



Workforce Development Equipment and Facility Request for Proposals

I. Background and Purpose of the RFP

Purpose: To support education and skill training of students and/or incumbent workers to meet the current and future talent needs of emerging and high demand industries through investments in capital equipment and facilities. The proposed equipment purchases and facility improvements will directly impact the capacity and capability of the applicant(s) to serve students and regional businesses.

II. Eligibility

- 1. Lead Institution:** Any public institution of higher education with degree granting authority, including community colleges, universities or regional campuses. Institutions are strongly encouraged to partner with other institutions including Ohio Technical Centers to leverage resources and meet the diverse needs of Ohio workers and businesses, including opportunities for post-secondary and dual enrollment students.

The lead applicant is strongly encouraged to own the equipment/facility entity; at a minimum the lead applicant must provide evidence of a long-term lease (20 years) and compliance with all applicable laws, rules and regulations regarding the use of capital funds. Guidance regarding this requirement is found in Ohio Administrative Code (OAC) 3333-1-03 (E), attached as Appendix C.

- Institutions may not recover capital cost of the equipment through charges to businesses.
- No institution may submit more than two applications as a lead institution.
- Institutions may participate in a maximum of four proposals.

2. Requirements of Industry Partner and Cost-Share:

- Institutions must demonstrate an industry partnerships consisting of either one or more companies operating in Ohio that would use the equipment or an industry organization that demonstrates the need for the equipment and how it would be used for training and education.
- The proposals must expand an existing program or address an emerging job training need in the region. In each case, the applicant will provide qualitative data illustrating the necessity for the funds.
- Competitive proposals will demonstrate strong partnerships and leveraged funds. Evidence of partnerships and leveraged funds must be shown through letters of support. The most competitive proposals will provide higher percentages of leveraged funds and business participation.
- Proposals must consist of a partnership where businesses and the institution will be using the equipment to train and educate students and/or improve the skills and training of

incumbent workers. Applicants are preferred that partner with other post-secondary educational institutions including Ohio Technical Centers.

- Institutions are encouraged to demonstrate the ability to attract or create new businesses in Ohio through the use of the equipment.
- Institutions must award a certificate, credential or degree to any participating individual.

III. **Anticipated Awards**

The total of all grant awards will not exceed the total funding available and the Chancellor is not obligated to expend all of the dollars that have been set aside for this initiative.

1. **Total Funding Available:** \$2,916,811
2. **Range of Possible Awards:** Awards can range from \$25,000 to \$300,000.

IV. **Eligible Expenses**

Grant funds are to be expended for the purposes set forth in H.B. 482 of the 129th General Assembly and must be used for eligible capital expenses; see section XI for details of how funds may be used. Consideration will be given to the entire proposed budget, including other sources of funds.

V. **Project Term**

It is anticipated that the work covered by the RFP will begin April, 2014 and continue through June, 2015, with a final program and expense report due September, 2015. For those awards requiring time beyond the end of FY14, the Board of Regents will provide assistance to the campus during their reappropriation process. A desk and or site audit will occur prior to the final closeout of the grant. Performance reports will be submitted at the conclusion of the grant, September 2015.

VI. **Proposal Contact**

Any questions or concerns regard this RFP should be sent to:

John Magill
Assistant Deputy Chancellor, Economic Advancement
Phone: 614.752.9530
Email: jmagill@regents.state.oh.us

VII. **Proposal Review Process and Timeline**

Board of Regents staff will initially screen proposals for completeness. Any deficiencies must be addressed by the applicant within a time period set by the Chancellor's staff.

Accepted proposals will be evaluated by at least three reviewers using a scoring rubric (Appendix A) approved by the Chancellor. The Chancellor will make the final decision based upon the quality of the proposal in addressing the RFP and required elements. The schedule below may be revised by the Chancellor due to circumstances and any changes will be communicated to the applicants.

