

**PUBLIC SCHOOL CAPITAL OUTLAY COUNCIL
MEETING MINUTES
STATE CAPITOL BUILDING ROOM 317
January 10, 2022**

Members Present: Mr. Joe Guillen, NMSBA Mr. David Robbins, PEC
Mr. David Abbey, LFC Mr. Raul Burciaga, LCS
Mr. Antonio Ortiz, PED (Virtual)
Ms. Ashley Leach, DFA
Ms. Mariana Padilla, Office of the Governor (Virtual)

Designee(s): Joseph Simon for Dr. Vanessa Hawker, LESC
Martin Romero for Clay Bailey, CID

1. **Call to Order** – Chair Guillen called the meeting to order at 8:03A.M.
 - a. **Approval of Agenda** – Chair Guillen asked if there were any changes to the agenda as presented; as there was none the agenda was unanimously adopted.
 - b. **Correspondence** – Ms. Casias shared two letters of correspondence. The first letter was submitted by the Albuquerque Sign Language Academy (ASLA), and the letter indicated that they intended to request a waiver along with applying for funding during the upcoming cycle. Ms. Casias recalled from 2019 the PSCOC applied the Special Schools Adequacy Standards to the school, as sixty percent of the students are special needs. Ms. Casias said they will continue to have discussions, and once ASLA applies, the PSFA will follow-up with the Council in March 2022 about the issue.

Ms. Casias shared the second letter that was submitted by Mr. Ron Hendrix, Superintendent, of Socorro Consolidated Schools. Mr. Hendrix expressed his concerns about the state-local share for the demolition awards. Mr. Hendrix indicated what the funding would be used for along with his understanding of the intent of the demolition bill, and requested for his district to receive 100% funding for the demolition project.

Mr. Abbey asked about the correspondence regarding the demolition waivers and mentioned it was shocking to hear that districts were having a hard time using the American Rescue Plan Elementary and Secondary School Emergency Relief (ARP ESSR) funds. Mr. Abbey asked PED at that time if there was any data on the unused funds and what the status was. Ms. Casias said they researched what the funds could be used for; however, the PSFA was unable to locate the fund balances. Mr. Abbey clarified with Mr. Liu that \$1B was the total amount, and one tenth of the funds had been used. Mr. Ortiz said that the ARP ESSR funds could be used for a variety of things, but it had to be related to COVID-19 specifically. Mr. Abbey was astounded that the \$1B almost entirely had not been spent over the course of nine months. Mr. Simon shared that the ARP ESSR funds were allowed for school districts to maintain operations related to COVID-19, and said it was a broad definition of what the funds could be used for. Mr. Simon said depending on how the

department interprets that broadly when approving reimbursements is key, and part of the reason maybe some of those dollars had not been spent was because the districts did not think they could spend the funds on a wide variety of things. Mr. Abbey requested to have a report on the American Rescue Plan Elementary and Secondary School Emergency Relief (ARP ESSR) funds on the March 2022 PSCOC agenda covering the unspent dollars, explaining the rules, the obstacles and how it affects capital outlay. Mr. Guillen asked Mr. Ortiz if that was acceptable to add to the March 2022 PSCOC agenda, and Mr. Ortiz agreed.

2. **Public Comment** – Dr. Ken Moore, Superintendent, Alamogordo Public Schools, introduced himself and opened his comment about a task that Secretary Steinhaus charged every New Mexico superintendent on improving attendance, achievement and attainment. Mr. Moore mentioned that Alamogordo wants to build schools that support instructional strategies, parental involvement, and student/parent engagement along with community pride. Mr. Moore mentioned the district was interested in building a middle school that is built to educational specifications, not just building code, and look at the building standards that support a true learning environment. Mr. Moore shared a report Mr. Guillen requested, and provided input from thirteen other superintendents to help improve the PSFA processes, practices, adequacy standards and relationships.
 1. In regards to processes and practices, Mr. Moore shared examples of time delays, the ranking system, and the funding formula with the PSFA split.
 2. Mr. Moore covered issues with the Adequacy Standards, mentioning a district may have a 70/30 split or 60/40 split, and because of necessary systems and items needed for a school which the PSFA would not typically participate in funding, districts end up spending a much higher share. Some examples Mr. Moore stated were security/access control, technology, infrastructure landscaping, utilities connections and the requirement (at the districts expense) to hire a roofing consultant. Mr. Moore said the PSFA share is actually much less than what is presented. Another example Mr. Moore presented was Sunset Hills ES in Alamogordo, the district spent more than \$2M on items the PSFA would not fund. Another district near Alamogordo has a project for a new elementary school for the same number of students that Alamogordo had for their new middle school and the school at the other district has a Maximum Allowable Cost of \$10M more than the middle school Alamogordo was trying to build. Mr. Moore offered Alamogordo MS as a pilot school to complete a full review of adequacy standards and educational specifications.
 3. The third category Mr. Moore reported on from the collected Superintendent input was the relationships between School districts and the PSFA. From the superintendent perspective, it was often perceived as a “Mother May I” relationship rather than a partnership and client centered relationship. Mr. Moore said superintendents were looking forward to Ms. Casias’ leadership to strengthen the partnerships and the client centered relationships.

