



# State Building Program

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# State Building Program

The Legislature has, by statute, created the state Building Commission and delegated to it responsibility for developing and implementing the state building program. The Commission also issues bonds for the state. The building program, or capital budget, consists of those projects recommended by the Building Commission and authorized by the Legislature. After approval by the Legislature, the projects are implemented by the Building Commission.

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## The Building Commission

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The Building Commission was created by Chapter 563, Laws of 1949, to establish a long-range building program. In 1969, voters approved an amendment to the Wisconsin Constitution that provided for direct state borrowing and the Legislature passed Chapter 259, Laws of 1969, which enlarged the powers of the Commission to finance capital facilities for all state agencies. Chapter 259 also created a separate state Bond Board, including four members of the Building Commission, to supervise the contracting of public debt. Chapter 90, Laws of 1973, abolished the Bond Board and transferred its duties and responsibilities to the Commission. The Commission is also responsible for oversight of the construction and renovations of state building projects enumerated by the Legislature each biennium and for maintaining the estimated \$9.5 billion in existing state buildings and facilities.

The Building Commission consists of the Governor, who serves as Chair, one citizen member, appointed by and serving at the pleasure of the Governor, and three legislators from each

house of the Legislature, appointed in the same manner as members of legislative standing committees. The majority and minority parties from each house must be represented. In addition to the voting members, the administrator of the Division of State Facilities (DSF) within the Department of Administration (DOA), with concurrence of the Secretary of DOA, serves as a nonvoting Secretary to the Building Commission. The head engineer and the ranking architect for DOA serve as nonvoting, advisory members to the Commission.

The Commission is divided into two subcommittees: a Higher Education Subcommittee and an Administrative Affairs Subcommittee. The Higher Education Subcommittee is responsible for reviewing the capital budget requests of the University of Wisconsin System. The Administrative Affairs Subcommittee is responsible for reviewing the capital budget requests of all other state agencies. The Governor appoints the Chair and members of the two subcommittees; each subcommittee consists of three legislative members and the citizen member.

The Commission holds a regular meeting each month. Each subcommittee meets prior to the regular meeting of the Commission to review agency requests on the agenda and to formulate a recommendation on each item for consideration by the Commission. In addition to subcommittee recommendations, certain matters are first taken up by the full Building Commission, including bond resolutions and special projects. The Building Commission will hold special meetings as needed, which are most often associated with the award of a pending bond issue.

The Secretary of the Commission is responsible

for the DSF staff services, including scheduling of meetings and establishing meeting agendas, recording and publishing meeting minutes, providing other documentation as necessary certifying Commission actions, interpreting and carrying out Commission intent, and making recommendations on matters before the Commission.

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### Legislative Approval of the Capital Budget

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**Project Enumerations.** Building program projects with a cost exceeding \$500,000 are required to be enumerated. To enumerate a project, the Legislature lists the project title and budget in a nonstatutory provision enacted as part of the biennial budget bill. In addition, the Legislature must authorize any new bonding or other monies needed to fund the project. As result, the building program consists of two major items in the budget bill: (1) the list of project titles and budgets which constitute the project enumerations for the building program; and (2) the increased agency bonding appropriations to fund the various building program projects being enumerated as part of the building program.

During the course of the biennium, the Legislature can enact other legislation to modify the building program. The 2003-05 building program was enacted as part of the 2003-05 budget (2003 Act 33). In addition, the 2003-05 building program was amended by 2003 Act 269, which provided funding for projects at the University of Wisconsin System's Madison, Oshkosh, and River Falls campuses.

One exception to the requirement that individual projects be enumerated by the Legislature is the category of projects known as "All Agency" projects. These broad types of projects are enumerated under titles that indicate a

general category of work and that establish an overall budget for the biennium for that purpose. The "All Agency" enumerations are used for types of projects, such as maintenance, that recur, but where the Commission may need to address unanticipated needs during the biennium. In the 2003-05 building program, funding for "All Agency" projects represented 30.4% of the total building program. Table 1 shows the "All Agency" projects categories and budgets that were in the 2003-05 building program.