Request for Proposals Released	December 10, 2013
Bidders Conference for Interested Parties	January 10, 2014
Proposals Due by 12:00 p.m.	February 10, 2014
Proposal Review Period	February-March, 2014
Notification of Awarded Proposals	March 2014

VIII. How to Submit a Proposal

Applicants are responsible for timely submissions of proposals. Proposals become property of the Chancellor and are subject to public record laws of the state. Proposals containing all the required elements will receive careful consideration but cannot be guaranteed funding.

- Release of RFP (see details below)
- RFP Questions & Q&A Presentation RSVP Due (see details below)
- RFP Q&A Presentation (see details below)
- Additional information for applicants, if needed
- Proposals Due (see details below)

The Chancellor will provide an opportunity for potential applicants to seek assistance regarding their application through a structured conference call. Applicant questions are to be submitted in writing via email by January 8, 2014. The conference call is scheduled for January 10, 2014 with additional information to follow. Responses to questions will be posted online after the conference call to provide the information to interested parties.

Proposals must be received **no later than 12:00 p.m., February 10, 2014** and must be submitted in the following manner:

- One electronic PDF file sent electronically to jmagill@regents.state.oh.us.

Proposals must include the following elements:

- Maximum page length is 12 pages and must include the cover letter, an executive summary, project narrative, budget and timeline.
 - The cover letter should not exceed one page and must identify one primary contact person plus the fiscal agent by name, title, address, phone and email address.
 - The executive summary must not exceed one page in length.
 - Project narrative must contain detailed information about how the proposal meets the criteria set forth in the RFP and reporting outcomes and measurement of success. See section 1 below for additional information.
 - Project budget should document how the budget will be apportioned and prioritized, including any matching investments from industry or community partners.
 - Project timeline will include proposed activities and estimated timeline for completion including any data reporting.
- Arial Font - 10 point minimum, double spaced is allowed.
- Additional visuals or informational brochures should be limited to no more than two pages. Web and video links will not be reviewed.
- Letters of support, evidence of leveraged funds, documentation of partnerships and material on the location of equipment (leases etc.) do not count toward the page length.
 - Include signed letters of support from each of the partnering members.

1. Project Narrative:

Applicants are encouraged to develop the narrative in the order of the criteria. The strongest responses will identify industry demand and the ability to collect and share data. The institution's application should demonstrate market potential for the industry and the relevance of the equipment to the long-term growth and success of business in Ohio, particularly those targeted by JobsOhio, <http://jobs-ohio.com/industries>.

A preference will be given to Institutions deploying the equipment to support technologies and skills associated with emerging businesses arising within the JobsOhio targeted industries, <http://jobs-ohio.com/industries/>. Applicants are requested to provide the following information related to the proposed project: Jobs Ohio targeted industry; North American Industrial Code System (NAICS) for each participating business and Standard Occupational Codes for the positions to be trained.

Data Collection and Reporting

In preparing the narrative institutions may wish to consider the data that will be collected at the conclusion of the grant regarding the funded activities. These elements include the following some of which are part of the selection criteria:

- Number of workers trained with the equipment
- Economic outcome/benefit of the projects utilizing the equipment
- Number of grants and bids won by institutions and businesses as a result of the equipment
- Number of new job placements as a result of the equipment, and/or incumbent workers retained through training and education
- Total amount of leveraged funds
- Number of credentials/certificates/degrees received as result of the training or educational programming – reference Standard Occupational Codes (SOC)
- Average wage of trainees (incumbent workers)
- Number of trainees securing employment at training completion
- Wage at training completion
- Promotional opportunities for incumbent workers and trainees
- Demographic information
 - Male/female
 - Age range
 - Incumbent workers
 - Students
 - Student status

Note: The reporting template will be defined by the Ohio Board of Regents and shared with the institutions that are awarded funds for this purpose.

IX. Legal Notices

The applicant understands that if its application is accepted by the State, the applicant shall enter into an agreement with the State governing the use of the awarded funds. The applicant agrees to comply with all applicable federal, state and local laws in the conduct of the work hereunder.

