

MEMORANDUM



JOINT BUDGET COMMITTEE

TO Joint Budget Committee
FROM Steve Allen, JBC Staff (303-866-4961)
DATE January 28, 2020
SUBJECT DOC deferred maintenance supplemental request

Staff inadvertently omitted request *S01, Deferred Maintenance* from the January 4, 2020 memo to the JBC titled “Additional DOC Supplemental Decisions”. This is the omitted material.

S01 DEFERRED MAINTENANCE

| | REQUEST | RECOMMENDATION |
|---------------|--------------------|--------------------|
| TOTAL | \$1,134,147 | \$1,134,147 |
| FTE | 0.0 | 0.0 |
| General Fund | 1,134,147 | 1,134,147 |
| Cash Funds | 0 | 0 |
| Federal Funds | 0 | 0 |

Does JBC staff believe the request meets the Joint Budget Committee's supplemental criteria? NO

[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.]

Explanation: Staff reluctantly concludes that this supplemental request does not meet any of the criteria established by the Committee. Since there are 652 deferred maintenance projects totaling over \$482 million, there is clearly a strong need for additional spending on deferred maintenance. However, the great size of this list also means that the relevant data was available during figure setting last year when the current appropriation was made. Figure setting provided an opportunity for the JBC and the General Assembly to increase the appropriation for Maintenance Operating by \$1,134,147 and indirectly lift the restriction. Nor is there a specific event that could be called an act of God or an unforeseen contingency; maintenance is needed and expected throughout the Department on a regular basis. Nor is it relevant that maintenance is especially important in prisons; for example, if the HVAC system stops working in a state office building on a hot day in summer or a cold day in winter; employees can be sent home, an option unavailable in a prison.¹

DEPARTMENT REQUEST: The Department requests a \$1,134,147 General Fund appropriation to remove a \$1,134,147 General Fund spending restriction that the State Controller placed on the Department’s FY 2019-20 Maintenance Operating appropriation because the Department overexpended its prior year (i.e. FY 2018-19) Maintenance Operating appropriation by this amount. The over expenditure occurred because the General Assembly failed to ratify an interim supplemental that was approved by the JBC.

STAFF RECOMMENDATION: Staff reluctantly recommends that the Committee reject this request because it does not meet the (non-statutory) criteria established by the Committee. **Staff is**

¹ People sometimes ask whether prisons need air conditioning. Shouldn’t a hot summer in an un-air-conditioned prison be one of the consequences of criminal behavior? However, for security reasons most Colorado prisons have small windows that makes them especially susceptible to heat. In addition, the prison staff who work in these buildings are subject to the same heat. Finally, high heat can threaten the health of medically frail inmates, a likely violation of the 8th amendment to the U.S. constitution.

especially reluctant to make such a recommendation because the JBC asked the Capital Development Committee (CDC) to review this request. Members of that Committee may be unhappy that, after the CDC took the time to review the request and make a favorable recommendation, the JBC decided not to fund the request on the grounds that it does not meet the JBC's non-statutory supplemental criteria. The failure to meet criteria could have been determined before the referral. A complicating consideration is the fact that the General Assembly rejected essentially the same supplemental a year ago.

STAFF ANALYSIS: During the presentation of DOC supplementals on January 9, the Committee deferred a decision on DOC request S3, Deferred Maintenance. The document that staff presented to the Committee included the following list of deferred maintenance projects, which the DOC had submitted to support its request.

Figure 1. DOC Deferred Maintenance Projects

| Project | Estimated Cost |
|--|--------------------|
| Sterling Correctional Facility Generator Controls Replacement | \$250,000 |
| East Canon Complex Primary Electrical Switch Replacement | \$150,000 |
| Denver Reception & Diagnostic Center Steam Convertor | \$80,000 |
| Sterling Correctional Facility Condensate Return Line Repairs | \$85,000 |
| Colorado Territorial Correctional Facility Chiller Replacement (1unit) | \$272,661 |
| Colorado Territorial Correctional Facility Perimeter Improvements | \$50,000 |
| East Canon Complex Potable Water Tank Repair (1.5M Gallons) | \$250,000 |
| Colorado State Penitentiary Door Control Network Switch Replacement | \$40,000 |
| San Carlos Correctional Facility Elevator Code Compliance Upgrade | \$82,487 |
| Centennial Correctional Facility N. Elevator Code Compliance Upgrade | \$99,705 |
| Buena Vista Correctional Facility Dumbwaiter Code Compliance Upgrade | \$238,015 |
| TOTAL | \$1,597,868 |

Seeing significant-dollar projects on this list that could be characterized as controlled maintenance, the JBC asked that the supplemental be referred to the Capital Development Committee for review and comment. The CDC considered S3 on January 16th and subsequently sent a letter to the JBC that read in part:

The CDC appreciates the opportunity to review and comment on a matter related to capital construction. While expressing some concerns about the emergency supplemental funding process, the CDC unanimously recommends fully funding this operating budget supplemental request.

The CDC letter is reproduced at the back of this packet.

