

City Schools management plan that is presented in Chapter IV. The issue is also discussed under “Policy Concerns” (page II-9ff) and “Accountability Concerns” (page II-14ff) in Chapter II, and on pages III-14ff of Chapter III.

10. What will be the State’s policy as to other subdivisions that might wish to create similar funding models, and will this obligated funding level be consistent with statewide commitments, spending affordability and debt affordability, and with the flexibility that the State may want to retain in its capital funding allocations (Chapter II, page II-12ff)?
11. The State’s historical school construction commitments have fluctuated significantly from year to year depending upon economic and budget conditions and the status of other priorities in the capital budget. Is the proposed financing concept consistent with this historic fluctuation, or will it require the State to make a fixed commitment similar to the Bridge to Excellence funding?

In addition, the IAC recognizes that many aspects of the financial method and the construction program, including their potential impact on State finances as well as the operations of the IAC, will not become clear until the City Schools 10-Year Master Plan released on November 27, 2012 and the forthcoming financial plan have been thoroughly reviewed by the IAC.

SUMMARY OF FINDINGS

1. The report provided in June 2012 by Jacobs Project Management, known as the Jacobs Report, shows that City Schools facilities are severely deficient when measured by a number of commonly accepted standards: age of facility, educational adequacy, facility condition index (FCI), and level of utilization (Chapter I, pp. I-3 to I-7). Jacobs Project Management estimates that to correct the deficiencies will require approximately \$2.45 billion in funding over a 10 year period, consisting of \$1.15 billion to correct current building deficiencies, \$.290 billion to correct certain (but not all) educational deficiencies, and \$1.01 billion to upgrade building systems pending the renovation or replacement of schools in the 10-year timeframe (Chapter I, page I-8).¹
2. City Schools has developed a 10-Year Comprehensive Master Plan (the 10-Year Plan) based on the information provided in the Jacobs Report as well as input received in a series of community meetings held in the summer of 2012. The 10-Year Plan prioritizes projects for new construction, replacement, and renovation by year, and also proposes schools to be closed in order to better utilize the capacity of the school system. The 10-Year Plan was made available on November 27, 2012; City Schools indicates that a supporting financial plan will be available in January 2013. Based on a set of prioritization criteria, City Schools intends to carry out \$1.13 billion of the \$2.45 billion plan in four years; the combined State and City revenue stream required to support this initial effort is now estimated at \$66 to \$69 million per year (Introduction, page 14; Chapter VII, page VII-1).

3. The direct benefits of an accelerated construction program could include enhanced educational achievement for the current generation of Baltimore City students, reduction of the timeframe for construction of the highest priority projects from 23 years to 4 years, reduction of the cost of the program through avoidance of construction cost escalation and economies of scale, and a reduction of operating, maintenance, and utility costs for the school system (Chapter III, pages III-2 - 8). Other benefits of the 10-Year Plan could include creation of approximately 8,000 direct construction jobs through the initial \$1.13 billion of work and approximately 17,000 jobs through the full build-out at \$2.45 billion, and a contribution toward the revitalization of neighborhoods in Baltimore City (Chapter III, page III-10ff).ⁱⁱ
4. Since the level of funding required to improve the facilities of City Schools cannot be achieved through the current annual capital allocations of either the State or Baltimore City, an alternative approach is sought. In collaboration with the Mayor of Baltimore City, City Schools has explored alternative approaches since the fall of 2010, particularly the concept of a third-party entity to issue bonds. While not widespread, the use of third-party issuers to achieve a high level of construction funding has been implemented in other jurisdictions, most notably Greenville, South Carolina in the early part of the last decade. Greenville established a nonprofit corporation that issued bonds under IRS rule 63-20, commonly known as 63-20 bonds, and in addition used an installment purchase agreement (IPA) method to make the investment attractive to bond purchasers and concurrently affirm the school district's interests in the facilities. Greenville is reported to have constructed or renovated 80 schools in a six year period using these methods. While the program was undoubtedly successful in achieving numerous facility improvements that would otherwise have been either very delayed or not done at all, further research is needed to understand this program, its applicability in Maryland, and why the State of South Carolina has modified the conditions for the further use of this method (Chapter II, page II-17; Chapter VI, page VI-6).
5. In June 2012, an informal work group of experts and interested parties was established to develop the report requested by the General Assembly. The work group believes that it is both legally possible and feasible for the State to provide funding in the form of a block grant in order to leverage capital funds from a third-party issuer for capital improvements within a school district in Maryland (Chapter II, pp. II-5 to II-13). The financing structure that has been proposed by City Schools in collaboration with the City envisions a Baltimore City Schools Building Authority established through State legislative action (Chapter II, pages II-1 - 4). In the view of the workgroup, the Authority as a third-party entity that issues bonds, either directly or through a conduit issuer, will have sufficient distance from both the State and the City so that its debt will not be construed as debt of either government. Consequently, the workgroup believes that this structure would preserve the tax exempt status of bonds issued by the State and the City and will not impair either the bond rating or the debt affordability of either government. Certain concerns must be mentioned:
 - a. Precedent indicates that the State can have a high level of confidence that third-party bond issuer financing methods can be designed to avoid a negative impact on the State (or the City)

bond rating, on its debt affordability calculations, or on the tax-exempt status of its bonds. However, these impacts will only be fully known when the actual financing arrangement is presented to the rating entities and to the Internal Revenue Service (Chapter II, page II-12).

