

MEMORANDUM

TO: Board of Directors, Massachusetts School Building Authority
FROM: James A. MacDonald, First Deputy Treasurer, and Chief Executive Officer
John K. McCarthy, Executive Director and Deputy Chief Executive Officer
DATE: June 16, 2021
RE: Recommendation to Revise MSBA Funding Policy

In conjunction with regularly published cost information and information provided as part of the legislative report filed in December 2020, staff have completed an updated review of proposed project cost, grant data and the MSBA's annual cap. Revisions to three categories of the MSBA Funding Policy, Consultant Fees, Owner's Contingency and Construction Cost Cap, are recommended as outlined in this memorandum, effective on or after June 1, 2021. Upon approval by the Board of Directors of this recommendation, staff further recommend that the Board approve the implementation of these changes for the districts presented at today's Board meeting for Project Scope and Budget approval. The information and the recommendation below were presented at the Facilities Assessment Subcommittee meetings on May 19, 2021 and June 2, 2021.

Background

The MSBA statute places a limit upon the estimated amount of grants that can be approved by the MSBA during a fiscal year. That limit is tied to the rate of growth, by percentage, of dedicated sales tax revenues. A limit of \$500,000,000 was set in 2008 and, for each fiscal year thereafter, that limit revised by an amount that is proportional to the actual rate of growth in the dedicated sales tax up to a maximum increase of 4.5 per cent. The MSBA set a reimbursable limit of \$275 per square foot ("/sf") for eligible construction costs early in 2009 which remained in effect until June 30, 2014. Since 2009, staff have reviewed construction costs and the growth in the dedicated sales tax and increased the MSBA reimbursable construction limit five times resulting in the current reimbursable construction limit of \$333/sf plus eligible demolition and abatement which became effective on January 1, 2018. Of note, as the cap was increased by the growth in the dedicated sales tax each year, there was a comparable increase to the construction cap resulting in no additional cap available to increase the number of invitations to the grant program. For fiscal year 2020, the Student Opportunities Act increased the limit on the estimated amount of grants approved by the MSBA to \$800,000,000, resulting in an increase of \$175,749,761 in the statutory limit for fiscal year 2020.

Discussion

Historically, staff have presented its update in the middle of the fiscal year while presenting its reconciliation of approved estimated grants to the annual cap at the end of each fiscal year. In December 2020, staff prepared a report summarizing the MSBA grant program for the legislators as required by the Student Opportunities Act. In addition, staff have reviewed construction cost budgets established at the conclusion of Schematic Design, bid construction costs, costs incurred by districts as evidenced in final audits, performance of the dedicated sales tax revenues during

the health crisis, and the impact of the increased cap as allowed by the Student Opportunities Act to evaluate and review potential adjustments that could further maximize the amount of funding that can be awarded and distributed to districts in the grant program while maintaining the number of invitations each year and remaining within the constraints of the Grant Cap space.

