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INTRODUCTION TO THE BUDGETING CHAPTER **6000**
(Revised 09/10)

The budgeting chapter of SAM provides an overview of the state's budget process as well as a description of the events, actions and documents that make up the state's annual financial plan. It also provides instructions and examples for the preparation of the forms, documents, and schedules critical to the preparation, enactment, and administration of the annual financial plan.

Because of the dynamic nature of budgeting in California, this manual does not provide all the instructions which are necessary for the development, enactment or administration of the budget. Budget policy and supplemental instructions are generally issued by the Department of Finance (Finance) through Budget Letters, budget related Management Memos, and other memoranda to supplement this manual. Electronic mail notices to departmental budget officers and Finance's Internet website are also used.

AVAILABILITY OF BUDGET INSTRUCTIONS AND FORMS **6005**
(Revised 09/10)

The following information is available to departments on Finance's Internet Website. The address is http://www.dof.ca.gov/budgeting/budget_letters/.

1. eBudget
2. Budget Letters
3. Historical budget information

The Finance budget forms are available at the same Internet address. Standard state budget forms may be obtained from the Department of General Services, Forms Management Office.

Publications prepared by Finance such as the Governor's Budget, Governor's Budget Summary, Salaries and Wages Supplement, Final Budget Summary, Final Change Book, May Revision to the Governor's Budget, Final Budget highlights, and anwswers to "Frequently Asked Budget Questions" may be accessed via http://www.dof.ca.gov/.

OVERVIEW OF CALIFORNIA'S BUDGET PROCESS

PREFACE **6110**
(Revised 09/10)

The budget process for California defies a simple concise definition. It is a process rather than a product. It is not the development of the Governor's Budget, the Legislature's enactment of a budget, or the executive branch's administration of the budget. Rather, it is the combination of all of these phases with all the ramifications and influences of political interactions, relationships with federal and local governments, public input, natural events, legal issues, the economy, initiatives and legislation, etc.

Although the size and complexity of California and the dynamics of the process make it difficult to establish and maintain an orderly process, these very reasons necessitate an orderly formalized process. The following sections summarize the major steps and procedures of California's budget process.

BUDGET DEVELOPMENT **6120**
(Revised 09/10)

The State Constitution, Article IV, Section 12, requires that the Governor submit a budget to the Legislature by January 10. The budget must contain itemized statements for expenditures and revenues. It provides for a balanced budget in that, if the proposed expenditures for the budget year exceed available resources, the Governor is required to recommend the sources for the additional funding.

The Director of Finance, as the chief financial advisor to the Governor, directs the effort for preparation of the Governor's Budget and the update in the May Revision. Under the policy direction of the Governor, the Director of Finance issues instructions and guidelines for budget preparation to agencies and departments. This effort typically gets underway even before the Legislature has passed the budget it is currently considering.

Although California has and does utilize concepts such as Zero-Based Budgeting, Management by Objectives, and Total Quality Management, the basic approach utilized is a mixture of incremental budgeting, zero-basing and special reviews. This approach uses the current departmental/program level of funding as a base amount to be adjusted by change proposals, including zero-basing of some items/programs and subjecting others to special reviews to determine the proper funding level. The Budget Change Proposal (BCP) has been the traditional decision document for departments to propose a change to the existing budget level. BCPs are submitted to Finance for review and analysis. (Specific instructions for preparation of BCPs are issued annually in a Budget Letter.)

The general goal in the budget decision process is to resolve budget issues at the lowest level possible. For those departments that are under an Agency Secretary, departments must clear their proposals through their respective Agency. For non-Agency departments, proposals are presented directly to Finance. Issues which are not resolved between departments and Finance staff are discussed at hearings with the Finance Program Budget Manager. Issues not resolved at this level are discussed at appeals conducted by the Director of Finance. The most sensitive issues are ultimately presented to the Governor for a decision.

After all decisions are completed, Finance coordinates the printing of the following publications which comprise the Governor's Budget package. The Budget Summary is also available from the Finance Website, http://www.dof.ca.gov.

Governor's Budget Summary–A summary volume which includes the Governor's goals and objectives for the forthcoming year, and the policy perspectives and highlights of the changes in the Governor’s Budget.

Governor's Budget–A detailed presentation for each department for the past, current, and budget years.

Salaries and Wages Supplement–A detailed presentation of authorized staffing and related salaries.