**Table 1: All Agency Project Funding in 2003-05 Building Program**

Project Category	Budget Amount
Facility Repair and Renovation	\$118,848,000
Utilities Repair and Renovation	54,124,000
Health, Safety and Environment	24,020,000
Preventive Maintenance	6,000,000
Programmatic Remodeling and Renovation	7,000,000
Land and Property Acquisition	<u>5,450,000</u>
<b>Total All Agency</b>	<b>\$215,442,000</b>

There are three other specific exceptions to the enumeration requirement. First, land acquisition in certain areas of the City of Madison is not subject to enumeration, which includes specific blocks adjacent to the Capitol Square. Second, energy conservation audits and related construction projects are not subject to enumeration. Finally, enumeration does not apply to land acquisition, construction, repair, remodeling or improvements for the State Fair Park Board.

**Wisbuild Initiative.** Under 1999 Act 9, a program was created known as the Wisbuild initiative for the purpose of providing financial support for the maintenance, repair and renovation of state-owned buildings. Act 9 authorized the Building Commission to allocate funding for Wisbuild projects. Projects funded under the

Wisbuild initiative are financed from the Building Commission's other public purpose bonding authorization or as otherwise specified in the authorized state building program.

Act 9 specified that funding may be provided under the Wisbuild initiative for: (a) high priority, comprehensive building renovation projects; (b) maintenance and repair of exterior components of buildings; (c) without limitation because of enumeration, maintenance and repair of mechanical, electrical, plumbing and other building systems; and (d) projects to remove barriers that reduce access to and use of state facilities by persons with disabilities.

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### Capital Budget Process

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**Long-Range Planning.** In accordance with statutory requirements for a long-range plan for the building program, agencies submit six-year facilities plans to DSF. These plans define the facility related needs of the agency into specific projects and establish a timeline for those projects over the next six years. The first two years of the plan would form the basis for the agency's request for projects to be included as part of the 2005-07 building program. The DSF manual for 2005-07 capital budget requests established July 17, 2004, as the submission date to DSF for these long-range planning documents.

**Advanced Planning.** In recent biennial building programs advanced planning funds from the building trust fund, appropriated funds, or gifts and grant funds have been provided for certain projects yet to be enumerated in a state building program, but likely to be enumerated in future biennia. However, no advanced planning funds were specifically included as part of the Building Commission's 2003-05 state building program recommendations. DSF indicates that agencies that

want to advance the planning for a future project, which is not being requested for enumeration in the 2005-07 state building program, may request to do so with funding from their own resources. The DSF manual for capital budget requests indicates that such planning must be done in accordance with each agency's six-year plan, and planning projects should be prioritized along with the projects that the agency is requesting for enumeration in the 2005-07 state building program.

**Agency Capital Budget Requests.** Each state agency requesting projects in the 2005-07 state building program had to submit a capital budget request to the Secretary of the Building Commission. The date specified in the manual for capital budget requests for the 2005-07 biennium was September 1, 2004. This document had to include: (a) a list of projects over \$500,000 in priority order including a summary of each project; its location; a project description; and an analysis of need and alternatives; (b) agency requests for All Agency projects exceeding \$100,000 in priority order; (c) a program statement that identifies the justification, purpose and scope, occupants and activities, components special considerations, and the construction budget and the impact on the agency operating budget associated with each project; (d) identification of the anticipated project schedule dates for each project, including architect and engineer selection, project bidding dates and the completion date for the project; and (e) any proposed legislative statutory change related to an agency facility.

**DSF Staff Review.** The DSF capital budget manual indicates that DSF staff will analyze the agency capital budget requests from September through early 2005. DSF staff recommendations for each project are reviewed by the Secretary of DOA and the Governor.

**Building Commission Review.** Based on the schedule indicated in the capital budget manual, the full Commission will meet in March, 2005, to

consider the DSF staff and sub-committee recommendations for each project. The Commission may delete or add items to requests, reduce or increase the size of items or alter the proposed funding sources of items. At this meeting, the Commission will adopt its recommendations for the 2005-07 building program, including any nonstatutory or statutory language that the Commission wants to have enacted. Once the Commission has completed its actions, DSF staff will prepare a summary of the projects recommended by the Commission and have an amendment to the 2005-07 budget bill drafted, which would incorporate the Commission's decisions relating to the building program projects as well as any proposed statutory modifications. By statute, the Commission is required to submit the amendment containing the biennial building program recommendations to the Joint Committee on Finance (JFC) no later than the first Tuesday of April in each odd-numbered year, unless the Committee approves a later date.