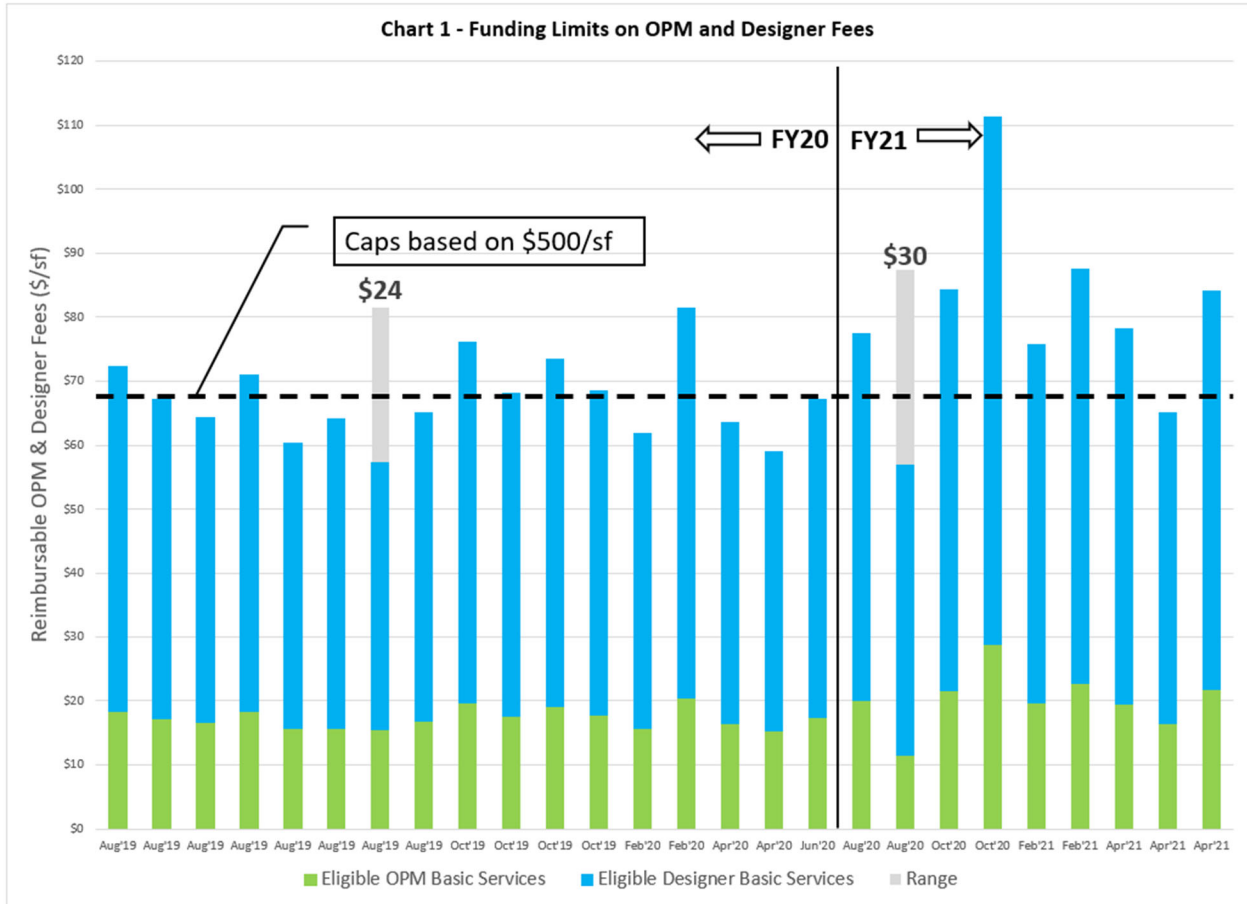
Staff have reviewed four of the MSBA's funding policies that apply to all districts and that have some of the greatest variation in budget from project to project. As with construction costs, MSBA caps are set for funding purposes and are not intended to direct a district on how much the project will cost as the total project budget will depend on a number of factors such as the complexity and duration of the project, site selection, and local community processes for managing publicly funded capital projects. The four funding policies reviewed include:

- Consultant Services, Owner's Project Management ("OPM") and Designer;
- Owner's Contingency;
- Demolition and Abatement; and
- Construction Cost Cap.

Consultant Services, OPM and Designer

Since 2009, as with construction costs, the MSBA has applied a cap on reimbursable OPM and designer fees for basic services to 3.5% and 10% of construction cost, respectively. An unintended consequence of the MSBA's consultant services fee policy is that projects with higher construction costs receive a greater amount of funding for the consultant services managing and designing those projects. Although projects that have higher construction costs receive the same construction cost cap as other projects, there is no upper limit applied on the consultant services and therefore, these projects receive more grant dollars for consultant services as the construction cost goes higher.

MSBA staff reviewed eligible costs for basic services for 26 Core Program projects approved over the last two years and noted that consultant costs varied by \$24/sf for projects approved in FY20 and by \$30/sf for projects approved in FY21 (exclusive of one project that included multiple feasibility studies). As the program has progressed, the range of construction costs for projects approved in any one fiscal year has varied widely by approximately \$200 to \$300/sf/year which further increases eligible consultant costs for projects with higher-than-average construction costs. To promote parity in the distribution of grant dollars for the consultant services, staff recommend applying an upper limit on the percentage of OPM and Designer Fees found reimbursable for basic services up to a limit of \$500 per square foot of construction which will be more consistent with the approach used for reimbursement on construction costs. Refer to Chart 1 – Funding Limits on OPM and Designer Fees, below.



