



Maryland  
Interagency Commission  
on School Construction

Wes Moore | Governor  
Edward J. Kasemeyer | Chair  
Alex Donahue | Executive Director

## Interagency Commission on School Construction Fiscal Year 2025 Capital Budget Response to Department of Legislative Services Analysis

Senate Budget and Taxation Committee  
Capital Budget Subcommittee  
Senator Craig J. Zucker, Chair  
Tuesday, February 27, 2024

House Appropriations Committee  
Capital Budget Subcommittee  
Delegate Mark S. Chang, Chair  
Monday, February 26, 2024

### Presenters:

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Thank you for your continuing support for public school construction in Maryland, and for the opportunity to report today on the capital budget for the Interagency Commission on School Construction (IAC). The Commission and their staff are tasked with a significant mission to achieve a safe, healthy, and educationally sufficient learning environment for every child attending a public school in Maryland.

The IAC has reviewed the draft budget analysis provided by the DLS analyst and concurs with the recommendations of Governor's allowance for PAYGO and approval of all general obligation bond and revenue bond authorizations.

Furthermore, we will respond to the analyst's questions, and will provide additional information that may be of interest to the members of the committee.

**Regarding the Enrollment Growth and Relocatable Classroom (EGRC) Program, the analysis states, "IAC should comment on why the program unexpended balance is over \$100 million and the intended distribution of fiscal 2025 regionally unallocated funds."**

Funding through the EGRC program is typically awarded to projects in combination with Capital Improvement Program (CIP) funds. To be eligible for State investment through most programs administered by the IAC, a Local Education Agency (LEA) is required to provide cash-flow schedules that demonstrate the funds will be able to be used expeditiously, usually within the next fiscal year. The majority of unawarded EGRC funds (approximately 64% of the \$25.9 million in unallocated FY 2024 and prior EGRC Funds) are allocated, pursuant to the allocation methodology in statute, to a

single LEA that has not had a sufficient number of eligible projects to fully utilize both their annual CIP target allocation and their annual EGRC allocation, with the remainder of unawarded EGRC funds split between LEAs. The IAC will award these funds to projects as soon as that LEA submits eligible project requests, and IAC staff are working to support the LEA in formulating such project requests.

There continues to be a great need for school-facilities improvements across the State that exceeds even the unprecedented levels of investment made in recent years. The unexpended balance of \$100 million is a result primarily of the typical lag between LEA project execution and IAC expenditures due to many LEAs opting for reimbursement (which generally is the most efficient method) rather than direct IAC payments to contractors and, secondarily, in some cases, the lag between higher levels of State funding becoming available and LEAs obtaining matching local funds and then planning, developing, and initiating projects to take advantage of the funding.

LEAs typically plan projects based on expectations of available out-year State and local funding. Because the recent increased levels of State funding were not anticipated by local jurisdictions, and many counties have not commensurately increased their capital funding to their LEAs, LEAs lack the local funding required to support increased levels of requests to the IAC. In addition, LEA staff capacity is limited and project planning generally takes years, making it difficult for LEAs to quickly ramp up project development and submissions to the IAC. These issues have combined to drive a slight delay in IAC expenditures against appropriations in the last few years. The IAC expects the rate of expenditure to increase in the coming year as these projects are fully developed and executed.

**Regarding the Healthy School Facility Fund (HSFF), the analysis states, "IAC should brief the committees on the processes that it has in place to ensure that all allocations are efficiently expended, including federal allocations which could expire if unspent by January 2025."**

Due to the competitive nature of HSFF grants and therefore the uncertainty of award, LEAs typically do not start the planning process for these projects until after the IAC awards funding. The planning, design, and procurement processes can take considerable time to implement. Then, once those activities are completed, the project may take a few months or more to complete. HSFF projects are often roof or HVAC replacement projects, which must be scheduled around school hours as a significant amount of the work must be done when the building is unoccupied. Due to the extensive nature of the work involved, many such projects must wait until the next summer after award to be started.

In addition, LEAs typically submit these types of systemic projects for funding on a reimbursement basis, meaning that the IAC does not pay out a reimbursement until the projects are completed and

closed out. It is very likely that there are considerable expenditures on these projects to date that will be submitted in the near future to the IAC for reimbursement. IAC staff meet with each LEA every 4 to 6 weeks and will continue working closely with the LEAs to ensure that HSFF projects are completed and reimbursed in a timely manner, both for HSFF projects funded with GO bonds, and for HVAC projects funded with ARPA funds. IAC staff will also prepare and distribute reports of unexpended HSFF projects quarterly until all funds are expended. If any funds are unable to be expended within the appropriate time frame depending on the source of funds, the IAC will rescind the awards and reallocate the funds to another shovel-ready project.

