

**OHIO SCHOOL FACILITIES COMMISSION
FINANCIAL HARDSHIP LOAN PROGRAM GUIDELINES
December 2003**

Program Overview

- House Bill 94 of the 124th General Assembly amended Section 3318.042 of the Ohio Revised Code (ORC) to authorize the Ohio School Facilities Commission (Commission) to advance funds for a period of up to five years for qualifying school districts participating in the Classroom Facilities Assistance Program (CFAP) and the Exceptional Needs Program (ENP). This section was further amended in House Bill 95 of the 125th General Assembly to permit the Commission to extend the advancement period up to ten years. The advances are limited to projects experiencing an unanticipated increase in the total project cost as determined pursuant to Section 3318.083, ORC, the payment of which would result in “undue hardship” for the School District. Qualifying expenditures must be the result of additional costs to the School District to correct conditions resulting from the discovery of oversights or deficiencies in the initial assessment or plan and the necessary additional remodeling and/or additions, or changes in project infrastructure.
- Loans approved for the School District will be encumbered and held by the Commission until such time as they are needed to avoid interruption of work on the project.
- Hardship loans are to be considered as an option of last resort in providing all or a portion of the local share of an increase in total project cost. As a result eligibility for a hardship loan will only be considered when the increased School District share would reduce the year-end general fund balance in the current or next fiscal year to near, or below zero.
- The School District agrees to make the first payment to the Commission, equal to at least twenty percent of the original principal, not later than June 30th of the fiscal year immediately following the fiscal year in which an agreement between the School District and the Commission is reached.
- The School District also agrees to pay the Commission the remaining balance of the principal in annual increments of at least twenty percent of the principal within five years of the agreement between the School District and Commission. Consistent with a provision adopted in House Bill 95 of the 125th General Assembly, the period of the payback may be extended on a year-to-year basis by the Commission at the request of the School District if the criteria adopted by the Commission for the granting of such an extension are satisfied.
- A School District desiring an extension of the five year payback in any year must apply for the extension not earlier than 120 days nor later than 90 days prior to the due date of the payment for that fiscal year. Upon the receipt of an application for extension, the Commission finance staff in consultation with representatives of the

Ohio Department of Education Office of Finance Management Services will reevaluate the financial condition of the School District and determine if the payment of the twenty percent due in that fiscal year would still result in the School District meeting the definition of “undue hardship”. If so, the terms of the loan would be amended and loan extended by a period of one year and the amount due in that year’s payment reduced and a revised loan agreement and repayment would be issued. This extension process may be done annually with the maximum length of the extensions not exceeding ten years from the date of the original loan agreement between the Commission and the School District.

- Since the project is likely to be completed prior to the expiration of the agreement, the School District agrees to provide to the Commission as repayment of the advance, any local share amounts (excluding interest earnings) remaining in the Project Construction Fund at the close of the project. The amount of funds remaining that are returned to the Commission shall not exceed the outstanding principal of moneys advanced by the Commission. The Commission will deduct an equal amount from the last scheduled repayment(s). Furthermore, any balance of the advance held by the Commission at the completion of the project will be credited toward repayment and the amount of the last scheduled repayment(s) will be reduced accordingly.

Section 3318.042 of the Ohio Revised Code

Section 3318.042 (C) as amended in H.B. 95 directs the Commission to do the following:

“If the commission decides in favor of providing additional assistance to any school district under this section, the school district shall be responsible for paying for its portion of the cost of the additions, remodeling, or infrastructure changes pursuant to section 3318.083 of the Revised Code. If, after making a financial evaluation of the school district, the commission determines that the school district is unable without undue hardship, according to the guidelines adopted by the commission, to fund the school district portion of the increase, then the state and the school district shall enter into an agreement whereby the state shall pay the portion of the cost increase attributable to the school district which is determined to be in excess of any local resources available to the district and the district shall thereafter reimburse the state. The commission shall establish the district's schedule for reimbursing the state, which shall not extend beyond ten years. The commission may lengthen the reimbursement schedule of a school district that has entered into an agreement under this section prior to the effective date of this amendment as long as the total term of that schedule does not extend beyond ten years. Debt incurred under this section shall not be included in the calculation of the net indebtedness of the school district under section 133.06 of the Revised Code.”

