2022 Capital Budget Q&A Session for Local Units of Government and Political Subdivisions

May 27, 2021
<table>
<thead>
<tr>
<th>Time</th>
<th>Speaker</th>
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<tr>
<td>1:00 – 1:10 pm</td>
<td>Marianne Conboy, MMB: Process overview and timeline</td>
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<td>1:10 – 1:13 pm</td>
<td>Jen Hassemer, MMB: Restrictions on spending GO bond proceeds</td>
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<td>1:13 – 1:23 pm</td>
<td>Roger Behrens, MMB: Additional requirements and FAQs</td>
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<td>1:23 – 1:26 pm</td>
<td>Bee Yang and Wayne Waslaski, Real Estate &amp; Construction Services, Department of Administration: Predesign</td>
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<td>1:26 – 1:29 pm</td>
<td>Patrick Smith, University of Minnesota: SB 2030 and B3 Programs</td>
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<td>1:29 – 1:32 pm</td>
<td>Scott Beutel, Minnesota Department of Human Rights: Equity in Bonding</td>
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<tr>
<td>1:29 – 2:00 pm</td>
<td>Questions and answers for questions submitted in the chat</td>
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Capital Budget Instructions: https://mn.gov/mmb/budget/budget-instructions/capbud/

- Memo
- Instructions
- 2022 capital budget overview video
- Templates, FAQs, and more


- System access
- User Guide
- 2022 capital budget CBS training videos
Training Videos

CBS Training Videos

Accessing CBS
04/20/2021 — This tutorial provides instruction on how to access the Capital Budget System for state agency users and local government users.

Creating a New Project and Copying an Existing Project in CBS
04/27/2021 — This tutorial provides instructions about how to create a new projects and copy an existing project in the Capital Budget System.

Entering Project Overview Information in CBS
04/20/2021 — This tutorial provides instructions about how to enter project overview information in the Capital Budget System.

Entering Funding Sources in CBS
04/24/2021 — This tutorial provides instructions about how to enter Funding Sources in the Capital Budget System.

Entering Project Costs in CBS
04/23/2021 — This tutorial provides instructions about how to enter project costs in the Capital Budget System.

Entering Statutory Requirement Responses in CBS
04/24/2021 — This tutorial provides instructions about how to enter statutory requirement responses in the Capital Budget System.

Uploading Documents and Running Reports in CBS
04/27/2021 — This tutorial provides instructions about how to upload documents and run reports in the Capital Budget System.

Previewing and Submitting Projects in CBS
04/27/2021 — This tutorial provides instructions about how to preview and submit projects in the Capital Budget System.
How to Submit a Question in Webex

• Use **Chat**

• Send to **All Panelists**

• Include your first and last name, state agency, type your question, and press ‘enter’

• If we don’t get to your question, we will follow up with you individually after today’s session
What is the Capital Budget Process?
The Capital Budget

• Developed in the odd-numbered calendar year for submission to the Legislature in January of the even-numbered calendar year

• Funded primarily by issuing state General Obligation (GO) bonds

• GO bonds may only be used for qualified capital expenditures
Capital Budget System (CBS)

- Capital budget requests are submitted through the web-based Capital Budget System (CBS)

- CBS manages the collection of capital project requests, including project overview narrative information, funding sources, project costs, statutory requirements, and uploaded documents

- The CBS website provides additional information about system access and system training materials, including the User Guide and new training videos
  - https://mn.gov/mmb/budget/statewide-budget-systems/cbs/
# 2022 Timeline for Local Units of Government

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<th>Year</th>
<th>Timeframe</th>
<th>Action</th>
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<tr>
<td><strong>2021</strong></td>
<td>March - May</td>
<td>MMB authorizes CBS users</td>
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<td>June 18</td>
<td><strong>Deadline for all local government requests to be final submitted in CBS</strong></td>
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<td>June - Oct</td>
<td>MMB staff review requests and conduct site visits as needed</td>
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<td>July 15</td>
<td>MMB publishes and submits all local government requests to the Legislature</td>
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<td>October 15</td>
<td><strong>Deadline for final edits to local government requests to be submitted in CBS</strong></td>
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<tr>
<td><strong>2022</strong></td>
<td>January 17</td>
<td>Governor Walz submits his 2022 capital budget to the Legislature and MMB publishes all local requests</td>
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<td>May</td>
<td>Legislature adjourns</td>
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• Upload draft bill language in CBS

• New training videos on the CBS website

• CBS system-generated confirmation emails will be sent when projects are preliminary-submitted or final-submitted (remember to be in final-submitted status by June 18)

• Minnesota Department of Human Rights’ Certificates of Compliance and Equal Pay Certificates
What Information Will Be Published By MMB?