Mr. Guillen thanked Mr. Moore for the work he had done, and for providing those recommendations, and communicated the AMS Subcommittee Chair, Mr. Robbins, would be

leading efforts and bring the recommendations back to the full Council for review. Mr. Robbins added that the AMS Subcommittee will complete a full review in March 2022. The PSFA had been assessing internal and external processes, and a consultant will be hired to support the process analysis. In regards to the Adequacy Standards, Mr. Robbins mentioned the idea of what was adequate has changed over the last decade, the current needs for modern education should be evaluated. Mr. Robbins said another thing the Council looks at is the funding available and the top 150 to include borderline schools. The PSFA had meetings planned with various stakeholders and the PSFA and PSCOC needed to be prudent. Mr. Robbins said he did not see the direct correlation between the funding of capital in schools and the educational outcomes, new schools are constructed for hundreds of millions of dollars, and yet the schools end up being some of the lowest performing. Mr. Robbins indicated there were a lot of socioeconomic factors that would come into that, but a nice facility does not necessarily equate to high performance.

Mr. Rick Martinez, representing the Albuquerque Sign Language Academy (ASLA) presented public comment on the status of the school; the ASLA had been around for thirteen years, their current facility is an old county facility off of Lomas Blvd. in Albuquerque, New Mexico. The facility is less than 10,000 square feet, and the school was in dire need for a new facility. ASLA had been working with Bernalillo County, and had located land for a new facility at Osuna & Edith in Albuquerque, New Mexico, and they had gone through six public zoning hearings. The school itself completed their RFP phase with the PSFA five years ago, and ASLA anticipates the planning and design phase to be complete in the summer of 2022. The student population is currently at 117 and students are based in three different facilities for elementary, middle and high school levels. ASLA had recently established programs to support students as they transition into the workforce.

3. PSCOC Financial Plan

a. Financial Plan

Ms. Casias presented the financial plan and highlighted that at the last Council meeting in December 2021, \$14.8M was approved in awards, and if everything was approved at the January 2022 meeting there would be a total of \$16.2M in awards. Ms. Casias worked with Ms. Leach on the financial data, and thanked her for her support. One concern on the financial plan was the amount on line four (SSTBs) noted as \$242M, was actually \$268.2M. Ms. Casias said another concern was the FY23 estimate on Line 2, (noted as zeros) the PSFA did not anticipate selling any notes in July of FY23. Mr. Guillen asked the Council members if they had any questions. As there were no questions the Council moved onto the next agenda item.

4. Consent Agenda

a. December 13th and 20th, 2021 PSCOC Meeting Minutes

b. K21-002 Los Lunas Peralta ES – Award Language Change

c. Cat1 BDCP Awards

d. Cat2 BDCP Awards

Mr. Guillen reviewed the items listed on the consent agenda and asked members if any item needed to be pulled for discussion; as there was none, a motion to approve the Consent Agenda was made.

MOTION: Mr. Abbey moved for Council approval of the consent agenda. Mr. Robbins seconded and **the motion was unanimously approved.**

5. Awards Cycle

a. 2022-2023 Final wNMCI Ranking

Mr. Robbins reviewed the potential motion and executive summary for the 2022-2023 Final wNMCI Ranking. Ms. Casias mentioned this is an annual occurrence. The data for the ranking is gathered year round and the PSFA releases the preliminary ranking in November for the districts to review and report changes. Out of the top 100, the PSFA expects 19 to apply for standards-based funding, and eight may apply for waivers. The approximate state share this year if everyone applies would total to \$282.8M for standards and systems based projects, and if waivers were applied it would total to \$235.6M. There was minimal change in the wNMCI and the FCI from year-to-year. Ms. Casias noted three schools went into the top 100 and three moved out of the top 100 of the final ranking list since the preliminary ranking.

MOTION: Council approval to release the Final wNMCI Rankings for the 2022-2023 award cycle based on criteria and weights previously adopted by the Council. As this was a Subcommittee recommendation a second was not needed and **the motion was unanimously approved.**

b. 2022-2023 Capital Application Announcement Preliminary Funding Pool

Mr. Abbey reviewed the potential motion and executive summary for the 2022-2023 Capital Application Announcement Preliminary Funding Pool. Mr. Robbins asked if they were prioritizing schools for demolition, and not just any building. Ms. Casias confirmed.

