

Action /Information Item

California Student Aid Commission

Update on EDFUND Lease of Building B, 10390 Peter A. McCuen Blvd., Mather, CA

Recommendation

- 1) Approve Commission staff's proposal to enter into a sub-lease with EdFund for Building B in order to avoid costs associated with the vacancy of Building B, and to increase the value of the state student loan program assets by establishing a long-term sub-lease for Building B.
- 2) Direct Commission staff and EDFUND staff to work expeditiously with the Department of General Services to develop and finalize a long-term sub-lease of Building B for occupancy by the Commission at the rental rate of the Commission's alternative site; to expedite all processes within the Commission staff's and EDFUND staff's control to meet a move-in date of April 2009; to include payment by EDFUND, as sub-lessor, of the costs of tenant improvements and space planning for Building B; and to include payment by EDFUND, as sub-lessor, of any costs charged to the Commission by the Department of General Services for services relating to the Commission's alternative site.

Discussion

In 2004, the Commission and EDFUND began planning to relocate jointly because the leases for the three buildings occupied by the Commission and EDFUND at International Drive were to expire at different times beginning in 2008.

Ultimately, EDFUND negotiated a lease for two buildings that were to be built on a Mather, California site. The Commission anticipated moving into the second building – Building B, and nearly completed the space planning for Building B. However, after the Governor proposed to sell the State's student loan guarantee program assets, Senate Bill 89 (Chapter 182, Statutes of 2007) ("SB 89") was enacted, authorizing the sale of the student loan guarantee program assets and granting the Department of Finance authority to approve Commission actions.

The Department of Finance delayed authorizing the Commission's move into Building B because EDFUND was negotiating with other prospective tenants in anticipation of the sale of the loan program. As a precaution, the Commission staff looked for other locations in which to move. By February 2008, the Commission staff had identified an alternative site and asked the Department of Finance for authority to move forward with signing a lease for the alternative site because of the long lead time necessary for the

space planning and tenant improvements required to accommodate the Commission at the alternative site.

The Department of Finance, however, continued to delay approval of the Commission's alternative site because EDFUND had not concluded its arrangements for a tenant for Building B. In April 2008, EDFUND indicated that it was successful in finding a tenant for Building B, and the Department of Finance finally authorized the Commission to pursue its alternative site.

However, because of this delay, the Commission is now required to move twice during fiscal year 2008-09. In addition to the extra cost (estimated at up to \$200,000), Commission staff has been, and will be again, required to disrupt its operations and on-going program responsibilities to undertake the necessary steps to prepare to relocate its staff, files, computers and the telephone system, to move twice.

The first move to the Commission's interim location is nearly complete, but the lease for the interim location expires in April 2009. Commission staff has been working with the Department of General Services and has identified a new alternative site, because the original alternative site has since become unavailable, and has taken initial steps to lease the site, but has not yet signed a lease.

With the withdrawal of the tenant for Building B, EDFUND is obligated to pay up to approximately \$1.3 million annually in lease payments for the empty building until a new tenant is found. Public funds will be used for these payments. Either EDFUND will absorb the cost of these lease payments as part of its operating budget, or EDFUND will ask the Commission to reimburse EDFUND for the lease payments. Either way, State funds in the Student Loan Operating Fund will be used.

However, since the Commission must move a second time during fiscal year 2008-09, Commission staff recommends that the Commission direct Commission staff and EDFUND staff work expeditiously with the Department of General Services to develop and finalize a long-term sub-lease of Building B by the Commission, at the same rent the Commission would be required to pay at its alternative site, which is approximately \$1 million annually.

In addition, EDFUND should pay the tenant improvements and costs of space planning for Building B since these were to have been included when the Commission was originally planning to move into Building B. Since the Department of Finance delayed approving the Commission's alternative site to accommodate EDFUND's desire for a different tenant, thus requiring the Commission to incur costs for services provided by the Department of General Services to find the new alternative site, any one-time costs associated with the planning already undertaken for the alternative site also should be absorbed by EDFUND. Finally, the Commission should direct Commission staff and EDFUND staff to expedite all processes within their control to meet a move-in date for Building B of April 2009.

Analysis

Since the Commission must move again by April 2009, and has identified an alternative site with an annual rent obligation of approximately \$1 million, the sub-lease of Building B would not change the Commission's expected rent expenditure.

The Commission's sub-lease of Building B, however, would enhance the value of the loan program assets by reducing EDFUND's lease obligation by up to \$1 million annually. A buyer of the loan program assets would normally reduce its offering price to account for EdFund's \$1.3 million annual lease obligation. That reduction in the value to the State could be significant, especially since the buyer would consider the adverse effects on the commercial real estate market by the credit crisis and the slow-down in the national and state economies. Since the Commission would occupy about two-thirds of Building B, however, EDFUND will need to continue to search for another tenant to take up the remaining space to cover the rest of the lease obligation.

Further, if the Department of Finance again fails to sell the loan program assets, the physical proximity of the Commission to EDFUND would facilitate the synergies the Commission seeks through its auxiliary organization.

The Department of Finance must approve the Commission's sub-lease of Building B, as required by SB 89. However, the value enhancement of a long-term sub-lease for a significant portion of a currently empty building, together with the reduction of lease-payment obligations from \$1.3 million annually to about \$300,000 annually, establishes the arrangement to be in the interests of the State.

Responsible Person:

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