

JOINT BUDGET COMMITTEE



INTERIM SUPPLEMENTAL BUDGET REQUESTS FY2017-18

CAPITAL CONSTRUCTION

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

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INTERIM SUPPLEMENTAL REQUESTS

INTERIM SUPPLEMENTAL #4 (FY 2017-18), CAPITAL RENEWAL AND RECAPITALIZATION, DEPARTMENT OF CORRECTIONS, OUTDOOR RECREATION YARDS, CENTENNIAL CORRECTIONAL FACILITY SOUTH

	REQUEST	RECOMMENDATION
TOTAL	\$636,000	\$0
Capital Construction Fund/General Fund	636,000	0
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.] **NO**

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 data that may not have been available when the original appropriation was made. However, this request is not consistent with statutory provisions applicable to the program, function, or purpose for which the overexpenditure is made.

DEPARTMENT REQUEST: The Department of Corrections requests \$636,000 Capital Construction Fund for the construction of outdoor recreation yards for Centennial Correctional Facility South.

CDC RECOMMENDATION: The Capital Development Committee recommended the Department's request to the Joint Budget Committee.

STAFF RECOMMENDATION: Staff recommends that the Committee deny the request.

STAFF ANALYSIS:

CURRENT REQUEST

This request represents a re-submittal of the interim supplemental requested submitted and addressed by the Committee in June. The Committee took no action on the request at that time.

PROJECT SUMMARY

The project constructs six outdoor recreation yards at Centennial Correctional Facility South. The facility, completed in 2010, does not currently house any offenders. The recreation yards will range from 7,676 to 9,266 square feet and will each contain a half-court basketball court, a concrete exercise pad, a walking track, a table and covered seating, upgraded lighting, and security cameras and fencing. The yards will be built in pairs with a raised observation station between two recreation

yards. The project also makes site improvements such as grading, constructing ADA ramps, and adding concrete sidewalks connecting the building to the new recreation yards.

DEPARTMENT REASON FOR REQUEST

The Department has submitted this capital request along with its interim supplemental operating request to address increasing offender populations that have exceeded a variety of projections provided prior to the 2017 legislative session.

STAFF'S CONCERNS AND REASONS FOR THE RECOMMENDATION

1. STATUTORY RESTRICTION

The Department's current request states, "While statute does not allow for the housing of offenders at Centennial Correctional Facility South Campus, it does not prohibit facility improvements, including upkeep, maintenance, or construction."

Section 17-1-104.3 (1)(b.5), C.R.S., states:

... the Centennial south campus of the Centennial correctional facility shall not be operated by the department for the purpose of housing inmates in the housing units but, if necessary, may be maintained to provide support and other services to the Centennial correctional facility.

Contrary to the Department's statement, it appears that statute only allows for necessary maintenance of the facility. Additional improvements or construction for any purpose does not fit within the statutory allowance for necessary maintenance. Additionally, since the identified reason for the construction is to house inmates, statute would appear to restrict improvements or construction for that purpose.

2. CAPITAL CONSTRUCTION PROJECTS INITIATED THROUGH THE 1331 PROCESS

New capital construction projects should not be initiated through the interim supplemental process. While this is not a statutory restriction, this is a good capital budgeting principle.

While there may be exceptions to this general rule, such as court orders or disaster emergencies or other acts of God, capital construction should be planned at least a year in advance and follow the standard vetting process alongside all other statewide capital construction needs.

In the case of a disaster emergency or other act of God, such emergency funding would remain consistent with law and previously considered, legislative policy choices as they relate to state agency facility resource and service needs. A new capital construction project that necessitates or anticipates a change in legislative policy is not consistent with existing policy.

3. GOOD PROGRAM SPACE MANAGEMENT AND PLANNING

The need for an emergency, new construction project suggests that the state agency is not adequately aware of its space and facility needs within its operating plan. It is reasonable to expect shifts in resource needs that may go counter to previous or prevailing projections of need. A state agency should follow policies that accommodate the need for additional resources and facility space on a short term basis within its operating plan. Changes in facility resource needs related to program or operational capacity fluctuations should be planned and considered at least a year in advance of changing need and addressed through the regular budget process.