MOTION: Council approval of the Awards Subcommittee recommendation to release the 2022-2023 Capital Funding Application Announcement and timeline with a preliminary funding pool of the 2022-2023 Final wNMCI Ranking as follows:

- For standards-based requests: facilities within the top 150, or with a campus FCI over 70%;
- For systems-based requests: facilities within the top 350, or with a campus FCI over 70%;
 - Or systems identified as a Category 1, 2, or 3 in the Facilities Assessment Database;
 - Demolition of any district owned abandoned facility;
- For pre-kindergarten facility requests: all facilities.

As this was a Subcommittee recommendation a second was not needed and **the motion was unanimously approved.**

c. 2021-2022 Systems-Based Demolition Additional Funding

Mr. Abbey reviewed the potential motion and executive summary for 2021-2022 Systems-Based Demolition Additional funding request. Mr. Abbey said they were allowed to use this additional funding by statute, and ordinarily the waivers would be scrutinized more carefully, but statute did allow for this funding program, and there was sufficient funding available. The subcommittee was impressed with the districts' testimony at the previous PSCOC meeting. The subcommittee also discussed the authorization of waivers were really a function of the current financial condition, and down the road it could be a low priority to the Council in the future, and Mr. Abbey made a point for the record not to count on the waivers for demolition into the future, as it may not pertain into the future. Mr. Guillen said to keep in mind that the legislation allows for that as it is a 'may' and not a 'shall'.

MOTION: Council approval to amend the current Systems-based capital outlay awards for demolition projects for the following districts: Deming, Gadsden, Hatch, Quemado, Socorro, Springer and T or C, to include additional funding in the amounts specified in column L of the accompanying 2021-2022 2nd Round Systems-based Demolition Awards - Additional Funding Scenarios spreadsheet, to align with Scenario C (100% State funding for all demolition projects), for a total of \$1,226,776 additional funding. As this was a Subcommittee recommendation a second was not needed and **the motion was unanimously approved.**

6. Out-of-cycle Funding /Award Language Requests

a. P22-003 Los Alamos Chamisa ES – Awards Language Change

Mr. Abbey brought up the deliverable requirements, and cited there was not an Awards Subcommittee Recommendation, and the Council was waiting on enrollment reports. Ms. Casias mentioned the enrollment reports are noted in the executive summary. Mr. Abbey declared there was a significant increase in enrollment for the two elementary schools in White Rock, and the subcommittee wanted more information, and Mr. Abbey believed the projects were ready to go with the caveat of seeing more detail of the student enrollment. Ms. Casias reported the findings of the student increase enrollment from 292 to 375 at Chamisa ES. The question posed was asking where the eighty three students came from and what will the future enrollment would look like. The PSFA looked at the White Rock Community, and looked at the enrollment going out five years and there is a potential increase of about 113 students. Ms. Casias noted out of the eighty-three students, fifteen are Pre-K with an estimate of the out-year with thirty more students coming into Chamisa ES. The district is requesting two Pre-K classrooms at Chamisa ES and two Pre-K classrooms at Pinon ES. Mr. Guillen asked what the request was for the additional information from the district. Ms. Casias said the request was for the PSFA to speak with the district, and understand where the Pre-K students were coming from and if they really expected to have that many incoming Pre-K students. Jennifer Guy, Interim Superintendent, Los Alamos Public Schools thanked the Council for the opportunity to speak, and introduced Robert Hollman, Construction Manager and Stephen Leos, District Representative. Ms. Guy cited their request for increase of eighty-three additional students in their enrollment, and Ms. Guy was confident to say at a minimum, there will be eighty-three students. Los Alamos was in the process of adding and implementing Pre-K at all of Los Alamos Public School Elementary sites. Chamisa ES and Pinon ES continue to maintain a waiting list, and at that time, seventeen students were not accepted. Ms. Guy foresaw with the housing developments coming in, the district is expecting