Owner's Contingency

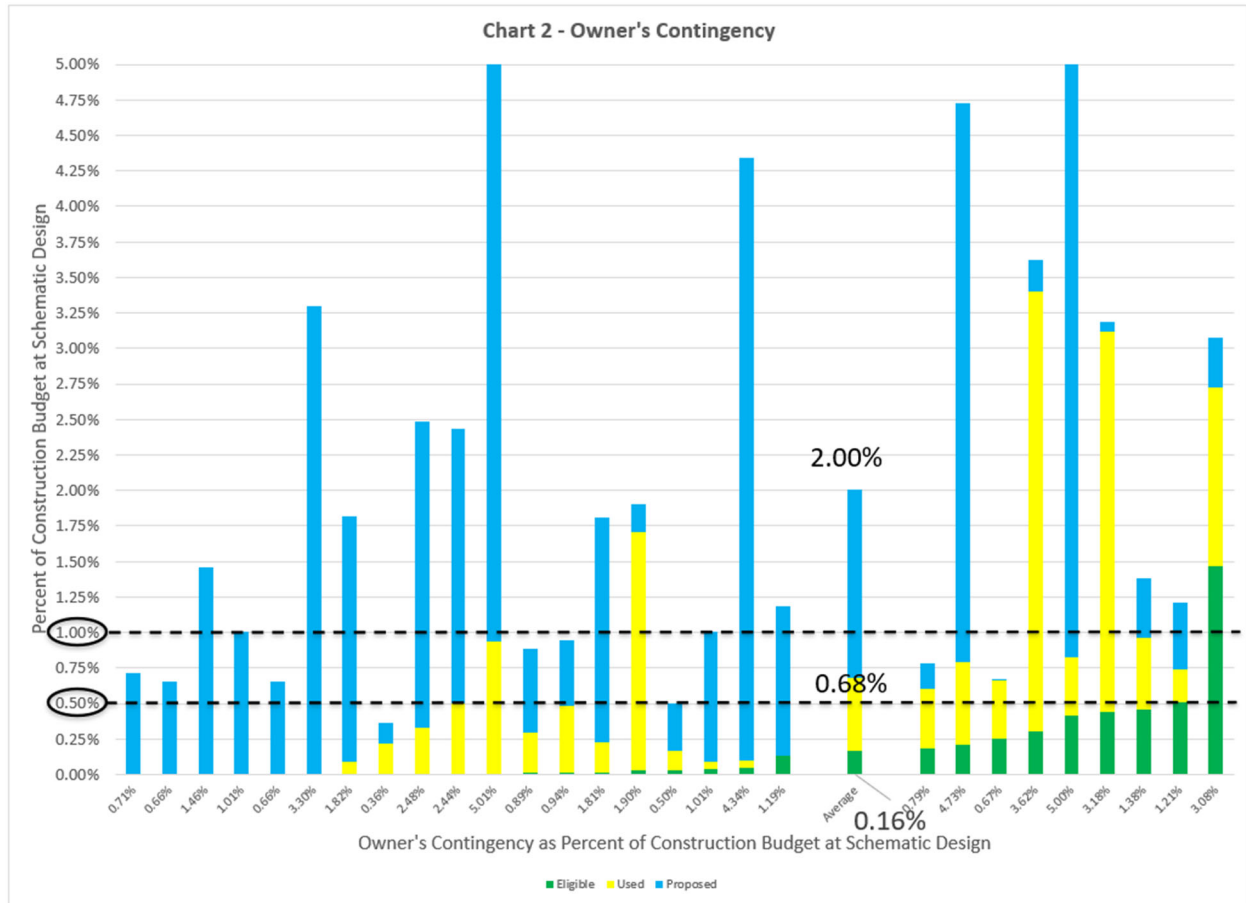
The Owner's Contingency, one of two contingencies included in the district's Total Project Budget, is for potential increases to soft costs such as increases to the OPM and designer contracts. These potential grant dollars are set at schematic design and are only potentially eligible as they are for unknown issues that may arise over the life of the project. MSBA staff review these costs for eligibility only, the applicability of the proposed cost is determined by the district and its consultants. The Board of Directors previously approved funding limits for the other budget contingency, the Construction Contingency in January 2014, based on staff's review of completed projects.