The State reserves the right to fund any application in full or in part, to request additional information to assist in the review process, to require new applications from interested parties, to reject any or all applications responding to this announcement, or to re-issue the announcement if it is determined that it is in the best interest of the State of Ohio. Issuing this announcement does not bind the State to making any awards. The State reserves the right to adjust the dates for this announcement for whatever reasons are deemed appropriate. The State reserves the right to waive any non-substantive infractions made by an applicant, provided that the applicant cures such infraction upon request.

All costs incurred in preparation of an application shall be borne by the applicant. Application preparation costs are not recoverable under an award. The State of Ohio shall not contribute in any way to recovering the costs of application preparation.

The funding decisions are final. Applicants will be notified of the outcome of their application(s) at the conclusion of the review process.

The applicant understands that the information provided herein is intended solely to assist the applicant in submittal preparation. To the best of the State's knowledge, the information provided is accurate. However, the State does not warrant such accuracy, and any errors or omissions subsequently determined will not be construed as a basis for invalidating this solicitation. Interested parties bear the sole responsibility of obtaining the necessary information to submit a qualifying application. The State retains the right to modify or withdraw this solicitation at any time. By submitting an application, applicants expressly agree to these terms.

X. Trade Secrets

All Lead Applicants are strongly discouraged from including in a proposal any information that the Lead Applicant considers to be a "trade secret," as that term is defined in Section 1333.61(D) of the Ohio Revised Code. All information submitted in response to this RFP is public information unless a statutory exception exists that exempts it from public release under the Ohio Public Records Act in Section 149.43 of the Ohio Revised Code. The institution or business asserting trade secret bears the responsibility to take formal action if necessary and defend such assertion. Otherwise, public records laws may require disclosure.

If any information in the proposal is to be treated as a trade secret, the proposal must:

- a. Identify each and every occurrence of the information within the proposal with an asterisk before and after each line containing trade secret information and underline the trade secret information itself;
- b. Identify that the proposal contains trade secret information in the cover letter; and
- c. Include a summary page immediately after the cover letter that lists each page in the proposal that includes trade secret information and the number of occurrences of trade secret information on that page.
- d. To determine what qualifies as trade secret information, refer to the definition of "trade secret" in the Ohio Revised Code at 1333.61(D), which is reproduced below for reference:
(D) "Trade Secret" means information, including the whole or any portion or phase of any scientific or technical information, design, process, procedure, formula, pattern, compilation, program, device, method, technique or improvement, or any business information or plans, financial information, or listing of names, addresses, or telephone numbers that satisfies both of the following:
(1) It derives independent economic value, actual or potential, from not being generally known to, and not being readily ascertainable by proper means by, other persons who can obtain economic value from its disclosure or use.

(2) It is the subject of efforts that are reasonable under the circumstances to maintain its secrecy.

XI. Non-Disclosure Agreements

The Ohio Board of Regents requires non-disclosure agreements from all non-Board of Regents persons who may have access to proposals containing trade secret information, including evaluators.

XII. Capital Funds¹

Requirements set forth in HB 482 as passed by the 129th Ohio General Assembly and signed by Governor Kasich. See appendix B for extract from HB 482 the FY2013-FY2014 Capital Bill.

Capital funds awarded through this RFP may not be used for operating expenses of the Project. The pertinent sections of the Ohio Revised Code are found in Appendix B.

¹ Office of Budget and Management (OBM) policy requires that leases and Joint Use Agreement Covering equipment owned by non-profit entities needs to be 20 years.

APPENDIX A

CRITERIA SCORING SHEET

Applicant Information

Applicant Name: _____

Participating Higher Education Institutions: _____

Participating Businesses: _____

Project Assessment

Total Points: 100 points can be allocated to each project

(1) Significance to the Regional Economy	15 points
(2) Industry Demand	30 points
(3) Leveraged Resources from Employers, Business Associations and Education/Training Institutions	15 points
(4) Sustainability of the Investment	10 points
(5) Emerging Industries	10 points
(6) New Company Formation and Job Placement	10 points
(7) Institutional Collaboration	10 points
Grand Total	100 points

Note: The most competitive responses for each criteria will incorporate all the elements listed.