enrollment numbers to continue to increase. With the housing developments they expect to see more children with larger families moving into those new homes. Mr. Guillen said the additional information was very helpful and thought that going through the planning process on the projects was important, and to know what developments are coming forward to see what effect it would have on these schools that were at that time in the design phase. Mr. Abbey reviewed the enrollment projections and clarified enrollment at Chamisa ES. Ms. Guy clarified that enrollment was over twenty-eight students. Ms. Guy said the housing developments are under construction and have not opened yet, and they expect more students coming in once construction is complete along with a high density development in the center of White Rock that is expected to be complete in the next two years. Mr. Guillen said the project was moving forward and asked if there were any contingencies that the Council could enact to allow the project move forward with the understanding that a reevaluation of the enrollment numbers would occur at a later date. Ms. Casias recommended to allow the award, but to revisit the enrollment when the district comes forward for the construction dollar request. Mr. Simon asked about the eighty six out of district transfers, and asked if the district was expecting any change to that as the housing development increases. Ms. Guy said there were 326 students on their out-of-district waiting list, and the district allows students in as long as they have space for them. The district did not expect the demand for out-of-district placements to decline, and the capacity to place out of district students can be adjusted and that depends on the class sizes and the space available. Mr. Robert Hollman said the district plans on redistricting Pinon ES and Chamisa ES, which will bring each school up to that 375 mark. Mr. Abbey asked if the motion was for to just increase the capacity, and Ms. Casias verified it was just for an enrollment capacity increase. Mr. Abbey suggested moving forward with design and bringing the capacity increase later on down the line. Mr. Guillen stated that the district could look at two options “current status” and “projected status” so the district does not have to go back to the drawing board and make that part of the local share costs. Mr. Abbey suggested to increase the design enrollment by 40, and consider additional increases when the district updates their enrollment projections when they come back for construction funding. Mr. Burciaga commented on the economic development occurring in Los Alamos with Los Alamos National Laboratories.

MOTION: Council approval to amend the current Standards-based award for Chamisa ES to increase the design enrollment to 375 students; grades Pre-K-6 up to the maximum allowable gross square footage of 50,064 GSF with an increase in the state match of \$90,871 (20%) and in the local match to \$363,483 (80%), totaling \$454,354.

AMENDED MOTION: Mr. Abbey moved for Council approval to amend the current Standards-based award for Chamisa ES to increase the design enrollment to 342 students; grades Pre-K-6 up to the maximum allowable gross square footage of 50,064 GSF with an increase in the state match of \$90,871 (20%) and in the local match to \$363,483 (80%), totaling \$454,354. The district may revisit enrollment projects when the district returns to request construction funding. Mr. Robbins seconded and **the motion was unanimously approved.**

b. West Las Vegas City – Emergency Systems Award

Ms. Casias reviewed a letter provided by the district, and explained that the district missed the deadline to reapply due to e-mail oversight. Mr. Abbey clarified the district had previous contracts in place.

MOTION: Mr. Abbey moved for Council approval to award 2021-2022 Emergency Systems Award to the West Las Vegas School District totaling \$228,926. The District has reapplied for the emergency system award pursuant to New Mexico State Statute 22-24-4.6 for the full amount of their individual unexpended balance. Mr. Robbins seconded and **the motion was unanimously approved.**

c. P21-002 Carrizozo Combined – Design Funding Request

Mr. Abbey reviewed the potential motion and executive summary. There was no further discussion.

MOTION: Council approval to amend the current Standards-based award for Carrizozo Municipal Schools for the Combined Campus to include design phase funding for partial replacement, demolition and renovation of the existing facilities, to construct a new campus with a design enrollment of 138 students grades Pre-K-12 up to 49,515 GSF, With an increase in the state share \$214,315 (6%) and a corresponding increase in the local share of \$3,357,607 (94%) for a total of 3,571,922 for the design phase. Review of design enrollment shall occur during the design phase with approval of the design enrollment prior to the out-of-cycle construction phase funding request. As this was a Subcommittee recommendation a second was not needed and **the motion was unanimously approved.**

7. Other Business

a. Recertification of SSTBs (Carrizozo)

Ms. Casias introduced Ms. Iris Romero, PSFA Financial Consultant. Ms. Romero reviewed her report and findings on the recertification that was presented at the last Awards Subcommittee Meeting. Mr. Guillen thanked Ms. Romero for her work.

MOTION: Mr. Abbey moved for Council approval to adopt the Resolution, Notification, Certification/Decertification and Resolution of unexpended bond proceeds as follows:

- STB20SB-E0003 in the amount of \$ 214,315 to PSCOC awarded projects totaling \$214,315.

Mr. Robbins seconded and **the motion was unanimously approved.**

b. Recertification of SSTBs (School Buses)

Ms. Iris Romero reviewed the SSTB audit trail and the adjustment that needed to be made. The amount was reallocated in a different bond, and unfortunately an audit trail wasn't shown to take it off the bond. Ms. Romero clarified that it was an audit trail adjustment and it did not affect the overall bond balance. Ms. Romero had been working closely with the Department of Finance and Administration on the SSTBs.

MOTION: Council approval to adopt the Resolution, Notification, Certification and Resolution of unexpended bond proceeds as follows:

- SSTB18SB-0001 in the amount of (\$8,989,000) to PSCOC awarded projects totaling (\$8,989,000).