To further understand the use of the Owner's Contingency budget line item and the variation found amongst projects, staff reviewed final audit data for 28 projects approved over the last three years and found:

- The Owner's Contingency budget set on projects at the conclusion of schematic design ranged from 0.36% to 5.01% of the construction budget;
- On average, districts budgeted 2%;
- On average, at final audit, districts actually used only 0.68% of the construction budget returning unused funds to its district and unused grant to the MSBA; and

- On average, based on final audits, only 0.16% of the construction budget was found eligible.

A review of the data indicates that applying a cap to this line item at schematic design will have no or minimal impact to districts as these funds and therefore the associated grant dollars are not being fully utilized. To promote parity in the distribution of grant dollars for the Owner's Contingency, staff recommend applying a cap on this contingency line item at 0.5% of the construction budget for new construction and 1.0% of the construction budget for addition/renovations. Refer to Chart 2 – Owner's Contingency, below.

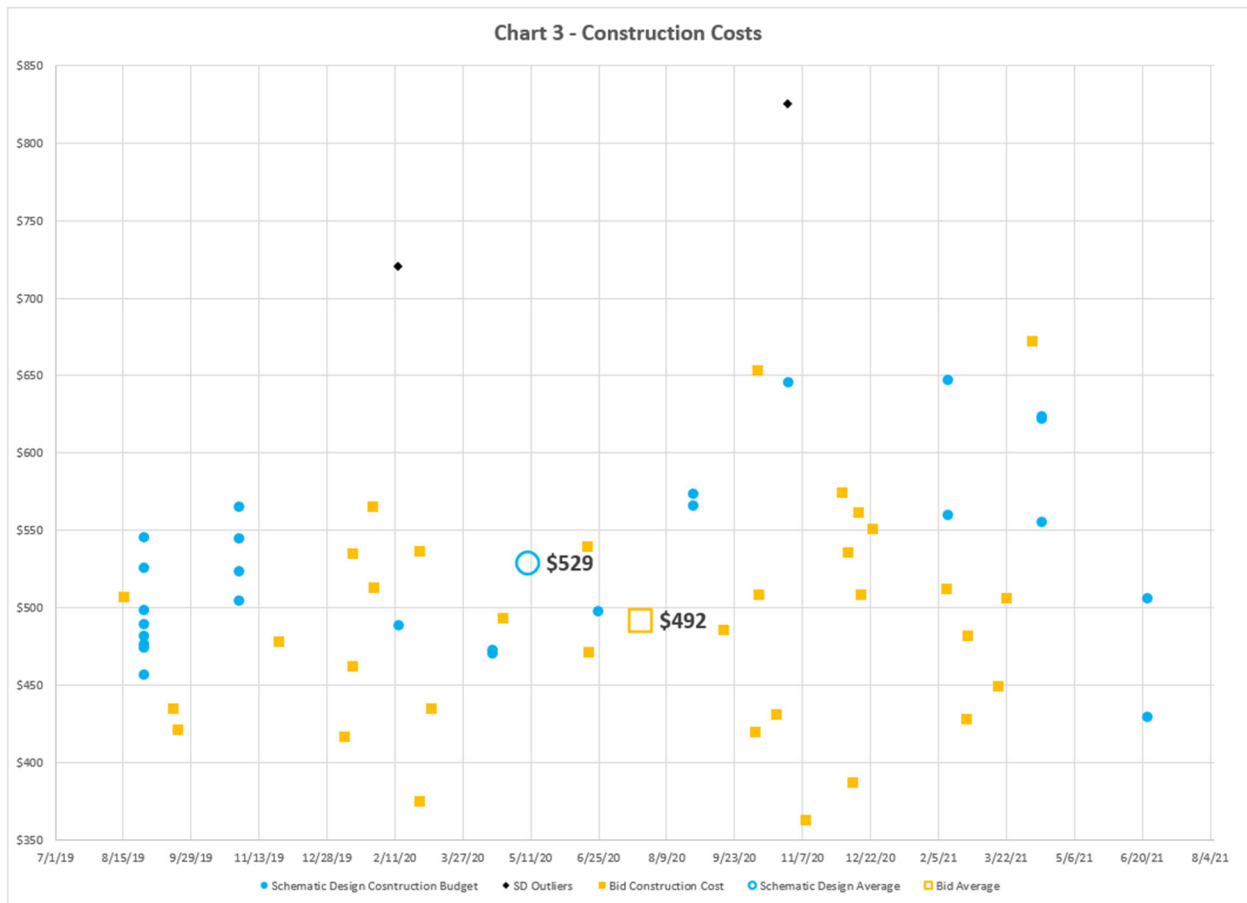


Demolition and Abatement