• Detailed project information submitted in CBS will be published in 3 reports:
  1. Projects Summary
  2. Project Narrative
  3. Project Detail

• Previously published requests can be found on the MMB Previous Capital Budgets webpage:
  • https://mn.gov/mmb/budget/capital-budget/library/
MMB’s Evaluation of Capital Projects

• Is the project eligible for general obligation bond funding?

• Has all required information been entered in CBS, including statutory requirements?

• Do Funding Sources equal Project Costs (projects cannot be submitted if totals do not match; sources must be sufficient to cover project costs)

• What problem does the project address?

• Does the project serve a statewide or regionally-significant purpose?

• Can the project be completed in phases?

• Will the project require additional state subsidies to operate?
• Could the project be funded through an existing statutory grant program (ex: Local Road Improvement Program, Wastewater Infrastructure Funding Program, or Transportation Economic Development Program)?

• Can the project be completed with nonstate funds?

• Does the project serve a public purpose, and will the project be owned and operated by a public entity?

• Is there a resolution of support from the jurisdiction’s governing body (uploaded to CBS)?

• Does the project have the required 50% nonstate match?
• The proposed funding source must be appropriate for the scope of work
  • General Obligation Bonds – the most frequently requested funding source, requires public ownership
• Some alternative financing mechanisms that might be considered include:
  • State Trunk Highway Bonds – construction, improvement and maintenance of the trunk highway system
  • General Fund Cash – certain capital grants or related expenditures that are not eligible for bonding
Governor Walz’s capital budget will continue to focus resources on the most critical projects and strategic investments across the state and give local leaders tools they need to succeed, with particular focus on projects that:

- Address life and safety issues
- Preserve existing infrastructure and repair existing facilities before starting new projects
- Provide at least a 50% local match
- Are proposed following community engagement
- Have a local resolution of support from the governing body
- Integrate climate preparedness and/or clean energy
- Address and undo historical and systemic disparities and inequities, including those based on race, gender, veterans’ status, geography, and economic status
Are There Restrictions on Spending GO Bond Proceeds?
Projects Eligible For State GO Bond Financing

• Article XI, Section 5, of the Minnesota Constitution contains the authority for incurring public debt (GO bonds)
  - Subdivision (a) authorizes debt “to acquire and to better public lands and buildings and other public improvements of a capital nature, and to provide money to be appropriated or loaned to any agency or political subdivision of the state for such purposes.”

• In other words...
  - The project must be for a public purpose
  - The project must be publicly owned
  - The purpose of the bonds must be clearly set forth in the law
  - Project activities must constitute capital expenditures
Restrictions on Use of GO Bond Financed Property

• Private use is *any* direct or indirect use by a nongovernmental person or entity

• Certain IRS safe harbors may apply

• Involve MMB at earliest opportunity

• Bond-financed facilities used for private business threatens the tax-exempt status of the state’s bonds
Allowable Capital Expenditures

• Capital expenditures test:
  • Long-lived: ≥ 10 years
  • Fixed asset: land, building, capital equipment or other improvement to land

• Purchase of land, buildings, easements

• Predesign and design

• Construction (including environmental testing and site preparation)

• Major renovation, roof reconstruction and replacement, major window replacement (if add to value or life of building)

• Fixtures, furnishings and equipment, only if installed:
  • Upon initial construction, or
  • During major renovation to make the facility usable for the first time
Examples include:

- Fixtures, furnishings and equipment independent from any construction project
- General studies to evaluate the need for a capital project
- Computer and financial modeling for a project not yet sited
- Master planning
- Demolition without any associated redevelopment
- All relocation and moving costs
- Betterments to leaseholds with less than a 10-year term
- Software and data management systems
- Personal computers

*This is not an exhaustive list*
Use Contracts

• Definition: a lease, management or other contract between the public owner of BFP and another party operating or using it

• Governed by M.S. §16A.695, Commissioner’s Order and Use Contracts Checklist

• MMB approval required

• Must carry out a government program

• The term of the use agreement must be substantially less than the property’s useful life (≤ 50% is rule of thumb)

• Rent received must be not greater than what is needed to cover operating costs and debt expenses for non-State General Obligation Bonds for the project. A portion of any rent received over what is needed to cover operating costs and non-State General Obligation Bonds debt expenses goes to pay off state GO bonds
Examples of Private Use *

- Rented skyboxes in sports facilities
- Concessions
- Naming rights, broadcast rights, advertising, sponsorships
- Leased space
- Office buildings
- Convention center/arenas
- Airport terminals
- Parking garages
- Academic institutions
- Stadiums
- Business incubators
- Cell phone towers, solar panels, electric vehicle charging stations

*This is not an exhaustive list
Public Ownership and Ground Leases/Easements

• A public entity (i.e. a state agency or political subdivision) must own the property

