

Capital Outlay Exception Projects

January 23, 2015

*Capital Outlay Exception Projects are defined as:

- *A project with a total cost of less than \$100,001
- *An emergency project
- *A project which, if bonded, would cause a small city district to exceed 95% of its debt limit

*Projects less than \$100,001

- * Voter approval required
 - * Transfer to Capital Fund (budget line item)
 - * Separate proposition
- * Facilities Planning approval required
 - * All normal submissions, approvals, bid requirements
- * Normal State Aid documents required
 - * SA-139, Final Cost Report
 - * Show projected expense on Line 136 & 137 in Form FB
 - * Expenditures must be reported in Schedule G3 for aid to be paid
- * **You MAY NOT use borrowed dollars to pay for Capital Outlay Exception Projects!!**

Form FB: Building Data

Form FB - Building Data 20xx-xx Claim Year		20xx-xx School Year SED File (Prior)		20xx-xx School Year EDP Form #10 (Actual)	20xx-xx School Year EDP Form #38 (Projected)
Part XI. Miscellaneous Data for Aid and Projections					
136. 20xx-xx Projected Total Capital Expense (not borrowed monies). In addition to budgetary appropriations, please include 20xx-xx Projected Expenses shown in item 137 (last column) and the non-borrowed projected EXCEL expenditures that will be transferred from the General Fund to the Capital Fund. Do not include non-borrowed projected EXCEL expenditures that will be recorded directly in the Capital Fund. Note: Entry 136 projection is used for estimated Non-Resident Tuition calculation.					
137. Of the Expenses reported in item 136 above, report only 20xx-xx Projected Capital Outlay Exception Expense for Emergency Projects, Projects less than \$100,001, or Small City Debt Limit Waiver.					

Schedule G3 - Capital Fund

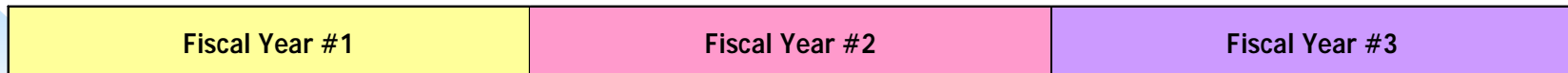
EXPENDITURES BY PROJECT					
Title			H522	H524	
			Current Funds (Bud Apps, EXCEL Other & Cap Res)	Obligations (Bonds, BAN's, Cap Notes)	Total Project (H522+H524)
15. Buses					
16. Non-aidable Projects					
17. Installment Purchase Contracts					
CAPITAL OUTLAY EXCEPTION AID (LINES 18-29)					
Project < \$100,001		Proj #			
for Capital Outlay Exception Aid					
18.					
Approved Small City Waiver					
for Capital Outlay Exception Aid					
19.					
Approved Emergency Projects					
for Capital Outlay Exception Aid					
20.					
21.					
22.					
23.					
24.					
25.					
26.					
27.					
28.					
29.					

***CAUTION!**

***You can only report ONE of these projects each year!!!**

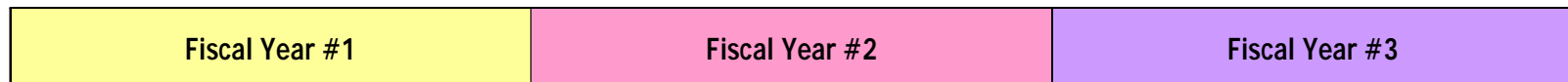
**One Building – One SED Project Number
< \$100,001 Project**

All Expenditures Within a Single Fiscal Year



One Building – One SED Project Number < \$100,001 Project

Expenditures Over Two Fiscal Years



**Two Buildings – Two SED Project Numbers
\$80,000 Project and \$70,000 Project
IN THE SAME FISCAL YEAR**

The State will only aid ONE project less than \$100,001 in a given fiscal year!

*Spend \$80,000
Building #1*

*Receive Aid on \$80,000
Building #1*

*Spend \$70,000
Building #2*

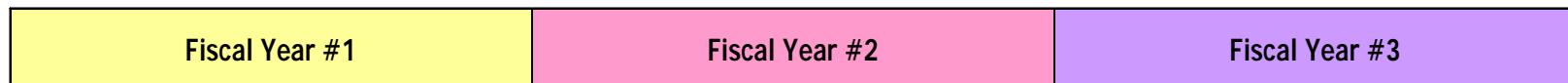
***NO AID**
Building #2*

Fiscal Year #1

Fiscal Year #2

Fiscal Year #3

**Two Buildings – Two SED Project Numbers
\$80,000 Project and \$70,000 Project
IN DIFFERENT FISCAL YEARS**



*Emergency
Projects -
CAUTION,
CAUTION,
CAUTION!!!!!!!



* *CALL FACILITIES PLANNING!*

- * The very first thing you need to do if you (or your architects) believe you have a construction emergency is contact your Project Manager.
- * What may seem like an emergency to the District may **NOT** fit the legal and regulatory definitions of an emergency!

* Authorization of an Emergency Project

- * Board resolution stating that an emergency exists and authorizing the use of general fund money to pay for necessary work (ordinary contingent expense)
- * No need to specify a dollar amount
- * Have your attorney draft the resolution!

*Process

- *No need to publicly bid the work
- *Do what is necessary to mitigate the immediate emergency, then
- *Submit plans & specs for review and approval by Fac Plan
- *These steps may happen in any order – look to your Project Manager for guidance throughout the process!

- *Reporting/Generating Aid
 - *File SA-139
 - *Report expenditures in Schedule G3
 - *File Final Cost Report
 - *You can report more than one emergency project in a single fiscal year (let's hope you do not *need* to!)