1. Significance to Regional Economy (15 points)

- a. Industry location quotient (LQ) is calculated based on its strength (8 points)
 - This will be calculated by BOR based on the U.S. Department of Labor data - 2011
 - 2 points if LQ is at least 1.0
 - 4 points if LQ is between 1.0 and 1.25
 - 8 points if the LQ is over 1.25
 - 0 points for LQs less than 1.0

- b. Equipment program justification describes with specifics how the equipment and funding benefits the region, and supports training and education (7 points)
 - 4 points – application describes the use of the equipment by industry (business) and the

institution

- 7 points - application describes specific uses of the equipment by industry (business), the institution for training and education, and how this activity will directly benefit the economic growth and increase workforce capacity of the region

2. Industry Demand (30 points)

Points are awarded based upon the applicant's ability to provide verification including letters of support from businesses demonstrating the industry's demand for requested training.

- a. Total current and forecasted employment for the JobsOhio industry category (or by individual NAICS code) (7 points)
 - 3 points if change in employment in the industry from 2013 to 2018 is a 1 to 2 percent positive change
 - 5 points if change in employment in the industry from 2013 to 2018 is a 2.1 to 6 percent positive change
 - 7 points if the change in employment in the industry from 2013 to 2018 is a 6.1 to 10+ positive percent change
- b. Forecasted new job placements that equipment purchase will impact within 24 months (10 points)
 - 3 points if the proposed equipment will prepare or attract 10 – 50 people for employment
 - 7 points if the proposed equipment will prepare or attract 51 – 100 people for employment
 - 10 points if the proposed equipment will prepare or attract 100+ people for employment
- c. Forecasted incumbent jobs to be retained through access to new training and education supported by the equipment (3 points)
 - 1 point if the proposed equipment will assist in retaining 10-50 people
 - 3 points if the proposed equipment will assist in retaining 51-100 people
- d. Proof of need and market demand for requested equipment purchase and training/education programs (10 points)
 - 5 points - how the equipment will be used, type of training /education services to be provided; who will use it; and where it will be housed
 - 10 points – proposal provides specific examples of integrated training/education curriculum connected to specific industries and skills, demonstrating who will use it and where it will be housed. Integrated training includes collaborations between OTC, community colleges and four-year institutions to offer pathways to career success

Note: If the equipment will not be housed/located on property owned by the institution of higher learning or the state the following documents **must** be submitted with the proposal:

- Copy of an executed long-term lease, minimum of 20 years that complies with the requirements of Ohio Revised Code 205.39.50, OAC 3333-1-03(E) and any other applicable laws, rules and regulations of the State of Ohio and/or as applicable
- A copy of an executed joint use agreement by all parties that complies with the requirements of Ohio Revised Code 205.39.50(c) and any other applicable laws, rules and regulations of the State of Ohio

3. Leveraged Resources (15 points) to Support the Deployment of the Equipment and Completion of the Proposed Project

Regionally leveraged resources; matching funds leveraged for the project and utilization of the equipment. This can include costs directly related to the equipment and facility and others such as specialized personnel, maintenance or marketing.

a. Leveraged Dollars (10 points)

- 3 points if 50-99% of the grant is leveraged with other funding
- 5 points if 100-199% of the grant is leveraged with other funding
- 10 points if 200% or more of the grant is leveraged with other funding

b. Private Business Contribution (5 points)

- 5 points if 50% or more of leveraged funding is provided by private businesses

4. Sustainability of the Investment (10 points)

Sustainability of the infrastructure, future upgrades of equipment and improvements to curriculum must be addressed. Demonstrate the ability of the proposed equipment purchase to increase productivity of the participating private businesses and other entities, and support training and education programs.

- 5 points – inclusion of three-year business plan summary for the proposed program
- 10 points – inclusion of the three-year business plan summary and identification of future customers, engagement with other educational institutions including OTCs, funding resources for necessary equipment upgrades and support for the initiative

5. Emerging Industries (10 points)

Justification addressing unique significance of equipment to an emerging industry impacting occupations of need and supply chain relationships in the region supporting the emerging industry.

