



VIRGINIA BOARD OF EDUCATION

AGENDA ITEM

Agenda Item: G

Date: October 20, 2022

Title: First Review of Guidelines for Implementing the School Construction Assistance Program in the 2022-2024 Biennium

Presenters: Kent C. Dickey, Deputy Superintendent of Budget, Finance, and Operations
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Purpose of Presentation:
Action required by state or federal law or regulation.

Executive Summary:
The School Construction Assistance Program was created at the 2022 Special Session I of the General Assembly through the 2022 Appropriation Act (i.e., Chapter 2, [Item 137](#), Paragraph C.43; “[Item 137](#)”). That appropriation act item provides fiscal year 2023 appropriations for the program of \$400,000,000 from the general fund and \$50,000,000 from the Literary Fund to be transferred into the School Construction Fund (Fund). The Virginia Board of Education (Board) will award grants on a competitive basis from the Fund to local school boards that demonstrate poor building conditions, commitment, and need in order for such local school boards to be able to fund the construction, expansion, or modernization of public school buildings.

The legislative intent of this program is to provide funding for major school construction, renovation, or additions projects, giving priority to high-need school divisions and localities. The intent is for planned projects or those being planned that lack sufficient funding and that are not yet in the construction phase to receive funding.

The Board is required to develop guidelines for the administration of the program to include certain minimum requirements, which include establishing the competitive scoring criteria and their associated point values used in evaluating school division applications for funding. The competitive criteria must reflect the categories of Commitment, Need, and Poor School Building

Conditions, and a minimum qualifying criteria score established for a project to qualify for funding. The guidelines propose various criteria covering these three categories and their assigned point values. A minimum of 65 criteria points on a 100 point scale is proposed in the guidelines as the minimum qualifying score for a project to qualify for a grant award.

School divisions will apply to the Virginia Department of Education (VDOE) for grant funding during a designated open application period. Awarded funding will be based on 10 to 30 percent of approved project costs, depending on the division composite index and the locality fiscal stress category. Any unobligated appropriation balance for this program on June 30, 2023, must be reappropriated for expenditure in fiscal year 2024 for the same purpose.

This item aligns with Priority 1 of the Board's Comprehensive Plan: 2018-2023 to provide high-quality, effective learning environments for all students.

Action Requested:

Action will be requested at a future meeting:
November 17, 2022

Superintendent's Recommendation

The Superintendent of Public Instruction recommends that the Board of Education receive for First Review the *Guidelines for Implementing the School Construction Assistance Program in the 2022-2024 Biennium*.

Previous Review or Action:

No previous review or action.

Background Information and Statutory Authority:

[Item 137](#) states the following:

43. School Construction Assistance Program.

a. Out of this appropriation, \$400,000,000 the first year from the general fund and \$50,000,000 the first year from the Literary Fund shall be transferred into the School Construction Fund for the Board of Education to award grants on a competitive basis from the Fund to local school boards that demonstrate poor building conditions, commitment, and need in order for such local school boards to fund the construction, expansion, or modernization of public school buildings. Any unobligated balance for this program on June 30, 2023, shall be reappropriated for expenditure in the second year for the same purpose.

b. The Board of Education shall develop guidelines for the administration of this program, which shall provide at a minimum that:

1. Grants shall be provided only for projects that conform to the Department of Education's "Guidelines for School Facilities in Virginia's Public Schools," as amended.

2. Grant awards shall be based on project costs, including planning, design, site acquisition and construction, the school division's local composite index, and the fiscal stress category as designated by the Virginia Commission on Local Government in its most recent "Report on Comparative Revenue Capacity, Revenue Effort, and Fiscal Stress of Virginia's Counties and Cities" for the locality that contains the school division, as follows:

<i>School Division</i>	<i>Grant Award Amount</i>
<i>School divisions with a local composite index value below .3000, or contained in a locality designated with high fiscal stress</i>	<i>30 percent of project costs</i>
<i>School divisions with a local composite index value at or above .3000 and below .4000, or contained in a locality designated with above average fiscal stress</i>	<i>20 percent of project costs</i>
<i>All other school divisions</i>	<i>10 percent of project costs</i>

3. A minimum qualifying score shall be met for a project to qualify for a grant award based on Board-developed scoring criteria. The Board shall set such minimum score at a level to ensure funds are reserved for critical school construction projects. Such scoring criteria shall provide appropriate weight to the following categories for the award of grants:

a.) Commitment, which may be demonstrated by factors such as: (i) an agreement by the local governing body to maintain or increase the percentage of local revenues dedicated to public education throughout the duration of the financing proposed for the project and (ii) the extent of project design and site acquisition for such project that has been completed prior to application of anticipated grant funds.