Program Specifications

A. Eligibility – Undue Hardship Defined

In order to qualify for the additional local share of a budget increase would have to result in “undue hardship” for the School District. The Commission staff will use the following steps in determining eligibility and the amount of funding advanced and later reimbursed (the “Loan Amount”).

1. The Commission staff shall follow its regular process for determining whether to approve an increase in the budget of a CFAP or ENP project pursuant to Section 3318.083 ORC. The Commission staff determines whether the reason for the increase qualifies the School District for an advance of all or a portion of the increased local share under Section 3318.042, ORC (i.e., whether the increase is offered in order to correct conditions resulting from the discovery of oversights or deficiencies in the initial assessment or plan and the necessary additional remodeling and/or additions, or changes in project infrastructure).
2. If the reason for the increase in the total project cost qualifies under Section 3318.042, ORC the Commission staff next determines whether transferring the local share of the project budget increase would result in an “undue hardship” to the School District. First, the Commission finance staff in consultation with representatives of the Ohio Department of Education Office of Finance and Management Services will determine whether and to what extent School District funds, other than general funds, are available to offset all or a portion of the local share of the additional total project cost. These local funding alternatives are provided under Section 3318.084, ORC and in addition to unreserved general funds, include local donated funds, and/or funds available through an existing permanent improvement levy or School District income tax. After accounting for the offset available from the sources identified above, the Commission staff, in consultation with the School District, will calculate whether the burden of either a lump sum payment from the School District general fund or the annual amount of any revenues used to support additional debt or loan servicing would reduce the ending unreserved general fund balance of the School District to less than five percent of the estimated general fund revenue or \$150,000 (whichever is greater) for the current fiscal year, or to less than two percent or \$100,000 (whichever is greater) in next fiscal year. If so, such expenditures would result in an “undue hardship”. In conducting this calculation, the Commission will use fund balances as projected in the School District’s most recent five-year forecast required under Section 5705.391, ORC. The School District will also be required to submit to the Commission a version of the five-year forecast that depicts what would happen in the first two fiscal years if unrestricted and unreserved general funds were used to provide the additional local share of the total project cost.
3. Based on the information provided by the School District, the Commission staff will determine the Loan Amount (if applicable), which shall equal the amount over and above the amount that it is calculated would result in an “undue hardship” for the school district. For example, if the School District proportional share of additional total project cost is calculated at \$250,000 and the Commission staff determines after an analysis of the School District finances that the district, through its general funds and other applicable revenue sources identified above, could support up to \$150,000 without experiencing “undue hardship” the Commission and the School District could enter an agreement whereby the Commission would approve \$100,000 as the Loan Amount.

B. Documentation Provided by the School District

In order to be evaluated for consideration for assistance under this program, the School District must submit the following documentation to the Commission:

1. The most recent district five-year general fund forecast prepared and submitted to the Ohio Department of Education under Section 5705.391, ORC.
2. A scenario in the format of the five-year general fund forecast that illustrates the impact on the school district general fund of transferring from the general fund to the Project Construction Fund the additional local share of the total project cost identified in the Amendment to the Project Agreement, or that is anticipated to be in the Amendment.
3. An application form, signed by the superintendent and treasurer that includes a list of any alternative funding sources available to the School District that could be used to offset the amount that would have to be transferred from the general fund. The form will also include a statement from the School District treasurer that after accounting for such funding alternatives, the amount that the School District would have to transfer from the general fund would reduce the unreserved general fund balance to the point of meeting the definition of “undue hardship” identified above. This notarized statement should be supported by the calculations included in the version of the five-year forecast identified in documentation item B2 above.
4. A financial report by fund and special cost center of all funds maintained by the School District for the current and most recent fiscal year. At a minimum these financial reports should identify the fund, any special cost centers within the fund, restrictions on the use of moneys deposited in the fund, fiscal year to date receipts and expenditures, current fund balance, current encumbrances, and the unencumbered fund balance.

The above items must be presented to the Commission at least thirty days prior to the meeting at which the Commission will consider approval of a Loan Amount. The School District may be required to provide updated information to the Commission as the date of the Commission meeting nears. Since the amount of the project budget increase may not be finalized until just before the Commission meeting, the Loan Amount may not be known until then, even if the maximum local contribution is determined in advance.