The Governor annually unveils the budget at a formal press conference. The Governor's State of the State address typically includes a general presentation of the Administration’s budget policies and priorities.

By constitutional requirement, the Governor's Budget must be accompanied by a Budget Bill itemizing recommended expenditures which shall be introduced in each house of the Legislature. The Constitution also requires that the Legislature pass a balanced Budget Bill by June 15 and that the Budget Bill signed by the Governor be balanced.

BUDGET ENACTMENT **6130**
(Revised 09/10)

The Senate Budget and Fiscal Review Committee and the Assembly Budget Committee are the two committees that hear the Budget Bill. See SAM 6945, Legislative Process. They assign the items in the bill to several subcommittees (by major subject areas such as Education or Health and Welfare) which conduct budget hearings. These hearings generally begin in late February soon after the Legislative Analyst issues the "Analysis of the Budget Bill." The Legislative Analyst is appointed by the Joint Legislative Budget Committee and is charged with providing a nonpartisan analysis and recommendations for changes to the Governor's budget plan.

In addition to the Legislative Analyst, Finance and departments typically provide testimony at the subcommittee hearings. In recent years, there has been increasing input by partisan fiscal committee consultants of both the majority and minority parties. Additionally, lobbyists and the public may provide testimony at the hearings.

Finance proposes adjustments to the Governor's Budget through "Finance Letters." By statute, Finance is required to give the Legislature all proposed adjustments, other than Capital Outlay and May Revision, to the Governor's Budget by April 1. Capital Outlay adjustments are due by May 1. The traditional May Revision adjustments are due by May 14, and consist of an update of General Fund revenues and changes in expenditures for school funding requirements pursuant to Proposition 98, caseload, enrollment, or population. The Legislature typically waits for the May Revision update before final budget decisions are made on major programs such as Education, Corrections, and Health and Human Services.

Typically, when the subcommittees complete their actions, they report their recommendations to the full committee. Upon adoption of the budget by the full committee, a recommendation is made to the Floor (full house). Upon two-thirds vote of the house, the Budget Bill is passed to the other house. A Budget Conference Committee is then appointed to work out differences between the Senate and Assembly versions of the bill. Upon completion of action by the Conference Committee and a two-thirds vote, this conference version is then sent to the two houses for approval.

Sometimes the Conference Committee does not reach final resolution on the budget. This stalemate typically results from non-resolution of a few major issues. These issues are then resolved by the "Leadership" or "Big 5" (Governor, Speaker of the Assembly, President Pro Tempore, and the minority leaders of both houses).

When the Budget Bill receives a two-thirds vote of each house, it is passed on to the Governor. The Constitution allows the Governor to reduce or eliminate an item of appropriation.

The Constitution requires that the Legislature submit a balanced budget to the Governor by June 15, In addition, the Constitution requires that the Budget Bill signed by the Governor be balanced.

Finance publishes three documents upon enactment of the Budget Act. All three are available on the Finance Website.

1. Budget Highlights – A highlight publication of narrative, charts, graphs, and veto messages (web only publication).

2. Final Budget Summary – This document is an annotated version of the Budget Act which includes summary tables, technical corrections to the Budget Act, and the effect of vetoes on the items and sections of the Budget Act (also available for purchase in hard copy from the Office of State Publishing).

3. Final Change Book—This document provides the detail of changes between the January 10 budget and the enacted budget (also available for purchase in hard copy from the Office of State Publishing).

There are generally budget changes proposed by the Governor or the Legislature which necessitate changes to existing law in order to implement the budget changes. If this is the case, separate bills are introduced to implement the change. These budget implementation bills are called "trailer bills" and are heard concurrently with the Budget Bill. By law, all proposed statutory changes necessary to implement the Governor's Budget are due to the Legislature by February 1.

ADMINISTRATION **6140**
(Revised 09/10)

The Budget Act is the primary source for appropriations. The Constitution and special legislation also provide expenditure authority.

Departments have the primary responsibility to operate within budgeted levels and to comply with any restrictions or limitations enacted by the Legislature. Further, the general expectation is that state agencies comply with the legislative intent. Although the general expectation is to conform to the enacted budget, the Legislature has recognized a need to establish some flexibility to adjust budgets. For example, the statutes provide a continuous appropriation for allocations by the Director of Finance to meet expenditures resulting form natural disasters for any emergency proclaimed by the Governor. The Legislature has also included provisions in the Budget Act to allow for budget adjustments. Generally, such authority requires Director of Finance approval; many require a formal notice to the Legislature and a waiting period to provide the opportunity for legislative review and response before final approval. Budget Act provisions to allow adjustments include authorizations for:

1. Changes to federal funding levels
2. Deficiencies (shortage of expenditure authority)
3. Changes to reimbursements
4. Intra-item transfers

Finance approves budget changes using Budget Revisions, Executive Orders and letters. These changes are transmitted to the State Controller's Office (SCO), which maintains the statewide appropriation control accounts.