• No grants may be made directly to private entities, including nonprofits, tribal governments or the federal government

• If not publicly owned outright, “ownership” must be via a lease or easement for a term of at least 125% of the property’s useful life (Checklist for Ground Leases or Easements)
What Additional Requirements Apply to Local Projects?
• Always required when a state agency funds a grant to a local project

• Not required if appropriation is made to a state agency for its own capital needs

• MMB has prepared generic forms for state agency use:
  • Forms are slightly different depending on funding source
Statutory Authority & Program Operation

- Grantee must have independent statutory authority to operate the project (for example, via charter or statute)
- The bonding legislation alone does not normally provide authority to operate the project or program
- Grant recipients must demonstrate to granting agency that they have an ability and plan to fund the program intended for the facility
- Local government must actively oversee the ongoing operation of the project
• **All** financing must be in place to complete the project before the grant will be made available (M.S. §16A.502)
  
  • Applies to grants from an agency program

• Clarify what the “project” is; e.g., if just predesign, funding for construction is not needed

• *Capital Grants Manual* lists acceptable documentation for different funding sources
  
Statutory Requirements
Statutory Requirements for State-Funded Projects

- **M.S. 16B.323: Solar Energy in State Buildings.** Up to 5% of appropriation to be used on Solar energy system - any new building that receiving bond funds, includes additions and major interior configuration or energy system.

- **M.S. 16B.325: Apply Sustainable Guidelines** (B3-MSBG) for new buildings & major renovations (http://www.b3mn.org/guidelines/index.html)
  - M.S. 216B.241 Sustainable Building SB 2030 requirements
  - Contact/support: http://www.b3mn.org/guidelines/index.html

- **M.S. 16B.326: Heating and Cooling Systems.** Written plan w/predesign to consider providing Geothermal & Solar Energy Heating & Cooling Systems on new or replacement HVAC systems

- **M.S. 16B.335, subd. 1: Notification to Legislature.** Notification to select House & Senate members prior to final plans. Legislative response is needed prior to preparing final construction documents.
Statutory Requirements for State-Funded Projects (continued)

- **M.S. 16B.335, subd. 3**: Predesign submittal. Predesign packages must be submitted to the Dept. of Administration for approval. Statute exempts certain projects from this requirement.

- **M.S. 16B.335, subd. 4**: Energy Conservation Standards. Projects must comply with standards in M.S. 216C.19 to 216C.20 and [http://www.doli.state.mn.us/CCLD/Codes.asp](http://www.doli.state.mn.us/CCLD/Codes.asp)

- **M.S. 16B.335, subd. 3c**: MINNCORR. Consider the use of MINNCOR products in specifications.

- **M.S. 177.42-44**: Prevailing Wage. Contractor must pay prevailing wages and hours of labor.

- **M.S. 16A.695**: State Bond Financed Property Requirements. Various requirements related to leases and management contracts, sale of property, program funding, match requirements, ground leases, and grant agreements.
Statutory Requirements for State-Funded Projects (continued)

- **M.S. 16C.285**: Responsible Contractor. Minimum requirements for contractors in order to receive contracts for projects.
- **M.S. 16A.502**: Nonstate Commitments. If an appropriation is less than the total project cost, a sufficient contribution/match from nonstate sources is required.
- **M.S. 16A.86**: State Share of Local Projects. State appropriation cannot exceed half the total project cost. Certain types of jurisdictions and projects are exempt.
- **M.S. 363A.36**: Certificates of Compliance for Public Contracts. Affirmative action plan certificate of compliance required for state agency contracts exceeding $100,000 and political subdivision contracts exceeding $250,000 that use state GO bonds.
- **M.S. 363A.44**: Equal Pay Certificate. Equal pay certificate of compliance required for state agency contracts exceeding $500,000 and political subdivision contracts exceeding $1,000,000 that use state GO bonds.
PreDesign for Capital Budget Projects
Bee Yang and Wayne Waslaski, Real Estate & Construction Services
PreDesign for Capital Budget Projects

• Wayne Waslaski – Sr. Director

• Bee Yang – Construction Operations Manager / Statewide Predesign Program Manager
PreDesign for Capital Budget Projects

• **M.S. 16B.335:** State law requiring the preparation and submittal of a predesign for projects receiving funding from the State of Minnesota. Applies to any public entity (state agency, university, state colleges, county, city,) receiving any amount of state funding.