**Joint Finance Committee Review.** The DSF summary and the amendment draft will be submitted to the JFC, and a public hearing on the building program will likely be held by that Committee as part of its deliberations on the 2005-07 budget. At a subsequent executive session, JFC will incorporate the recommended building program, including any changes adopted by the Committee, into its version of the budget bill.

**Legislative Review.** The Legislature will consider the capital budget as part of the biennial budget bill. The Assembly and Senate can modify the project budgets and individual building program projects. Those major projects approved by the Legislature are enumerated into law as part of the biennial budget bill. Subsequent legislative actions could add new projects, or modify or delete previously enumerated projects included in a state biennial building program.

The enumerations contained in the biennial

building program, as with all legislative enactments, are subject to veto by the Governor. In the 2003-05 biennium, the Governor partially vetoed funding and statutory language related to one local project that was enumerated in the 2003-05 building program as passed by the Legislature.

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### **Lease Purchase of State Facilities**

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One exception to the state capital budget process and project enumeration requirements is the Building Commission's general authority to acquire leasehold interests for the state in land and buildings. As part of this authority the Commission may authorize the lease, lease purchase or acquisition of facilities that are constructed in the manner authorized by the Building Commission. The Commission may also authorize the lease, lease purchase, or acquisition of existing facilities in lieu of state construction of any project enumerated in the authorized state building program. The selection of contractors for the construction of buildings designed for housing a state agency under a lease purchase contract is done through a request for proposal (RFP) process. Unlike the competitive bidding process used for state construction projects, this RFP process does not require that the contract be awarded to the lowest qualified bidder.

The lease purchase option has been used in recent years for the construction of state office space in Madison. The current DOA, Department of Agriculture, Trade, and Consumer Protection and the Department of Revenue buildings were built under a lease-purchase agreement. This authority was also used in June, 2004, to move ahead with the construction of a dormitory, an office building, and parking ramp and garage on the UW-Madison campus. Prior to the execution of the purchase component of these contracts, the purchase of a facility constructed under a lease



purchase contract has to be enumerated as part of a biennial state building program. It is argued that using the lease purchase option, as opposed to enumerating the facility through legislation prior to its construction, allows the state to take more timely advantage of real estate market opportunities that occur. On the other hand, the lease purchase option does not provide the scrutiny by the full Legislature of a project that the statutory enumeration process does.

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## Project Implementation

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**Concept and Budget Reports.** When a state agency is ready to proceed with a project that has been approved by the Legislature as part of the state's building program, it requests release of planning funds by the Building Commission. With the release of planning funds by the Commission, DSF, in consultation with the requesting agency, selects architects and engineers to work with the agency and DSF in preparing a project concept and budget report.

The concept and budget report is the first phase of planning and design. For very large projects, it is submitted to the Building Commission with a request for release of additional planning funds or construction funds. At that time, the Commission may grant approval to proceed with final design, bidding and construction, provided that any environmental impact evaluations or other requirements are completed. Authorization by the Commission to bid and construct capital improvement projects generally constitutes its final project approval. As project funds are needed, the Commission authorizes the issuance of bonds or notes sufficient to support construction activities over the near term (approximately six months). The Commission may also substitute cash funding for bonding whenever funds are available.

**Contracts.** Generally, no agency may enter into a contract for construction, reconstruction, remodeling or additions to any building, structure or facility which involves a cost exceeding \$100,000 without completion of final plans, arrangement for supervision of construction and prior approval of the Building Commission. Exceptions to this general rule include:

- Contracts by the Department of Natural Resources regarding hazardous substance spill response.
- Emergency response projects approved by the Governor, costing up to \$250,000. The Governor must report such an authorization to the Commission at its next regular meeting.
- Construction or improvement projects of the University of Wisconsin Hospitals and Clinics Authority.
- Contracts for the Department of Transportation (DOT) for construction work not involving buildings, structures and facilities that are used for administrative or operating functions.
- Build, operate, lease or transfer agreements between DOT and private entities for the construction of transportation projects.
- Certain "all agency" projects, such as special maintenance, or asbestos and hazardous material removal, in which funding and a plan for release of the funds has been approved by the Commission. Total project budget is defined to include all costs incidental to construction, such as design, construction, supervision, land, contingencies and equipment.