The Governor has certain powers to adjust expenditures. Although these powers do not permit for adjustment of appropriations, the expenditure plan may be changed. For example, past Governors have issued executive orders to implement hiring and equipment purchase freezes and to delay capital expenditures. Under emergency conditions, the Governor is also authorized to redirect state resources to meet emergency needs.

BUDGET PROCESS **6150**
(Revised 09/10)

Due to the dynamic nature of California's budget process no single document provides a comprehensive reflection of the process. The dynamics require changing instructions, descriptions, forms and procedures, law changes, etc. The SAM provides a general description for some of the major documents that result from the budget process in the following sections:

Governor's Budget package (SAM Section 6120)

Legislative Analyst's "Analysis of the Budget Bill" (SAM Section 6330)

May Revision (SAM Section 6130)

Budget Act and Final Budget Summary (SAM Section 6350)

Final Change Book (SAM Section 6355)

Budget Letters and budget related Management Memos provide technical instructions for departmental budget offices. Budget Letters and Management Memos are available online through the following links.

Budget Letters Website: http://www.dof.ca.gov/budgeting/budget_letters/

Management Memo Website: http://www.osp.dgs.ca.gov/On-Line+Publications/SAM+Management_Memos.htm

The annual budget process is displayed in a relatively simple flow chart on the following page, 6150 Illustration.

THE TRADITIONAL CONCEPT **6210**
(Revised 2/98)

Budget formats have become a blend of the traditional and program concepts, a compromise that utilizes the best of both approaches. Before the adoption of the program budget concept, "traditional" budgets were oriented to show expenditures according to departmental organizational structure or function and line-item objects of expenditures. The last exclusively traditional budget was in 1969–70.

THE PROGRAM CONCERT **6220**
(Revised 09/10)

The program concept and structure, established and implemented by Section 13335 of the Government Code (Chapter 1284, Statutes of 1978), was to bring forth and emphasize the purpose, meaning, and benefits of the various activities of departments.

Program

A program is a group of closely related and interdependent activities. A program should be clearly delineated, have minimum overlap and interaction with other programs, and lend itself to at least partial quantification. It should be end-product or intermediate-product oriented. Programs should be concerned with specific objectives of the department bringing together all associated costs displayed in the program budget.

Program Budget

The program budget is the department's budgetary presentation designed to display its program activities. A program budget defines objectives and relates the proposed level of expenditures to meet those objectives in the given fiscal year. It is not uncommon to find different ways to subdivide programs and program budgets. In the earlier budget presentations, the hierarchical program structure divided programs into elements, elements into components, and components into tasks. However, as presentations began to expand and proliferate to the lower levels of the program structure, a general policy was adopted to limit departmental presentations in the Governor's Budget to no lower than the element level.

Program Descriptions

All of the department's pertinent program facts are shown in the program description. The complete program description becomes a tool for departmental program managers. It should be kept up-to-date to reflect executive and legislative action. Some parts of the program description may be used in the annual departmental budget.

3-Year Expenditures and Personnel Years

The 3-Year Expenditures and Personnel Years display in the Governor's Budget provides a department's expenditures and personnel years by program. Expenditure and personnel year information is given for past, current, and budget years.

Detailed Expenditures by Program

The Detailed Expenditure by Program section in the Governor's Budget displays a department's detailed funding outlined by program. The department's state operations and local assistance funding is reflected by fund source for each program area. Expenditures for each program funding source are provided for past, current, and budget year.

Legal Citations and Authority

Provides the legal (Constitutional or statutory) or administrative (Executive Order, regulation, SAM, etc.) authority for the program.

Major Program Changes

Major Program Changes describe significant program adjustments to the department's program budget compared to the previous fiscal year and the reason for the change. Major Program Changes may include increases and or decreases of positions, funding, and reason for changes.

DEVELOPMENT AND ENACTMENT OF THE ANNUAL FINANCIAL PLAN, THE PROCESS IN BRIEF **6300**
(Revised 09/10)

The annual financial plan consists of the Governor's Budget, to the extent approved as part of the final budget, Budget Bill and other bills with fiscal or program impact as enacted, and existing revenue and spending authority.