b.) Need, which may consider factors such as: (i) the percentage of students in the local school division eligible to receive free price meals; (ii) the percentage of residents of the locality in which the local school division is located with incomes at or below the federal poverty guidelines established by the U.S. Department of Health and Human Services; (iii) the local composite index of local ability-to-pay for the local school division; (iv) debt capacity of the locality in which the school division is located; and (v) the most recent fiscal stress score of the locality that includes the local school division as designated by the Virginia Commission on Local Government.

c.) Poor school building conditions, which may consider factors such as: (i) the condition of the facilities proposed to be replaced or upgraded using these funds, including the current level of compliance of the existing facility with the Americans with Disabilities Act of 1990 (42 U.S.C. § 12101 et seq.) and the facilities potential threat to the health or safety of building occupants; (ii) the school division maintenance reserve tool established pursuant to Chapter 650 of the 2022 General Assembly; and (iii) the overall condition of other facilities within the school division.

4. If qualifying grant award requests exceed the amount of funds available, grants shall be awarded based on ranked project scores, and shall not be prorated.

5. The release of funds to grant awardees shall be reasonably aligned with the timing of incurred expenses.

6. A specific project shall only receive one grant award. The total project cost eligible to receive a grant shall be up to \$100,000,000. Grant awards shall not be amended for any additional reasonable project costs after the Board awards a grant to a division.

c. For the purpose of this program, "project costs" shall include reasonable project construction costs as defined by the Board, including planning, design, site acquisition and construction, and not to include financing costs, outdoor facilities predominantly used for extracurricular athletic activities, loose equipment, and furniture.

d. The Board of Education shall submit an executive summary of the program, including details on projects funded each year and any necessary legislative or budget recommendations to improve the program, no later than December 1 of each year to the Chairs of the House Education Committee, Senate Education and Health Committee, House Appropriations Committee, and Senate Finance and Appropriations Committee.

[Item 137](#) provides fiscal year 2023 appropriations for the program of \$400,000,000 from the general fund and \$50,000,000 from the Literary Fund to be transferred into the School Construction Fund for the the Board to award grants on a competitive basis to local school boards that demonstrate poor building conditions, commitment, and need in order for such local school boards to be able to fund the construction, expansion, or modernization of public school buildings. Any unobligated appropriation balance for this program on June 30, 2023, must be reappropriated for expenditure in fiscal year 2024 for the same purpose.

The Board will award grants under the program for qualifying school projects submitted by school divisions based on various competitive criteria and their assigned point values. The Board is required to develop guidelines for the administration of the program that meets minimum requirements, including:

- Awarding grants for projects that meet the Department's current school facilities guidelines;
- Awarding grants for 10, 20, or 30 percent of approved project costs (project costs capped at \$100,000,000), depending on the school division's local composite index and the locality's fiscal stress category;
- Awarding only one grant per submitted project;
- Awarding grants for projects that meet a minimum qualifying score based on Board-developed scoring criteria that incorporate criteria reflecting Commitment, Need, and Poor School Building Conditions. A minimum qualifying criteria score of 65 on a 100 point scale is proposed in the guidelines for a project to qualify for funding;
- If qualifying grant award requests exceed available funding, grants are awarded based on ranked project scores on the criteria.

Consistent with the appropriation act, the guidelines define "project costs" as including reasonable project construction costs, including planning, design (architectural and engineering), site acquisition, construction phase costs involving the core building structure and related site work, but not including financing costs (such as closing costs, legal counsel and financial advisor

costs, and debt service payments for principal and interest), outdoor facilities predominantly used for extracurricular athletic activities, loose equipment, and furniture. Allowable projects may include new building construction, additions to expand existing buildings, or renovations to modernize existing buildings.

School divisions will apply for project funding online during an open application period. School divisions applying for a grant must indicate the estimated cost of the proposed construction or renovation project, and certify their intent to obligate grant funds for construction within six months of the grant award notification by the Department. Divisions must provide information on the planned preventive maintenance for the project once it is placed in service and must submit their latest capital improvement plan (CIP) as part of the grant application. Following Department staff review of the applications, projects recommended for funding will be brought to the Board for action.

These guidelines will remain in effect initially for the 2022-2024 biennium, and then for future biennium if the program is continued and funded in future biennial appropriation acts. The appropriation act includes a reporting requirement for the Board to report on the status of the program and recommendations to improve it to the General Assembly by December 1 each year.

