

Ohio Facilities Construction Commission (OFCC) funding report

11/18/19

Mark Donnelly – Executive Director, BAC

Introduction:

In 2000, the roof of the East High School gymnasium collapsed. This event was the genesis of a conversation regarding the overall condition of CMSD facilities, the safety issues, and the need for a master plan to address the aging fleet of buildings. At that time CMSD had 110 school buildings and several support facilities throughout the city of Cleveland. This was going to be a massive undertaking and CMSD needed a partner that would focus on the educational needs of the students. They contacted the Ohio School Facilities Commission (OSFC) and asked for an assessment. Not only did the OSFC offer professional assistance, they would provide financial help as well.

The OSFC sent in a team to help the District create their master facilities plan. They walked through each school building and determined construction costs to build a new facility or to renovate the current facility based on established criteria. The OSFC reviewed the statewide equity rank list and came up with a percentage of matching dollars the state would provide (68%) as required under Ohio Revised Code 3318.01 – 3318.20. They also reviewed enrollment data to determine the correct size of each building and the appropriate number of school buildings. As in CMSD's case, the plan was so large they split the construction into several segments to make the process more manageable. Prior to each segment the state allows for updates to the master plan for segment enrollment data, construction costs, and the assessment of the condition of the facilities. This process allows the OSFC and the District to jointly review the needs of the District and make an informed decision for the next segment of construction and renovation projects.

There have been challenges, however segments 1 through 5 have gone very well for the majority of projects. The reconstruction of the District was moving forward. From 2002 through 2013, as costs increased due to market conditions, the OFCC approved many budget increases once all other cost reduction options were exhausted. However, during segment 5 the costs for Max Hayes Career Technical School and for Cleveland School for the Arts created over \$10 million in LFI (Locally Funded Initiatives) costs which are not matched by the state. It appeared as though the state has penalized the District for building something other than a comprehensive high school.

CMSD has reported segments 6 and 7 costs were capped at the segment 5 cost per square foot level. After 10 years of working together, the funding cap appeared to have changed the cost sharing structure that had been established in 2002 and now there are several questions that need to be addressed. Why did the State cap the costs? Were there other factors that created this situation? Did CMSD add extra features to the building designs that created the increase in LFI costs in segment 5? Why do comprehensive education programs get full approval when career technical education and arts education program costs appear to get pushed to the LFI category? What is the financial impact of this policy change in OFCC funding? Can the OFCC legally change the rules in the middle of the process when both parties signed the Project Agreement?

This BAC report will provide some data and background information that may shed some light on the circumstances that led to the current situation and if CMSD could have done more to address these issues in advance.

OFCC

The Ohio Facilities Construction Commission (OFCC) was formed when the Ohio Schools Facilities Commission (OSFC) merged with the State Architect's Office in 2011. Both entities were established in Ohio Revised Code for the purpose of providing necessary guidance and aid to K-12 schools. Eventually all state agencies facility assistance would fall under the OFCC. Under ORC 3318.01 to 3318.20, the law spells out how the funding is to be distributed and how to calculate the equity ranking of each District. This equity ranking will determine the order by which each District will become eligible for matching funds as well as the percentage to be contributed by the state. Once determined, the equity rank and state matching percentage must remain at the same level throughout the project. This rule has created much discussion due to changes in economic factors over the past 20 years and the impact to CMSD's ability to raise funds, however that item will have to be delayed for a future BAC report. Hopefully as the OFCC moves to completely rework the OSDM square foot Cost Set in the spring of 2020, this issue will be addressed.

Project Agreements / Amendments

In the standard OFCC project agreement under section V. – State Share of Project Costs, part B; the agreement specifically states "...the Project has priority for state funds over Projects

for which initial state funding is sought.” In addition, on exhibit A of the project agreement, the state share percentage and dollar amount is specifically stated along with the CMSD local share percentage and dollar amount. The state committed to CMSD in 2002 to contribute 68% of the projected costs, which would be \$1,024,331,841.00 of the estimated \$1,506,370,354.

One of the key terms that tends to go unnoticed is that the matching funds are a percentage of **projected costs** based on the master plan budget for the current segment. The costs are projected using the state’s formula which includes a cost of doing business (CDB) factor according to the applicable region of the state. This CDB factor is an average of construction costs within the region. In CMSD’s case, Cuyahoga County was grouped with Ashtabula, Geauga, Lake, Portage, Summit and Trumbull counties as shown in Exhibit A.

