

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, May 10, 2023)

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 School Facilities Division (Division) 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 “emergency”
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 or Declaration stating that the circumstances meet the statutory definition of “emergency” in the Emergency Deficiencies Correction fund

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 staff for assistance in developing the information required. The application will not be considered complete until all required and necessary information is submitted. Division staff may need to conduct a site visit before making a determination.

B. Acknowledgment of Completed Application (Adopted May 10, 2023)

Division staff will notify the district of having received and reviewed a complete application. If the application is incomplete or needs additional information, Division staff will provide technical assistance to the district for a complete submittal.

C. Funding (Modified August 1, 2018, March 2, 2022, May 10, 2023)

Division 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 returned to the Emergency Deficiencies Correction Fund.

D. Unforeseen Conditions (Adopted August 1, 2018, Modified March 2, 2022, May 10, 2023)

The District shall notify Division staff if any unforeseen conditions arise during project implementation. Division staff will direct the District on how to proceed. The District must submit a Change Order as described below in Paragraph E.

E. Change Orders (Adopted August 1, 2018, Modified March 2, 2022, May 10, 2023)

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

F. Project Awards and Pre-Award Meetings (Adopted August 1, 2018, Modified March 2, 2022, May 10, 2023)

Division 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 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, May 10, 2023)

Based on the recommended solution and the estimated project cost, the Division 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.

H. Appealable Agency Action (Adopted May 10, 2023)

Appealable Agency Action Pursuant to A.R.S. 41-5702 subsection A.5.i and subsection P, Emergency Deficiencies Corrections requests are an appealable agency action.

Division Staff shall notify a school district in writing that the proposed project does not meet eligibility criteria. The written notification shall include documentation to support the staff's determination that the proposed project does not meet the eligibility criteria. The Division will send written notification to the school district after the final decision that the school district is not eligible. The school district may directly appeal the staff's determination of ineligibility to the director. The school district may directly appeal the director's determination of ineligibility to the board.

A school district may appeal the denial of a request for monies or any other appealable Division action pursuant to title 41, chapter 6, article 10. For the purposes of this subsection, "appealable agency action" has the same meaning prescribed in section 41-1092.