**Major Projects.** Any construction project having a total project budget exceeding \$500,000 is considered to be a major project and must be enumerated by the Legislature in the state building program or be exempted from enumeration by

session law prior to Building Commission approval for construction.

Some major projects are approved for advance planning and design prior to enumeration by the Legislature. The design of any major project may not be initiated without prior approval of the project by the Building Commission if planning is to be funded from the building trust fund. The building trust fund is a segregated fund consisting of all general purpose revenue (GPR) transfers made by the Legislature, federal funds, donations, bequests, gifts, all restored advances and investment income. The fund is used for the purposes of carrying out the state's building program. In practice, funding from the building trust fund is primarily used for advanced planning purposes. The Secretary of the Commission may approve projects for advance planning when projects are financed entirely by non-general purpose revenue funds.

It is not uncommon for a major project to come before the Building Commission on two or three separate occasions. Projects may come before the Commission once for preliminary planning, a second time for final planning, and a third time for bidding and construction. In addition, if significant changes are proposed to a project, Commission approval is required.

**Minor Projects.** Any construction project having a total project budget of \$500,000 or less, regardless of the funding source, is considered a minor project. Minor projects having a total project budget exceeding \$100,000 must be approved by the Building Commission prior to final design. Projects with an estimated budget of less than \$100,000 and that are proposed for funding from the building trust fund, general fund supported borrowing, or program revenue supported borrowing, must also be approved by the Commission.

The Secretary of the Building Commission may

approve up to a 10% increase in minor project budgets as long as the total funds under the authorized building program are not exceeded. The Secretary may also combine minor projects to achieve economies in administrative process, design and bidding, or to increase construction efficiency.

**Project Budget and Accounting.** The budgets for each project are comprised of the following elements, called budget lines: (1) construction; (2) agency charges and work by owners; (3) design and supervision; (4) moveable and special equipment; (5) land acquisition and related costs; and (6) other project allowances.

Architectural design fees are generally 8% of the project cost, depending upon complexity and size of the project. The design fees may be larger on smaller projects and less on larger projects. Division of State Facilities supervision is 4% of the construction and contingency funding. Contingency funding generally is 7% of the estimated project cost at the start of a project, being reduced to 5% at the design report stage and to 3% following bidding of major projects.

The Secretary of the Building Commission may authorize transfers between budget lines, as long as the total project cost is not exceeded. The Secretary may also authorize the combination of projects.

The Building Commission may authorize limited changes in the project program and budget if it determines that unanticipated program conditions or bidding conditions require the change to effectively and economically construct the project. However, the total state funds for the major projects under the authorized state building program for each agency may not be exceeded. Although the guideline has been exceeded in the past, staff from the Division of State Facilities have interpreted this provision to allow up to a 25% increase in project budget. Further, the

Commission may transfer funds from one project to another.

**Project Bids.** Whenever estimated construction costs of a project exceed \$100,000, both single and separate bids are required for the projects. For projects under \$100,000, separate or single bids may be taken. Under a single bid, the state contracts with a general contractor who is responsible for providing all the necessary trades persons to complete the project. Under separate bids, the state contracts individually with various subcontractors for work according to divisions selected by DSF. Generally, there are four work divisions: (1) general contractor, (2) electrical, (3) plumbing, and (4) heating, ventilation and air conditioning.

The bids may be on any division of work DSF designates. The Building Commission may waive the bidding requirement if it determines that the use of innovative types of design and construction processes would make better use of the resources and technology available in the building industry and if it is in the best interests of the state.

Staff from DSF indicate that most projects are awarded on a separate bid basis; less than 5% of contracts are awarded on single bids. Based on DSF information, the Building Commission waived bidding requirements six times in 2003.

Projects that cost between \$30,000 and \$100,000 are exempt from the lowest qualified responsible bidder and public notice contracting requirements if the project would be constructed in accordance with procedures established by the Building Commission.

**Minority Contractors.** In awarding construction contracts, an effort must be made to ensure that 5% of the total amount expended in each fiscal year is awarded to contractors and subcontractors who are minority businesses. A contract may be

awarded to a minority business that submits a qualified responsible bid that is no more than 5% higher than the apparent low bid.