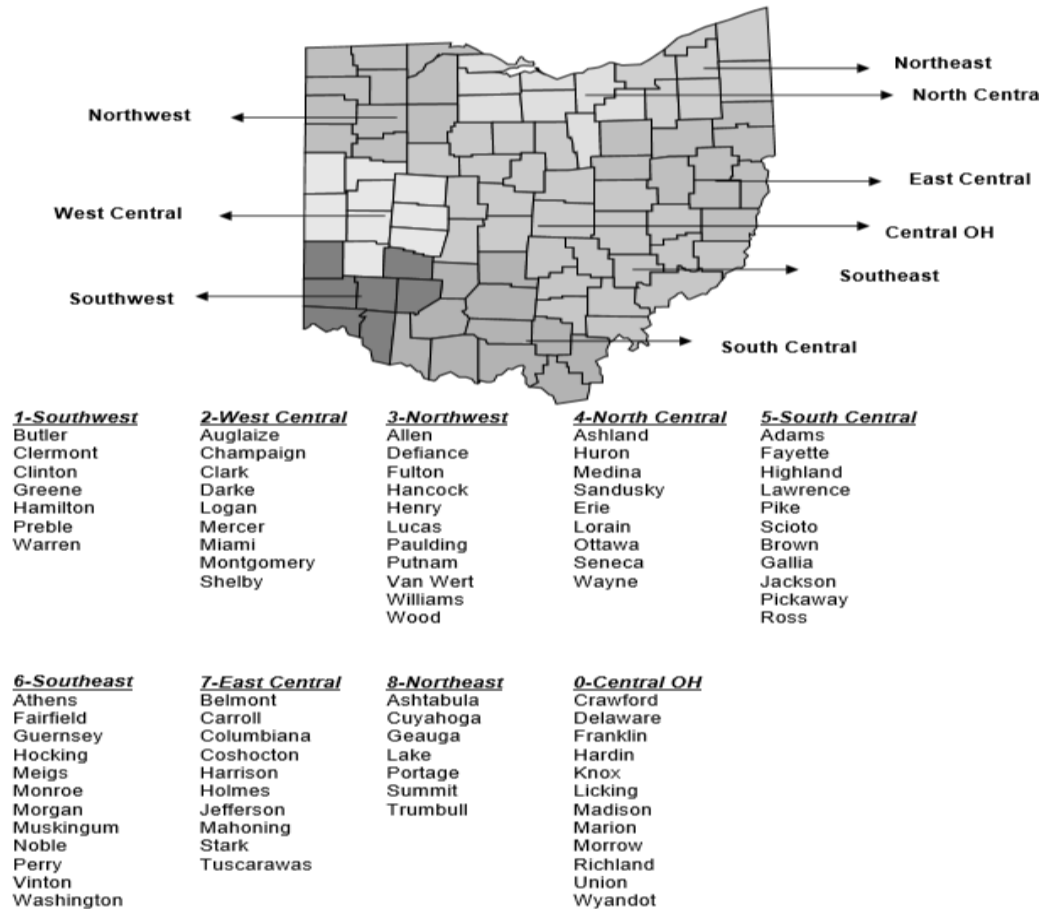


Exhibit A

With Cleveland historically being one of the most expensive areas in the state to build, grouping these 6 other counties into the cost structure will have a negative impact (lower cost estimates) on the budget estimates for the new buildings for CMSD. The OFCC agreed to market condition budget adjustments on almost all new buildings after segment 1 that kept the financial plan pretty much intact. They have approved a total of 27 budget adjustments totaling \$63,319,967. During segment 7, they also approved \$17,945,353 for the 9 buildings under construction. Although, these budget adjustments took over a year to negotiate. The delay caused a loss of valuable time and increases to construction costs. As of 11-18-19 this segment has not been closed out and a complete financial review is not possible at this time. However, Exhibit B (attached at the end of this report) illustrates the cost per square foot increases over the first 6 segments. The average cost per square foot in segment 1 was \$181.28 as compared to the segment 6 cost per square foot of \$292.67.

Extra features?

