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**MEMORANDUM**

November 28, 2016

**TO:** Interested Persons

**FROM:** Kori Donaldson, Principal Research Analyst, 303-866-4976  
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**SUBJECT:** Oversight and Review of Capital Projects

**Summary**

This memorandum provides information about 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.<sup>1</sup> The term "capital" collectively refers to three types of projects, as outlined below. 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;

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<sup>1</sup>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.
- ✓ Controlled Maintenance — controlled maintenance budget requests are system- or maintenance-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 state-owned, General Fund-supported buildings and physical facilities and academic buildings 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. 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, and address controlled maintenance issues that exceed \$2 million in cost in a single fiscal year or phase, or have grown in scope and are better addressed building by building, rather than system by system. Capital renewal budget requests are prioritized by the CDC along with capital construction budget requests. An example of a capital renewal project is upgrading or replacing the mechanical, electrical, and fire suppression systems in a classroom building.

## Facilities Master Planning

State agencies are required to 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 engage in master planning.

***State department facilities master planning requirements.***<sup>2</sup> 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

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<sup>2</sup>Section 24-1-136.5, C.R.S.

submission of such plans to the Office of the State Architect (OSA) for approval. No capital construction may commence except in accordance with an approved facilities master plan. The executive director of each department has the authority to prescribe uniform policies, procedures, and standards of space utilization, except for office space, which is prescribed by OSA.

**Higher education institution master planning requirements.**<sup>3</sup> 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 are required to conform to educational master plans and are reassessed at least every ten years. CCHE has the power to prescribe uniform policies, procedures, and standards of space utilization.

## 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 (DHE) reviews program plans for most higher education institution projects. In order to engage in facilities program planning, state agencies may use available operating dollars, request monetary 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:

- ▶ controlled maintenance and capital renewal projects;
- ▶ state department projects costing less than \$2 million, regardless of the source of funds;<sup>4</sup>
- ▶ higher education institution state-funded projects costing less than \$2 million, so long as a waiver is requested and received from DHE;
- ▶ higher education institution cash-funded projects costing less than \$2 million; and
- ▶ higher education institution cash-funded projects costing more than \$2 million, but not subject to the Higher Education Revenue Bond Intercept Program.

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.<sup>5</sup>

Both OSPB and DHE indicate in their annual budget instructions that it is not acceptable for state departments of higher education institutions to downsize large projects into several small projects in order to avoid program planning requirements. The annual budget instructions include directions for program planning.

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<sup>3</sup>Section 23-1-106, C.R.S.

<sup>4</sup>OSPB has waived the program planning requirements for state-funded projects costing less than \$2 million, so long as sufficient information is included in the budget request documents.

<sup>5</sup>Section 23-1-106 (9), C.R.S.

## Submission and Initial Review of Capital Requests

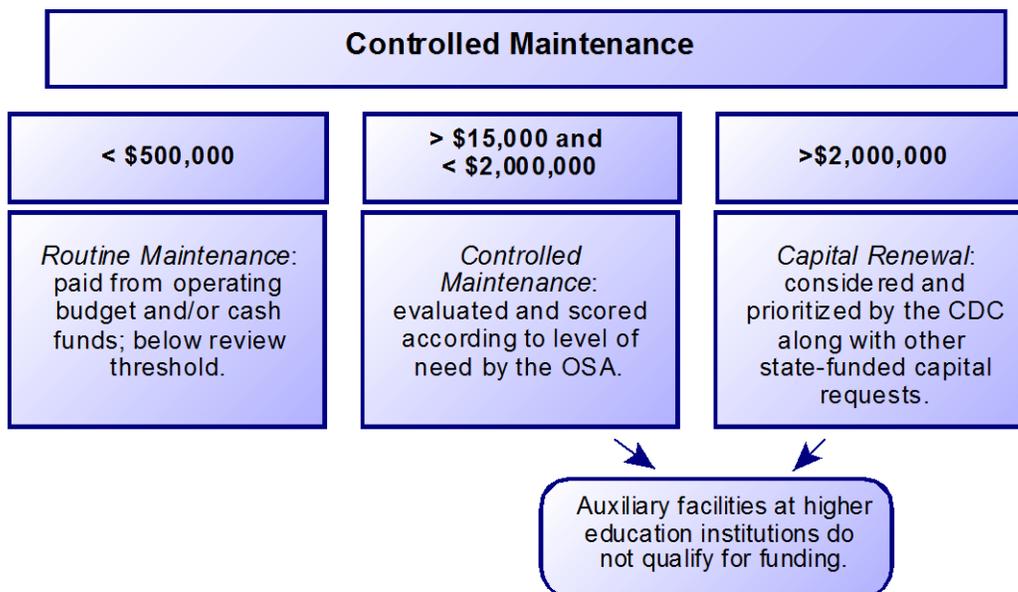
Prior to any legislative review of capital requests, projects are subject to executive branch review. The rules regarding this review vary according to project type, as outlined below.

