

JOINT BUDGET COMMITTEE



INTERIM SUPPLEMENTAL BUDGET REQUEST FY 2021-22

DEPARTMENT OF HUMAN SERVICES (CAPITAL CONSTRUCTION)

JBC WORKING DOCUMENT - SUBJECT TO CHANGE
STAFF RECOMMENDATION DOES NOT REPRESENT COMMITTEE DECISION

PREPARED BY:
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INTERIM SUPPLEMENTAL REQUESTS

EMERGENCY SUICIDE MITIGATION, COLORADO MENTAL HEALTH INSTITUTE AT PUEBLO

	REQUEST	RECOMMENDATION
TOTAL	\$4,113,216	\$4,113,216
Capital Construction Fund/General Fund	4,113,216	4,113,216
Cash Funds	0	0
Federal Funds	0	0

Does JBC staff believe the request satisfies the interim supplemental criteria of Section 24-75-111, C.R.S.? [The Controller may authorize an overexpenditure of the existing appropriation if it: (1) Is approved in whole or in part by the JBC; (2) Is necessary due to unforeseen circumstances arising while the General Assembly is not in session; (3) Is approved by the Office of State Planning and Budgeting (except for State, Law, Treasury, Judicial, and Legislative Departments); (4) Is approved by the Capital Development Committee, if a capital request; (5) Is consistent with all statutory provisions applicable to the program, function or purpose for which the overexpenditure is made; and (6) Does not exceed the unencumbered balance of the fund from which the overexpenditure is to be made.] **YES**

Does JBC staff believe the request meets the Joint Budget Committee's supplemental criteria? [An emergency or act of God; a technical error in calculating the original appropriation; data that was not available when the original appropriation was made; or an unforeseen contingency.] **YES**

Explanation: JBC staff and the Department agree that this request is the result of an emergency due to findings from an unannounced survey that threaten the facility with citations and loss of licensure and accreditation if not immediately corrected.

DEPARTMENT REQUEST: The Department of Human Services requests \$4.1 million Capital Construction Fund (General Fund) to address suicide risk mitigation items at the Colorado Mental Health Institute at Pueblo (CMHIP) as an outcome of a July 2021 Colorado Department of Public Health and Environment (CDPHE) survey completed following a serious life-safety incident at the facility.

Separately, the Department requests a scope and name change of the project and corresponding line item in the FY 2021-22 Long Bill titled *HVAC Replacement in Four Buildings, Colorado Mental Health Institute at Pueblo (Capital Renewal)* to include Emergency Suicide Mitigation. The amended line item would be titled *HVAC Replacement in Four Buildings and Emergency Suicide Mitigation, Colorado Mental Health Institute at Pueblo (Capital Renewal)*.

CDC RECOMMENDATION: The Capital Development Committee recommends approval of the request for a scope and name change to the appropriation for *HVAC Replacement in Four Buildings, Colorado Mental Health Institute at Pueblo (Capital Renewal)* within the Capital Construction section of the FY 2021-22 Long Bill. Separately, the Capital Development Committee recommends approval of the request for Emergency Suicide Mitigation at Colorado Mental Health Institute Pueblo.

STAFF RECOMMENDATION: Staff recommends the Committee approve the request for a name and scope change to the appropriation for *HVAC Replacement in Four Buildings, Colorado Mental Health Institute at Pueblo (Capital Renewal)*. Separately, staff recommends the Committee approve the request

for \$4.1 million General Fund for Emergency Suicide Mitigation at Colorado Mental Health Institute at Pueblo.

STAFF ANALYSIS:

BACKGROUND

On July 28, 2021 CDPHE, as directed by the Centers for Medicare and Medicaid Services (CMS), performed an unannounced survey at CMHIP following a life-safety incident that occurred earlier in July. The survey found several deficiencies requiring an immediate plan of correction, including the practice of locking patient-room doors and inadequate resources related to incident management systems, video monitoring cameras, suicide mitigated doors, and quality assurance monitoring.

CMHIP must comply with CMS Conditions of Participation in order to receive reimbursement from Medicare and Medicaid; CDPHE is designated to oversee compliance on behalf of CMS. Failure to substantially meet one or more Conditions of Participation is a cause for termination of CMS participation and reimbursement. Additionally, The Joint Commission (TJC) provides accreditation and also performs surveys on behalf of CMS. CDPHE has the authority to revoke or suspend CMHIP's license for good cause including, but not limited to, failure to comply with statutory and/or regulatory requirements, failure to provide reports and documents required by regulation or statute in a timely and complete fashion, or failure to comply with or complete a plan of correction in the time or manner specified per the Colorado Code of Regulations.

Regulatory agencies categorize deficiencies into three levels: standard, condition, and immediate jeopardy.

- Standard level deficiencies are less emergent and can often be addressed with alternative mitigation strategies and addressed during the regular budget request process.
- Condition level deficiencies indicate a critical health or safety breach and must be corrected within 30 to 90 days.
- Immediate jeopardy level deficiencies indicate noncompliance with one or more requirements of participation and have caused, or are likely to cause, serious injury, harm, impairment, or death to a patient. These deficiencies must be corrected immediately or a facility will be placed in the 23 day CMS termination track. After immediate correction, the deficiency becomes a condition level finding that must be corrected within 30-90 days.

