

FAQs About State-Eligible Costs of Planning, Design, and FF&E

Updated June 16, 2022

A. PLANNING & DESIGN

1. Which types of planning and design costs are eligible for State participation in a given project?

The costs of items listed in COMAR 14.39.02.11 that are associated with the project, including the following:

- Planning: Consulting costs related to the project-specific educational specifications submission and, if necessary, the feasibility study submission; as well as to the development of required equipment specifications.
- Design: Architecture and engineering (A/E) services directly contracted by the LEA; consulting (commissioning agent, industrial hygienist, etc.) services; geotechnical surveys; third-party materials testing and inspections; and CMAR pre-construction services engaged prior to the start of the schematic phase of the design.

2. What is required to receive/submit for funding for design costs?

Completion of the Form 102 Request for Planning and/or Funding for Major School Construction Projects or the Form 102.1 Request for Capital Maintenance Funding. The forms will be updated for the FY 2024 CIP/BTL programs to include a field to select whether "Planning/Design/FF&E costs" are being requested.

3. Is the funding (up to a maximum of 10% of the construction cost estimate) for planning and design added to the total project cost on Form 102 or 102.1? Or does it reduce the project allocation for construction by the same amount?

The funding for planning and design is additional to the eligible construction cost, which is based upon the projected eligible enrollment and the GAB, just as the funding for site-development costs is additional. These costs add up into the total project cost on both forms.

4. Are the requirements for planning and design services to be eligible for State participation (regarding contracting, awarding to the responsible bidder who provides the best value, and MBE participation) the same as those for construction services?

Yes, the requirements for planning and design services to be eligible for State participation are the same. All school construction contracts receiving State funding, regardless of whether they are for planning and design, will need to follow the State's MBE process. It

should be noted that price should not be the primary determining factor for professional contracts.

- 5. Is procurement of A/E and CM services required to comply with the same COMAR requirements as construction procurement? Can these professional services be prequalified and then selected from qualified vendors without additional price proposals?**
Quality-based selection is governed by COMAR 14.39.03.04(B), 14.39.03.05, and 14.39.03.09. For questions related to a specific procurement, please provide detailed information to IAC staff. What is being described could also fall under 14.39.03.08 - Competitive Sealed Bidding - Multistep Sealed Bidding.

- 6. Should the Form 303.3 Construction Contract Award form be used for A/E and CM contracts?**

The IAC is in the process of evaluating the current form and may provide a revised form for A/E and CM contracts. For the time being, A/E and CM contracts should be submitted using the current Form 303.3 Construction Contract Award.

- 7. What documents are required with the submission of the Form 303.3 Construction Contract Award?**

As for all contracts, the IAC will need any solicitation documents (which should include reference to the project specific Ed specs) and price proposals for design contract review and approval.

- 8. If planning/design funding and construction funding are both being requested, will the Form 303.3 need to be submitted for each contract?**

Yes, each contract will require IAC approval.

- 9. What happens if the IAC does not approve the A/E and/or CM selected by the LEA?**

The IAC would likely only reject a contract if State procurement requirements were not met. We cannot envision at this time a situation that would require reduction of the overall allocation and do not anticipate this as a general matter of course. However, please note that even if funding is available for construction, the IAC will continue to base its participation in a project on eligible costs, including prorating for eligible square footage.

- 10. If design contracts are approved but the up-to-10% design-cost allocation is not used in its entirety, does the remaining amount of the allocation get reduced or go towards the construction-cost reimbursements?**

The estimated budget is set at a project level and will not be reduced; however, we would hope that design would not take 10% of the construction cost, as there are other eligible costs such as geotechnical surveys, planning professional services, etc.

11. Will there be a State-provided document confirming that the design-cost portion allocated is in concurrence with the LEA-submitted 102.1 form?

Funding allocated to a given project will generally be based upon the LEA's calculated 102.1 Form unless IAC staff identifies that one or more data entered are erroneous, incomplete, or not approvable due to ineligibility or other concerns. As always, IAC staff will communicate with the LEAs throughout the CIP process and the final worksheet (for major projects) and final allocations will be published in the May CIP publication.

12. Will design-cost allocations be available July 1 of the allocation fiscal year or after the construction contract bids (to determine the after-bid 10% design-cost allocation)? If the construction cost contracts come in under bid, will any spent design funds need to be returned if they exceed the initial estimated eligibility calculation?

Whatever allocation is approved by the IAC for the fiscal year will be available July 1 regardless of whether it is for design or construction. The up-to-10% is based upon the estimated construction cost and becomes part of the entire project budget, which will not be reevaluated based upon construction costs. When the LEA lets us know that they have executed all anticipated project contracts (usually at the time of construction-contract approval), we will revise the project allocation to meet the needs of the project and any remainder generally will revert to the LEA's reserved appropriation account.

13. What form should be used to request reimbursement for design costs?

The 306.2 Form Request for Reimbursement to LEA should be used to request payment of design costs.

B. FURNITURE, FIXTURES, & EQUIPMENT (FF&E)

1. Which types of furniture, fixtures, and equipment costs are eligible for State participation in a given project?

The costs of items listed in COMAR 14.39.02.11 that are associated with the project, including the following:

- Furnishings, fixtures, and equipment that are 1) dedicated permanently to use in that facility *and* 2) have a median useful life of at least 15 years from the date of purchase,
 - including furniture and other items used in the delivery of educational programs or services in that facility but
 - excluding the following:
 - Specific items of furniture, fixtures, and equipment that already exist elsewhere within the LEA's facilities and are available to be dedicated to the project;
 - Portable electronic equipment intended primarily for student use; and
 - Portable security-related equipment including those items that can be moved from location to location within the facility.