As this was a Subcommittee recommendation a second was not needed and **the motion was unanimously approved.**

c. Broadband Current Status Update

Mr. Guillen reviewed the current status and history of the item based on past discussion in both the AMS and Awards Subcommittees. Based on discussions, there were recommendations that affected the ongoing RFP that was issued, and the Subcommittee Chairs, Mr. Guillen and Ms. Casias determined a decision must be made with full Council approval. Ms. Casias presented a brief background on SB144, and also presented a handout that summarized the RFP. On April 6, 2021 SB144 was adopted, and the language that pertained to the PSCOC was stated as the following:

“The council shall develop guidelines for a statewide education technology infrastructure network that integrates regional hub locations for network services and the installation and maintenance of equipment. The council may fund education technology infrastructure projects or items that the council determines are in accord with the guidelines and necessary to education for:

- 1) *Students;*
- 2) *School buses;*
- 3) *internet connectivity within a school district;*
- 4) *multi-district regional education;*
- 5) *statewide education network”*

Ms. Casias explained that the PSFA had not yet developed guidelines, nor has the Council approved guidelines. However, the PSFA released a Request for Proposal (RFP) to begin a Statewide Education Network (SEN), including the identification of nodes and hubs and the background so that a SEN can be built. The PSFA was concerned about its ability to manage the program considering current staffing. The PSFA presented three recommendations: 1. Additional staffing; 2. Collaborate with the Office of Broadband as consultants; 3. Delay the program one year. Ms. Casias shared the staffing report on the handout that was presented to Council members.

Ms. Mona Martinez, PSFA Staff Attorney, provided a chronology of events that pertained to the solicitation for the Request for Proposals (RFP). The first segment of the report reflects the dates of the RFP, as it was issued on November 21st, 2021 and the proposals were due by January 19th, 2022. It was issued during a period when three major holidays were recognized. The evaluation for proposals was tentatively scheduled for the week of January 24th, 2022, giving the evaluation committee the opportunity to review all of the proposals that were submitted and to go through the cost analysis, and then issue intents of award to the respected proposers. The next PSCOC meeting scheduled was for March 14th, 2022 for the Council to then approve any of the contracts for awards that are recommended by the Evaluation

Committees (there are a total of three committees). The E-Rate Form 471 was scheduled to be due March 22, 2022. The Form 471 application submittals require a legally binding agreement or proof of some type of intent of a legally binding agreement. So there would have to be approval of those agreements in order for the applications to be complete. In terms of the scope of work, the Broadband Team was authorized to consult with a company called Columbia Telecommunications Co. (CTC), which was issued a contract in the amount of \$300K to include tax to develop an RFP and consultation with the BDCP team. To date, the CTC consultant had not submitted any invoices so there was no indication of the expenditure amount. The RFP was identified as a performance based solicitation, which allowed the offeror to identify the solutions for the services requested rather than outlining the specific requirements for the offeror. The technological solution in the RFP called for the creation of the infrastructure for the backbone nodes for fiber, which the PSFA would be named the owner of. There were three basic services the RFP was seeking from offerors, and that included the backbone nodes and the offerors were required to determine and provide the necessary infrastructure for each of those nodes. There were 9 sites noted for the backbone nodes, plus an additional 4 sites. The last mile connections, which were the connections from the backbone to the SEN participants, and at that time there were fifty-six participants identified, and of the fifty-six identified, fourteen were charter schools, one was a constitutional school and three libraries. The third service was the commodity internet access. Ms. Martinez reviewed a couple other significant dates, which was the non-mandatory preproposal conference which was held on November 30, 2021 had thirty-three companies in attendance, and sixteen signed the intent to respond statement. Two of the big providers in the industry did not sign the intent to respond. December 14, 2021 the submittal of questions were due. There were a total of forty-seven questions and the responses to those questions were due back on December 17, 2021. The PSFA strongly advised the offerors to visit the sites of the nodes by December 14, 2021 also so they could ask any questions about infrastructure. The PSFA had issued 3 amendments and 1 addenda with the RFP so far. Ms. Martinez stated in the world of procurement, when you have multiple questions, amendments and addenda issued it could lead to ambiguity and potential protests. Ms. Martinez also mentioned other factors to note in terms of the RFP process were that costs resulting from the RFP were unknown. SB144 did not provide an appropriation; however, it did provide \$10M for Information Technologies expenditures for the fund, and that is available to be used for SEN activities. At that point in time, the actual amount expended was not known; it could have been closer to 7 or 8 million. Mr. Guillen asked if that money could be used for staffing. Ms. Martinez said yes, it appeared to be broad enough to cover staffing.