Under current policy the MSBA has no defined limit for reimbursement of otherwise eligible costs associated with demolition and hazardous materials abatement. MSBA reviewed nine core program projects for which the proposed project scope and budget was approved in FY20 and compared eligible costs based on budgeted costs based on the size of the existing structure being demolished. Based on these 9 projects eligible costs varied by \$45/sf. Staff recommend additional research to understand how district's actual costs compare to budgeted costs prior to determining if any revisions to the current policy should be recommended to the Board for consideration.

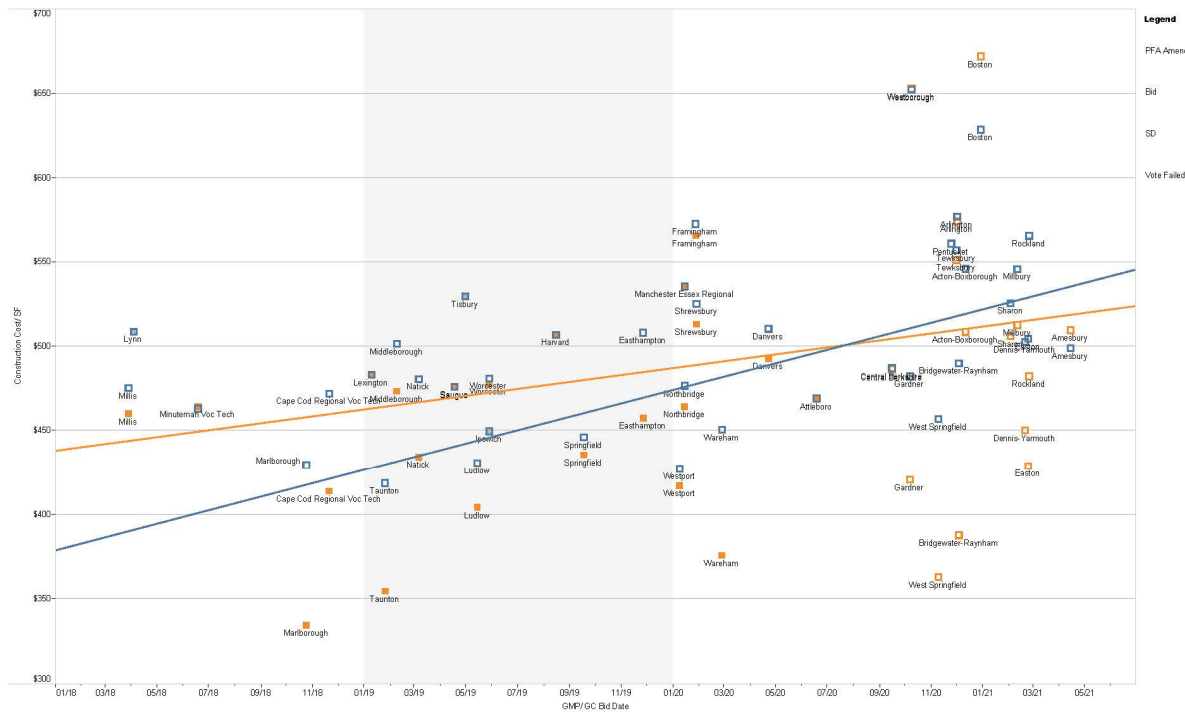
Construction Cost

Since 2009, the MSBA has applied a cost cap on reimbursable construction costs, not to indicate how much any particular project should cost, but to distribute limited grant funds as equally as possible across districts invited into the grant program. Based on the review of the last two years staff noted that Schematic Design estimated construction budgets averaged \$529/sf (exclusive of two outliers) and \$492/sf for actual construction bids. Refer to Chart 3 – Construction Costs, below.



In addition, we note that since January 2018, the construction estimates at the completion of schematic design have continued to increase but the construction cost at bid has flattened. Refer to Chart 4 – Construction Trends, below.