The Governor has complete and final responsibility for "the Governor's Budget" and the "initial Budget Bill." However, preparation of the Governor's Budget and the initial Budget Bill is actually a product of the entire executive branch. Although the constitutional officers and the segments of higher education have a certain level of autonomy, the Governor typically requests their cooperation in seeking, establishing, and implementing the fiscal policies of the Administration. Decisions, small and large, must be made by many persons. While legislative and administrative leaders make crucial decisions on specific questions raised by the budget process, they are largely dependent on information presented to them. It is essential therefore that everyone involved in the preparation of the budget try to create a meaningful, well developed and fully justified plan and not expect the budget review process of the Administration to accomplish an impossible task for which it is not designed.

Once the Governor has submitted the Governor's Budget and the Budget Bill to the Legislature, the process involves both the Administration and the Legislature. Both houses of the Legislature schedule budget hearings where the Administration defends the Governor's proposals and the Legislature takes actions on those proposals. At May Revision, the Governor updates revenues and expenditures, and proposes a revised plan to the Legislature. Once both houses have adopted a joint budget after resolving differences through Conference Committee or other meetings, a balanced budget bill is sent to the Governor for consideration, which the Governor may sign, or veto partially or in full.

BUDGET POLICY **6305**

(Revised 09/10)

The Governor's Budget policy provides guidance for the formulation of the budget. Such guidance may provide specific instructions for the revenues, expenditure programs (e.g., limiting cost increases), growth in personnel years, and other direction with the goal to balance the budget. The Governor may decide to disseminate budget policy through a formal announcement, through the Agency Secretaries, when applicable, issuance of Executive Orders, or by instructions issued by Finance.

Budget policy may also be set forth in the control sections of the current Budget Act.

AGENCY BRIEFINGS AND GOVERNOR'S REVIEW **6310**
(Revised 09/10)

Finance staff schedule and conduct meetings with Agency and departments under such an Agency to review proposed budgets and Budget Change Proposals. For unresolved issues and sensitive and significant budget changes, budget recommendations may be prepared for the Governor's decision. In the same manner, Finance conducts meetings with non-Agency departments and prepares recommendations for the Governor's decision.

PREPARATION AND SUBMITTAL OF BUDGETS **6315**
(Revised 09/10)

Each department is responsible for preparing its own budget in the format required by Finance. The first pass budget spreadsheet prepared by a department is typically due to Finance in early November and should reflect all known and approved workload budget (or baseline) adjustments and other approved policy decisions. Workload budget adjustments reflect the anticipated costs of carrying out the current level of service or activities as authorized in current law or consistant with the current Administration's policies. Departments should submit completed budget spreadsheets and supplementary schedules to Agency Secretaries, as applicable, and to Finance in accordance with a schedule provided by Finance.

If specific guidelines and sample budget formats do not provide a specific example for a budget presentation, use last year's printed budget as a format guide. It is suggested that budget officers preparing departmental budgets meet with the assigned Finance budget analyst to work out difficulties with format.

THE GOVERNOR'S BUDGET—PUBLICATION, DISTRIBUTION, ORDERING, AND PUBLIC SALE **6320**
(Revised 09/10)

The Governor's Budget is printed in quantities sufficient to fill official distribution requirements and to provide a limited stock for sale to the public.

The Governor's Budget and Governor's Budget Summary including the summary schedules are available on the Finance Home Page, http://www.dof.ca.gov or http://www.ebudget.ca.gov/.

The Office of State Publishing (OSP) determines the quantity to be published based on Finance's estimates to meet distribution requirements.

Departments and members of the public may purchase hard copies in the following ways:

- The Department of General Services, Office of State Publishing, has been contracted to print/produce the Governor's Budget, Governor's Budget Summary, and CD-ROMs for the Department of Finance. The CD-ROMs will contain the Governor's Budget and Governor's Budget Summary.
  To purchase hard copies of these publications or the CD-ROMs, please contact:

  Department of General Services
  Legislative Bill Room Annex
  Contact: Pearl Burns
  712 R Street
  Sacramento, CA 95814
  (916) 445-2645

- PDF documents of the Governor's Budget and Governor's Budget Summary can be viewed or printed at http://www.ebudget.ca.gov/ from the Printable Budget Documents sections available on each web page.

