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## ALTERNATIVE FACILITIES ASSISTANT PROGRAM GUIDELINES

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**Subject:** Program Guidelines  
**Approval:** Commission Resolution 17-03  
**Code Section/Reference:** ORC 3318.39  
**Owner:** Planning

**Policy Number:** PL-17  
**Originally Issued:** October 2017  
**Revised:**

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### APPLIES TO

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Alternative Facilities Assistance Program (aka the 1:1 School Facilities Option Program)

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*A program to allow eligible school districts (Districts) to receive limited State funds to make facility improvements in lieu of participating in the Classroom Facilities Assistance Program (CFAP) or Vocational Facilities Assistance Program (VFAP).*

### Program Overview

In H.B. 49 of the 132<sup>nd</sup> General Assembly, the legislature enacted Ohio Revised Code (ORC) Section 3318.39, establishing what it called the 1:1 School Facilities Option Program, which the Commission recognizes as the Alternative Facilities Assistance Program or AFAP. Under this program, the Commission provides a reduced portion of State funds to assist eligible Districts in constructing, acquiring, reconstructing, or making additions or repairs to any feature of a classroom facility that meets the design standards of the commission (Ohio School Design Manual or OSDM). The reduced amount is the greater of either \$1 million or 10% of the State share of what the District would have received had it participated in the Commission's CFAP or VFAP programs. Districts must match the State share on a one to one basis. Districts may elect to take less than the maximum available amount of reduced State share. Districts that elect to participate in AFAP will be ineligible to participate in CFAP or VFAP for 20 years. A District may participate in this program only at the time it otherwise becomes eligible for assistance in CFAP or VFAP.

Any project approved under this program shall comply with the Ohio Revised Code, any applicable OSDM requirements and Commission policies.

The program is comprised of five steps:

- A. Commission Outreach and Activation
- B. Active Planning
- C. Program Decision and Application
- D. Project Agreement / Project Definition / Funding
- E. Project Administration

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## **A. Commission Outreach and Activation**

Consistent with ORC 3318.39, a District may participate in AFAP only at the time it becomes eligible for assistance under CFAP or VFAP. An AFAP-eligible District is then required to proceed through the same assessment and planning as CFAP or VFAP.

For purposes of this program, an eligible District is either of the following:

- (1) A city, exempted village, or local school district that has not entered into an agreement for any program under ORC Chapter 3318, except for emergency assistance under ORC Section 3318.351 of the Revised Code, prior to the effective date of this section. A District that received partial assistance prior to May 20, 1997, and can qualify for assistance under division (B)(2) of ORC Section 3318.04 of the Revised Code shall not be eligible for assistance under this section.
- (2) A joint vocational school district that has not entered an agreement previously for any program under this chapter prior to the effective date of ORC Section 3318.39, September 28, 2017.

At the time a District becomes eligible to participate in either the CFAP or VFAP, the Commission will email an outreach notice to the District, which will include a link for the District to evaluate its AFAP eligibility. For an eligible District to proceed with AFAP, it must apply for an active planning process. To begin active planning, Districts are required to submit a Resolution of Intent to Enter an Active Planning Process adopted by the District's Board. The resolution must be adopted within 45 days from the Commission's outreach and must specify the following:

- The District's intent to enter an active planning process;
- The month and year of Commission meeting (which typically occurs quarterly) the District wishes to target for conditional approval; and
- The approximate date the District's Board intends to seek elector approval of any bond or tax measure, or the approximate date the District intends to apply other local resources to use to pay the cost of the classroom facilities improvements and/or construction. The Commission recommends planning for a schedule of 24 months to complete the assessment and master-planning phase. The process may take less time to complete, but the District should be aware that in no case will expenditures for construction contracts that were executed prior to the AFAP Project Agreement be considered for reimbursement under AFAP.

The Commission will review applications for eligibility and forward notification of receipt to each District. Eligible Districts will be contacted to begin the District-wide assessment and master plan development process.

## **B. Active Planning**

In the active planning phase, the following activities will occur.

