



TASK FORCE ON THE FUTURE FOR GROWTH AND DEVELOPMENT IN MARYLAND

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SIX-YEAR CAPITAL IMPROVEMENT PROGRAM (CIP) SUBGROUP REPORT

PFAs and Schools Work Group

PFAs & Schools Work Group Members:

- Derick Berlage, Chair – Planning Director, St. Mary's County
- Matt Power, Deputy Secretary – Maryland Department of Planning
- David Lever, Executive Director - Public School Construction Program (PSCP)
- Victor Bonaparte, Baltimore Metropolitan Council
- Eric Soter, Frederick County Division of Planning
- Rita Misra, Resident – Citizen Planner, Mt. Airy, MD
- John Woolums, Maryland Association of Boards of Education
- Chris Parts, AIA; Principal – Hord, Coplan, Macht, Inc.; U.S. Green Building Council
- David Whitaker, AICP – Maryland Department of Planning

Six Year CIP Subgroup:

- Victor Bonaparte, Baltimore Metropolitan Council
- Matt Power, Deputy Secretary – Maryland Department of Planning
- David Lever, Executive Director - Public School Construction Program (PSCP)

BACKGROUND: RATIONALE FOR A SIX-YEAR CAPITAL IMPROVEMENT PROGRAM (CIP)

The PFAs & Schools Work Group was charged with the development of recommendations on three specific topics for the Task Force on Maryland Growth and Development in October 2008. (See October 24, 2008 Final Recommendations of the APFO Work Group.)

The Three Charges of the PFAs & Schools Work Group:

1. Vertical Schools: MDP should prepare a study on the practicality of building vertical “urban” schools in more densely built areas of PFAs. The analysis should also consider the practicality of making schools part of mixed use or transit oriented development (TOD) projects and co-location of public facilities with schools.
2. Six Year Capital Improvement Program (CIP): Develop options on the practicality of use of a Six Year State Capital Improvement Program (CIP) for Public School Construction. What would be involved in development of a Six Year State CIP for public school construction? Would a Six Year State CIP provide for better predictability to Local Education Agencies (LEAs) of State school construction projected budgets and future funding commitments in out years from the current fiscal year? Can projected budget amounts be provided by the State to the 24 LEAs with some level of accuracy and predictability? Also, what other options can be explored to assure orderly and predictable levels of State school construction funding to LEAs up to six years from the current fiscal year?
3. Priority Funding Area (PFA) Review of School Construction: Based on the October 2008 Recommendations by the APFO Work Group, how should PFA Review of Maryland public school construction projects operate and be conducted in future years? The APFO Work Group recommended that “the 1992 Planning Act and the 1997 Smart Growth and Neighborhood

Conservation Act be amended to make school construction funding decisions subject to PFA review in a similar manner to state spending decisions on water & sewer and transportation infrastructure with a different exception review process. This would restrict funding of new school capacity projects that are not located within priority funding areas with a modified exception process.”

This Report deals only with Charge No. 2, Six Year Capital Improvement Program (CIP). The other two charges are addressed in separate reports

The Six-Year CIP for public school construction funding was suggested as a method of providing some level of certainty in the level of State funding that will be allocated to each local educational agency (LEA) over the 6-year period. Presumably, this certainty will allow the local governments to better plan their future funding for both school construction and for other capital needs, and the State commitment would generate a moral obligation for the local governments to provide a similar future commitment. As we understand it, the Six-Year CIP would not involve commitment of State funding for specific projects, but rather a net figure that will be assigned to each LEA. In any specific fiscal year, individual projects would still be recommended by the IAC and approved by the BPW based on the same criteria that currently apply to project requests.

ISSUES TO CONSIDER

The Six-Year CIP concept presents legal, practical, and political concerns:

Legal:

The subgroup believes that the IAC/BPW process for determining CIP approvals, although procedurally complex, reflects current statute and regulation. Moreover, as a general principle, an administration or assembly is prohibited from binding a future administration or assembly to specific funding allocations. To change the current process to allow commitments of future State funding would require enactment of statutory changes and amendment to current regulations. Barring such changes, a future year funding schedule in a State Six-Year CIP would be advisory only, constituting a *plan* to provide future funding rather than commitments with legal force.