**Regarding the Revolving Loan Fund, the analysis states, “IAC should comment on the agency’s timeline for implementation of this program including regulations, guidance to applicants, loan applications, and disbursements.**

**Due to the delay in the implementation of the Revolving Loan Fund, DLS recommends two actions: (1) a reduction of \$10.0 million in fiscal 2025 in alignment with the Governor’s proposal to reduce the funds contingent on a provision in BRFA of 2024 (SB 362); and (2) a fiscal 2024 negative deficiency of \$20.0 million that would leave the fund with \$40 million appropriated in fiscal 2023 from which to make loans when the program regulations are finalized.”**

The IAC had an initial meeting with the State Treasurer’s Office and continues to work on the development of the School Construction Revolving Loan Fund program. There is significant interest in the program from the LEAs, especially smaller LEAs who cannot always generate sufficient funds for the local share of a large capital project within the project timeframe. However, the development of a loan program is significantly more complicated than development of the IAC’s typical grant programs, and the complexity of the task coupled with the IAC’s vacancies during this time period resulted in delays in implementing the program. Nonetheless, the IAC believes there are existing needs to utilize both prior allocated funds and the statutorily mandated funds for FY 2025. The IAC intends to complete a draft procedure with sufficient input from State stakeholders by summer 2024 in order to promulgate regulations and implement the program out-of-cycle during fall 2024 alongside the FY 2026 CIP application process, which initiates in October 2024.

Although the IAC believes there is a significant need for Revolving Loan Funds, we also recognize the delay in program development and needs of the State as a whole. The IAC can utilize the \$40 million remaining after the recommended reduction to launch the program and would request that additional funds be made available in subsequent years in order to sustain the program while awaiting the repayment of the initial loans. Because of the delay in program implementation, this reduction, so long as the funds are replaced in subsequent years, may be beneficial for program rollout in order to

achieve a steady stream of program funds until repayments begin to be made by LEAs. The IAC does not object to this recommendation.

**Regarding Unexpended Balances, the analysis states, "Because the CIP does not breakout unexpended balances by fiscal year and program prior to fiscal 2019, IAC should report this information. IAC should also comment on how the agency plans to spend outstanding balances for each program and whether any funds prior to fiscal 2016 would be eligible to be canceled or transferred to the Unreserved Statewide Contingency Account."**

The IAC allocates and awards the majority of available funds every year. When funds are not allocated or awarded, it is typically because projects have been canceled or some small amount of project funding was unused (such as when a project's eligible actual costs came in lower than its estimated costs) and so is reverted. When that happens, the IAC works to process payments in a manner that allows the oldest dollars to be used first, so that large balances do not remain as the reversion threshold approaches. The recent influx of substantial capital dollars coupled with the lag between when an LEA executes a project and when they may request reimbursement has contributed to those balances being larger than in previous years.

There may be some balances that are unencumbered, simply because until the last couple of years, the IAC did not attach specific funding sources to project allocations at the time of project award. Instead, the IAC kept its allocations within the total budget authorizations available, but attached funds and made payments to projects on a first-in, first-out basis. As a result, even if the funds are not specifically connected to a project in our internal accounting system, it is possible, and even likely, that project awards exist that will require utilization of those funds.

The IAC is undertaking a process to confirm balances against program allocations across all program years to determine what balances, if any, may not be attached to a specific project. In such cases, the IAC expects to transfer any remaining unattached balances for program funds appropriated prior to 2016 to the appropriate reserve account for award as soon as possible to appropriate projects. Due to the significant backlog of unaddressed project needs across the State, IAC staff are confident that any such funds can be applied to high-need projects and queued for expenditure. The IAC is working to gather the breakout data requested of prior year funds by fiscal year and program and will provide the information at a later date.

**Regarding Reserved Fund Appropriations, the analysis states, "IAC should comment on the following concerns regarding this report: (1) the balance for funds reserved for Statewide purposes and the intended use of those funds; (2) the reason that balances over seven years old have not**

**been returned to the Unreserved Statewide Contingency Account; and (3) the reason that a balance for the Unreserved Statewide Contingency Account is not reported.”**

- (1) Of the \$23.6M currently reserved for Statewide purposes, approximately \$21M are reserved for specific purposes such as EGRC or HSFF. The IAC will be working to apply these funds to eligible projects in the FY 2025 CIP. The remainder are funds that have reverted from LEA Reserve accounts and will be applied similarly in the FY 2025 CIP, with the exception of small balances that the IAC annually holds aside in its Relocatable Repair Fund and Emergency Repair Fund.
- (2) Because Ed. Art., §5-303(j)(3) requires the IAC to hold reverted funds for an LEA for two years in a reserve account for that LEA before they can be used for Statewide purposes, some funds can and do end up aging for up to four years before award to a project. Because this process can occur multiple times, thereby restarting the two-year clock, some appropriated funds may persist for a number of years in either the LEA or Statewide Reserve accounts. Due to the limitations of the IAC’s inherited legacy financial database, the fund source could not be tracked after reversion into a reserve account. The IAC is in the process of implementing a new Business Management System that will track all funds by fund source through expenditure even when reverted. The IAC is also working to develop a methodology to ensure the use of the oldest appropriated dollars first to pay for project expenditures.
- (3) While there may be differences in the terminology employed by different platforms used to track and report capital budget information, the most up-to-date information regarding the reserve balances for IAC programs can be found in the December 31, 2023 Quarterly Report on the Statewide Appropriations Account (MSAR #11521) which has been provided to DLS.