2022 Capital Budget
Q&A Session for State Agencies

May 24, 2021
<table>
<thead>
<tr>
<th>Time</th>
<th>Speaker</th>
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<tbody>
<tr>
<td>1:00 – 1:10 pm</td>
<td>Marianne Conboy, MMB: Process overview and timeline</td>
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<tr>
<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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Instructions and Training

**Capital Budget Instructions:** [https://mn.gov/mmb/budget/budget-instructions/capbud/](https://mn.gov/mmb/budget/budget-instructions/capbud/)

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

**Capital Budget System (CBS):** [https://mn.gov/mmb/budget/statewide-budget-systems/cbs/](https://mn.gov/mmb/budget/statewide-budget-systems/cbs/)

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

**Accessing CBS**
04/20/2021 — This tutorial provides instructions 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 project 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 on 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.

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**The Capital Budget Process for State Agencies and Political Subdivisions**
04/28/2021 — This tutorial provides an overview of the capital budget process for state agencies and political subdivisions.
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/
<table>
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<tr>
<th>Year</th>
<th>Timeframe</th>
<th>Action</th>
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<tr>
<td>2021</td>
<td>March - May</td>
<td>MMB authorizes CBS users</td>
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<td>June 18</td>
<td><strong>Deadline for all state agency preliminary requests to be submitted in CBS</strong></td>
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<tr>
<td></td>
<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 state agency requests to the Legislature</td>
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<td>Sept 10</td>
<td><strong>Deadline for Agency Profile, Strategic Planning Summary, and Asset Preservation List (if applicable) to be submitted in SharePoint</strong></td>
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<td>October 15</td>
<td><strong>Deadline for all state agency final requests to be submitted in CBS</strong></td>
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<tr>
<td>2022</td>
<td>January 17</td>
<td>Governor Walz submits his 2022 capital budget to the Legislature and MMB publishes all state agency requests.</td>
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<td>May</td>
<td>Legislature adjourns</td>
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New in 2022

- 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
- Minnesota Department of Human Rights’ Certificates of Compliance and Equal Pay Certificates
- Minnesota IT Services (MNIT) statute changes
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?
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

- State Appropriation Bonds – more flexible tool than general obligation bonds (such as public ownership)

- 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, particularly projects that:

- Address life and safety issues
- Preserve existing infrastructure and repair existing facilities before starting new projects
- Reflect state agencies’ strategic capital investment plans
- Reflect state agencies’ strategic plans
- Minimize construction tails and operating costs
- Are proposed following community engagement
- Reflect the priorities and goals found in the One Minnesota Plan
- 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
Ineligible Capital Expenditures

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
Several statutes govern asset preservation:

- CAPRA: §16A.632 (for unanticipated emergencies)

Projects must meet all constitutional requirements for bond funded projects

- Substantial betterment; increases value or extends useful life
- NOT for minor repairs or replacements that should be paid for from operating budget

Agencies follow the statutory priorities for expenditure

Projects will also be subject to §16A.695, State Bond Financed Property
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)
• *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 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](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](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.
• **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.
• **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

**Pre-design**
- Establish project-specific performance requirements.
- SB 2030 Energy Standard

**Design**
- Refine project-specific performance requirements.
- SB 2030 Energy Standard

**Construction**
- Implement construction practices that meet performance requirements.
- B3 Guidelines

**Operations**
- Ensure project is meeting performance requirements.
- Benchmarking
- Energy Efficient Operations
- Post-Occupancy Evaluation
- B3 Guidelines

Optimize use of resources to achieve performance requirements.

Evaluate success of design strategies through early and repeated modeling.
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.
Tools – Tracking Tool and SB 2030 Energy Standard Tool
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.
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.
• **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.

• **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](#).
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• **Capital Budget System (CBS) Information and Training Videos:**
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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