



Legislative Council Staff

Nonpartisan Services for Colorado's Legislature

Memorandum

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TO: Interested Persons

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SUBJECT: Oversight and Review of Capital Projects

Summary

This memorandum discusses the oversight and review of capital projects. It defines capital projects and gives a sequential overview of the capital process, including master and program planning requirements, the initial review of capital requests, the role of the [Capital Development Committee](#) (CDC) in the review process, and the oversight of projects after an appropriation or spending authority is conveyed.

Capital Projects

The CDC is statutorily charged with the general review and oversight of capital projects.¹ The term "capital" collectively refers to three types of projects: capital construction, controlled maintenance, and capital renewal. Capital construction projects are program-driven. An agency must justify a capital request based on how the project will allow it to improve or alter its ability to provide a certain program or service. Information technology capital projects (costing \$500,000 or more) are reviewed and prioritized by the [Joint Technology Committee](#).

Capital Construction

Capital construction includes the following:

- the acquisition of a capital asset, including real property, and fixed and moveable equipment;
- the acquisition of any item of instructional or scientific equipment that costs more than \$50,000, except for cash-funded purchases made by institutions of higher education;

¹ Section 2-3-1304, et seq., C.R.S.



- the disposition of state-owned property;
- the construction, demolition, remodeling, or renovation of state-owned property;
- site improvement or development of state-owned property;
- the installation of fixed or movable equipment necessary for the conduct of programs in or the operation of new, remodeled, or renovated state-owned property; and
- contracting for the services of architects, engineers, and other consultants to prepare plans, program documents, life-cycle cost studies, energy analyses, and other studies associated with any capital construction project or to supervise capital construction.²

Controlled Maintenance

Controlled maintenance budget requests are system- or maintenance-driven, rather than program-driven, and typically address facility component systems at the end of their useful life. As such, controlled maintenance involves site improvements and corrective repairs or replacement of the utilities and equipment necessary for the operation of state-owned property, including improvements for health, life safety, and code requirements. Existing real properties are eligible for controlled maintenance funding. In order for a capital asset to be eligible for controlled maintenance funding, a minimum of 15 years must have elapsed since the date of substantial completion or renovation, per [Office of the State Architect \(OSA\)](#) guidelines. Examples of controlled maintenance projects include replacing deteriorated mechanical equipment and upgrading fire alarm systems. By contrast, operational maintenance is intended to maintain facilities and their component systems to the end of their expected useful life cycles. Agencies submit requests for operational maintenance directly to the [Joint Budget Committee \(JBC\)](#) within their operating budgets.

Capital Renewal

Capital renewal budget requests are also system- or maintenance-driven, rather than program-driven, and address controlled maintenance issues that exceed a cost threshold in a single fiscal year or phase, or have grown in scope and are better addressed building-by-building, rather than system-by-system. Through 2024, the cost threshold was \$2 million. Beginning in 2025, the threshold rose to \$4.7 million and further rises with construction inflation every three years. Capital renewal budget requests are prioritized by the CDC along with capital construction budget requests. An example of a capital renewal project is

² Section 24-30-1301, C.R.S.



upgrading or replacing the mechanical, electrical, and fire suppression systems in a classroom building.

Facilities Master Planning

State agencies must continuously engage in long-range planning for capital needs. Facilities master plans generally assess the condition of existing state-owned or state-controlled facilities, identify trends driving new construction or renovation, and set priorities for future capital projects. State agencies consider need related to size, configuration, location, and function. State agencies may request funds through the regular capital process in order to conduct master planning.

State Department Facilities Master Planning Requirements

The executive director of each department, after consultation with the directors of the subordinate agencies, divisions, or offices within the department, is responsible for the review of facilities master plans and the submission of such plans to the OSA for approval. No capital construction may commence except in accordance with an approved facilities master plan. Each department's executive director may prescribe uniform policies, procedures, and standards of space utilization, except for office space, which is prescribed by OSA.³

Higher Education Institution Master Planning Requirements

The Colorado Commission on Higher Education (CCHE) is statutorily charged with the review and approval of long-range plans for all higher education institutions. Facilities master plans must conform to educational master plans and are reassessed at least every ten years, per CCHE guidelines. CCHE has the power to prescribe uniform policies, procedures, and standards of space utilization.⁴

Facilities Program Planning

A facility program plan is required for most capital projects. In contrast to a facilities master plan, a facility program plan is specific to a particular project. OSA is responsible for reviewing program plans for state department projects. The Department of Higher Education (CDHE) reviews program plans for most higher education institution projects. In order to engage in facility program planning, state agencies may use available operating dollars, request monetary

³ Section 24-1-136.5, C.R.S.

