

May 1, 2009

American Reinvestment & Recovery Act  
Overview of Funding to Pennsylvania School Districts  
Frequently Asked Questions

**School Construction, Modernization/Renovation and Repair**

**Constr. Q.1. Which Recovery Act funds may be used for construction, modernization, renovation and repair?**

Each funding stream has its own rules:

- State Fiscal Stabilization Fund (SFSF) Increase to BEF: Under the governor's proposal, only the unrestricted part of these funds up to 4.1% of the increase may be used for construction, modernization, renovation and repair.
- SFSF grants: All of this funding stream may be used for construction, modernization, renovation and repair including new construction.
- IDEA Part B: These funds are subject to the regulations governing non-Recovery Act IDEA Part B funds. Such funds may NOT be used for construction, modernization, renovation and repair without the approval of the Secretary of USDE except for certain temporary facility fixtures and equipment that are not permanent construction such as chairlifts that are removable, room dividers/separators that are not permanent fixtures and removable ramps. Approval for these expenditures must be obtained prior to expenditure through the PDE Bureau of Special Education.
- Title I: These funds are subject to the regulations governing non-Recovery Act Title I funds. They may NOT be used for construction, modernization, renovation and repair.

**Constr. Q.2. For the funding streams which allow for construction, modernization, renovation and repair of school facilities, are there any specific restrictions?**

Yes. Recovery Act funds may NOT be used for:

- (a) stadiums or other facilities primarily used for athletic contests or exhibitions or other events for which admission is charged to the general public;
- (b) improvement of stand-alone facilities whose purpose is not the education of children, including central office administration or operations or logistical support facilities; and
- (c) school modernization, renovation, or repair that is inconsistent with state law.

**Constr. Q.3. What is meant by “modernization, renovation and repair?”**

The term “modernization, renovation and repair” includes altering, remodeling, repairing, or retrofitting an existing facility. Depending on the nature of the project, permissible activities might involve work related to electrical, plumbing, and sewage systems; heating, ventilation or air conditioning systems; the installation of energy-efficient windows; the repair or replacement of roofs; asbestos abatement or removal; bringing facilities into compliance with fire and safety codes; making facilities accessible; or upgrading facilities to support new programs or services.

**Constr. Q.4. Are there any green requirements for construction, modernization, renovation and repair projects undertaken with Recovery Act funds?**

No, though USDE guidance strongly encourages entities to engage in modernization, renovation, and repairs that are consistent with a recognized green-building rating.

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**Constr. Q.5. What assistance or support is available to school districts in spending Recovery Act funds on construction, modernization, renovation and repair in a green manner?** State law authorizes all commonwealth governmental entities to enter into contracts with Energy Service Companies (ESCOs). ESCOs make investments in schools to reduce energy usage and associated costs. These savings are used to pay back the ESCO over a maximum 15-year term. ESCOs guarantee each year's repayment obligation.

**Constr. Q. 6. Is it necessary to complete an energy audit before using Recovery Act funds for construction, modernization, renovation and repair?**

While it is strongly encouraged, this is not a requirement.

**Constr. Q. 7. If a district is planning to close old facilities and construct new ones, can Recovery Act funds be used to help pay for construction costs?**

State Fiscal Stabilization Funds (SFSF) may be used for construction contracts executed after Pennsylvania's SFSF award date of April 9, 2009.

**Constr. Q. 8. Can Recovery Act SFSF funds be used for construction, modernization, renovation and repair of a Career and Technology Center (CTC) facility?**

Yes, though CTCs will not receive SFSF allocations. CTC projects would need to be funded with SFSF dollars from member school districts.

**Constr. Q. 9. Can auditoriums used by students be renovated?**

Recovery Act SFSF dollars may be used to renovate an auditorium, so long as this space is not used primarily for events for which admission is charged to the public.

**Constr. Q. 10. Can funds be used to add/build an alternative education classroom?**

Recovery Act SFSF can be used to add an alternative education classroom onto an existing school building.

**Constr. Q. 11. Can funds be used for security systems?**

Recovery Act SFSF can be used to fund installation of security systems in school buildings only.

**Constr. Q. 12. Is the installation of new elevators eligible?**

Recovery Act SFSF can be used to fund the installation of new elevators in school buildings only.

**Const. Q. 13. Can SFSF be used for the rehabilitation of an existing school building to permit the relocation of district administration?**

No, Recovery Act SFSF cannot be used to fund a project to modernize, renovate or repair a former school building for use as a district administration office.

**Constr. Q. 14. How will the use of Recovery Act funds for construction, modernization, renovation and repair work with PlanCon?**

Recovery Act SFSF can be used to fund, in whole or in part, a PlanCon project on an existing elementary, middle or secondary school building or construction of a new school. Renovation or new construction of a stand-alone district administration office is not permitted.