The interim supplemental that the JBC approved and the General Assembly did not ratify: Between December 2017 and August 2018, Colorado's prison population increased by slightly more than 400 inmates. During the summer of 2018, the DCJ issued a prison population forecast predicting that the population would continue to grow and that it would exceed the capacity of Colorado's state and private prisons as early as March 2019. Believing that opening Centennial South was the best way to deal with this situation, the DOC submitted an interim supplemental to the JBC in September 2018 that requested \$1,134,147 million General Fund to make modifications at Centennial South so offenders could be housed there. The modifications included building outdoor recreation yards, running cable and electrical wiring to the day halls, putting tables and benches in the day halls, and removing the communication kiosks in offender cells. The JBC

approved the request, making it clear that it was approving facility modifications but not endorsing the opening of Centennial South, an issue that would be discussed when the General Assembly convened in January 2019. With this approval, the DOC began work on the facility, paying the cost from its \$7,114,522 Maintenance Operating appropriation, which, due to the interim supplemental, the Department was allowed to overspend by \$1,134,147. As required by Section 24-75-111, C.R.S. the interim supplemental was placed in the Department's January 2019 supplemental bill. This bill was approved in the Senate but when it reached the House, a floor amendment stripped the interim supplemental funding. The Department subsequently overspent its FY 2018-19 Maintenance Operating appropriation in by \$1,134,147 (\$1.1M). If the interim supplemental funding had remained in the Department's supplemental bill, the Maintenance Operating appropriation would have increased exactly enough to pay for the \$1.1 million of Centennial-South fixup expenditures. Because the supplemental did not become law, Section 24-75-111 (4), C.R.S. came into play, which required the State Controller to restrict subsequent year spending from the Maintenance Operating appropriation by the amount of the prior overexpenditure. In effect, the Department is being required to pay back last year's over expenditure by spending less than its full appropriation this year. For the DOC, this means that it can only spend \$6 million of its \$7.1 million Maintenance Operating appropriation in FY 19-20.

The need for this request: With this request S3, the department asks that the restriction placed on its FY 19-20 Maintenance Operating appropriation be eliminated so it can expend the entire \$7.1 million in FY 19-20. The Department notes that its fixup expenditures a year ago are now proving helpful. If Centennial South had not been fixed up last year, it would need to be fixed up now, delaying inmate occupancy of the facility.

The Department also states that the majority of the funding in the Maintenance Operating appropriation is allocated for day-to-day maintenance and upkeep at DOC's twenty prisons. This appropriation pays for the repair and replacement of failing equipment such as video surveillance cameras, cell door locks, lighting, electrical, plumbing, HVAC, water treatment systems, and small projects typically under \$5,000. Some of the appropriation is used to patch systems together until a capital renewal project is funded, for example the steam condensate line at Sterling Correctional Facility and utility water lines at Arkansas Valley Correctional Facility. The vast majority of this work is performed by facility maintenance staff and offender work crews. Occasionally, the facility will need expertise beyond what exists in-house and will contract with a local vendor to provide that service. Other local services such as trash removal and pest control are also funded by this appropriation. The Department utilizes statewide service contracts in this funding line to pay for the repair and maintenance services performed on elevators, chillers, and generators. All but \$365,853 of the \$5,980,375 that was available in this appropriation in FY 20 (after the \$1,134,147 restriction) went towards day-to-day facility maintenance requirements. The remaining balance is all that the Department had available to fund the bigger ticket projects like the ones that are listed in Table 1 above.

The Department states that it currently has 652 deferred maintenance projects totaling over \$482 million; four years ago, this list contained 223 deferred maintenance projects totaling \$209 million. The projects listed on Table 1 are among its highest priority projects. If this supplemental is approved, the Department will have the money it needs to complete a number of the projects listed in Table 1.

Sen. Rhonda Fields, Chair
Sen. Jerry Sonnenberg
Sen. Tammy Story

Rep. Dylan Roberts, Vice-Chair
Rep. Susan Beckman
Rep. Alex Valdez



Capital Development Committee
State Capitol Building, Room 029
Denver, Colorado 80203-1784
(303) 866-3521



January 17, 2020

Representative Daneya Esgar, Chair
Joint Budget Committee
200 East 14th Avenue, Third Floor
Denver, CO 80203

Dear Representative Esgar,

On January 16, 2019, the Capital Development Committee (CDC) considered one Department of Corrections (DOC) operating budget request referred by the Joint Budget Committee (JBC). The CDC appreciates the opportunity to review and comment on a matter related to capital construction. While expressing some concerns about the emergency supplemental funding process, the CDC unanimously recommends fully funding this operating budget supplemental request.

Department of Corrections FY 2019-20 Supplemental Request S-01: Deferred Maintenance Projects. DOC requests \$1,134,147 General Fund in the Maintenance Operating line to fund required maintenance projects that are being deferred due to lack of funding. In September 2018, the JBC approved an emergency supplemental request from the DOC for \$1.1 million to fund the construction of recreation yards, upgrade cable and electrical infrastructure, improve day hall furnishings, and make cell modifications at Centennial Correctional Facility South (CSP II) in case the facility is opened to offenders in the future. This supplemental request arose due to prison forecasts showing a population increase in the coming years. The final version of the 2019 capital construction supplemental bill did not contain the \$1.1 million supplemental appropriation. This resulted in an overexpenditure by the same amount in FY 2018-19 and a subsequent restriction by the State Controller. Because the amounts spent on the upgrades to CSP II were from a DOC line item for deferred maintenance, this has impacted DOC's spending on other deferred maintenance projects that it deems critical.

During its deliberations, the CDC expressed concerns about the department receiving emergency supplemental spending authority during the legislative interim from the JBC, but then not receiving funding in the supplemental bill during the following legislative session.

If you have any questions or concerns about the CDC's recommendation, please call Bo Pogue, Legislative Council Staff, at 303-866-5390.

Sincerely,

Senator Rhonda Fields
Chair, Capital Development Committee

Representative Daneya Esgar

January 17, 2020

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c: Capital Development Committee Members
Joint Budget Committee Members
Aaron Greco, Department of Corrections
Deb Goheen, Department of Corrections
Rhonda Boger-Linder, Department of Corrections
Ben Henderson, Governor's Office of State Planning and Budgeting
Jason Schrock, Governor's Office of State Planning and Budgeting
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