⁴ Section 23-1-106, C.R.S.



assistance from the Statewide Planning Program within the OSA, or request capital construction funds through the regular capital process.

Program plans are not required for the following types of projects:

- higher education institution controlled maintenance and capital renewal projects;
- state department projects costing less than \$500,000;
- higher education institution state-funded projects costing less than \$500,000, so long as the need for the project is justified through other planning documents;
- higher education institution cash-funded projects costing less than \$2 million for new construction;
- higher education institution cash-funded projects costing less than \$10 million for non-new construction; and
- higher education institution cash-funded projects costing more than \$2 million, that are initiated by the governing board of the institution.

Under state law, the governing board of a higher education institution is responsible for ensuring that cash-funded projects not subject to other program planning requirements are planned and constructed in accordance with the institution's mission, are of a size and scope to provide for the defined program needs, and are designed in accordance with all applicable building codes and accessibility standards.⁵

Both the Governor's Office of State Planning and Budgeting (OSP) and CDHE prohibit state departments or higher education institutions from downsizing large projects into several small projects in order to avoid program planning requirements. The annual budget instructions include directions for program planning.

Submission and Initial Review of Capital Requests

Prior to any legislative review of capital requests, projects are subject to executive branch review. The rules regarding this review vary according to project type, as outlined below.

Controlled Maintenance and Capital Renewal Requests

State departments and higher education institutions annually submit controlled maintenance requests to the OSA in the July prior to the fiscal year for which funds are being requested. The OSA is responsible for scoring and submitting a prioritized list of projects to the CDC. Typically, the projects are presented to the CDC as part of the OSA's annual report in December.

⁵ Section 23-1-106 (9), C.R.S.



Controlled maintenance projects are scored and ranked based on a variety of factors determined by OSA, including: the severity of the deterioration or compliance issues; the type of building system and use being impacted; and to a certain degree, the submitting agency's ranking of the project as compared to its other projects.

The OSA is also responsible for the initial review of capital renewal requests. State departments and higher education institutions annually submit capital renewal requests to the OSA in the July prior to the fiscal year for which funds are being requested. The recommendations of the OSA are then forwarded to OSPB. OSPB may prioritize and forward these requests to the CDC along with the regular state-funded capital construction submissions.

Table 1 shows the dollar threshold triggering review of controlled maintenance and capital renewal requests.

Table 1
Dollar Threshold Triggering Categorization and Review of Controlled Maintenance Requests

Dollar Threshold	Categorization	Description
Less than \$500,000	Routine Maintenance	Paid from operating budget and/or cash funds; below the threshold for review by the CDC.
Between \$15,000 and \$4,700,000	Controlled Maintenance	Evaluated and scored according to the level of need by OSA.
Over \$4,700,000	Capital Renewal	Considered and prioritized by the CDC along with other state-funded capital requests.

Source: Legislative Council Staff.

*Auxiliary facilities at institutions of higher education do not qualify for funding.

State-Funded Capital Construction Requests

State department capital construction requests, regardless of the source or amount of funds, are submitted by state departments to OSPB and OSA in the July prior to the fiscal year for which funds are being requested. Cash-funded requests are reviewed and forwarded to the CDC no later than September 15. State-funded requests are reviewed and forwarded to the CDC no later than October 1. The prioritized list of all capital projects, including state-funded higher education projects, is forwarded to the CDC by OSPB no later than November 1.



Higher Education Institution State-Funded Capital Construction Requests

State funded capital requests for higher education institutions follow the regular capital budget process. Requests are submitted by institutions of higher education to CDHE in the July prior to the fiscal year for which funds are being requested and forwarded to the CDC no later than October 1. The prioritized list of all state-funded higher education capital projects is required to be forwarded to the CDC by CCHE no later than November 1.

Table 2 shows the dollar threshold triggering review of various types of capital construction requests.

Table 2
Dollar Threshold Triggering Capital Construction Requests

Dollar Threshold	Description
Less than \$500,000	Generally speaking, larger state agencies pay for projects costing less than \$500,000 from their operating budgets. The purchase of land from state funds always requires CDC review, regardless of cost.
Over \$500,000	State department requests, regardless of the source of funds, and higher education institution state-funded requests require review.
Over \$2,000,000 (Cash-Funded New Construction or Acquisition); or Over \$10,000,000 (Cash-Funded Renovation)	Higher education cash-funded requests for new acquisition or construction costing more than \$2 million or other requests costing more than \$10 million require CDC review.

Source: Legislative Council Staff.

*Projects subject to the Higher Education Revenue Bond Intercept Program are subject to additional CDC review.