- 5 points - supports the supply chain and complementary industries and companies
- 10 points - directly benefits an emerging industry and its employees through product development, product preparation and/or process improvements

6. New Company Formation and Job Placement (10 points)

Impact on the growth and attraction of new companies through entrepreneurship initiatives in the region.

- 5 points - Demonstrates a demand by entrepreneurs to use the equipment and facility for training and education
- 10 points – evidence of commercialization in the industry sector, business support services available for entrepreneurs using the equipment or facility for training and education, and possible job placements.

7. Institutional Collaboration (10 points)

- 5 points - participation of 2-3 OTCs, colleges and universities through student, faculty and financial engagement
- 10 points - participation of 4 or more OTCs, colleges and universities actively collaborating through student, faculty and financial engagement. The applicant is to demonstrate a continuum of services and opportunities for students including OTCs and community colleges and universities

APPENDIX B

Extract from HB 482

Section 205.39.20. For all of the foregoing appropriation items from the Higher Education Improvement Fund (Fund 7034) or the Higher Education Improvement Taxable Fund (Fund 7024) that require local funds to be contributed by any state-supported or state-assisted institution of higher education, the Board of Regents shall not recommend that any funds be released until the recipient institution demonstrates to the Board of Regents and the Office of Budget and Management that the local funds contribution requirement has been secured or satisfied. The local funds are in addition to the foregoing appropriations.

Section 205.39.30. The Ohio Public Facilities Commission is hereby authorized to issue and sell, in accordance with Section 2n of Article VIII, Ohio Constitution, and Chapter 151. and particularly sections 151.01 and 151.04 of the Revised Code, original obligations in an aggregate principal amount not to exceed \$415,000,000, in addition to the original issuance of obligations heretofore authorized by prior acts of the General Assembly. These authorized obligations shall be issued, subject to applicable constitutional and statutory limitations, to pay costs of capital facilities as defined in sections 151.01 and 151.04 of the Revised Code for state-supported and state-assisted institutions of higher education.

Section 205.39.40. None of the foregoing capital improvements appropriations for state-supported or state-assisted institutions of higher education shall be expended until the particular appropriation has been recommended for release by the Board of Regents and released by the Director of Budget and Management or the Controlling Board. Either the institution concerned, or the Board of Regents with the concurrence of the institution concerned, may initiate the request to the Director of Budget and Management or the Controlling Board for the release of the particular appropriations.

Section 205.39.50. (A) No capital improvement appropriations made in sections of this act prefixed with the section number "205" shall be released for planning or for improvement, renovation, construction, or acquisition of capital facilities if the institution of higher education or the state does not own the real property on which the capital facilities are or will be located. This restriction does not apply in any of the following circumstances:

- (1) The institution has a long-term (at least 20 years) lease of, or other interest (such as an easement) in, the real property.
- (2) The Board of Regents certifies to the Controlling Board that undue delay will occur if planning does not proceed while the property or property interest acquisition process continues. In this case, funds may be released upon approval of the Controlling Board to pay for planning through the development of schematic drawings only.
- (3) In the case of an appropriation for capital facilities that, because of their unique nature or location, will be owned or will be part of facilities owned by a separate nonprofit organization or public body and will be made available to the institution of higher education for its use, the nonprofit organization or public body either owns or has a long-term (at least 20 years) lease of the real property or other capital facility to be improved, renovated, constructed, or acquired and has entered into a joint or cooperative use agreement with the institution of higher education that meets the requirements of division (C) of this section.

(B) Any foregoing appropriations that require cooperation between a technical college and a branch campus of a university may be released by the Controlling Board upon recommendation by the Board of Regents that the facilities proposed by the institutions are:

- (1) The result of a joint planning effort by the university and the technical college, satisfactory to the Board of Regents;
- (2) Facilities that will meet the needs of the region in terms of technical and general education, taking into consideration the totality of facilities that will be available after the completion of the projects;
- (3) Planned to permit maximum joint use by the university and technical college of the totality of facilities that will be available upon their completion; and
- (4) To be located on or adjacent to the branch campus of the university.