• Predesign is the planning activity and documentation required to sufficiently identify:
  • Cost
  • Scope
  • Schedule of Capital Projects

• **Predesign Manual – 6th Edition**

• **Applicability of Statutes**
SB 2030 and B3 Programs
Patrick Smith, University of Minnesota
The B3 Guidelines is a set of sustainability goals that apply to the design and construction of new buildings or renovations in order to meet sustainability goals for site, water, energy, indoor environment, materials and waste.
SB 2030 is a progressive energy and carbon reduction program, modeled on the Architecture 2030 program; customized to better fit Minnesota’s buildings, climate, and policies, and expanded to allow the inclusion of more building types.
For More Information on B3 and SB 2030

B3mn.org

Design of New Buildings and Renovations

- **GUIDELINES**: Use B3 Guidelines on new buildings or renovations to meet sustainability goals for site, water, energy, indoor environment, materials and waste.

- **SB 2030 ENERGY STANDARD**: Use the SB 2030 Energy Standard to meet energy use goals only. If the B3 Guidelines are used, the SB 2030 Energy Standard is automatically included in the process.

Operation of Existing Buildings

- **BENCHMARKING**: Use B3 Benchmarking to track and compare energy use on existing buildings. The B3 Guidelines and SB 2030 Energy Standard direct the user to the B3 Benchmarking tool.

- **ENERGY EFFICIENT OPERATIONS**: Use B3 Energy Efficient Operations to minimize energy use during building operations. This program can be applied to any existing building.

- **POST-OCCUPANCY EVALUATION**: Use B3 Post Occupancy Evaluation (POE) to determine occupants’ perceptions of the buildings’ indoor environmental quality. The POE survey is required for B3 buildings.
Equity in Bonding
Scott Beutel, Minnesota Department of Human Rights
• The Minnesota Department of Human Rights (MDHR), the state’s civil rights enforcement agency, currently oversees workforce inclusion and equal pay monitoring for large state contractors.

• Equity in Bonding (EIB) requirements, effective for projects beginning Jan 1, 2022, extends these requirements to political subdivisions for GO Bond funded projects.
  • Projects through state agencies, the Met Council, and other metropolitan agencies already must abide by Workforce Certificate and Equal Pay Certificate requirements.

• **M.S. 363A.36: Certificates of Compliance for Public Contracts.** Affirmative action plan certificate of compliance required for state agency contracts exceeding $100,000 and political subdivision contracts exceeding $250,000 that use state GO bonds.

• **M.S. 363A.44: Equal Pay Certificate.** Equal pay certificate of compliance required for state agency contracts exceeding $500,000 and political subdivision contracts exceeding $1,000,000 that use state GO bonds.
Equity in Bonding – Workforce Goals

• **Workforce Goals**: Minnesota thrives when state investments are used to intentionally undo disparities and inequities.

• The Minnesota Department of Human Rights sets **Workforce Goals** for people of color and Indigenous people and/or women on state funded construction projects.

• Contractors must make good faith efforts to meet goals.

• These were most recently updated in 2017.
• **Certificate Holders**: 3,700 businesses across the state either currently have or have previously held Workforce or Equal Pay Certificates. A full list of certificate holders is available [here](#).

• Additional guidance and information sessions will be available in fall of 2021.

• More information is available through MDHR’s [Office of Equity and Inclusion for Minnesota Businesses](#).
MMB Capital Budget Staff

**Bond Sales, Legal Information, Grant Agreements**

Jen Hassemer | Asst. Commissioner, Debt Management  
*jennifer.hassemer@state.mn.us*  
*651-201-8079*

Roger Behrens | Capital Bonding Coordinator  
*roger.behrens@state.mn.us*  
*651-201-8131*

**Capital Budget Process, Requests, System**

Liz Connor | Executive Budget Coordinator  
*elizabeth.connor@state.mn.us*  
*651-201-8041*

Marianne Conboy | Capital Budget Coordinator  
*marianne.conboy@state.mn.us*  
*651-201-8189*
Additional Presenters

Wayne Waslaski  
Sr. Director  
Real Estate & Construction Services  
Department of Administration  
651-201-2548  
wayne.waslaski@state.mn.us

Bee Yang  
Construction Operations Manager  
Real Estate & Construction Services  
Department of Administration  
651-201-2393  
bee.yang@state.mn.us

Scott Beutel  
Assistant Commissioner, External Relations,  
Minnesota Department of Human Rights  
651-539-1104  
scott.beutel@state.mn.us

Patrick Smith  
Center for Sustainable Building Research  
University of Minnesota  
612-626-9709  
patsmith@umn.edu
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• Capital Budget Frequently Asked Questions:  
https://mn.gov/mmb/budget/capital-budget/faq.jsp

• For questions about the Capital Budget System (CBS), including system access and system issues, contact MMB Budget Operations at budget.finance.mmb@state.mn.us

• For questions about the capital budget instructions and process, contact Marianne Conboy, Capital Budget Coordinator, at Marianne.Conboy@state.mn.us
Q&A Session