Mr. Viorica provided an update on the broadband expansion. The CTC organization was well known around the state, and had worked on broadband as an advisor with various entities around the state for the last ten years. Mr. Viorica clarified the performance based RFP was necessary for a technology neutral approach, and it was an E-Rate requirement for those types of solicitations. Basically, any technology can meet these requirements, and therefore it would leave it open for vendors to propose. Fiber optics is one of four possible options, and a requirement of the program is to provide cost effectiveness. Until the PSFA goes through the procurement process and receive proposals, the PSFA will not know what solution is the most cost effective. Mr. Viorica emphasized the four different options, which would be up to the discretion of the vendors. There were fifty-six participants identified as participants as a part

of the process: thirty-eight school districts, fourteen charters, one constitutional school and three libraries. Mr. Viorica mentioned how tightly the timeline was related to the E-Rate process, if the Council wanted to have 80-90% of the cost of the work covered by the E-Rate program, they must submit a funding request by March 22, 2022. If that is not accomplished, the next opportunity to complete the work would not occur until July 1, 2023. If there is any delay in the process, the entire RFP would have to be re-done because the RFP was specific to the participants and the future procurement would have a different set of participants. Regarding the three amendments and multiple questions with the RFP were related to the fact that the RFP was performance based. The PSFA cannot direct the vendors on how to solve specific solutions, the vendor must come up with the solution. Mr. Viorica's shared his opinion on the procurement and that with the type of complexity and size the project was not unusual and out of the ordinary. Related to the cost, the funding available was up to \$10M the Council had continued to award Cat1 & Cat2 broadband awards, and Mr. Viorica estimated up to \$2M per year will be required to continue the work for the long-term. In the financial plan that was created for the SB144 effort that was the amount taken into account, and combined with the E-rate program covering 80-90 percent of the eligible cost, Mr. Viorica believed there was sufficient funding for each phase of the effort. Mr. Viorica mentioned the PSFA will not know the actuals until the proposals are submitted. Mr. Viorica stressed that a coordinated approach such as the SEN addresses the significant broadband needs for all the schools along with the accomplishment of broadband expansion across the state, and the work is necessary. The SEN will also be expected to support a lot of other broadband and technology initiatives that depend on the work, for example in Gallup, there is a multi-agency broadband effort where the PED, Higher-Ed and Early Childhood education will leverage the hub created in Gallup by the SEN to improve student connectivity in the region. PED also intended to deploy learning tools, and they are using the capabilities created by the SEN, and PED was also the lead on the multi-agency effort working to connect all of the students to broadband as ordered by the Yazzie/Martinez Lawsuit. The SEN was expected to provide long term solutions for the connectivity, and also to provide additional IT support for schools in the most cost effective way.

Regarding the guidelines, the Council adopted high level guidelines at the beginning of the broadband work, and the guidelines were focused on connection speed and the PSFA recommended adopting the same type of connections standards in the established RFP with the caveat that the connection speed will have to be revisited in the future as technology needs evolve overtime. Another guideline that the Council adopted at the beginning of the program was to maximize E-rate funding that was leveraged through the broadband program. Mr. Viorica suggested that the all of the guidelines mentioned could be extended or adopted and expanded before funding any actual projects related to the SEN. Mr. Guillen said that the legislation made it clear that the guidelines were one of the initial major responsibilities, and also mentioned the Council hadn't seen or approved any guidelines, and envisioned a discussion of guidelines and the development of a document listing the guidelines to consider. Ms. Casias confirmed that the PSFA had not yet presented guidelines for the SEN, though, at the beginning of the BDCP program the Council approved the following, but it was not specific to the SEN:

- Connection speed (Council adopted this goal at the

beginning of the BDCP):

- 1Mbps / user uptime
- 99.99% for Backbone
- 99.9% for the Last Mile connections