The CDC holds annual hearings, typically in early December, to consider both state and cash-funded requests from higher education institutions and state departments. No later than February 15, the committee makes a prioritized funding recommendation to the JBC regarding the state-funded requests. In turn, the JBC makes a recommendation for the inclusion of certain capital projects in the annual budget bill. Most capital construction projects are appropriated in the annual budget.



State Department Cash-Funded Capital Construction Requests

The CDC typically submits its recommendations regarding state department cash-funded projects to the JBC concurrently with the state-funded recommendation. Cash funds spending authority for these projects is typically appropriated in the annual Long Bill.

Higher Education Cash-Funded Capital Construction Requests

The CDC reviews and approves cash-funded projects from institutions of higher education on a rolling basis throughout the year. These projects are not appropriated. Any project listed and reviewed as part of an institution's cash list may commence construction upon approval of an institution's governing board, and without further legislative review, unless it is subject to the Higher Education Revenue Bond Intercept Program (intercept program). If an institution of higher education plans to issue bonds for a project pursuant to the intercept program, CCHE must approve a program plan for the project. The project is subject to additional review and approval by the CDC and the JBC. Project construction may commence upon approval by both the CDC and the JBC.

The intercept program directs the State Treasurer to make payments of principal or interest on bonds on behalf of a state-supported institution of higher education in the event a higher education institution does not make a scheduled payment, unless the institution adopts a resolution stating that it will not accept such payment prior to the issuance of the bonds for a project. Historically, many state-supported institutions of higher education that issue bonds to be repaid from revenue sources such as student fees, do so using the state's credit rating. Therefore, some higher education cash-funded projects are still subject to a separate review and approval by CCHE and the CDC.

A governing board must meet certain criteria in order to participate in the intercept program, including:

1. the governing board must have a credit rating or ratings from one or more nationally recognized statistical rating agencies in one of the three highest rating categories and no rating below one of the three highest categories;
2. the governing board must have a debt service coverage ratio of greater than 1.5, which is calculated by dividing the net revenue available for debt service by the total amount of new and existing debt subject to the intercept program; and



3. annual debt service payments under the intercept program are limited to less than 75 percent of the most recent General Fund appropriation for stipends and fee-for-service contracts reappropriated to each governing board.⁶

Higher education institutions are permitted to submit projects subject to the intercept program to the CDC for additional approval at any time during the year. The CDC is directed to meet within 30 days of such a submittal during the legislative session, or 45 days during the legislative interim.

Project Oversight and Tracking after Appropriation or Spending Authority is Granted

Once a project receives an appropriation or, in the case of higher education cash-funded projects, receives cash funds spending authority, several executive branch agencies may be involved in project oversight and tracking, including OSA, the Office of the State Controller, and CDHE. Additionally, the CDC typically tours completed capital construction and controlled maintenance projects located throughout the state each year. The role of each executive agency in project oversight and tracking is discussed below.

Office of the State Architect

The OSA is responsible for the administration of appropriated capital construction projects. This includes the solicitation and procurement of professional design and construction services, the development of standard contract language, the establishment of project management guidelines, including cost management, the adoption and implementation of building codes and compliance requirements, and the administration of the controlled maintenance program. The OSA maintains an inventory of state-owned, General Fund supported buildings, and OSA personnel visit every site listed on the inventory annually to meet with facility staff, assess the condition of the facilities, and ensure code compliance. OSA also generates a project status report for every capital construction and controlled maintenance project currently underway. The OSA reports its findings regarding capital construction administration to the CDC annually in December.

⁶ Section 23-5-139, C.R.S.



Office of the State Controller

Personnel within the Office of the State Controller assist state agencies in complying with state fiscal rules and in following generally accepted accounting principles. Capital construction projects appropriated in an annual budget bill must meet three state fiscal rules unique to capital budget requests, or risk the loss of funding. These rules are as follows:

- The six-month rule states that all major professional services must be encumbered within six months after the bill appropriating the funds becomes law unless specifically exempted in law;⁷
- The one-year rule states that spending for a project must commence within the first fiscal year of an appropriation;⁸ and
- The three-year rule states that all funds for a project must be fully encumbered within three fiscal years of an appropriation. The three-year clock resets each time an adjustment to a project is made in law.⁹

The Office of the State Controller also tracks and reports capital construction expenditures for appropriated projects. This report is available upon request.

Department of Higher Education

CDHE annually reports on all cash spending for higher education capital projects. This report lists each project by higher education institution and gives a brief description, including the type and cost of the project. This report is available upon request.

⁷ Section 24-30-1404, C.R.S.

⁸ 1 CCR 101-1, Rule 4-2 (3.1.3)

⁹ Section 24-75-303, C.R.S.