The OFCC has established a very detailed Design Manual showing every detail of school construction and the minimum standards required to include in a new school design. They have also indicated that the design should not be lavish or extravagant as tax dollars are being used to pay for these buildings. They review each design prior to approval to determine if the new school plan meets the OFCC criteria. Items such as terrazzo flooring, larger rooms, additional offices, auditoriums and other such features are not co-funded. A school can still include those items, the OFCC will just not co-fund the costs. This policy provides for a minimum standard for educational spaces while protecting the budget. In order to ensure the CMSD designs were in line with that policy the construction documents for the New JFK High School were sent to an independent architectural firm for a peer review with a focus on compliance with the Ohio School Design Manual and value engineering opportunities. On January 19, 2018, GPD Group offered 57 different items to be reviewed for possible savings. Many of those items had been discussed and not implemented before the review. Several features had been required by the city building department and could not be taken out of the plans. Finally, some items were accepted as possibilities and researched as an option to reduce costs. However, the net impact of the review indicated that the schools were pretty much in-line with the design manual. In the case of the Cleveland School for the Arts, CMSD did request many special features and upgrades that did drive up the local share of costs. The CSA was designed to be an exceptional facility and the local costs were accepted in advance by the District. As in the case of Max Hayes high school,

the site was contaminated and required extensive cleanup. These costs were also accepted by CMSD.

Other factors?

The decision to cap construction budgets most likely came from the Executive Director of the OFCC, the State Budget Director, or possibly from the Governor's office. In 2010 when Governor Kasich took office there was an \$8 billion deficit facing the newly elected Governor and cuts were made across the board to balance the budget. Additionally, the \$5 billion tobacco settlement fund being used to fund the statewide OSFC projects was beginning to run out and would be completely gone by the end of fiscal 2011. Finally, the recession from 2007 and 2008 was still impacting the economy and added to concerns about the future of the state budget and funding for school construction projects. All of these economic factors were reflected in the annual budget for the OSFC (which became the OFCC in 2011) as shown on Exhibit C.

Year	Disbursements	Average Disbursement
2002	\$814,255,198.00	
2003	\$645,872,226.00	
2004	\$580,967,111.00	
2005	\$516,570,962.00	
2006	\$743,129,044.00	\$815,436,514.40
2007	\$899,035,795.00	
2008	\$988,010,707.00	
2009	\$1,050,285,616.00	
2010	\$1,006,312,442.00	
2011	\$909,926,043.00	
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2012	\$528,814,987.00	
2013	\$315,899,786.00	
2014	\$330,710,677.00	
2015	\$378,821,145.00	\$362,439,216.43
2016	\$288,471,769.00	
2017	\$267,876,026.00	
2018	\$426,480,125.00	
		Exhibit C

The OSFC average capital budget from 2002 through 2011 was \$815,436,514. However, from 2012 through 2018, the average capital budget for the OFCC has been \$362,439,216.00. This significant reduction in the OFCC capital budget most likely created a situation where school funding became more difficult to obtain through the OFCC.

Then in 2012 another economic change occurred that has impacted school construction funding. School bond issues that went to the ballot from 2005 through 2011 had a passage rate of 39.35%. During that time the voters across Ohio approved \$4.2 billion in capital expenditures for schools as shown on Exhibit D1. Starting in 2012 the passage rate increased as well as the amount of money approved for capital projects. The school bond issues that went to the ballot from 2012 through May of 2019 had a passage rate of 52.94% which authorized \$6.4 billion in new school funding as shown on Exhibit D2. The exact number of schools that applied to the OFCC for matching funds was not provided, however these numbers would indicate that the OFCC has experienced additional pressure to assist many other schools since 2012.

Note: Exhibits D1 & D2 are attached at the end of the report.

All of the statewide budgetary pressure most likely has impacted the state's ability to assist to the same level they provided prior to 2011. Although, the project agreement specifically states "...the Project has priority for state funds over Projects for which initial state funding is sought." This would indicate that CMSD should have priority for funding. The OFCC is contractually obligated to find a way to honor this original agreement for the benefit of the 36,000 students of CMSD.

Rules change?

The OFCC Senior Planning Manager discussed the CMSD construction process and the "cap on construction costs" with the BAC and revealed a different definition of the change from the OFCC. He indicated that funding will not be capped at previous levels. The OFCC will still update the budget for each building being planned as part of the upcoming segment, however the budget will not be adjusted for market conditions after the project has been bid out as the OFCC has done for past segments. They have to "hold the line" on costs. Considering the lower capital budgets and the increase in school construction, this policy is understandable. When discussing the cost of doing business in the Cleveland market and that the "averaging of costs" for the Northeast Region creates a negative impact for CMSD, the Senior Planning Manager indicated that the OSDM square foot Cost Set will be torn apart and completely redone this coming year.

Hopefully this issue can be addressed, however, his responsibility will be to hold the line on the established budget once it has been determined.