* “Local Emergency”

- * Some projects may be treated as an emergency, but will be aided under an assumed amortization
- * Authorize by board action only
- * Fund with General Fund money
- * This should not be the goal, but it has happened because there was not proper communication with Facilities Planning at the outset

*Small Cities Exception

*I have never seen one

*Never

*Not since this came into existence

*I swear..... 😊

Questions?

Thank you for inviting us!

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Facilities Planning

Emergencies – Capital Construction

The public emergency is defined by the General Municipal Law as an accident or other unforeseen occurrence or condition affecting public buildings, public property, or life, health, safety or property. The Local Finance Law defines an emergency as epidemic, conflagration, riot, storm, flood, earthquake or other unusual peril to the lives and property of citizens.

Various opinions of the State Comptroller lend further definition:

- The conditions must arise from an accident or other unforeseen occurrence or condition (opinion of the State Comptroller, 60-905).
- The condition must require immediate corrective action which cannot await execution of proper bidding procedures (opinion of the State Comptroller, 60-905).
- The condition cannot arise as the result of deterioration or dilatory action (opinion of the State Comptroller, 60-905, 78-780).
- The work associated with correction of the condition is to be limited to emergency repairs (opinion of the State Comptroller, 69-1073).
- A true emergency really only dispenses with the necessary to advertise bids, but in most instances, if not all, some sort of specifications will have to be prepared as to exactly what work is to be performed, or what materials or items or to be purchased and in such situations an emergency does not exist (opinion of the State Comptroller, 79-1073).

From the above, it is clear that the mitigation activities necessary to dispense with an emergency are needed immediately and are temporary in nature. They do not involve capital construction in the usual sense, and do not require approval of the Commissioner. Expenses incurred to mitigate the effects of an emergency are ordinary contingent expenses (opinion of Education Counsel, #213).

A recovery period begins immediately after the mitigation activities associated with the emergency and involves a preservation project to protect further loss or deterioration of the elements of a building to remedy the damages sustained during the emergency, and to return the building to useful condition. The preservation project is capital construction and must be properly planned, developed, authorized, and advanced the same way as any other capital construction. With the advice of the school attorney to assure meeting the tests of what is or is not an ordinary contingent expense, the Board of Education may determine that the costs associated with the preservation project are ordinary contingent expenses.

In no case does an emergency declaration empower a Board of Education to advance a capital construction project without proper authorization and prior approval of plans and specifications by the Commissioner. If work is done without benefit of plans and specifications which have been approved by the Commissioner, there is no building aid.

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NEW YORK STATE EDUCATION DEPARTMENT

State Aid

Building Aid On Capital Outlay Expenses For Certain Projects

Districts may receive reimbursement for base year capital outlay expenses for projects that are wholly funded through capital outlay and which fall into one of the following three categories:


- a. A project with a total cost of no more than \$100,000. A district may receive aid for a maximum of one such project in any aid year. A district may spend and report the capital expense for such a project over multiple years, and receive aid on the same project over multiple years; however, only one project per year can receive aid.
- b. A construction emergency project. A construction emergency project is a project that is necessary to provide immediate repairs in order to eliminate or mitigate hazards that threaten the health and/or safety of the building's occupants as a result of either the unanticipated discovery of hazardous substances such as asbestos, or significant damage caused by a fire, snow storm, ice storm, excessive rain, high winds, flood or a similar catastrophic event. Please note that while an emergency project may be carried out prior to receipt of Commissioner's approval, it must receive approval from the Office of Facilities Planning in order for expenditures to be eligible for State Aid.
- c. A project that if bonded, would cause a small city school district to exceed 95% of its constitutional debt limit.

The appropriate building aid ratio will be applied to reported expenses to determine aid. Capital outlay expenses for projects in these categories are not eligible for Reorganization Incentive Aid.

Claiming Building Aid on capital outlay expenses for certain projects

To claim aid for projects described in a or b above:

1. Contact the Office of Facilities Planning in writing to have a project designated by Facilities Planning staff as a project eligible for this aid. The Facilities Planning fax number is 518-486-5918;
2. Report the project code and 200W-0X expenses for eligible projects on the ST-3, Capital Fund Schedule G3 in items #18 (< \$100,001), #19 (small city waiver) and #20 through #29 (emergency). You may click the Help tab to view help text. Expenses reported on the ST-3 will not be aided if the Office of Facilities Planning does not flag the project as eligible.
3. Submit SA-139 form to Office of State Aid once General Construction contract has been signed.


To claim aid for a project that if bonded, would cause a small city school district to exceed 95% of its constitutional debt limit, contact the Building Aid Unit in the Office of State Aid at 518-474-2977 .

Projecting Building Aid on capital outlay expenses for certain projects

Please report anticipated 200X-0Y expenditures for projects in categories a, b and c above in items #136 and #137 on Form FB (Building and Misc.) of the 200X-0Y State Aid Management System (SAMS).

Notes on submission dates

- Approved project expenses reported by 11/1/0X will be processed and included in the database used by the Executive in the development of the 200X-0Y Executive Budget.
- Approved Expenses reported by 12/1/0X will be included in the file used to calculate 200X-0Y general aid payments from January 200Y through May 200Y. Expenses reported by 6/30/0Y, but later than 12/1/0X, will be included in the calculation of the June or September general aid payment, depending on when they are received.
- To receive 200X-0Y aid on 200W-0X capital outlay expenses for eligible projects described above, expenses must be reported to the State Aid Office no later than 6/30/0Y.
- 200X-0Y aid generated by expenses reported between 7/1/0Y and 6/30/0Z will be a prior year adjustment, payable as funds are made available.

Please feel free to contact Louise Gallerie in the Building Aid Unit of the State Aid Office (518-474-2977 ) with any questions regarding aid on or reporting of capital outlay expenses for projects in the categories described above.