Generally, in contracting public debt by competitive or negotiated sale, the Building Commission must ensure that at least 6% of total public indebtedness contracted in each fiscal year is underwritten by minority investment firms. Similarly, 6% of total moneys expended in each fiscal year for the services of financial advisers must be expended for services of minority financial advisers. To deviate from this standard, the Secretary of the Department of Administration must submit a written report to the Joint Committee on Finance specifying the Commission's reasons for not complying with these requirements.

Minority businesses, financial advisers and investment firms must be certified by the Department of Commerce. To qualify for certification, a minority business, advisor or investment firm must be at least 51% owned, controlled and actively managed by a minority group member or members. Minority group member means any of the following: Black, Hispanic, American Indian, Eskimo, Aleut, native Hawaiian, Asian-Indian or Asian-Pacific.

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### 2003-05 State Building Program

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Table 2 provides a list of the projects, by agency, in the 2003-05 state building program and their enumerated budgets. Table 3 provides a listing of the bonding and other financing sources, by agency, for the 2003-05 state building program. For more information on the overall level of bonding currently authorized and outstanding, see the Legislative Fiscal Bureau's informational paper entitled, "State Level Debt Issuance."

**Table 2: State Agency 2003-05 Enumerated Major Projects**

Project	Project Enumeration
<b>2003 Act 33</b>	
<b>Administration</b>	
Hill Farms State Office Building Remodeling	\$9,950,000
<b>Corrections</b>	
Wisconsin Secure Program Facility Indoor/Outdoor Recreation Facilities Remodeling and Addition	\$3,400,000
Green Bay Correctional Institution - Secure Workstations	1,419,800
800 Megahertz Radio Systems -- Statewide	<u>1,800,000</u>
Total	\$6,619,800
<b>Military Affairs</b>	
Armory -- Camp Douglas	\$6,600,000
Repair and Expansion of Helicopter Parking and Taxiways	5,892,000
Motor Vehicle Storage Buildings -- Antigo, Hayward, and Medford	<u>2,250,000</u>
Total	\$14,742,000
<b>Natural Resources</b>	
Horicon Marsh State Wildlife Area -- International Education Center	\$2,864,000
Rib Mountain State Park Water Supply Sys. Replacement	1,093,000
Badger State Trail Surfacing	1,056,000
Wild Rose Fish Hatchery Renovation -- Phase 1	12,710,500
Ranger Stations -- Pembine and Winter	1,586,000
Wilson State Nursery Expansion	<u>1,351,000</u>
Total	\$20,660,500
<b>State Fair Park Board</b>	
Site Lighting, Parking Lot Development, Land Acquisition and Racetrack Infield Improvements	\$6,000,000
<b>Transportation</b>	
Radio Towers -- Statewide	\$4,428,800
<b>University of Wisconsin System</b>	
Eau Claire - Children's Center	\$1,842,000
Extension - WHA Television and Radio Equipment	1,405,000
- Lowell Hall Improvements	1,144,000
Green Bay - University Union Expansion	6,000,000
- Phoenix Sports Center Addition	30,000,000
La Crosse - Residence Hall	22,344,000

**Table 2: State Agency 2003-05 Enumerated Major Projects (continued)**

Project	Project Enumeration
<b>University of Wisconsin System (continued)</b>	
Madison	\$8,268,000
- Integrated Dairy Program Facilities	5,300,000
- Distribution Services Facility Purchase	20,000,000
- Parking Ramps	696,000
- Kemp Station Housing	3,000,000
- Observatory Preservation & Remodeling	1,500,000
- Hancock Agricultural Research Station -- Potato Research Building	90,000,000
- Walnut Street Heat and Chilled-Water Plant Purchase	
Oshkosh	20,206,000
- Recreation and Wellness Center	6,500,000
- Titan Stadium Expansion	1,000,000
- Reeve Union Development and Plaza	
Parkside	22,164,000
- Student Union Expansion & Admissions Office	
Platteville	2,946,000
- Glenview Commons Improvements	
River Falls	3,782,000
- Dairy Learning Center -- Phase 2	
Stevens Point	16,720,000
- University Ctr. Remodeling & Addition	
Stout	8,570,000
- Holvid Hall Remodeling and Addition	514,000
- Price Commons Addition Completion	
Superior	1,124,000
- Wessman Arena Locker Room Addition	7,500,000
- Student Center Renovation - Phase 1	
System	5,000,000
- Classroom Renovation/Inst. Technology	1,500,000
- Movable and Special Equipment	19,585,000
- Utilities Improvements	
Whitewater	16,743,000
- Upham Hall Science Building Renovation and Addition -- Phase 2	7,430,000
- Conner University Center Addition and Remodeling -- Phase 1	<u>2,397,000</u>
- Moraine Hall Remodeling	
Total	\$335,180,000
<b>Veteran's Affairs</b>	
Southern Wisconsin Veterans Retirement Center	
- Central Chilled Water Plant	\$2,363,700
- Housing Unit Remodeling	2,350,000
Transitional Housing Unit -- Madison	<u>700,000</u>
Total	\$5,413,700