### ***Condition Assessment***

The Commission will assess the District's classroom facilities pursuant to ORC Section 3318.02. Commission representatives will coordinate with District personnel to arrange for their facilities assessment. Priority for the assessment process will be based on the date that the District intends to seek elector approval of a bond or tax measure or to apply other resources to pay the cost of the proposed project, and when the Commission projects it will have available funds.

The Commission will coordinate the efforts of qualified design professionals (architects/engineers) to perform on-site evaluations of each of the District's existing classroom facilities. The on-site evaluations

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will adhere to assessment standards as defined by the Commission. The completed individual building assessments will be compiled into a single report that will be reviewed and discussed with the District prior to its finalization.

### ***Enrollment Projection***

Concurrent with the facilities assessment process, the Commission will coordinate with educational planning experts skilled in the development of student enrollment projections. These professionals will gather data necessary to project the District-wide student population, by grade level, by year, for ten years into the future. This information, along with the final assessment report will provide the foundation for master facilities plan discussions with the District.

### ***Master Facilities Plan (MFP)***

Using the information provided in the final assessment report and the enrollment projections, the Commission will work with the District to develop a master facilities plan (MFP). The MFP will define the total classroom facilities needs required to properly house all of the District's projected K-12 public school student population, and may include the renovation of existing facilities as well as additions to existing facilities and construction of new buildings. The MFP will reflect the "basic project cost" which is the total budget allowed for the implementation of the entire master plan.

The MFP will reflect the total gross area required and the total project budget for the construction/renovation of the classroom facilities. While the budget contains funds intended for basic site work associated with school construction, the Commission does not co-fund the purchase of, or preliminary preparation of, construction sites. If structures not previously owned by the District must be demolished, or if significant site clearing must be accomplished in order to make the site useable, the District will be responsible for 100% of such cost. Due consideration must be given to building sites during the master planning phase.

The Commission will then determine a basic project cost for the entire District-wide master facilities plan. A calculation of State and local shares of the basic project cost will be determined pursuant to ORC Section 3318.032.

## **C. Program Decision and Application**

At the end of the active planning phase, the District may proceed directly with the CFAP/VFAP process, or as an option, consider AFAP. If it chooses to consider AFAP, the District must develop an alternative project scope and budget consistent with the MFP, in conjunction with a design professional. With a CFAP/VFAP MFP and a fully developed AFAP option, the District would decide which program to pursue.

### ***AFAP Application***

If the District chooses AFAP, it must submit an AFAP application in a form prescribed by the Commission. In addition, the District must identify how it intends to fund the District's share of the proposed AFAP project and the date that such funds will be available.

Commission staff will review and verify that the proposed AFAP project scope, budget and funding plan are consistent with the scope and budget defined in the overall MFP or consistent with eligible work. Commission staff will notify the District if any changes are required.

After the AFAP project is verified by Commission staff and once state funds are available, the Commission staff will prepare a Notice of Conditional Approval. The District will then pass the Resolution to Participate in AFAP by not less than four-fifths of the District board's full membership. This resolution will acknowledge the MFP and budget, the AFAP project, budget, local and State share of the project, and

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confirmation of the District's understanding that it will remain ineligible for CFAP/VFAP for 20 years from the date the District enters into the project agreement with the Commission.

#### **D. AFAP Project Agreement**

Based upon the successful completion of the predecessor requirements, the District board and the Commission will enter into a project agreement (the AFAP Project Agreement) for the execution of the District's AFAP project.