Timetable for Further Review/Action:

It is anticipated that this item will come back before the Board at the November 17, 2022, meeting for final review.

Impact on Fiscal and Human Resources:

It is projected that completion and implementation of the guidelines can be absorbed by existing Department of Education fiscal and staff resources. It is projected that implementation of the guidelines by school divisions can also be absorbed with existing fiscal and staff resources.



*Guidelines for Implementing the School
Construction Assistance Program
in the 2022-2024 Biennium*

PURSUANT TO ITEM 137, PARAGRAPH C.43 OF THE 2022
APPROPRIATION ACT (i.e., CHAPTER 2)

VIRGINIA BOARD OF EDUCATION

Guidelines for Implementing the School Construction Assistance Program in the 2022-2024 Biennium

BACKGROUND

The School Construction Assistance Program was created at the 2022 Special Session I of the General Assembly through the 2022 Appropriation Act (i.e., Chapter 2, Item 137, Paragraph C.43). Item 137, Paragraph C.43. provides appropriations for the program in fiscal year 2023 of \$400,000,000 from the general fund and \$50,000,000 from the Literary Fund to be transferred into the School Construction Fund for the Board of Education to award grants on a competitive basis to local school boards that demonstrate poor building conditions, commitment, and need in order for such local school boards to be able to fund the construction, expansion, or modernization of public school buildings. Any unobligated appropriation balance for this program on June 30, 2023, must be reappropriated for expenditure in fiscal year 2024 for the same purpose.

The Board of Education is required to develop guidelines for the administration of the program to include certain minimum requirements as established in these guidelines. The School Construction Grant Assistance Program funding is awarded on the basis of competitive criteria through a school division application process. These guidelines establish the competitive criteria and criteria point values used in evaluating school division applications for awarding grant funding to eligible public school projects.

APPLICABILITY OF THE GUIDELINES

These guidelines facilitate implementation of the 2022 Appropriation Act language for the School Construction Assistance Program during the 2022-2024 biennium, which ends June 30, 2024. If subsequent legislative action on the state budget during the 2022-2024 biennium results in substantive revisions to the School Construction Assistance Program, the guidelines will be updated accordingly and presented to the Board for review and approval. These guidelines will remain in effect initially for the 2022-2024 biennium, and then for future biennium if the program is continued and funded in future biennial appropriation acts.

OPEN APPLICATION PROCESS

School divisions may apply for School Construction Assistance Program funding during an annual open application period using an online form in the Department of Education's Single Sign-on for Web Systems (SSWS) portal. The open application period is announced by the Department to school divisions through a Superintendent's Memorandum at a time determined by the Department, including establishing the specific beginning and end dates of the open application period. Online applications not submitted by the established open application period deadline may be disqualified from consideration. The Department will prioritize conducting the open application process as early as possible each fiscal year the program is funded in the appropriation act.

After the open application period has closed, approvable funding applications are considered by the Board for funding. All other statutory and regulatory requirements for school construction projects must be met for an application to be considered for funding. After the Department review

period is completed, a Board meeting agenda item is created for action on recommended applications for funding, subject to availability of funding. Funding awards are made through a Board action item at a monthly business meeting of the Board.

APPLICATION PROCEDURES, REQUIREMENTS, AND CRITERIA

1. Grants are provided only for school projects that conform to the Department of Education's current "Guidelines for School Facilities in Virginia's Public Schools." Department of Education staff determine whether school projects submitted for funding meet these guidelines during the application review and evaluation process. Department staff may require that school divisions provide additional information or clarification on submitted projects in order to make this determination.
2. For purpose of this program, public school construction, additions, or major modernization/renovation projects meeting the following three criteria qualify to be submitted to the Board of Education in an application for funding: (i) those projects that are either in the local planning phase or already planned as documented in a currently-approved Capital Improvement Plan (CIP); (ii) those projects that lack sufficient funding to cover the full cost projected for the project; and (iii) those projects for which construction has not yet started.
3. Grants for awarded school projects are based on a percentage of approved project costs (project costs not to exceed \$100,000,000), including planning, design, site acquisition, and construction costs, with the percentage determined by the school division's local composite index and the fiscal stress category as designated by the Virginia Commission on Local Government in its most recent "Report on Comparative Revenue Capacity, Revenue Effort, and Fiscal Stress of Virginia's Counties and Cities" for the locality that contains the school division, as follows:

School Division Criteria	Grant Award Amount as a Percentage of Approved Project Costs
School divisions with a local composite index value below 0.3000, or contained in a locality designated with High fiscal stress	30 percent of approved project costs, subject to availability of funding
School divisions with a local composite index value at or above 0.3000 and below 0.4000, or contained in a locality designated with Above Average fiscal stress	20 percent of approved project costs, subject to availability of funding
All other school divisions	10 percent of approved project costs, subject to availability of funding

4. For the purpose of this program, "project costs" include reasonable project construction costs, including planning, design (architectural and engineering), site acquisition, construction phase costs involving the core building structure and related site work, but do not include financing

costs (such as closing costs, legal counsel and financial advisor costs, and debt service payments for principal and interest), outdoor facilities predominantly used for extracurricular athletic activities, loose equipment, and furniture.