(C) The Board of Regents shall adopt rules regarding the release of moneys from all the foregoing appropriations for capital facilities for all state-supported or state-assisted institutions of higher education. In the case of capital facilities referred to in division (A)(3) of this section, the joint or cooperative use agreements shall include, as a minimum, provisions that:

- (1) Specify the extent and nature of that joint or cooperative use, extending for not fewer than 20 years, with the value of such use or right to use to be, as is determined by the parties and approved by the Board of Regents, reasonably related to the amount of the appropriations;
- (2) Provide for pro rata reimbursement to the state should the arrangement for joint or cooperative use be terminated;
- (3) Provide that procedures to be followed during the capital improvement process will comply with appropriate applicable state statutes and rules, including the provisions of this act; and
- (4) Provide for payment or reimbursement to the institution of its administrative costs incurred as a result of the facilities project, not to exceed 1.5 per cent of the appropriated amount.

(D) Upon the recommendation of the Board of Regents, the Controlling Board may approve the transfer of appropriations for projects requiring cooperation between institutions from one institution to another institution with the approval of both institutions.

(E) Notwithstanding section 127.14 of the Revised Code, the Controlling Board, upon the recommendation of the Board of Regents, may transfer amounts appropriated to the Board of Regents to accounts of state-supported or state-assisted institutions created for that same purpose.

Section 205.39.60. The requirements of Chapters 123. and 153. of the Revised Code, with respect to the powers and duties of the Director of Administrative Services, and the requirements of section 127.16 of the Revised Code, with respect to the Controlling Board, do not apply to projects of community college districts, which include Cuyahoga Community College, Eastern Gateway Community College, Lakeland Community College, Lorain Community College, Rio Grande Community College, and Sinclair Community College; and technical college districts, which include Belmont Technical College, Central Ohio Technical College, Hocking Technical College, James Rhodes State College, Marion Technical College, Zane State College, North Central Technical College, and Stark Technical College.

Section 205.39.70. Those institutions locally administering capital improvement projects pursuant to section 3345.50 of the Revised Code may:

(A) Establish charges for recovering costs directly related to project administration as defined by the Director of Administrative Services. The Department of Administrative Services, in consultation with the Office of Budget and Management, shall review and approve these administrative charges when the charges are in excess of 1.5 per cent of the total construction budget, provided that total administrative charges paid by the state do not exceed four per cent of the state's contribution to the total construction budget.

(B) Seek reimbursement from state capital appropriations to the institution for the in-house design services performed by the institution for the capital projects. Acceptable charges are limited to design document preparation work that is done by the institution. These reimbursable design costs shall be shown as "A/E fees" within the project's budget that is submitted to the Controlling Board or the Director of Budget and Management as part of a request for release of funds. The reimbursement for in-house design shall not exceed seven per cent of the estimated construction cost.

SECTION 509.20. LIMITATION ON USE OF CAPITAL APPROPRIATIONS

The appropriations made in this act, excluding those made to the State Capital Improvement Fund (Fund 7038) and the State Capital Improvements Revolving Loan Fund (Fund 7040) for buildings or structures, including remodeling and renovations, are limited to:

- (A) Acquisition of real property or interests in real property;
- (B) Buildings and structures, which include construction, demolition, complete heating, lighting and lighting fixtures, all necessary utilities, and ventilating, plumbing, sprinkling, and sewer systems, when such systems are authorized or necessary;
- (C) Architectural, engineering, and professional services expenses directly related to the projects;
- (D) Machinery that is a part of structures at the time of initial acquisition or construction;
- (E) Acquisition, development, and deployment of new computer systems, including the redevelopment or integration of existing and new computer systems, but excluding regular or ongoing maintenance or support agreements;
- (F) Equipment that meets all the following criteria:
 - (1) The equipment is essential in bringing the facility up to its intended use;
 - (2) The unit cost of the equipment, and not the individual parts of a unit, is about \$100 or more;
 - (3) The equipment has a useful life of five years or more; and
 - (4) The equipment is necessary for the functioning of the particular facility or project.

