



The Capital Budget Process for State Agencies and Political Subdivisions

Presentation for the House Capital Investment Committee
January 21, 2021

When and How Are Capital Requests Submitted?

Preliminary 2022 Timeline Overview

Year	Timeframe	Action
2021	March - May	MMB authorizes Capital Budget System users and provides training
	May - June	Local governments can submit Preliminary project requests in the Capital Budget System
	June - Oct	MMB staff review requests and conduct site visits as needed
	July 15	Preliminary capital budget submission to legislature
	Mid Oct	Final capital budget requests submitted in the Capital Budget System
2022	January 15	Final capital budget requests and Governor's recommended capital budget submitted to legislature
	May 17	Legislature adjourns

Capital Budget System (CBS)

- All requests must be entered into the Capital Budget System (CBS) with adequate information to allow for meaningful consideration of the project by the Governor and Legislature.
- CBS is a web-based application and will open for 2022 capital budget project submissions beginning in early May 2021.
- CBS users must be officials or staff of political subdivisions, and must be authorized by MMB
 - School districts
 - Counties
 - Cities

Which State Agencies Will Local Governments Work With?

Agencies, Programs, and Procedures

Minnesota Management & Budget

- Review proposals for completeness and bondability
- Manage the process for the Governor and the Legislature by collecting and disseminating information and providing instructions and forms
- Calculate the cost of proposed bonding packages
- Forecast debt service costs of future bonding bills based on a ten-year average of bond authorizations
- Assist with implementation issues after enactment

Agencies, Programs, and Procedures

Department of Administration

- Predesign must be reviewed by the Department of Administration before design begins ([M.S. 16B.335, subd. 3](#))
- Capital projects are expected to employ sustainable building guidelines and high performance building practices ([M.S. 16B.325](#))

Granting Agency

- If a local government project is enacted in a bonding bill, the appropriation must be made to a state agency for a grant to the local unit of government

What Information Is Submitted & How Will It Be Used?

Information Provided in Capital Budget Requests

- Requests by amount, in priority order (if more than one request)
- Brief summary of each project request
- Detailed description of the project
- Rationale for why the project is needed
- Timeline for project
- Other relevant background information
- All funding sources (past and requested)
- Detailed listing of costs
- Answers to applicable statutory requirements
- Resolution of support from the governing body

What Information Will Be Published By MMB?

Detailed project information submitted in CBS will be published in 3 reports:

1. Projects Summary

- A listing of all requests from each entity on one form.
- Projects are displayed according to priority ranking.
- Funding requests are shown for 2022, 2024, and 2026.

2. Project Narrative

- Includes a brief summary of each request, the amount, priority rank, detailed description and rationale, and other background information.

3. Project Detail

- Includes all funding sources and project costs for each request (which must match) and lists applicable statutory requirements.

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?
- Does the project have the required 50% nonstate match?

Evaluating Capital Projects (*continued*)

- Could the project be funded through an existing statutory grant program (ex: Local Road Improvement Program, Wastewater Infrastructure Funding Program, or Transportation Economic Development [TED] Program)?
- Can the project be completed with nonstate funds?
- Will the project require additional state subsidies to operate?
- 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)?

Evaluating Capital Projects *(continued)*

- 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

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 (G.O. 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***

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:

- Options to purchase land or buildings
- Fixtures, furnishings and equipment independent from any construction project
- General studies to evaluate the need for a capital project
- Educational, promotional or informational costs incurred for a project not yet sited
- Computer and financial modeling for a project not yet sited
- Master planning

Ineligible Capital Expenditures * (*continued*)

More examples:

- Demolition without any associated redevelopment
- All relocation and moving costs
- Operating and maintenance costs
- Betterments to leaseholds with less than a 10-year term
- Software and data management systems
- Personal computers
- Marketing expenses

**This is not an exhaustive list*

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

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 ($\leq 50\%$ is rule of thumb)
- A portion of any revenue received goes to pay off state GO bonds, if more revenue is received than is needed to cover operating costs

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*

What Additional Requirements Apply to Local Projects?

Grant Agreements

- 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:
 - GO bond funds disbursed under an agency grant program
 - Direct GO bond appropriation to an identified project
 - General fund (cash)

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

Full Funding Requirement

- **All** financing must be in place to complete the project before the grant will be made available (M.S. §16A.502)
- 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 and Bonding Resources

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>
- **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.

Bonding Resources and Information

- Frequently Asked Questions
 - <https://mn.gov/mmb/budget/capital-budget/faq.jsp>
- Instructions, Policies, and Checklists
 - [Capital grants manual for local governments](#)
 - [Capital grant agreements, instructions, and checklists](#)
 - [Financial policies and procedures for capital projects](#)
- Legal Information
 - [MN Constitution, Article XI, Section 5](#) (bonding authority for public works)
 - [M.S. 16A.695](#) (GO bonding law)
 - [Fourth Amended Commissioner's Order](#) (GO bonding implementation)
 - [Bond counsel opinions](#)

Questions?

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