5. For the purpose of this program, “construction” includes construction of new public school buildings, construction to expand a public school building by additions, and major renovations or alterations to modernize an existing public school building.
6. For the purpose of this program, “eligible schools” include public school buildings owned by or under the control of local school boards in which classroom instruction is delivered to grades Pre-K through 12 students.
7. A minimum, total qualifying criteria score of 65 points (on a 100 point scale) must be met for a project to qualify for a grant award based on the Board-developed scoring criteria, with the minimum score set at a level to ensure funds are prioritized for critical school construction projects. The scoring criteria used to award grants are based on various indicators and their associated point values (described in more detail below) from the following three categories:
 - a.) Commitment, demonstrated by: (i) an agreement by the local governing body to maintain or increase the percentage of local revenues dedicated to public education throughout the duration of the financing proposed for the project; and (ii) the extent of project design and site acquisition for such project that has been completed prior to application of anticipated grant funds.
 - b.) Need, demonstrated by: (i) the percentage of students in the local school division eligible to receive free price meals; (ii) the percentage of residents of the locality in which the local school division is located with incomes at or below the federal poverty guidelines established by the U.S. Department of Health and Human Services; (iii) the local composite index of local ability-to-pay for the local school division; (iv) debt capacity of the locality in which the school division is located; and (v) the most recent fiscal stress score of the locality that includes the local school division as designated by the Virginia Commission on Local Government.
 - c.) Poor school building conditions, demonstrated by: (i) the condition of the facilities proposed to be replaced or upgraded using these funds, including the current level of compliance of the existing facility with the Americans with Disabilities Act of 1990 (42 U.S.C. § 12101 et seq.) and the facilities’ potential threat to the health or safety of building occupants, such as significant building safety issues or structural deficiencies; (ii) the school division maintenance reserve tool established pursuant to Chapter 650 of the 2022 General Assembly (note: this data not yet available); and (iii) the overall condition of other facilities within the school division. The data sources for criteria i and iii are from existing Department of Education survey data collected in 2021 for the Commission on School Construction and Modernization, as well as information submitted by school divisions on the program application.
8. If qualifying grant award requests exceed the amount of funds available, grants are awarded based on ranked project scores, and are not prorated. However, the last project funded based on ranked project scores may be partially funded based on the remaining funds available. In the event multiple eligible projects have the same ranked project scores and would be the last

project funded with available funding, the project associated with the lowest school division composite index is given priority for award of any remaining funding.

9. The release of funds to grant awardees is reasonably aligned with the timing of incurred project costs as determined by the Department of Education and are not advanced in a single, total payment following award of grant funds.
10. A specific project can only receive one grant award. The total project cost on which a grant award is based may not exceed \$100,000,000, pursuant to the processes and criteria in 3. above. Grant awards are not amended for any additional project costs after the Board awards a grant to a school division.
11. Grants are awarded by the Board of Education on a competitive basis using ranked project scores based on the criteria information included in the submitted program applications and from data sources available to the Department of Education. School divisions applying for a grant must (i) indicate the estimated costs of the construction project for the reasonable and allowable portions of the project that may be funded and (ii) certify its intent to obligate awarded grant funds for the construction project within six months of the grant award notification by the Department of Education. Obligation and expenditure of awarded grant funds by school divisions will be monitored by the Department.
12. School divisions must provide as part of the grant application a narrative description of their planned preventive maintenance for the proposed construction, addition, or renovation project in order to maximize its useful life once completed. The narrative description should emphasize the annual preventive maintenance process and include projected funding amounts for preventive maintenance for the first five years after the project is completed and placed into service. School divisions must also submit a copy of their currently adopted capital improvement plan (CIP).
13. A school division may be disqualified from receiving a grant award under this program or previously awarded grant funds may be withheld from payment if a school division is not in compliance with other state laws, regulations, policies, or guidelines.