Equipment shall not be paid for from these appropriations that is not an integral part of or directly related to the basic purpose or function of a project for which moneys are appropriated. This paragraph does not apply to appropriation items specifically for equipment.

SECTION 509.130. OBLIGATIONS ISSUED UNDER CHAPTER 151. OF THE REVISED CODE

The capital improvements for which appropriations are made in this act from the Higher Education Improvement Taxable Fund (Fund 7024), the Ohio Parks and Natural Resources Fund (Fund 7031), the School Building Program Assistance Fund (Fund 7032), the Higher Education Improvement Fund (Fund 7034), the State Capital Improvements Fund (Fund 7038), the Coal Research and Development Fund (Fund 7046), and the Clean Ohio Trail Fund (Fund 7061) are determined to be capital improvements and capital facilities for natural resources, a statewide system of common schools, state-supported and state-assisted institutions of higher education, and local subdivision capital improvement projects and are designated as capital facilities to which proceeds of obligations issued under Chapter 151. of the Revised Code are to be applied.

SECTION 518.30. TRANSFERS OF HIGHER EDUCATIONAL CAPITAL APPROPRIATIONS

The Director of Budget and Management may transfer appropriations between the Higher Education Improvement Fund and the Higher Education Improvement Taxable Fund as necessary to maintain the exclusion from the calculation of gross income for federal income taxation purposes under the "Internal Revenue Code of 1986," 100 Stat. 2085, 26 U.S.C. 1 et seq., with respect to obligations issued to fund projects appropriated from the Higher Education Improvement Fund.

The Director may also create new appropriation items within the Higher Education Improvement Taxable Fund and make transfers of appropriations to them for projects originally funded from appropriations made from the Higher Education Improvement Fund. The projects that are funded under new appropriation items created in this manner shall automatically be designated as specific for purposes of section 126.14 of the Revised Code.

Appendix C

3333-1-03 RELEASE OF FUNDS FROM APPROPRIATIONS FOR CAPITAL IMPROVEMENTS

(A) Authority

This rule is established by authority conferred upon the Ohio board of regents in the appropriation and reappropriation acts for capital improvements adopted by the general assembly as well as sections [3345.50](#) and [3345.51](#) of the Revised Code.

(B) Policy

The Ohio board of regents will recommend to the office of budget and management and controlling board the release of capital appropriations if it finds that:

- (1) The use of funds requested for release corresponds substantially to the use of funds described in a program plan which has been submitted to and approved by the chancellor of the board of regents; and
- (2) The institution stipulates that its request for release of funds meets the pertinent provisions of law, rules, regulations, and procedures which govern the implementation of capital improvements projects.
- (3) Where the improvement is locally administered, the institution is executing the authority for local administration of the project in accordance with either OAC 3333-1-24 or OAC 3333-1-28.

(C) Program plan

As a condition precedent to recommending the release of capital appropriations, a program plan for the project must be submitted to and approved by the chancellor, except when a bona fide emergency condition arises which makes the submission of a program plan impractical.

