgroup, including considering costs per square foot and state rated capacity calculations, to develop clear information for measuring and to pass that information on to the Funding Workgroup, beginning its work around May of 2019. Preliminary information from the Statewide Assessment will also be available.

Appointments have been made by the Speaker of the House and the President of the Senate as required by Statute. Mr. Gorrell recommended additional members for appointment by the IAC as required by HB 1783.

Upon a motion by Mr. Schuler, with a second by Ms. Avara, the IAC voted unanimously to appoint members of the Workgroup on Educational Development Specifications as identified in the agenda item. Ms. Lawlah was absent for the vote.

IV. Change Order Transition Policy and Administrative Procedures Guide Revisions Motion Carried

Ms. Spivey, Director of Fiscal Services for the IAC, stated that the item would enact a transitional policy to hold harmless LEAs counting on eligibility review of change orders by DGS for projects approved in the FY 2019 Capital Improvement Plan (CIP) or earlier by allowing distribution of associated eligible funding if available in a project allocation. LEAs that do not wish to have change orders reviewed have the option to revert their contingency immediately, and to assign the contingency amount to other eligible projects in the current fiscal year or following fiscal year. This item further addresses the change in construction change order procedures as required by HB 1783.

Upon a motion by Mr. Schuler with a second by Mr. Lombardo, the IAC voted unanimously to approve the transitional policy for change order submission and review as applicable to projects approved through the FY 2019 CIP and to approve the revision to Section 305 *Change Orders* of the Administrative Procedures Guide. Ms. Lawlah was absent for the vote.

V. FY 19 Nonpublic Aging Schools Program Motion Carried

Fred Mason, Chief, School Facilities Branch, Maryland State Department of Education, stated that approval of the item would allow for the release of applications for \$3.5 million based upon set criteria so that nonpublic aging schools can begin applying for funds, with applications due by December and allocations made in 2019, typically by March. In response to questions from the Commission, Mr. Mason clarified that the criteria and funding were included in the budget bill, and staff has developed procedures to administer the funds. Mr. Mason also clarified that although the maximum per school is \$100,000, in recent years the actual maximum has been lower based upon pro-rated amounts as required by law. The application is available on the IAC website at <http://iac.maryland.gov>. A commission member asked what percentage of schools are 50 years old or older. Staff did not have the information readily available but will distribute the answer to the IAC members.

Upon a motion by Mr. Lombardo and a second by Mr. Schuler, the IAC voted unanimously to approve and release the applications for the FY 19 Nonpublic Aging Schools Program (FY 19 NASP), pending additional revisions by IAC staff and legal counsel. The final applications will be available when the IAC approves the application forms and may be released immediately. Ms. Lawlah was absent for the vote.

- VI. FY 19 Nonpublic Aging School Program Safety Improvements (NPSI) Motion Carried**
Mr. Mason explained that the NPSI has the same threshold criteria but with different funding distribution criteria, with a minimum of \$5,000 and a maximum of \$65 per student, with an option to increase to \$85 per student when at least 20% of the students are available for free and reduced meals.
- Upon a motion by Secretary McCord, with a second by Ms. Avara, the IAC voted unanimously to approve and release the applications for the FY 19 Nonpublic Aging School Program Safety Improvements (FY 19 NPSI), pending additional revisions by IAC staff and legal counsel. The final applications will be available when the IAC approves the application forms and may be released immediately.
- VII. Facility Status Changes Motion Carried**
Michael Bayer, Manager, Infrastructure and Development, Maryland Department of Planning, explained that this property has never been a school and has never been used for educational purposes, despite ownership by the Board of Education.
- Upon a motion by Mr. Gibbons, with a second by Secretary McCord, the IAC voted unanimously to approve the transfer of 2.65 acres of vacant land, known as Lot 25, located adjacent to the Frederick County Public Schools warehouse on Thomas Johnson Drive to Frederick County Government for the purpose of constructing a fire station.
- VIII. Approval of Annual Maintenance of Maryland's Public School Buildings Report Motion Carried**
Joan Schaefer, Deputy Director for the IAC, introduced the 12th edition of the annual maintenance report. Upon approval of the IAC, staff will release the report to the Department of Budget and Management and the Governor's Legislative Office for their review and then be published. The school ratings for each LEA can be affected by the sample of schools for assessment and to some extent, by the age of the school. Slightly fewer schools were assessed than normal due to a new policy to not inspect schools less than two years old, and also due to staff turnover. Ms. Schaefer noted that one school, Frederick Douglass High School in Baltimore City, was inadvertently omitted from Table C and would be corrected prior to distribution of the report. In response to questions from the Commission, IAC staff intends to study the required semi-annual roof inspections in order to determine if less frequent roof inspections would be sufficient. Staff noted that roof failures are particularly detrimental to school facilities. In response to questions about rating classifications, such as poor, adequate, and not adequate, Ms. Schaefer explained that each category is rated, but is also weighted, and there is a formula that determines the school's overall rating.
- Upon a motion by Mr. Lombardo, with a second by Mr. Gibbons, the IAC voted unanimously to approve the final draft of the FY 2018 Report, *Maintenance of Maryland's Public School Buildings*, dated October 9, 2018.
- IX. COMAR Revisions Update Information Only**
Cassandra Viscarra, Programs Support Administrator for the IAC, noted that at the August 30 Meeting it was anticipated that COMAR revisions would be brought for approval to the October 9 meeting of the IAC. Due to several other requests for information from the LEAs, additional time was needed for the LEAs