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Recovery Act SFSF can be used for PlanCon projects so long as construction contracts are executed after Pennsylvania's SFSF award date of April 9, 2009.

PDE has developed an accelerated review process for PlanCon projects partially funded by Recovery Act SFSF. Please refer to the Pennsylvania School District Guide to the Federal Stimulus Education Investments for additional information.

**Constr. Q. 15. Does a district need to have a district-wide facility study completed before submitting a PlanCon project partially funded with Recovery Act funds?**

For PlanCon projects partially funded with Recovery Act dollars, PDE will approve, if necessary, a mandate waiver of the requirement for a district-wide facility study. As per 22 Pa. Code § 21.24, the Department will not approve a project for which the need has not been substantiated. Substantiation of need must be based on an educational long-range plan with information on existing facilities, their condition, capacities and adequacy for present and planned use.

Under the accelerated review process, a district can apply for and receive a mandate waiver of this requirement. If a district chooses to apply for this mandate waiver, PDE approval must be obtained before submitting PlanCon Part A for a project.

**Constr. Q. 16. Will any of PlanCon's requirements be waivable if Recovery Act funds are used for the project?**

For PlanCon projects partially funded with stimulus dollars, PDE will approve, if necessary, a mandate waiver of the requirement to obtain other agency approvals prior to contract signing. As per 22 Pa. Code § 21.81, the Department can only approve final plans if and when those plans conform to the requirements of other governmental agencies. With PlanCon Part F (construction documents), the district certifies that all necessary approvals from local, regional, and state agencies relating to health, safety, design, planning, highway access, and freedom from flooding and subsidence have been or will be obtained prior to executing construction contracts.

Under the accelerated review process, a district can apply for and receive a mandate waiver of this requirement. If a district chooses to apply for this mandate waiver, PDE approval must be obtained prior to executing construction contracts for the PlanCon project.

**Constr. Q. 17. How will the use of SFSF to replace windows in a building affect a project's reimbursement through the PlanCon process?**

Due to the size and complexity of PlanCon projects, state reimbursement for many projects is capped by the formula amount set in law. Using Recovery Act funds to replace windows on a building before going through the PlanCon process should not reduce the state reimbursement for a project. However, since the commonwealth shares proportionately in the debt service for a project, the state funds received for a PlanCon project will be proportionately reduced if less money is borrowed.

Districts are advised to consult with their project architects and financial advisers in estimating the fiscal impact of using SFSF to partially fund any PlanCon project.

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**Constr. Q. 18. May a district substitute SFSF dollars for local funds already budgeted for a school construction project?**

The Recovery Act does not prohibit substituting SFSF for local funds budgeted to pay for a school construction project. Districts can replenish local accounts with ARRA/SFSF dollars so long as such accounting transfers are permitted. Districts will be required to submit detailed reports on these transfers.

**Constr. Q. 19. Do any special requirements apply to renovating a school building with Recovery Act SFSF?**

Section 106 of the National Historic Preservation Act of 1966 requires agencies undertaking federally-funded school construction projects to take into account the impact of those projects on historic properties. The Section 106 review process is outlined in federal regulations at 36 CFR Part 800.

According to the Pennsylvania Historical and Museum Commission (PHMC), the Section 106 process should be initiated for school renovation projects in the following circumstances:

1. The property or building involved is on the National Register of Historic Places.
2. The property or building involved should be evaluated or surveyed for placement on the National Register. The PHMC advises that most public school buildings that are more than 50 years old should be evaluated for placement on the Register.

If the school building involved is not on the National Register and was built in the last 50 years, the Section 106 process still may need to be initiated if a project is financed with Recovery Act SFSF funds. For further information, please contact PHMC at (717) 705-4035.

**Constr. Q. 20. Are there any wage requirements associated with the use of ARRA funds?**

Yes. USDE has advised that any laborers and mechanics employed by contractors or subcontractors on construction, modernization, renovation, or repair projects assisted in whole or in part with ARRA funds must be paid in accordance with the prevailing wage requirements as determined by the Secretary of Labor in accordance with subchapter IV of chapter 31 of Title 40 of the United States Code (commonly called "Davis-Bacon and related acts"). (See also 20 U.S.C. 1232b Labor Standards and Section 1606 of the ARRA.) Contracts must include language that acknowledges that all contractors or subcontractors must pay laborers and mechanics employed under the contract no less than the locally prevailing wages for corresponding work on similar projects in the area. The Davis-Bacon Act directs the U.S. Department of Labor (DOL) to determine such locally prevailing wage rates.