Chart 4 - Construction Trends



As with prior years increases in the construction budgets established at the end of schematic design and bid construction costs have continued to outpace the growth in the available Grant Cap space. Staff continue to recommend a potential increase in project funding levels that will be based on growth in the Grant Cap space to ensure similar levels of opportunities for districts to participate in the grant program in the future. To continue parity in the distribution of grant dollars for construction costs, staff recommend a continued cap on construction costs with an increase from \$333/sf to \$360/sf. The cost of demolition and abatement will continue to be funded separately and provided in addition to the square foot cap.

Estimated MSBA Grant Cap Space and Estimated Grants

As discussed previously, to properly administer invitations in accordance with our cap and in alignment with the grant program, staff must forecast a 3-year lookahead of the estimated value of grant dollars that may be approved for each project based on estimated schedules for each project and district. The implementation of the May 2018 Administrative Procedures for Grant Cap Space have allowed MSBA staff to successfully navigate the inevitable changes in scope and schedule that our districts face during the feasibility study and schematic design phases. Currently, the estimated cumulative value of the grants anticipated to be approved in FY22 through FY24 is over \$3 billion. Staff have been and will continue to monitor growth in the dedicated sales tax revenue and grant savings realized at final audit, as part of each meeting of

the Board of Directors, and report to the Board of Directors an annual reconciliation at the June Board meeting each year.

In preparing the recommendations outlined in this memorandum, staff forecast the estimated impact of these increases for the next three fiscal years and have determined that based on current understanding of the projects in our pipeline, the MSBA's Grant Cap space could support increasing MSBA's construction cost funding limit from \$333/sf plus eligible demolition and abatement up to \$360/sf plus eligible demolition and abatement if combined with an upper limit on the basis of OPM and Designer Fees, and an Owner's contingency cap of 0.5% for new construction and 1.0% for an addition/renovation project.

Recommendations

Based on the review and findings described above staff recommend the following changes to the MSBA's funding policy, effective on or after June 1, 2021:

- Adjust the current policy of funding up to 3.5% of construction budget for otherwise eligible Owner's Project Management basic services to up to 3.5% of an upper limit of \$500/sf or construction budget, whichever is less, for otherwise eligible Owner's Project Management basic services;
- Adjust the current policy of funding up to 10% of construction budget for otherwise eligible Designer basic services to up to 10% of an upper limit of \$500/sf or construction budget, whichever is less, for otherwise eligible Designer basic services;
- Implement a funding limit on potentially eligible Owner's Contingency of 0.5% of the construction budget for new construction and a potentially eligible Owner's Contingency of 1.0% for an addition/renovation project;
- Adjust the current policy of funding up to \$333/sf plus eligible demolition and abatement to \$360/sf plus eligible demolition and abatement; and
- Make the policy effective for districts receiving an approval of a Project Scope and Budget on or after June 1, 2021.
- Authorize the Executive Director to adjust the Estimated Maximum Total Facilities Grant and Maximum Total Facilities Grant for the two districts approved for Project Scope and Budget approval at this Board meeting, as noted below.

Implementation of these recommendations is expected to result in a more consistent distribution of limited grant funds and maximize the amount of funding that can be awarded and distributed within Grant Cap limitations by reallocating unused grant funds to line items that will benefit districts.

Applying the recommended revisions to the two Project Scope and Budget Recommendations presented for consideration at the June 23, 2021 Board Meeting increases the Estimated Maximum Total Facilities Grants and Maximum Total Facilities Grants for these two projects as shown below. Staff recommend that Board vote to approve the increased Estimated Maximum Total Facilities Grant amounts and Maximum Total Facilities Grant amounts for the Crocker Elementary School in the Town of Fitchburg and the Hadley Elementary School in the Town of Swampscott as set forth below.

District	School	Scope	Total Project Budget	Estimated Maximum Total Facilities Grant	Revised Estimated Maximum Total Facilities Grant	Maximum Total Facilities Grant	Revised Maximum Total Facilities Grant
Fitchburg	Crocker Elementary School	New	\$65,032,984	\$39,747,562	\$42,248,583	\$42,145,758	\$42,845,877
Swampscott	Hadley Elementary School	New	\$98,316,523	\$31,809,775	\$33,818,941	\$32,572,001	\$34,390,610
Totals			\$163,349,507	\$71,557,337	\$76,067,524	\$74,717,759	\$77,236,487