4. THE REQUEST IS NOT CONSISTENT WITH THE DEPARTMENT'S UTILIZATION STUDY

The request is not consistent with the Department's own 2016 utilization study which considered department-wide program as well as capacity issues.

The 2016 utilization study identifies two basic criteria in evaluating alternative uses of the facility:

- *Repurposing should be accomplished in a cost-effective manner, both in terms of required physical plant modifications to CCF South and ongoing operational costs.*
- *Repurposing should address long-term correctional system capacity and program needs.*

The recommendation portion of the executive summary states:

Repurposing of CCF South, CCF North, and DRDC in the manner described in this report offers the most efficient means for the DOC to make beneficial use of CCF South. Given the state's substantial investment in this facility and its potential long-term utility to the correctional system, this benefit outweighs the costs and potential disadvantages of the proposal.

Recreation yards would have to be added in order to house offenders at any point in the future based on court rulings. However, the study cautions about merely adding capacity without also considering long-term system capacity and other program needs at a Department level. The 2016 study would appear to speak against this interim supplemental on a technical and planning basis that considers the broad spectrum of program needs over the long-term. In this request, the Department's needs are expressed as expanded capacity exclusively out of a sense of immediate emergency.

5. 1331 OVEREXPENDITURES

The interim supplemental process is not technically a supplemental appropriation process. Rather, it is an overexpenditure process that provides legal authority to the State Controller to allow additional spending relative to existing budget decisions based on considerations that were not available at the time of the legislative session. The 1331 process grants authority to the Joint Budget Committee to make such decisions regarding the provision of additional spending authority under existing law, but does not provide the Committee with the expanded authority to change or disregard statutes guiding those expenditures.

Staff cannot recommend interim supplemental approval for a project which would enable the use of a facility that has remained vacant out of a series of broadly-determined policy choices since the facility was completed in 2010 and as specified in statute. Staff believes that the policy choice to open this facility requires more thorough vetting by the General Assembly and the Joint Budget Committee than is afforded by the interim supplemental process. An "emergency" funding need should not require that the Committee decide a substantial policy and program change in which the General Assembly does not concurrently have the opportunity to express its will.

In this case, staff recommends that the Committee refrain from substantive policy decision-making in its desire to resolve an issue made urgent by what appears to stem from poor state agency planning. This request should properly be considered and decided within a legislative session.

	FY 2016-17	FY 2017-18	Fiscal Year 2017-18 Interim Supplemental		
	Appropriation	Appropriation	Requested Change	Recommended Change	New Total with Recommendation

CAPITAL CONSTRUCTION

Interim Supplemental #4 - Capital Renewal and Recapitalization, Department of Corrections, Outdoor Recreation Yards, Centennial Correctional Facility South

Part II, Capital Renewal and Recapitalization

(1) Department of Corrections

Outdoor Recreation Yards, Centennial

Correctional Facility South

N.A.

0

636,000

0

0

FTE

0.0

0.0

0.0

0.0

Capital Construction Fund/General Fund

0

636,000

0

0

Cash Funds

0

0

0

0

Reappropriated Funds

0

0

0

0

Federal Funds

0

0

0

0

Totals

CAPITAL CONSTRUCTION

TOTALS for ALL Departmental line items

247,743,578

183,391,498

636,000

0

183,391,498

FTE

0.0

0.0

0.0

0.0

0.0

Capital Construction Fund/General Fund

117,886,557

91,912,328

636,000

0

91,912,328

Cash Funds

109,922,398

69,179,429

0

0

69,179,429

Reappropriated Funds

766,231

10,000,000

0

0

10,000,000

Federal Funds

19,168,392

12,299,741

0

0

12,299,741

Key:

"N.A." = Not Applicable or Not Available