The OFCC’s stance is the state did not cap the budget, they simply will not adjust it after it has been set. Therefore, the project agreement is being followed, albeit a stricter interpretation of the contract language.

Financial Update and Observations

As of September 30, 2019, the local bond fund balance is \$66,814,481. This is the remaining portion of \$629,166,514.72 from several different local sources. The 2 bonds (issues 14 and 4) are the major source of funding as they total \$535,000,000. The entire list of sources and amounts can be found on Exhibit E.

Cleveland Municipal School District			
Project Funding Summary			
As of September 30, 2019			
			Amount
Bond Proceeds			\$535,000,000.00
Bond Premium			\$1,006,501.13
Other Non=Bond Proceeds			\$15,532,616.84
QZAB			\$5,127,641.50
E-Rate			\$3,710,518.08
Sale of Admin. Building			\$4,664,175.62
Sale of School Buildings and Equipment			\$2,440,536.93
Property Tax Receipts (.50 mill PI Levy)			\$10,724,940.09
Total Interest			\$50,959,584.53
Total local funds (before expenditures)			<u>\$629,166,514.72</u>
Current Balance in the Local Fund			<u>\$66,814,481.00</u>
			Exhibit E

A complete accounting of all expenditures has not been performed by the BAC as of this date. However, that process will be on-going as the Bond Accountability Commission has been tasked to review these expenditures for the proper and efficient use of these funds.

With the last of the building project funds being planned out at the current time, it is obvious that more funding will be required to complete the task that CMSD started in 2002. Through hindsight it is easy to ask if all of the Warm, Safe, and Dry projects and the use of bond funds for summer projects was worth the investment. The summer projects alone (see Exhibit F) may have created another \$200 million (\$70 M from CMSD, \$130 M from OFCC) of new school project dollars had these summer projects been deferred. However, the strategy of addressing some needs of the buildings that were not going to be replaced in the near future is sound and a good use of funds. Considering that additional funding is not guaranteed and that the facility repairs are implemented for schools currently in operation it would be difficult to deny the benefit of the \$73 M in repairs across the District.

Cleveland Municipal School District Summer Capital Project Approvals 2013 - 2019

Year	Approved	Amount	Funding		
			003	034	Not Indicated
2019		\$5,197,000.00	\$0.00	\$0.00	\$5,197,000.00
2018		\$13,702,500.00	\$2,347,440.00	\$0.00	\$11,355,060.00
2017		\$12,635,490.00	\$2,323,622.00	\$0.00	\$10,311,868.00
2016	*	\$13,314,000.00			\$13,314,000.00
2015	*	\$12,818,400.00	\$480,000.00	\$11,718,000.00	\$620,400.00
2014	*	\$8,033,503.00	\$1,848,000.00	\$5,849,503.00	\$336,000.00
2013	*	\$8,059,800.00			\$8,059,800.00
		\$73,760,693.00	\$6,999,062.00	\$17,567,503.00	\$49,194,128.00
					Exhibit F

As the BAC moves forward with their work, we will focus on the coordination of the planning process, the construction process and the maintenance process to ensure the funds are used in the best interests of the students and taxpayers of CMSD.

Final Comment

The BAC feels that transparency is a piece of accountability and would offer the following observations and suggestions for sharing information about the construction process and finances. While CMSD does have a lot of information on their website regarding the construction process, it is not easy to find nor to decipher.

The Finance Department website host construction financial information at the bottom of the Finance Department home page:

- It is labeled “Classroom Facilities Assistance Program (CFAP) Summaries”. The common citizen most likely does not know what CFAP is and may not bother to look further.
- The most recent update is from June 30, 2016 and is 22 pages long. A recently dated executive summary would be easier to read and be more relevant.

The Operations department hosts construction updates on the “Master Plan Home Page”:

- School personnel most likely know what this is as they have been living with this term for 17 years, however most people may simply pass by this menu option. If it were labeled “Construction Plans” it would be easier to find.

CMSD may want to consider revising the method of communicating with the public so the information is easier to find, easier to understand, and up to date. Each department may have their own process for updating their information, however the casual observer most likely sees this as an CMSD project and would appreciate all construction details on the same page.

- Possibly a new webpage (or a renamed webpage) to display all updates on a single School Construction page.
- The single source of information would house the operations data, financial data and Public Relations announcements and other vital links related to the Construction process.
- This site could include pictures, a list of next steps, progress reports, announce building openings and final goodbye celebrations for buildings being taken out of service.