- b. Since the proposed model involves a commitment by the State to fund a single LEA with block grants at a defined level for a defined term, it may reduce the flexibility of the IAC and the Board of Public Works (BPW) to respond to future project requests, particularly the need for occasional but often costly projects in small jurisdictions (Chapter III, page III-12ff).
 - c. At a current rate of at least \$250 million per year, it is already extremely difficult for the IAC to recommend adequate levels of funding to the large and mid-size jurisdictions. If State funding were to be reduced below the \$250 million level while the funding requirement for one jurisdiction were fixed by statute, a situation of funding inequity could emerge (Chapter III, page III-12).
 - d. Past experience has shown that too-rapid infusions of construction funds into the market can result in poor quality construction, contractor defaults, and a reduction of quality in the design professions. These impacts can be mitigated through careful project planning, procurement and monitoring, but a very large program in Baltimore could affect both the availability and the quality of design and construction services in the Baltimore-Washington metro region. Presumably, the market will eventually respond to a higher level of demand and will increase the flow of services, but in the short term there could be negative impacts that must be guarded against (Chapter III, page III-13).
6. City Schools has worked with bond counsel and the City of Baltimore to develop a management structure for the 10-Year Plan. The success of the 10-year, \$2.4 billion school construction program will depend critically on a management structure that has adequate staffing to execute the planning, design, construction, and occupancy of multiple concurrent projects, establishes binding agreements and understandings about the rights and responsibilities of all the parties (including the IAC and the City of Baltimore), and institutionalizes mechanisms for program reporting and monitoring that ensure full transparency and accountability (Chapter IV).ⁱⁱⁱ
 7. The IAC believes that a fully developed business plan is essential for the success of the 10-Year Plan. The experience of New Jersey's School Construction Corporation, discussed in Chapter II (page II-14), stands as a stark warning of the problems that can emerge in the absence of such a plan. The main elements of the business plan should consist of:
 - An educational vision and plan
 - The comprehensive facility master plan
 - The financial plan
 - The management plan

The business plan is more fully outlined in Chapter II, page II-15ff. While components of these elements are already in place or are in process, the comprehensive business plan has not been presented in its entirety at this writing.

8. The use of an installment purchase agreement (IPA) may prove to be a useful mechanism. This method for acquisition of assets is described in Chapter II, page II-17.
9. The use of block grant funding in combination with a third-party bond issuer, if successful for Baltimore City, could provide a model for other jurisdictions in Maryland that have facility needs that exceed their current funding capacity. Although there appears to be great interest in the outcome of the Baltimore City initiative, at this writing only Baltimore County has expressed interest in exploring a similar approach.^{iv} Given a statewide facilities backlog of deficiencies that is estimated to exceed \$15 billion, an increase of funding would have obvious benefits to many students and communities. However, a caveat must be expressed: the State Treasurer's Office has indicated that an increase in State block grant funding commitments could possibly lead the rating agencies to downgrade Maryland's bond rating. The increased cost of debt would then have an effect on the total amount of funds that Maryland could borrow each year, with a consequent reduction in the amount of funds available to other LEAs. This effect cannot be predicted before the total amount of annual State funding that might be committed to block grant allocations is known (Chapter II, page II-12).

In conclusion, the workgroup members believe that the block grant funding / third-party issuer structure proposed by City Schools to accomplish a 10-year transformation of City School facilities can be designed in a legally sound manner, and precedent in other parts of the United States, for example Greenville, South Carolina, suggests that it can be successful for an individual jurisdiction, but *only if* at a minimum the following conditions are met:

- The City Schools business plan must be complete and thorough, touching on all aspects of the 10-Year Plan, including the educational vision, the facilities plan, the financial plan, and the management plan.
- The business plan must show that adequate staff positions to manage the program will be approved, funded, and largely filled *before* the funds are released or the third-party bonds are issued.
- The role of the IAC and the City within the City Schools program must be positively affirmed through binding agreements that will govern the responsibilities and the actions of all parties.

- The construction schedules of the specific projects identified in the 10-Year Plan should align with both the block grant allocation by the State and the issuance of bonds by the third-party entity.
- City Schools must present a plan for closure of school buildings in order to better utilize its school capacity.
- In addition to the staffing that City Schools will engage to manage the program, adequate staffing must be provided to the Public School Construction Program and the three other agencies in the IAC structure in order to adequately manage the flow of project approvals, design reviews, contract approvals, change orders, minority business enterprise (MBE) issues, and project close-outs in the 10-Year Plan without impairing the services that are provided to 23 other jurisdictions and the Maryland School for the Blind.

This conclusion as to the specific financing plan proposed by City Schools does not address the broad State policy questions noted at the beginning of this introduction by the IAC, which are issues that must be addressed by the General Assembly. Further review of the experience in South Carolina is recommended to determine why the program in Greenville has not been expanded or duplicated for other local jurisdictions in that state.

SCOPE AND METHOD OF THE STUDY

Recognizing the magnitude and complexity of the topics contained in the Joint Chairmen’s Report (JCR), in June 2012 the Executive Director of the Interagency Committee on School Construction established an informal working group to address the interrelated issues within the timeframe assigned. The working group consisted of representatives of a number of State agencies, of Baltimore City, of City Schools, and of other interested parties, particularly the American Civil Liberties Union. A full listing of the work group participants is provided following the Table of Contents of this report. At an initial meeting on June 18, 2012, it was agreed that a sub-workgroup structure would be established to conduct the research and develop the preliminary drafts of sections of the report, to be collected, reconciled, edited, and presented by the IAC staff to the IAC for review prior to December 1. The JCR tasks were grouped by content to facilitate the development of the report. The sub-workgroups consisted of:

A. Sub-workgroup 1 : Needs and Capacities

Chair : Keith Scroggins, Chief Operating Officer, Baltimore City Public Schools

JCR Topic 1: Review the independent needs assessment of school buildings conducted by Jacobs Project Management for the Baltimore City Public Schools.

JCR Topic 8: Evaluate the current bonding authority of the Baltimore City School System and whether the amount is adequate.