**Table 2: State Agency 2003-05 Enumerated Major Projects (continued)**

Project	Project Enumeration
<b>All Agency</b>	
Facility Maintenance and Repair	\$118,848,000
Utilities Repair and Renovation	54,124,000
Health, Safety and Environmental Protection	24,020,000
Preventative Maintenance Program	6,000,000
Programmatic Remodeling and Renovation	7,000,000
Land and Property Acquisition	<u>5,450,000</u>
Total	\$215,442,000
Total -- Act 33	\$618,436,800
<b>2003 Act 269</b>	
<b>University of Wisconsin System</b>	
Madison	
- School of Business Graduate School Facility	\$40,000,000
- Ogg Residence Hall Demolition and Replacement	35,900,000
Oshkosh	
- Taylor Hall Renovation	13,000,000
River Falls	
- Hunt Arena and Knowles Physical Education and Recreation Center Addition and Renovation	<u>2,206,000</u>
Total -- Act 269	\$91,106,000
Total -- All Acts	\$709,542,800

**Table 3: Financing Sources for 2003-05 Enumerated Projects**

	New General Obligation Bonds*			Revenue Bonds	Existing General Obligation Bonds	Agency Operating Funds	Gifts, Grants, and Other	Federal	Total
	GPR	PR	SEG						
Administration	\$0	\$7,745,400	\$0	\$2,204,600	\$0	\$0	\$0	\$0	\$9,950,000
Corrections	6,619,800	0	0	0	0	0	0	0	6,619,800
Health and Family Services	734,300	0	0	0	0	0	0	0	734,300
Military Affairs	2,346,900	0	0	0	0	0	0	12,395,100	14,742,000
Natural Resources	0	0	13,941,500	0	2,399,000	2,937,000	1,383,000	0	20,660,500
State Fair Park	0	6,000,000	0	0	0	0	0	0	6,000,000
Transportation	0	0	250,000	4,178,800	0	0	0	0	4,428,800
University of Wisconsin System	56,659,600	234,354,400	0	0	60,106,000	21,831,000	52,990,000	345,000	426,286,000
Veterans Affairs	87,700	3,891,700	0	0	0	246,100	0	453,900	4,679,400
Subtotal	\$66,448,300	\$251,991,500	\$14,191,500	\$6,383,400	\$62,505,000	\$25,014,100	\$54,373,000	\$13,194,000	\$494,100,800
All agency									
Facilities Repair and Renovation	\$101,543,000	\$9,642,000	\$529,000	\$4,307,000	\$303,000	\$1,294,000	\$296,000	\$934,000	\$118,848,000
Utilities Repair and Renovation	41,379,000	10,150,000	0	0	0	2,030,000	0	565,000	54,124,000
Health, Safety and Environmental Protection	22,153,000	827,000	0	0	0	0	1,040,000	0	24,020,000
Preventative Maintenance Program	6,000,000	0	0	0	0	0	0	0	6,000,000
Programmatic Remodeling and Renovation	6,775,000	0	0	0	0	0	0	225,000	7,000,000
Land and Property Acquisition	2,950,000	2,500,000	0	0	0	0	0	0	5,450,000
Subtotal	\$180,800,000	\$23,119,000	\$529,000	\$4,307,000	\$303,000	\$3,324,000	\$1,336,000	\$1,724,000	\$215,442,000
TOTAL	\$247,248,300	\$275,110,500	\$14,720,500	\$10,690,400	\$62,808,000	\$28,338,100	\$55,709,000	\$14,918,000	\$709,542,800

\*General purpose revenue (GPR), program revenue (PR), segregated revenue (SEG) used to pay debt service.