C. Review and Approval of the Application

Once all required information and documentation is submitted by the School District, the finance staff of the Commission will perform a financial analysis to determine if the School District meets the definition of an “undue hardship” as a result of incurring the additional share of the total project cost. If so, the finance staff will then calculate the appropriate Loan Amount. The results and methodology applied in conducting the financial analysis will then be presented to the Executive Director who will then recommend approval or rejection by the Commission. In performing the financial analysis in order to determine if the School District meets the definition of “undue

hardship” as a result of incurring the additional share of the total project costs, the Commission finance staff may consult as necessary with representatives of the Ohio Department of Education Office of Finance and Management Services.

In the event that the Commission lacks the unencumbered capital appropriations necessary to support the full advancement of funds under this program, it may either approve a partial advancement of the funds or provide future priority for the designation of funds from the next available capital appropriations that are not already needed to provide continued funding for the state share of projects already in progress.

D. Reimbursement Agreement

If the Commission determines that the additional local share of the total project cost would result in the School District experiencing “undue hardship” the Commission and the School District may enter an agreement whereby the Commission would encumber the Loan Amount. Under the agreement, the School District agrees to reimburse the Commission the Loan Amount, without interest, over a period not to exceed five years. In the event that the Commission finds that repayment of any installment would result in the School District meeting the criteria of “undue hardship” in that year, the Commission shall extend the period of repayment on a year-to-year basis. The period of repayment may under no circumstance exceed ten years from the date of the original agreement.

The advancement of funds and any extension of the term of the loan shall be subject to the approval of, in the following order, the Executive Director, the Ohio School Facilities Commission, and the Ohio Controlling Board. The requests for approval of the Commission and Controlling Board of Loan Amounts will occur separately from the request for approval to provide additional assistance as a result of an increase in the total project cost.

E. Reimbursement of the Commission

The School District shall be responsible for reimbursing the Commission under the following terms and conditions:

- 1) The advance shall be interest free for a term not to exceed five years, but extendable to a maximum of ten years if at the request of the School District, a financial reevaluation determines that a repayment of the current installment would result in the School District meeting the criteria of “undue hardship” adopted by the Commission.

- 2) The first payment in the amount of twenty percent of the principal shall be made by the School District to the Commission not later than June 30th of the fiscal year immediately following the fiscal year in which the Commission and the School District reach an agreement on the Loan Amount. For example, if the Commission and the School District reach an agreement October 21, 2004, the first payment provided by the School District shall be made not later than June 30, 2006. Subsequent payments in the amount of twenty percent of the principal shall be due not later than June 30th of each fiscal year, with the number of annual payments not to exceed five, pursuant to Section 3318.042, ORC.

3) Unless an extension or exception has been granted by the Commission due to a repayment amount resulting in the School District meeting the “undue hardship” criteria, the amount of the first and subsequent payments made shall be for a sum of not less than twenty percent of the original principal.

4) Not earlier than 120 days nor later than 90 days prior to the due date for any payment, a School District desiring an extension beyond the original five year term of the loan shall submit to the Commission updated versions of the documentation identified in B2 above. If the Commission staff determines at that point that repaying the twenty percent payment due would still result in “undue hardship” for the School District, the School District would then pay an amount of at least ten percent of the original principal on the debt, with the term of the loan extended by one year and a revised loan agreement and repayment schedule would be issued. This process could continue each year until such time that the debt is retired, but may under no circumstance exceed a period of ten years from the date of the original loan agreement between the Commission and the School District.

5) Should a School District receiving an advance from the Commission reach an agreement designating it to be in Fiscal Caution, Fiscal Watch, or Fiscal Emergency, the Commission may work with the School District and if applicable the Financial Planning and Supervision Commission established under section 3316.05 of the Revised Code, in developing an alternative payment plan, subject to the maximum of ten years as set in law.

6) In the event a qualifying School District opts to retire the debt in a period of less than five years, it may do so.

Contact for Assistance

If you have questions regarding this program or application process please contact Lois Snyder, Deputy Chief of Finance, at (614) 995-4552.