



The State University  
of New York

# **Office for Capital Facilities**

## **Guidance Document**

CCP-3

*September 2016*

### **Capital Project State Financing**

***A guide for community colleges***

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## **1. Foreword**

This document has been created to guide Community Colleges and local Sponsors in the process for obtaining State financing approval for community college capital projects. This is the third step in setting up a capital project, for which the State will be funding up to 50% of the total project cost. The project set up process has three steps in total:

- STEP 1) [Obtaining Capital Appropriation \(CCP-1\)](#)
- STEP 2) [Capital Project Initiation and Revision \(CCP-2\)](#)
- STEP 3) [Capital Project State Financing \(CCP-3\)](#)

*In addition to these guidelines above, the Office for Capital Facilities (OCF) maintains an enhanced website with information and tools for Community Colleges. Other Guidance Documents, forms, and materials currently in effect are centrally located to assist colleges with the Capital Program: <http://www.suny.edu/capitalfacilities/>*

*Also, [SUNY University Wide Policies and Procedures](#) can be located on SUNY's website, providing additional resources addressing academic, operational, governance, and financial issues.*

Please note that references have been made, within this guideline, to various New York State legislation and regulations, NYS Education Law Article 126 and NYS Codes, Rules and Regulations, Parts 600, 603, etc. Readers are to refer to the official documents for details and questions not immediately covered in this document.

Finally, above and beyond all written guidance that we can create or provide reference to, the OCF fully realizes that there are unique issues relative to the capital program and we encourage colleges to contact us at any time to discuss.

## **2. Introduction**

Community college capital is regulated by Part 603 of the NY Code of Rules and Regulations, which is based on New York Education Law Section 6304. In this program at least 50% of project costs must be funded by the locality. New York State will fund up to 50% through State appropriation authority.

A college's local Sponsor is a Local Sponsoring Agency. A typical Sponsor may be a county, a community college region, a city, or a board of education and may have several of these entities overseeing college operations. The Sponsor, along with the State, students and other counties, supplies the basic fiscal support for the college by establishing the college, providing local financing, accepting title to college real property to be held in trust for the college's use and purposes, approving budgets, and selecting the prescribed procedures for the audit of college funds (8 NYCRR §600.1(c)).

As the Sponsor has fiscal oversight for this program, a college should follow the Sponsor's procurement regulations and allow them to engage with architectural and engineering consultants and contractors. The State's oversight for capital is managed by OCF and most procedures and guidelines are articulated in materials located on OCF's website.

The Community College Capital Program (CCCP) provides reimbursement for up to 50% reimbursement for approved projects. Reimbursement is dependent on the nature of the appropriation: advance, whereby the State portion is supported by bond proceeds from State borrowing; or hard dollar, where financing is directly from New York State. A project can have either or both types of financing. Guidance Document [Requesting Capital Appropriation \(CCP-1\)](#) outlines **STEP ONE** of the initiation process for capital projects.

Projects must be approved by SUNY before financing can be approved and claims for reimbursement can be submitted. Guidance Document [Capital Project Initiation and Revision \(CCP-2\)](#) provides information on the approval process, which is **STEP TWO** of the initiation process for capital projects.

**This Guidance Document outlines STEP THREE, financing approval for capital projects. Once financing has been authorized, a project is fully approved and reimbursement requests can be processed.**

The reimbursement process for the State share of capital project costs is dependent on the type of State appropriation backing the project and the complexity of the project. Guidance Document [Reimbursement and Ongoing Project Actions \(CCP-4\)](#) (*to be finalized in the very near future*) provides ongoing steps for a fully-approved project including the process for requesting reimbursement.

### **3. Timing for Financing Approval of New Projects**

Historically, colleges were required to wait for a bond sale that specifically included the projects before any reimbursement could be requested. The Division of Budget (DOB) generally bonded for the program every 12-18 months. The sale would fully fund the budgets for the included projects and bond proceeds would be dedicated to the projects through the entire life-cycle. The benefit was that colleges could clearly see their projects listed as being fully funded. The downside was that colleges would need to wait for the next bond sale to be completed before new capital projects could be initiated. In addition, delays or cancellation of a capital project would freeze the proceeds and not allow their use for any other project. This resulted in hundreds of millions of dollars of bond proceeds being stranded over time while the State was continuing to sell new bonds for this program.

In 2011 the program was changed to a disbursement-based/cash-flow financing whereby *capital projects are funded with bond sale proceeds as needed and not just when a bond sale is scheduled*. The primary impact of this changeover resulted in bonding for the program on a schedule based upon anticipated needs and all proceeds are available for reimbursement as requests arise. This reduces the overall debt to the State for this program, reduces delays due to waiting for upcoming sales and allows for increased flexibility of funds for community college capital projects.

### **4. Current Financing Approval Process**

Financing approval is managed differently depending on the type of appropriation: a. Advance/bonded financing is approved by DASNY and Bond Counsel; b. Hard dollar is approved by OCF; and c. Non-standard project financing is approved per the requirements of the specific program.

- a. *Advance/Bond-financed Appropriation* (Majority of appropriation received for capital)  
A finance application is required by DASNY to ensure a project complies with all requirements

for reimbursement using bond proceeds. OCF collates all appropriate materials and forwards to DASNY. The materials are reviewed by Bond Counsel to ensure the project is appropriate for the program and IRS requirements related to tax-exempt bonds are met, or taxable bond proceeds are used if necessary.