The CDPHE survey identified immediate jeopardy and condition level deficiencies in buildings 106, 115, 116, 121, 129, 137, and 140.

The Department does not currently have any capital projects in progress related to suicide mitigation, and states that requests for suicide mitigation made in FY 2019-20 and FY 2020-21 were not approved. Operating and capital outlay funds have at times been used to mitigate the most critical needs, but are not sufficient to address all needs.

REQUEST COMPONENTS

CAMERAS

The CDPHE survey found that the current placement and lack of cameras hindered the follow-up investigation to the life-safety incident and identified hallways across several buildings and other areas that require the addition of cameras. Additionally, the presence of cameras in patient areas may deter

patients from acts of aggression and self-harm. CMHIP will also be required to institute random video monitoring to ensure all staff are completing wellness checks per policy. Absent the addition of the camera system, the Department would need to significantly increase patient monitoring by staff, requiring an estimated 154.0 FTE at an annual cost of approximately \$4.0 million.

Estimated cost: \$803,300

CEILINGS, DOORS, AND DOOR CONTROL REPROGRAMMING

The survey identified issues related to patient room doors and door hardware that needs to be addressed through ligature-resistant door knobs, continuous hinges, beveled door edges, and mitigation of corridor door closures.

Estimated cost: \$3,059,916

INCIDENT MANAGEMENT SYSTEM

The survey found that CMHIP's current incident management systems are outdated and inadequate in regards to data collection and regulatory compliance. The new requested system will be used at both Mental Health Institutes and within the Forensic Services Division to track all incidents required for both regulatory compliance and quality improvement efforts.

Estimated cost: \$250,000

ADDITIONAL STAFFING (NOT PART OF CAPITAL REQUEST)

The request identified additional operating and staffing costs for informational purposes, stating that a corresponding operating request would likely be submitted for consideration at the same meeting. However, no such request was submitted. The operating components estimated in the capital request are as follows:

- CMHIP will no longer be able to lock patient room doors overnight, which will necessitate the addition of 27 additional Client Safety Specialists.
- The survey found that CMHIP's Quality Support Services department is not appropriately staffed to perform the required level of monitoring; the Department anticipates they will need six additional FTEs to achieve compliance.
- The Department anticipates the need for a 0.5 FTE Electronic Specialist III to maintain and program the cameras procured through this request.

Estimated cost: \$2,084,375

RECOMMENDATION

Due to the potential revocation of licensure and accreditation, loss of federal funding, and inability to serve patients if these issues are not mitigated imminently, staff recommends approving the request for \$4,113,216 General Fund for Emergency Suicide Mitigation, Colorado Mental Health Institute at Pueblo. Separately, staff recommends the Committee approve the name and project scope change for the FY 2021-22 Capital Construction appropriation for *HVAC Replacement in Four Buildings, Colorado Mental Health Institute at Pueblo (Capital Renewal)* to include Emergency Suicide Mitigation. In order to be compliant with the interim supplemental criteria in Section 24-75-111, C.R.S., the request must be for an expenditure “*in excess of the amount authorized by an item of appropriation for such fiscal year...*”. The request as originally submitted did not specify an existing appropriation that would be overexpended

through this request. However, OSPB clarified to JBC staff that the request for a change in name and scope of *HVAC Replacement in Four Buildings, Colorado Mental Health Institute at Pueblo (Capital Renewal)* to *HVAC Replacement in Four Buildings and Emergency Suicide Mitigation, Colorado Mental Health Institute at Pueblo (Capital Renewal)*, if approved by both the CDC and JBC, is the existing appropriation that they are seeking an overexpenditure for.

In the letter to the Controller, staff will specify that the overexpenditure will be from General Fund and the identified line item project will include an expansion of scope to provide for this request. For the supplemental bill to be prepared for the Committee in January, staff will recommend creating a separate line item for this project at that time and include funding from the Capital Construction Fund and a transfer from the General Fund to the Capital Construction Fund.

TECHNICAL NOTE

The 1331 statute requires the State Controller to restrict an amount equal to the overexpenditure in the following year if a supplemental appropriation is not enacted. Traditionally, for capital construction items, requests have included the identification of a proposed line item for restriction in the event a supplemental is not enacted. However, Section 24-75-11 (4)(b), C.R.S., assigns the authority for restriction to the State Controller as follows (emphasis added):

*(4)(b) For any overexpenditure allowed by the controller in accordance with subsection (1) of this section that is **in regard to a capital construction budget item**, the controller shall restrict, in an amount equal to said overexpenditure, an item or items of appropriation that are made in the general appropriation act for the fiscal year following the fiscal year for which the overexpenditure is allowed and that are made for the following purposes in the order specified: The capital construction budget item for which the overexpenditure was allowed; any other capital construction budget item of the department, institution, or agency that was allowed to make the overexpenditure; any operating budget item relating to the administration of the department, institution, or agency that was allowed to make the overexpenditure; and any other operating budget item of the department, institution, or agency that was allowed to make the overexpenditure. For the purposes of determining the item or items of appropriation for operating budget items to be restricted, the controller shall restrict the item or items of appropriation that would be the least disruptive to the operations of the department, institution, or agency.*

Capital Construction project line items are typically only appropriated in the Long Bill for one year. Therefore, the State Controller would not be able to restrict from this appropriation item in FY 2022-23. In the event a supplemental appropriation is not enacted, the State Controller will determine which line item to restrict.