The AFAP Project Agreement sets forth the requirements between the Commission and the District's Board for the AFAP project. The Project Agreement will include the following:

- Project scope and budget
- State/Local funding portions
- Reimbursement procedure
- Reporting requirements
- Contract administration requirements
- Appropriate use of State funded facilities
- State interest/cooperative use in the project
- Clawback provision
- General requirements

#### ***Eligible Work***

- Building scope defined in the approved MFP
- Renovation scope or building addition defined in or consistent with work in the approved MFP
- Technology infrastructure

#### ***Ineligible Work***

- Scope that would not result in a complete operable system
- Work on buildings not included in the approved MFP
- Work on buildings slated to be abated and demolished in the MFP
- Additional costs for material upgrades to building systems (for example roofing, flooring) not consistent with OSDM
- Addition facility space not supported by enrollment
- Items listed in OSDM as "Plan for"
- Items listed in the Parameters for Funding in the OSDM as Non-Eligible Use of Project Funds
- Improvements not having a useful life consistent with bond requirements, including maintenance and minor repairs
- Furniture when not part of eligible additional facility space

#### ***Funding***

A District eligible for AFAP may elect to receive a reduced State share in an amount the greater of either \$1 million or 10% of the State share of the District's basic project cost (for the District's entire facility's needs). The District must match the State share on a one-to-one basis. The District may elect to take less than the reduced State share. The State's portion of the project will occur as a reimbursement proportional to the overall project size.

A District may fund its share of the project through any legally permissible means.

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## **E. Project Administration**

### ***Project Initiation***

Once the AFAP Project Agreement has been executed, and the District has secured its portion of the required project funding, the District may begin the project.

### ***Local Administration and Project Delivery-Procurement***

AFAP projects are administered solely by the District. The design, bidding, construction contract award, construction management, construction claims management, and project closeout are the responsibility of the District. Although all projects associated with the AFAP Project require design documents prepared by a design professional licensed to practice in Ohio, the Commission is not a party to design professional contracts, construction contracts, construction manager at risk contracts, design-build contracts or other consultant contracts engaged by the District to facilitate their AFAP project. All projects associated with the co-fundable portion of the District's AFAP project are required to have the design bid documents prepared by a design professional licensed to practice in Ohio.

A reasonable fee structure for design professionals, construction managers, and partnering facilitation has been included in the development of the "basic project cost." The Commission will determine the amount of reimbursement associated with design, construction, and other consultant fees. The Commission reserves the right to review agreements and design documents.

Budget adjustments are permissible at the discretion of the Commission for projects in which the District has elected to receive less than the maximum state share. There is no mechanism for budget adjustments above the maximum state share for AFAP projects, and the District will be responsible for all budget overruns.

### ***Reimbursement Funding from the State***

Reimbursement from the Commission will only occur if construction cost expenditures for the classroom facilities have been approved by the Commission. By law, the State will not reimburse a District for any financing costs associated with acquiring funding for that construction. Reimbursement is allowed up to the estimated amount included in the AFAP project plan and further amplified in the District proposed scope of work. Reimbursement will occur quarterly unless otherwise mutually agreed to by the District and Commission, and will occur in proportion to the entire project size.

Payment by the Commission to the District shall be on a pro rata basis (in amount equal to a fraction of the invoice, with the numerator being the state share of the AFAP project, and the denominator being the total AFAP project budget including state and local shares) over the length of the construction of the AFAP project, unless otherwise approved by the Commission staff.

To seek reimbursement the District must demonstrate eligible work has been completed. Final payment will be made only after the District has demonstrated the project is operable and complete.

The Commission's funds are contingent upon the availability of lawful appropriations by the Ohio General Assembly. If the General Assembly fails at any time to continue funding for the Commission or its building assistance programs, including the payments and other obligations that will become due hereunder when the District becomes eligible for State building assistance under ORC Sections 3318.01 to 3318.20, the Commission's obligations are terminated as of the date that the funding expires without further obligation of the Commission.

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***Reporting Requirements***

Districts must submit documentation and financial reporting for AFAP project bidding and construction phases, as specified by the Commission, to allow for accurate calculation of reimbursement.

Upon request, Districts participating in AFAP must submit to the Commission conceptual plans, design development drawings, and statements of probable cost or cost estimates for each project during the project design phase to verify compliance with the OSDM.

***Project Closure***

Within six months of occupancy of a completed AFAP project, the District and the Commission will develop a project closeout report. The Project Closeout Report will reflect all expenditures made by the District. The report will reconcile the State and local share for the project.

***Right to Audit***

The Commission reserves the right to review and/or audit District financial records related to the Project.