



News

## Contracts for Modular School Facilities Now Ineligible for State Funding if Purchased via Piggyback Contract

July 2022



On July 5, 2022, the Office of Public School Construction (“OPSC”) issued a letter to all school districts and county superintendents of schools notifying them that school districts using piggyback contracts for the purchase of modular facilities will be ineligible to receive associated state funding from State Allocation Board (“SAB”) administered programs. A copy of this letter can be found on the OPSC website which also includes information summarizing the history and reasoning behind the SAB’s decision.

For those districts already in process on piggyback contracts, you should note that the OPSC has implemented a “grace period” for SAB-administered programs for piggybacked modular projects where the construction contracts were signed on or before August 21, 2022.

In addition, effective August 21, 2022, OPSC is implementing a new and more stringent review process which will include examination of all bid documents and DSA plans to determine whether modular facilities are being appropriately procured, and specifically whether piggybacking was used. We also understand that amendments to the K-12 Audit Guide by the State Controller’s Office will be forthcoming as another safeguard to ensure that districts are not using piggybacking to procure modular buildings.

What this means is that school agencies will need to utilize alternative methods of procurement to purchase and install modulares from this point forward. Depending on the situation, school agencies may choose to use traditional hard bidding (with some nuanced bid documents), lease-leaseback, or design-build construction delivery methods.



To these ends, if your agency needs assistance with interpreting the complexities of piggybacking and modular procurement, please contact an F3 attorney in our Business and Facilities Practice Group.

If you have any questions regarding this decision and how it affects your agency, please call one of our six offices.

## Professionals

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