Capital Outlay

General Overview

Capital Outlay is the portion of the State budget that is devoted to the planning and financing of construction, renovation, remodeling, repair, and maintenance of facilities and capital assets for use by State agencies, State-supported public universities and community colleges.

Legislative oversight of the State's capital outlay process is provided by the Joint Capital Outlay Subcommittee (JCOS), which is the only appropriations subcommittee specifically charged with duties in statute. The Management and Budget Act (Public Act 431 of 1984 as amended) assigns specific responsibilities to JCOS regarding State funded capital outlay projects and leasing of private facilities. In addition, the State Building Authority Act (Public Act 183 of 1964), capital outlay appropriation acts, and the formal policies of the JCOS provide procedural structure, and approval requirements of State capital outlay projects.

Joint Capital Outlay Subcommittee

Beginning in January 2011, JCOS is comprised of 14 members, seven from each house. From 2007-2010, the JCOS consisted of 20 members of the appropriations committee. From 1993 through 2006, JCOS consisted of 16 members. From the 1960s through 1978, JCOS consisted of 8 members. The JCOS is chaired alternately by each chamber on a two-year rotation, with a member from the other house serving as vice chair. In 2015 and 2016, the House chairs JCOS. The Senate will chair JCOS in 2017 and 2018. The JCOS meets throughout the year to review and approve various capital outlay documents, lease agreements, and other issues, as required by law.

Some of the specific duties and responsibilities of the JCOS include:

- Prioritizing future State agency, university, and community college capital outlay project requests.
- Authorizing planning requests for State agency, university, and community college capital outlay projects in an appropriations bill.
- Approving or disapproving project program statements and schematic design planning documents.
- Establishing a project's total cost and financing sources through the inclusion of a construction authorization in an appropriations bill.
- Approving or disapproving State agency requests to lease private space.
- Reviewing the Governor's annual capital outlay budget requests.

Michigan's Capital Outlay Process

Most capital outlay projects follow a specific process which governs and controls the development of a project from inception to completion. The following summary is the process for a typical capital outlay construction project at a State agency, community college, or university.

1. **Submission of Master Plans** - Five-year master plans are required by law to be submitted annually to the Department of Technology, Management, and Budget (DTMB) and the Joint Capital Outlay Subcommittee (JCOS). These master plans also include, as part of the plan, current capital outlay project requests.

2. **DTMB/JCOS Review of Master Plans** - Five year master plans are reviewed by the DTMB and the JCOS. From this review, the Governor may include approved State agency, university, or community college project planning requests in the annual Executive budget request. The JCOS, and ultimately the entire legislature, reviews the Governor's recommendations. In addition, the Legislature may include capital outlay project requests not recommended by the Governor in a capital outlay appropriation bill.

3. **Planning Authorization** - Approved planning authorizations appear as $100 line-item appropriations in an enacted bill. The $100 line item establishes the account and allows the college or university to proceed with professionally developed program and schematic planning documents. These documents provide the project's purpose, scope, and estimated cost. All planning costs must be paid by the institution and will count toward the institution's eventual project match.

4. **Planning Document Review and Approval** - Program and schematic planning documents for the project must be submitted to the DTMB for review and approval. These documents include the basic size and design of the project along with the anticipated project cost. Once approved, the DTMB submits the documents to the JCOS for review and approval.

5. **Construction and Cost Authorization** - Upon JCOS approval of the schematic planning documents, the JCOS authorizes the project to proceed to final design and construction by establishing a total cost authorization in an appropriation bill. This authorization delineates both the total project cost and the financing shares to be borne by the State and the institution and allows the project to move into final design and construction.

6. **Final Design/Construction** - Once a project receives construction authorization in an appropriation bill, the project may proceed to final design. Preliminary and final design documents must be submitted to, and approved by, the DTMB. Final design documents are used as bid documents for the project.

7. **Project Management** - Institutions can manage their own projects or, DTMB can serve as project manager during construction. Construction documents continue to be reviewed by the DTMB and the State Building Authority (SBA) for program compliance.

8. **Construction Financing** - Institutions are required to spend their portion of the project cost before any State funds are released. Once the institution's share of the project financing is exhausted, the State, generally through the SBA, finances the balance of the project, first by issuing short term "commercial paper" financing, and then through the sale of long-term bonds.

<u>Capital Outlay Financing</u>

There are essentially two ways to finance capital construction projects: as lump-sum cash payments, or long-term financing through the issuance of debt through the State Building Authority. Under a lump-sum cash system, appropriations are typically made prior to a project's start, and cover project costs as they occur, or as a lump sum upon completion. While some projects (especially smaller, more routine maintenance and remodeling projects) are funded this way, most larger building projects are financed through the SBA.

The State Building Authority, created by Public Act 183 of 1964, is governed by a five-member Board of Trustees appointed by the Governor with advice and consent of the Senate. The SBA finances capital projects through the issuance of revenue bonds, which are limited obligations of the SBA and not general obligations of the State. The SBA is limited by statute to total outstanding debt at any one time of $2.7 billion. This figure is often referred to as the bond limit or bond cap.

Before bonds are issued to finance a project, the Legislature must convey ownership of the project to the SBA and approve a lease agreement between the SBA, the institution, and the State. This approval is now included in the appropriation bill that includes the construction authorization for a project. Since the SBA then owns the project, the State must rent the facility from the SBA. It does so at a “true market” rental rate established by an appraiser. The State pledges to make annual rental payments to the SBA, which are used by the SBA to pay off the bonds. Once the bonds are retired, the property is conveyed back to the institution. In essence, the SBA acts as a mortgage banker that retains ownership of the property until the debt is retired. Annual rental (debt service) payments to the SBA are mostly General Fund appropriations, and are appropriated each year in the General Government budget bill.

Other Issues

In addition to capital outlay building projects, the JCOS is also responsible for approving State agency requests to lease private property if the lease request is over $500,000. The JCOS also annually reviews the Michigan Natural Resources Trust Fund appropriation bill, and use and finance statements.