- (1) The form and content of a program plan shall be established by the chancellor; the form and content may vary, depending upon the relative complexity of a particular project.
- (2) Once a program plan has been approved, any significant modifications proposed must be submitted to and approved by the chancellor.
- (3) The following criteria, when applicable to a project, shall be used to evaluate a program plan:
 - (a) Expenditures must be for capital improvements.
 - (b) The project scope must meet the intent and purpose of the appropriation.
 - (c) The location and positioning of the project should be in accord with a campus master plan or, in the absence of a master plan, should harmonize with the existing campus environment.
 - (d) The size, capacity and arrangement of the project should meet projected enrollment and programmatic needs.
 - (e) Project design should provide maximum flexibility to meet future facility requirements.
 - (f) Project design should give priority to development or renovation which yields the maximum amount of usable or net assignable space and a minimum amount of unusable or nonassignable space.
 - (g) Project design must be such that the project can and will be completed, including necessary equipment and furnishings, and ready for full occupancy without exceeding appropriated funds; should the project budget exceed appropriated funds, the institution must either supplement funding from its own resources or revise the scale or scope of the project to bring the budget into balance with appropriated funding. Project design should take into account the potential need to eliminate or defer project elements by establishing alternate construction packages which may be accepted or rejected, based on budgetary constraints. If a program plan is approved containing elements which could lead to costs exceeding appropriated funds, such approval shall not imply that any additional state funding, either through transfers from other appropriations or from future appropriations, is or will be supported by the Ohio board of regents.
 - (h) Design must give priority to meeting applicable building and safety codes.
 - (i) Design should seek ways to minimize increases in operating costs or, if possible, reduce operating costs.
 - (j) Design should maximize energy efficiency to provide for energy resource conservation.
 - (k) If not already accessible, renovated and new facilities should meet the requirements of the Americans with Disabilities Act.

(D) Compliance with law, rules, regulations, procedures

The Ohio board of regents, as a condition precedent to recommending the release of capital appropriations, will monitor institutional requests for funding releases to determine whether it appears that the institution has substantially met requirements of laws, rules and regulations related to the administration of a capital facilities project. Such monitoring will be performed primarily to see that necessary steps have been taken which can facilitate and expedite action by the director of budget and management and the controlling board in releasing the requested funds. Should it appear that provisions of a law or rule may not have been met, the Ohio board of regents will advise the institution. In addition, the Ohio board of regents shall monitor the applicable projects in accordance with the provisions of OAC 3333-1-30 pursuant to section [3345.51\(D\)](#) of the Revised Code.

Monitoring will include, but not be limited to, applicable provisions of the capital appropriations or reappropriations acts and the Ohio Revised Code, and rules or procedures pertaining to capital improvements projects established by the Ohio public financing commission, controlling board, office of budget and management, and the department of administrative services, general services division.

(E) Capital projects - facilities not owned by state or institution

Prior to recommending release of capital funds to institutions for facilities which, because of their unique nature or location, will be owned or will be part of facilities owned by a separate nonprofit organization or public body, the institution shall submit and the board of regents shall approve a joint use agreement which shall include provisions that:

- (1) Specify the extent and nature of the space to which the institution is to be granted rights for use in its educational programs and the terms and conditions governing such use.
- (2) Specify that the term of the agreement shall be for at least fifteen years.
- (3) Provide for reimbursement to the state should the institution's right to use the facility be terminated by the nonprofit organization or public body prior to the expiration of the fifteen-year term, which reimbursement shall be calculated by dividing the funds contributed by the state of Ohio by fifteen and multiplying that sum by fifteen less the number of full years the facility is utilized by the institution.
- (4) Provide that the nonprofit organization or public body comply with all pertinent federal, state and local laws as well as state administrative regulations.
- (5) Specify that funds shall be used only for capital improvements as defined in the bill appropriating such funds.
- (6) Identify the facility to be constructed, renovated or improved.
- (7) Identify the ownership of the facility or the basic terms of the leasehold by the nonprofit corporation or public body.
- (8) Specify that the nonprofit corporation or public body shall hold the institution harmless from all liability for the construction, operation and maintenance costs of the facility.
- (9) Require the nonprofit corporation or public body to follow competitive bidding procedures which include, as a minimum, publishing advertisements to seek bids, receiving sealed bids, and awarding contracts to the lowest responsive and responsible bidders.
- (10) Provide for reimbursement to the institution for administrative costs incurred as a result of the project, which sum shall equal one and one-half per cent of the appropriated amount.
- (11) Provide that amendments to the agreement shall require approval by the Ohio board of regents.

Effective: 06/11/2007

R.C. [119.032](#) review dates: 06/08/2006 and 06/11/2012

Promulgated Under: [119.03](#)

Statutory Authority: [3333.04](#)

Rule Amplifies: [3345.50](#), [3345.51](#)

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