



December 1, 2022

The Honorable Barry Knight  
Chair, House Appropriations Committee  
1852 Mill Landing Road  
Virginia Beach, VA 23457

The Honorable Janet Howell  
Chair, Senate Finance & Appropriations  
Committee  
P.O. Box 2608  
Reston, VA 20195

The Honorable Glenn Davis  
Chair, House Education Committee  
One Columbus Center #695  
Virginia Beach, VA 23462

The Honorable L.Louise Lucas  
Chair, Senate Education and Health  
Committee  
P.O. Box 700  
Portsmouth, VA 23705

Dear Madams and Sirs:

The 2022 Special Session I General Assembly created the School Construction Assistance Program in the 2022-2024 biennial budget signed by Governor Youngkin. The 2022 Appropriation Act includes \$450 million in fiscal year 2023 funding for the program to be transferred into the School Construction Fund for the Board of Education (Board) to award competitive grants to local school boards that demonstrate poor building conditions, commitment, and need in order to fund the construction, expansion, or modernization of public school buildings. Any unobligated balance for the program on June 30, 2023, will be reappropriated for expenditure in fiscal year 2024 for the same purpose. The Board is required to adopt guidelines to govern operation of the program.

The 2022 Appropriation Act language also requires the Board to submit to your committees by December 1 each year an executive summary of this program, including details on projects funded each year and any necessary legislative or budget recommendations to improve the program. This letter is intended to meet this reporting requirement.

At its meeting on November 17<sup>th</sup>, the Board adopted the *Guidelines for the School Construction Assistance Program*. A copy of the adopted guidelines is attached for your information.



December 1, 2022

Page Two

The adopted guidelines include various application requirements that must be met by school divisions applying for funds, as well as eleven competitive scoring criteria demonstrating poor building conditions, commitment, and need that will be used to evaluate school projects included in applications for grant funding. Funding applications can receive a maximum of 100 points on the scoring criteria and must score a minimum of 65 points to be considered for funding. Consistent with the appropriation act, grants will be awarded based on ranked project scores in the amounts of 10, 20, or 30 percent of qualifying project costs depending on the school division local composite index and the locality fiscal stress category. The Board also requested the final guidelines allow school divisions to submit applications for school projects in which construction began on or after July 1, 2022, the beginning of the current budget biennium; draft language for this provision is under review by the Office of Attorney General.

Virginia Department of Education staff are now in the process of completing the online application that school divisions will use to apply for grant funding, in order to open the application process in the coming weeks. The application process will be announced through a superintendent's memo to school divisions. The Department is also providing an overview of the adopted guidelines to the Commission on School Construction and Modernization at its December 1 meeting.

In closing, during the process of developing the guidelines, school divisions, localities, and statewide organizations provided public comment and proposed various changes to improve the program that the General Assembly may want to consider during the 2023 legislative session. Included in their recommendations are:

- Using multiple years of composite index and fiscal stress data in determining the 10, 20, or 30 percent grant award amounts in recognition of changing local economic conditions or anomalous/fluctuating data values from a single year. Or, using the most favorable of the latest or multi-year data. Currently, only the latest composite index values and fiscal stress designations are used in determining the grant amounts to divisions.
- Formalizing in appropriation act language that school projects in which construction began on or after July 1, 2022 are eligible for application submission, consistent with the interpretation made in the adopted guidelines.



December 1, 2022

Page Three

- Formalizing in appropriation act language that the principal portion of future debt service payments not yet begun on school projects where construction is pending or just begun is an allowable cost with grant funding.

On behalf of the Board, thank you for your continued support of this critical school facilities funding program and for your support of Virginia public education generally.

Sincerely,

A handwritten signature in cursive script that reads "Daniel A. Gecker".

Daniel A. Gecker  
President

Enclosure

c: The Honorable Jillian Balow, Superintendent of Public Instruction  
The Honorable Aimee Guidera, Secretary of Education



*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 or if available funding remains in the non-reverting School Construction Fund.

## 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 or when funds are available in the non-reverting School Construction Fund.

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

- 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.
- For purpose of this program, ~~the following~~ 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)~~ (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 or financing to cover the full cost projected for the project; and (iii) those projects for which construction has not yet started; ~~and (ii) all school construction, additions, or modernization/renovation projects approved by the local school board or local government and having an approved contract with a professional design consultant or the project has been bid for construction on or after July 1, 2021.~~
- 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
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4. For the purpose of this program, "project costs" include reasonable and allowable 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 annual 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 or renovation 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 from 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 grant amounts 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 eligible to receive a grant may not exceedis up to](#) \$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 program 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

Proposed public school construction or renovation 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 review, clarification, or verification 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.

Proposed public school construction or renovation 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 of 65 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 construction of a new school building or for a building-wide renovation (which maximizes useful life compared to minor renovations)**

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

**2. 5 points if the public school building being renovated or a building specifically being replaced by new construction 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 being renovated or a building specifically being replaced by new construction has major deficiencies**

- 15 points awarded if the building needs Major renovation (i.e., has leaking roofs, structural deficiencies, cracked walls, ~~cracked and~~ floors, deficient HVAC and electrical systems, etc.)
- 10 points awarded if the building needs Medium renovation (i.e., internal finishes, ceilings, deficient HVAC and electrical systems)
- 0 points if the building needs Light renovation (i.e., 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 division Composite Index of 0.0000 ~~to~~ 0.2999
- 7 points for division Composite Index of 0.3000 ~~to~~ 0.5999
- 3 points for division Composite Index of 0.6000 ~~to~~ 0.8000

**6. 5 points if the planned ~~or currently being implemented~~ construction, addition, or renovation project is included in the school division's or locality'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
  
- 10 points for a locality with a High fiscal stress ~~designation of 103 or greater~~
- 7 points for a locality with an Above Average fiscal stress ~~designation of 100 to less than 103~~
- 3 points for a locality with a Below Average fiscal stress ~~designation of 96 to less than 100~~
- 0 points for a locality with a Low fiscal stress ~~designation 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 the 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 the condition of most other school buildings in the school division (not including the building proposed for renovation, addition, or replacement)**

- 10 points if over half of the other school division buildings are in Poor condition
- 5 points if over half of the other school division buildings are in Fair condition
- 0 points if over half of the 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 the Auditor of Public Accounts' Monitoring for Local Government Fiscal Distress 2020 and 2021 Report — as of April 2022)

- 10 points for a percentage greater than 6 percent
- 5 points for a percentage between 3 and 6 percent
- 0 points for a percentage 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.