Once DASNY and the bond counsel have processed the project, OCF is informed and provided with a DASNY project number, which is used in reimbursement documentation along with the SUNY project number. In turn, OCF notifies the college that claims can be submitted to DASNY for reimbursement of the State share of project costs.

**Required Forms for the financing approval process to be sent to OCF (Electronic copies are acceptable):**

- Finance Application (2-page Excel form): The information included in this form relates to project budget, schedule, scope, buildings involved (numbers per Physical Space Inventory System), and useful life of project components. If the project deals with utilities or spreads across multiple buildings, additional information may be sought.
- b. *Hard Dollar Appropriation*  
Approval for hard dollar project financing is awarded through the previous project approval process and is reflected in a Project Approval Memo forwarded to the college after STEP TWO of Project Initiation is complete. There is no additional financing application needed for hard dollar projects. All financial processes are coordinated internally by OCF staff. SUNY works with the DOB and Office of the New York State Comptroller to establish a State mechanism for project reimbursement, assigning the applicable appropriation and cost allocations for electronic processing to reimburse for the State share of project costs. OCF will provide reimbursement instructions in Guidance Document [Reimbursement and Ongoing Project Actions \(CCP-4\)](#) (to be finalized in the very near future).
- c. *Non-Standard State Appropriation*  
The majority of capital projects receive appropriation directly through the SUNY Community College Capital Program. In recent years, there has been some new opportunity for appropriation through grant programs, most notably SUNY 2020 and the Regional Economic Development Corporation (REDC) through Empire State Development. A project receiving a grant award has specific requirements outlined in the grant-specific materials and are processed differently. Contact OCF for specific guidance in accessing the grant funds.

## **5. Annual Required Forms for Project Financing**

- a. *Certification of Tuition and Instructional Fees*  
Community colleges are required annually to provide information about current and future tuition and instructional fees. These forms are kept on file to ensure compliance with New York State's Public Authority Law §1680(14)a, which states DASNY is not permitted to bond a community college project unless it is assured the amount of tuition and instructional fees received by the local sponsor from students is or can exceed the amount which the Commissioner of Taxation and Finance is required to maintain on deposit. This form is completed in the fall even if no new projects are planned.
- b. *Private Use Survey*  
The State share of community college capital projects, with advance appropriation, are backed

using proceeds from State-issued bonds. These are most commonly tax-exempt bonds, backed by NYS Personal Income Tax (PIT) or State sales tax. New York State bonds for this program in conjunction with other programs, such as the City University of New York senior and community colleges, SUNY educational facilities (4-year colleges), or Department of Transportation. The State may sell a small amount of federally-taxable bonds to address projects with high private use as needed.

IRS rules, governing the use of tax-exempt bond proceeds, are in place to make sure that non-government entities are not receiving too much benefit from these bonds. This type of use, referred to as “private use”, may not exceed 5%, or account for more than \$15M, of an entire bond sale (not at a project, specific building, or a college campus level). Private use may be up to 10% in special circumstances.

Historically, there was little need to be concerned about private use limits on community college facilities because for the most part there was minimal private use on campuses. Community college involvement with START-UP NY and other private business collaboration programs has increased private use percentages at community college facilities. In addition, the \$15M threshold is more frequently an issue as the State consolidates bonding for multiple agencies in larger sales.

It is the community college’s responsibility to accurately report private use in campus facilities. Colleges are to contact OCF if they identify a potential private use issue with a future project or if a current facility has a major change of function. It is the responsibility of OCF to work with DASNY and DOB to determine if taxable bonds are to be used in instances where high private use may exist.

The Private Use Survey is an annual form which solicits private use information for the entire college (including all campus locations). This form is completed annually regardless of the number of capital projects. The survey results are provided to DASNY and tax counsel to be used for new bond sales and refinancing of older bond sales.

If at any time throughout the year private use substantively changes, colleges must contact OCF to update the survey.

## **6. Project Ongoing Actions: Reimbursement through Close Out**

There are a series of ongoing actions related to community college capital projects. The most vital and time sensitive is requesting reimbursement for the State share of capital project costs. Guidance Document [Reimbursement and Ongoing Project Actions \(CCP-4\)](#) (to be finalized in the very near future) contains more details.

As described in Section 3, the program is supported by disbursement-based/cash-flow bond financing. As a result OCF is required to estimate project disbursements based upon the various projects’ scopes, budgets, and schedules. Using this information, OCF works with DOB to assure cash is available for reimbursement of the State share of project costs. A schedule for the entire project scope allows for the new cash-based disbursement system to function most effectively. If there are multiple components with different schedules, it is essential that they are to be provided for refinement of project cash-flow projections.

At least quarterly, OCF provides college staff with an opportunity to review previously submitted project schedules and adjust if necessary, based upon revised information. If a college is aware of significant

schedule changes to a project, OCF is to be contacted as soon as possible.

***It is important colleges request reimbursement on a regular basis, at least quarterly, more so if the project is quickly expending funds.*** Using that information, along with current program projections, OCF advocates for regular program bonding to ensure sufficient funds are available for community college capital projects throughout the State. OCF's cash flow projections have a much better chance of being accurate if reimbursements are requested in a consistent and timely schedule.

**Attachments:** *Current forms can always be found on the OCF website in [Tools](#)*

1. Advance Financing Application (2 pages)

*Not Attached but Available Upon Request:*

2. Certification of Tuition and Fees (annual)
3. Private Use Survey (annual review, amendment of previously submitted information)