Mr. Guillen said guidelines need to be in place before they go out for RFP because they were asking for projects to consider that were consistent with the guidelines. Mr. Guillen did not want to delay or risk funding, but shared concern about the completion of the RFP with the current time frame of the RFP submission date of January 19, 2022. Mr. Burciaga reviewed SB144 and mentioned that the law was requesting the guidelines first and funding for the project subsequent to the guidelines, mentioned that looking at the PSFA's executive summary it mentioned concern with no guidelines established, and the three items mentioned before were goals, not guidelines. Ms. Padilla understood the concerns about the timing; however, she said that the staff should work with the Council and evaluate the guidelines; and reiterated they need information from the RFP to finalize the guidelines. Ms. Padilla shared concerns with losing time, and suggested that they do not have to pull the RFP. Mr. Guillen said the task is that the Council needs to come up with a solution to get guidelines together, approve them and assure the guidelines are in line with the RFP, and was not sure the task could be completed by January 19, 2022. Ms. Leach shared her concerns, and mentioned not having guidelines would make it difficult to evaluate the RFP, and shared her disappointment not having consistency and guidelines. Mr. Robbins shared his concern with the delay and mentioned that if the RFP was potentially cancelled the Council wouldn't know what was going to be proposed. Mr. Robbins asked if E-rate funds can be used towards the backbone. Mr. Viorica said that the E-Rate program did not fund any one piece because that wouldn't result as a functional system for the fifty-six schools that were participating. Mr. Robbins reiterated what Ms. Padilla mentioned, saying that with there being nine days left and cancelling the RFP would not leave the Council with any information, and it would dismiss the value. Mr. Robbins suggested accepting certain parts of the RFP. Ms. Martinez shared her understanding of the RFP that all three components are required. Ms. Padilla clarified what she heard, and said that they cannot pick and choose pieces of the project, and that the entire backbone would have to be built, and asked if that was stated in the RFP. Ms. Padilla said that the state was looking to build out one of the nodes in existing infrastructure at UNM Main Campus and UNM Gallup Campus within the SEN, as they planned to partner with PED, the Higher Education Department and the Early Childhood Education Department to quickly allow service for students. Ms. Padilla asked Ms. Martinez if the RFP said that the entire SEN had to be built. Ms. Martinez clarified Ms. Padilla's question was asking if they could build one backbone node rather than all nine, and Ms. Martinez confirmed they could potentially build one backbone node with connections. Ms. Martinez said however, the UNM node site had zero visits from the offerors. Mr. Viorica replied clarification on the nodes and how they could be built by connecting the node to a major hub where all internet providers have a presence. Mr. Viorica said one node could be built, but not utilizing E-Rate funding because the way the approach works is that all of the participants need the backbone to be functional otherwise they will continue to receive their connectivity independently. The economies of scale and the increase in capacity would not be accomplished. Mr. Abbey asked if a non-fiber vendor could have an opportunity to serve this request, such as satellite. Mr. Viorica said yes, they could, and shared from a technical perspective, it was very unlikely that any other

solution other than fiber could build the SEN to meet the capacities that were required to connect all of the schools, and Mr. Viorica said the capacity with fiber was hundreds of gigabytes per second. Other technologies could be utilized for parts and pieces or the last mile, but the core network would be very unlikely to function properly if any other solution was used. Mr. Abbey brought up the Cuba school district and their approach using Starlink satellite solution and asked if other schools could follow the same route. Mr. Viorica clarified the satellite solution Cuba procured was for individual connections for students' homes, and they were not high-capacity connections that major broadband highway would or a school building would require. Mr. Viorica mentioned Starlink was approximately 80 megabytes per second versus 80,000 megabytes per second using fiber optics. Mr. Abbey asked if the RFP was set-up for the Cuba type solution to be in the mix of acceptable responses. Mr. Viorica said the Cuba type solution could not serve schools, but could potentially serve the last mile segment of the SEN highway and if a vendor wanted to provide a cost effective response they could be considered as a part of the evaluation. Ms. Martinez said she did not necessarily agree with Mr. Viorica's statement, and mentioned that the RFP said vendors could provide statements on how they were going to perform their services, but Ms. Martinez said that they may have not made it clear enough in the language to say "and these are other possibilities".

Mr. Abbey asked why CTC did not bill the PSFA yet. Ms. Casias replied that she was not exactly certain why they had not billed the PSFA yet. Mr. Abbey reviewed the services that CTC was supposed to provide, including the development of the conceptual plan and guidelines that assess technological alternatives, the cost, and the technological risks and performance measures. Mr. Abbey also brought up how the ambiguity of the RFP could be problematic by not including what the Council wants as the end result of the SEN. Mr. Abbey suggested CTC should provide a report at the next PSCOC meeting. Mr. Robbins reiterated the RFP was nine days away from the deadline and if they were to cancel it they would not get any information out of it, and mentioned the ambiguity would be an issue if they were to try and award a contract that could present challenges and drag things out for months, and that was a concern. Mr. Robbins recommended the RFP to move forward, and have CTC use the information submitted to refine the guidelines and a clear proposal in a new RFP. Mr. Simon shared his review of past documents pertaining to the topic and mentioned the September 2021 Awards Subcommittee there was a request for a detailed description of guidelines for the Council to approve, and this RFP moved forward without establishing the guidelines, and that was the core of what the legislature assigned the Council to do. Mr. Abbey warned the timing of the E-rate deadline in March 2022. Mr. Robbins asked Mr. Viorica what the Council could do with E-rate without the RFP to get an application in to take advantage of some federal dollars. Mr. Viorica said they would continue working in the status quo state, and at least fifty-six entities would apply for E-Rate and they would have to decide if they would want to sign long-term agreements that would take them out of the running for the next three to five years to participate in a coordinate effort again. At the least, the Broadband Deficiencies Correction Program (BDCCP) would continue helping the schools receive E-Rate funding and Category 2 Projects, however, the coordinated approach would be missing. The coordinated approach is the only way to move gradually into a system which schools would collectively apply for E-Rate and secure their connectivity collectively that in turn would leverage their buying power to increase capacity across the state. There is no control with what the vendors are going to do. Different vendors are going to decide to do different things