Practical:

Calculation Methodology: It would be necessary to establish the basis of the State’s commitment of future funding. Two options present themselves; in both cases, percentages would be applied against projected total State funding levels, as provided by the Department of Budget and Management.

Historic trends. Based on the proportion of the total annual CIP funding each LEA has received for some period in the past (e.g. last ten years), the same percentage would be applied against likely future CIP total funding figures to arrive a probable funding level.

Issue: For medium and large LEAs that submit project requests which typically exceed available State funding, the method will work, since they will always have projects to fund even if the individual submissions change over time. However, for small LEAs with the occasional very large project and relatively few small projects, historic trends are misleading about future capital needs (with respect to both the amount and the timing of future funding requirements).

Analysis of most recent CIP request. The annual CIP submission consists of the budget year requests and a schedule of anticipated future requests that covers the following five fiscal years. The State Six-Year CIP would rely on the future project requests schedule to establish likely funding levels for each fiscal year in the 6-year period.

Issue: CIP submissions change significantly from year to year, reflecting changes in local demographics, shifts in local educational priorities, and the emergence of new building performance problems. The projected ability of local governments to provide matching funds also affects when and how much each LEA indicates it will request in a future fiscal year. The fluctuations are most pronounced in the smaller and medium-sized LEAs with relatively fewer projects in their CIP. Using the schedule of future requests in a specific annual CIP submission as a guide to future funding requirements could be very misleading, and might require an annual revision of the projected amounts.

Availability of Funds: While the State has consistently allocated in excess of \$250 million per year since FY 2006 to school construction, the current economic crisis suggests the difficulty of sustaining such a high level of funding over a long period. Even if a reliable method could be found to establish the percentages applicable to each LEA, fluctuations in the base might render future commitments of little practical value.

Political:

Commitments of funding in future years, even if advisory, would generate community expectations that would be difficult to alter. If it was found that an LEA did not submit enough eligible projects in any specific fiscal year to utilize all of their committed State funds, their funds ought to be allocated statewide in order to achieve the most effective inroad against Maryland's enormous capital backlog of needs; however, this might be construed as detrimental to the LEA in question, which would prefer to have the funds banked against a future year. Likewise, new capital needs outside of the school construction arena might emerge at the State level that require a funding response, and a concurrent reduction of school construction funding. The prior commitment of funding levels to LEAs would reduce the flexibility of the administration and the assembly to respond to these new needs.

PAST FUNDING ALLOCATIONS

The subgroup also came to two conclusions regarding past funding:

- Over any extended period, the CIP allocations show an equitable distribution of funds, with larger jurisdictions receiving proportionally more than smaller jurisdictions. In any single fiscal year, this equity is distorted by the funding requirements of large projects in smaller LEAs, which are matched by a majority of fiscal years in which small projects are requested by the these LEAs.
- The commitment made in the Public School Facilities Act of 2004 to provide a minimum of \$250 million per year over eight fiscal years, for a total of \$2 billion, is the single most durable commitment that the State has made. It provides the LEAs and local governments with the assurance that, assuming that project requests are eligible, a consistent and equitable level of funding will be provided in future fiscal years.

RECOMMENDATIONS

- 1. Continue to use the current CIP allocation process. Although complex, this process assures a fair review of every project submission, takes into account local needs and funding capacities, and has resulted in long-term equity in the distribution of State funding for school construction.**
- 2. Study an extension of the statewide commitment to fund school construction at a defined annual level for a period following fiscal year 2013. This recommendation recognizes the**

value in the State goal of funding a minimum of \$250 million per year for FY 2006 through FY 2013, and suggests that equal value could be obtained from a re-examination of the funding level and the goal period.

3. Clearly define the State CIP as a consisting of a budget year that has the force of policy, and five subsequent fiscal years that are a plan for future funding that must preserve flexibility to accommodate new needs that will emerge from the local level.