COMPETITIVE APPLICATION CRITERIA

Public school construction projects submitted by school divisions on the program application are evaluated for funding based on the competitive scoring criteria and their associated point values listed below. All information submitted by school divisions on the program application is subject to additional verification or clarification by the Department. A project qualifies for funding based on the project's ranked project score, with a minimum qualifying score of 65 points required to receive a funding award, contingent on available funding to award a grant for the project.

Public school construction projects are evaluated and scored according to the eleven scoring criteria and their associated point values listed below to determine the eligible school projects to be awarded grants contingent on meeting the minimum qualifying criteria score and available grant funding (**maximum scoring criteria points = 100; a minimum qualifying score of 65 points is required for a project to qualify for further consideration for a grant award**):

1. Maximum of 10 points if the project is for new school construction or a building-wide renovation (which maximizes useful life compared to minor renovations)

- 10 points for new school building construction or a building-wide renovation
- 5 points for a school building addition

2. 5 points if the public school building has not had any building access modernization improvements as required under the Americans with Disabilities Act (ADA) of 1990.

3. Maximum of 15 points awarded if the building has major deficiencies

- 15 points awarded if the building needs Major renovation (has leaking roofs, structural deficiencies, cracked walls, cracked floors, deficient HVAC and electrical systems)
- 10 points awarded if the building needs Medium renovation (internal finishes, ceilings, deficient HVAC and electrical systems)
- 0 points if the building needs Light renovation (finishes and ceilings)

4. Maximum of 10 points if 74 percent or greater of the students in the school division are eligible for Free- or Reduced-price meals (including divisions participating in the USDA Community Eligibility Provision program)

- 10 points if 74 percent or greater of students are eligible for free- or reduced-price meals
- 7 points if 55 to less than 74 percent of students are eligible for free- or reduced-price meals
- 3 points if 40 to less than 55 percent of students are eligible for free- or reduced-price meals
- 0 points if less than 40 percent of students are eligible for free- or reduced-price meals

5. Maximum of 10 points for the school division Composite Index

- 10 points for Composite Index of 0.0000 - 0.2999
- 7 points for Composite Index of 0.3000 - 0.5999
- 3 points for Composite Index of 0.6000 - 0.8000

6. 5 points if the planned construction, addition, or renovation project is included in the school division's currently-approved Capital Improvement Plan (CIP). 0 points if not.

7. Maximum of 5 points for Commitment, if: (i) there is an agreement by the local governing body to maintain or increase the percentage of local revenues dedicated to public education throughout the duration of the financing proposed or already executed for the project; and (ii) if project design and site acquisition for the project has been fully or substantially completed prior to applying for grant funds under this program

- 5 points if both criteria i and ii above have been met
- 0 points if both criteria i and ii above have not been met

8. Maximum of 10 points for Locality Fiscal Stress Score

- 10 points for High fiscal stress of 103 or greater
- 7 points for Above Average fiscal stress of 100 to less than 103
- 3 points for Below Average fiscal stress of 96 to less than 100
- 0 points for Low fiscal stress of less than 96

9. Maximum of 10 points for the percentage of residents of the locality in which the school division is located with incomes at or below the federal poverty guidelines established by the U.S. Department of Health and Human Services

- 10 points for localities with greater than 14.2 percent of residents at or below federal poverty guidelines
- 5 points for localities with between 9 and 14.2 percent of residents at or below the federal poverty guidelines
- 0 points for localities with less than 9 percent of residents at or below the federal poverty guidelines

10. Maximum of 10 points for condition of other school buildings in the school division

- 10 points if other school division buildings are in Poor condition
- 5 points if other school division buildings are in Fair condition
- 0 points if other school buildings are in Good condition

11. Maximum of 10 points for Debt Capacity of the Locality (Debt Capacity for each locality expressed as a percentage based on Total Tax Supported Debt divided by the sum of Fair Market Value (FMV) of Taxable Real Estate + Assessed Value of Tangible Personal Property + Assessed Value of Public Service Corporations. Source: Ratio Measure 5 from JLARC's Monitoring for Local Government Fiscal Distress 2020 and 2021 Report - April 2022)

- 10 points for greater than 6 percent
- 5 points for between 3 and 6 percent
- 0 points for less than 3 percent

REPORTING

Item 137, Paragraph 43.d. of the Chapter 2 budget requires the Board of Education to submit an executive summary of the program, including details on projects funded each year and any necessary legislative or budget recommendations to improve the program, no later than December 1 of each year to the Chairs of the House Education Committee, Senate Education and Health Committee, House Appropriations Committee, and Senate Finance and Appropriations Committee. Department staff will assist with the development of this report.