that are going to align with their interest and capabilities. Mr. Guillen suggested to allow the RFP to move forward, and request a set of guidelines to be presented for review and approve at that time; then ask PSFA staff to think about options that involve using E-Rate for the SEN, but also use E-Rate for individual districts if the Council did not agree or feel comfortable with the RFP results. Mr. Burciaga shared his concern about the expectations on the responses to the RFP may present some guidelines. Mr. Viorica said the responses will inform what kind of services the vendors could provide in a cost effective way. The requirements have ranges because it has to be wide open or else E-Rate will question how the option presented would be the most cost effective option. Mr. Burciaga shared his concern of making guidelines and recommendations after the PSFA staff had received and reviewed the RFP. Mr. Burciaga suggested that the PSFA come up with guidelines prior to or no later than January 19, 2022, even if they are draft or recommendations. Mr. Abbey requested options for the guidelines, and asked if it was possible. Mr. Viorica said the guidelines did not speak about the technical solution, and that they spoke about what type of reliability and speed that was required to be in place in order for the SEN to function properly. The technical aspect would be up to the vendor to present. Mr. Guillen suggested that the guidelines could say “all options should be considered, and please list” so that it would be clear that options are available. Mr. Viorica said it could be added to the guidelines. Ms. Casias commented that there were different types of technology and to be neutral, suggested that the guidelines should have specific basic requirements for each (fiber, Starlink, and others) and Ms. Casias agreed with Mr. Burciaga’s statement that the PSFA should create the guidelines rather than an external representative. Ms. Leach mentioned concern and thought the guidelines needed to come before the proposals were provided because it could be seen that if staff based their guidelines off of one of the proposals it could look like favoritism. Ms. Leach said staff should look at the ownership of the lines as well to see how it related to anti-donation, as it is a big consideration that needed to be looked from a legal standpoint with the constitutional provision. Mr. Guillen stated that the guidelines needed to be complete by January 19, 2022. Mr. Abbey proposed that the guidelines should include discussion of technological alternatives, costs and risks. Mr. Robbins said that cost may not be able to be nailed down, and Mr. Abbey said that a cost range could work. Mr. Robbins said the RFP will deliver the cost of services, and when you provide a range that would no longer be a guideline, and it was possible no vendor could provide it at a set dollar amount. Mr. Robbins did not want to set restrictions on what the guidelines should be, and from the established guidelines the RFP would then be evaluated. Mr. Robbins agreed with Ms. Leach saying that if guidelines were developed out of the RFP that could be construed as misleading and unfair.

Mr. Abbey asked for guidelines and to propose technological concept alternatives for broadband communication solutions including estimated cost ranges, technological risks and options with a final report provided before January 19, 2022 and to elaborate further at the March 2022 Council meeting. Mr. Burciaga asked Mr. Abbey if the motion was just for the guidelines, and Mr. Abbey clarified that the path of the RFP would not change. Mr. Guillen clarified the timeline with the proposed motion, and also shared that the concern was the Council needs finalize guidelines prior to the expiration of the RFP, and wanted to make sure the Council would not be accused of drafting the final guidelines based on the responses to the RFP. Ms. Casias asked if the PSFA should consult with DoIT and PED as the PSFA create the final guidelines, and Mr. Robbins said that would be advisable to have both agencies

involved. Mr. Simon shared concern that there may not be enough time, and Ms. Casias believed they would be able to complete the final guidelines by January 19th, 2022, and moving forward the PSFA would complete an annual review of the guidelines.

MOTION: Mr. Robbins moved for the Council to direct the PSFA to develop guidelines and that they be transmitted to PSCOC Council members prior to January 19, 2022 and that the Council then consider next steps at the March 2022 Council Meeting. **No Response, the Motion was not approved.**

AMENDED MOTION: Mr. Abbey moved for Council approval of the development of the Statewide Educational Network (SEN) guidelines and to propose technological concept alternatives for broadband communication solutions including estimated cost ranges, technological risks and options with a final report provided before January 19, 2022 and to elaborate further at the March 2022 Council meeting. Mr. Burciaga seconded and **the motion was unanimously approved, with no opposition.**


8. Informational

a. Project Status Report


This agenda item was not covered during the Council Meeting.

9. Next PSCOC Meeting - Proposed for March 14, 2021.

10. Adjourn – There being no further business to come before the Council, Mr. Simon moved to adjourn the meeting. Ms. Leach seconded and **the motion was unanimously approved.** The meeting adjourned at 10:20 a.m.



Chair



Date