**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. Controlled maintenance projects are scored and ranked based on three factors, including: (1) the severity of the deterioration or compliance issues; (2) the type of building system being impacted; and to a certain degree, (3) 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 later forwards and prioritizes these requests to the CDC along with the regular state-funded capital construction submissions.

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

**Figure 1**  
**Dollar Threshold Triggering Categorization and Review of Controlled Maintenance Requests**



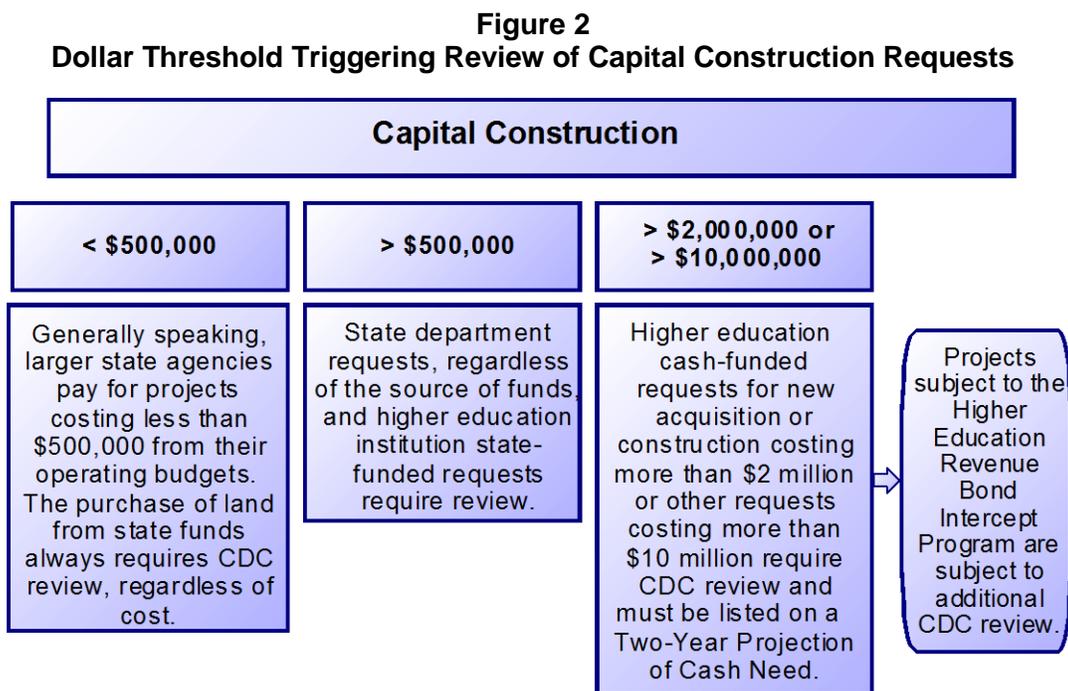
**State-funded capital construction requests.** State department capital construction requests, regardless of the source or amount of funds, are submitted by state departments to

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 DHE 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.

**Higher education institution cash-funded capital construction requests.** Higher education institutions annually submit two-year projections of all capital construction projects to be constructed using cash funds, subject to certain dollar thresholds, to CCHE. New construction and acquisition projects are subject to a \$2 million review threshold. Renovation projects are subject to a \$10 million review threshold. CCHE annually submits a unified list of the two-year projections received from higher education institutions to the CDC in accordance with OSPB’s budget instructions, usually no later than October 1.

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



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 Long Bill. Most capital construction projects are appropriated in the annual Long Bill.

**State department cash-funded requests.** The CDC typically submits its recommendations regarding state department cash-funded projects to the JBC early in the legislative session. This recommendation may be submitted 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 requests.** At a minimum, the CDC annually reviews and approves two-year projections of cash need for higher education institutions. If necessary, the CDC may also direct institutions of higher education to modify the projections. These projects are not appropriated. Any project listed and reviewed as part of an institution's two-year projection 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.

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. Higher education institutions are also permitted to amend approved two-year projections at any time during the year. The CDC is directed to meet within 30 days of such a submittal during the session, or 45 days during an interim. An amendment to an approved two-year projection is required if the project's scope or funding source changes or if the total project cost increases by more than 15 percent. If a project's total approved cost increases by less than 15 percent, a higher education institution is required to notify CCHE, OSPB, CDC, and JBC in writing to verify the receipt of any additional gifts, grants, or donations.

## **Project Oversight and Tracking After Appropriation or Spending Authorization 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 DHE. 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.

**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:

1. 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;
2. The one-year rule states that spending for a project must commence within the first fiscal year of an appropriation; and
3. 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.

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.** The DHE 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.