to offer feedback on the proposed revisions. The deadline was extended and staff anticipates bringing proposed revisions to the IAC for preliminary approval at their November 15, 2018 IAC meeting.

X. Baltimore City Enhanced Approval Packages (EAPs)

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| A. Patterson High School/Claremont Middle-High School | Deferred until Nov. 15 Meeting |
| B. #237 Highlandtown Elementary/Middle School | Deferred until Nov. 15 Meeting |
| C. #27 Commodore John Rodgers Elementary/Middle School | Deferred until Nov. 15 Meeting |
| D. #144 James Mosher Elementary School | Deferred until Nov. 15 Meeting |
| E. #142 Robert Coleman Elementary School | Deferred until Nov. 15 Meeting |

Mr. Mason explained that EAPs are for schools in the 21st Century Schools Program, which is jointly administered by four partners, including the IAC, the Maryland Stadium Authority (MSA), Baltimore City Schools, and Baltimore City government. EAPs must be approved by all four partners for every 21st Century Schools Program project. The revised Patterson High School/Claremont Middle-High School EAP reflects the cost of environmental mitigation measures. Arsenic and chromium were discovered in the soil during design and mitigation measures were recommended, including removal and replacement of top soil and an underslab ventilation system in the building. Mitigation measures add approximately \$16 million to the project cost.

In response to questions from the Commission, Mr. Mason explained that the majority of the increased cost is due to time delays, with only approximately \$6 million of the total \$16 million being for actual mitigation work. In order to mitigate, a foot of soil will be removed from the entire site and replaced with new soil.

Regarding all EAPs, Mr. Mason clarified that EAPs occur prior to schematic design. There are no subsequent IAC approvals for 21st Century Building Program projects. Upon approval of the EAP, the IAC is approving the project scope and proposed cost as well. The funding stream for these projects comes from bonds issued by the Maryland Stadium Authority with repayment split between the State, Baltimore City Public Schools, and the City of Baltimore. The 21st Century School Buildings Program does not impact the regular Baltimore City Capital Improvement Program (CIP) requests. If the Commission does not approve an EAP, there is a dispute resolution process outlined in the Memorandum of Understanding that must be followed, involving the four partners of the MOU. The Commission questioned whether or not the MOU needs to be amended as the Interagency Committee on School Construction has become the Interagency Commission on School Construction. The Chair requested that the IAC's legal counsel look at the MOU and come back to the November meeting of the IAC. In order to allow time to fully understand the requests and the role of the IAC in the 21st Century Building Program, the Commission deferred approval of the EAPs until their November meeting. Staff will return with additional information regarding potential for federal funding and specific information regarding soil contamination. Commission members also requested that comparable metrics also be included in future items for consideration, such as cost per student, cost per square foot, etc.

Adjournment:

The second session of the Interagency Commission on School Construction was adjourned at 10:25 a.m.