

## ***VI. Emergency Projects***

Per A.R.S. §41-1091 B: This substantive policy statement is advisory only. A substantive policy statement does not include internal procedural documents that only affect the internal procedures of the agency and does not impose additional requirements or penalties on regulated parties or include confidential information or rules made in accordance with the Arizona Administrative Procedure Act. If you believe that this substantive policy statement does impose additional requirements or penalties on regulated parties, you may petition the agency under A.R.S. §41-1033 for a review of the statement.

***Per A.R.S. §41-5721, school districts may be eligible for monies from the Emergency Deficiencies Correction Fund (“Emergency Fund”) when the school district can demonstrate that its situation meets the statutory definition of “emergency ” which is “a serious need for materials, services or construction or expenses that exceeds the school districts adopted budget for the current fiscal year and that seriously threatens the functioning of the school district, the preservation or protection of property or public health, welfare or safety.”***

### **A. Applications** (Modified August 1, 2018, March 2, 2022)

Per A.R.S. §41-5721, if a school district believes its circumstances meet the statutory definition of ‘emergency’, it may submit a request for monies from the Emergency Deficiencies Correction Fund. The request shall be on an application developed by Division of School Facilities staff that requests at least the following information:

#### Contact Information

1. District Name
2. Superintendent Name
3. Contact Person
4. Contact Number

#### Justification

5. Description of the problem
6. Any completed professional studies
7. Any citations or reports from government entities
8. Recommended solution
9. Estimated cost including backup documentation
10. Governing Board Resolution

#### Funding

11. Building renewal expenditures for the current fiscal year
12. Planned expenditures of building renewal funds for the balance of the current fiscal year
13. Current balance of unrestricted capital funds

14. Associated insurance coverage including why insurance cannot cover the expense
15. Prior year building renewal expenditure reports if they have not been submitted

If the school district is unable to provide the required information, the school district may submit an incomplete application and ask the Division of School Facilities staff for assistance in developing the information required. The application will not be considered complete until all required and necessary information is submitted. Division of School Facilities staff must receive complete applications at least 15 business days before the next Board meeting to be considered at that Board meeting, except if both Division of School Facilities staff and the superintendent of the school district deem the project critical. Applications received after that date will be held until the next Board meeting.

Before applying to the Division of School Facilities for funding, the school district governing board shall issue an emergency declaration or resolution to be eligible for monies from the Emergency Deficiencies Correction fund.

### **B. Executive Authority** (Modified April 1, 2020, March 2, 2022)

If the Division of School Facilities determines that the circumstances described by the school district in its application require professional evaluation to determine either the scope of the problem or potential solutions (pre-construction), the Division of School Facilities may authorize expenditures not to exceed \$175,000 for the required evaluation. If the Division of School Facilities authorizes an evaluation, the Division of School Facilities will present the application for approval at the next regularly scheduled Board meeting. If the Board votes to not authorize funding, the Division of School Facilities will not authorize any additional expenditures.

The Board may authorize additional investigation funds as necessary.

If the Division of School Facilities determines that an Emergency Deficiencies Correction request requires immediate action so that the school district can immediately begin to correct the emergency deficiency, the Division of School Facilities may authorize expenditures not to exceed \$300,000 for the required correction (construction). The Division of School Facilities will present the application for approval at the next regularly scheduled Board meeting. If the Board votes to not authorize funding, the Division of School Facilities will not authorize any additional expenditures.

The Board may authorize additional project funds as necessary.

District expenditures for investigations or corrections completed prior to the application submission are not eligible for reimbursement from the Division of School Facilities.

### **C. Funding** (Modified August 1, 2018, March 2, 2022)

Division of School Facilities staff shall establish a project number and account for the project. All project payments made directly to a contractor shall be recorded against the award in the

established account.

The school district shall submit requests for funding with appropriate invoices and supporting documents to receive awarded funds. If there are any unspent funds at the conclusion of the project, these funds shall be remitted to the Emergency Deficiencies Correction Fund.

#### **D. Unforeseen Conditions** (Adopted August 1, 2018, Modified March 2, 2022)

The District shall notify Division of School Facilities staff if any unforeseen conditions arise during project implementation. Division of School Facilities staff will direct the District on how to proceed. The District must submit a Change Order which includes the signature of the District Representative, Architect, and Builder prior to receiving written approval from Division of School Facilities staff to proceed. Any work associated with the Change Order will also indicate any changes to the contract value, contract schedule, or contract scope. No work shall proceed without a fully executed Change Order that includes Division of School Facilities staff signature. The Division of School Facilities staff shall approve or reject a change order within two business days.

#### **E. Change Orders** (Adopted August 1, 2018, Modified March 2, 2022)

Change orders are generated by an executed Field Order or Request for Change. Either may result in a Change Order which may affect the Scope of Work, Schedule and Cost, or a combination of the three.

The Change Order is initiated by the contractor, reviewed and certified by the design professional (if appropriate), accepted by the district, and approved by Division of School Facilities staff.

Pursuant to A.R.S. 41-5701.02.I.2, if a school district approves (if the District issues a purchase order or authorizes start the work) work referenced in a change order before the Division of School Facilities approves the change order, the school district is responsible for the cost and construction of the project ('The Project' is defined for the purposes of the Change Order as the work defined in the Change Order).

The Division of School Facilities staff shall approve or reject a change order within two business days. Business day is defined as the beginning of a full business day (business day starts at 8am).

Any unspent monies shall be returned to the fund, and monies spent without proper authorization from Division of School Facilities staff must be returned within thirty (30) days of being notified.

#### **F. Project Awards and Pre-Award Meetings** (Adopted August 1, 2018, Modified March 2, 2022)

Division of School Facilities staff will participate in a pre-award meeting to review with the responsive bidders and determine that all scope of work defined by the construction documents

are included and adhered to in the bid proposals. This is a condition that must be met prior to the release of funds.

Any award based on an estimate is subject to Division of School Facilities staff approval of the procurement process and award of the bid or quote as applicable prior to distribution of funds to the district.

**G. Insufficient Funds** (Modified March 2, 2022)

Based on the recommended solution and the estimated project cost, the Division of School Facilities may determine that there are insufficient funds in the Emergency Deficiencies Correction Fund to correct the approved emergency. Under those circumstances, the school district may correct the emergency pursuant to A.R.S. §15-907.