THE BUDGET BILL **6325**
(Revised 09/10)

The Budget Bill is prepared by Finance and is submitted to the Legislature in January accompanying the Governor's Budget. The Budget Bill is the Governor's proposal for spending authorizations needed for the subsequent fiscal year. Spending authorizations proposed in the budget bill are in addition to spending authority contained in the constitution and other statutes. Each house will begin its budget process with this version of the bill, and make various changes to reflect its actions. The California Constitution requires the Legislature to pass the Budget Bill and send it by June 15 each year to the Governor for signature. The Budget Bill sent to the Governor must be balanced, as specified in the Constitution. After signature by the Governor, the Budget Bill becomes the Budget Act.

LEGISLATIVE ANALYST'S "ANALYSIS OF THE BUDGET BILL" **6330**
(Revised 09/10)

The Legislative Analyst prepares an "Analysis of the Budget Bill." This report provides for an independent non-partisan review and recommendations on the funding proposed in the Governor's Budget. Traditionally, this report is generally issued about the third week of February. The report can be obtained from the Office of the Legislative Analyst or on its website at: www.lao.ca.gov.

BUDGET ACT **6333**
(Revised 09/10)

A Budget Bill is introduced in each house of the Legislature at the time the Governor presents the proposed budget to the Legislature. These bills propose the major part of the expenditure authority (appropriations) for the purposes stated in the Governor's Budget. The Legislature normally amends the proposed Budget Bills. One of the bills becomes the Budget Act after it is passed by both houses of the Legislature and signed by the Governor. Items in the Budget Bill may be vetoed or decreased but not increased by the Governor prior to signature. The Budget Bill signed by the Governor must be balanced, as specified by the Constitution. See SAM Section 6350.

LEGISLATIVE FISCAL COMMITTEE AND FLOOR ACTIONS **6335**
(Revised 2/98)

See SAM Sections 6130 and 6150 (chart) for descriptions of the budget enactment process regarding subcommittee, committee, and floor actions on the Budget Bills.

BUDGET COMMITTEE ON CONFERENCE **6340**
(Revised 09/10)

The Joint Rules provide that when the Senate or Assembly refuses to concur in amendments to a bill made by the other, the Senate and the Assembly will each appoint three members to the Budget Committee on Conference (Committee). However, the Senate or Assembly may deviate from the Joint Rules and appoint more than three members to the Committee. Generally, the appointees for each house will include two members from the majority party and one from the minority party. Meetings of the Committee are held in public.

Passage requires a majority vote of two senators and two assembly members unless there are more members appointed.. The Committee shall only consider differences between the versions of the Budget Bill unless rules are waived and an open Conference is declared. The Committee shall not approve any item of expenditure which exceeds that contained in one of the two versions. If the Committee fails to gain passage, a second Committee on Conference will be selected and the process repeated. No more than three different conference committees may be appointed on any one bill.

THE GOVERNOR'S VETO **6345**

(Revised 09/10)

The Governor may reduce or eliminate one or more items of appropriation while approving other portions of a bill. He/she will then return the bill with a statement of the items reduced or eliminated with the reasons for his/her action to the house of origin. Items reduced or eliminated may be separately reconsidered and may become law by a two-thirds vote of each house (veto override).

THE BUDGET ACT/FINAL BUDGET SUMMARY **6350**
(Revised 09/10)

The Budget Bill becomes the Budget Act after it is passed by both houses and signed by the Governor.

The veto actions of the Governor are listed beginning on the first page. The veto actions are not amended into each item/section of the Budget Act. When referring to an item of the Budget Act, be sure to check for possible veto action which may be applicable to the item.

Finance also publishes the Final Budget Summary. It is available on Finance's website at www.dof.ca.gov. This is an annotated version of the Budget Act, showing the Governor's veto actions by item/section as well as technical corrections/changes. It also includes fiscal summaries.

THE LIST OF CHANGES TO THE GOVERNOR'S BUDGET, FINAL CHANGE BOOK **6355**
(Revised 09/10)

All changes made to proposals contained in the Governor's Budget are reflected in the "Final Change Book." The Final Change Book is a published document which provides the details of the changes by the Legislature and the Governor's veto actions. It contains a detailed list of changes in Budget Act items, non-Budget act items and control sections for state operations, local assistance, capital outlay, and unclassified items. The Final Change Book also includes fiscal summaries.

THE DEPARTMENTAL BUDGET PRESENTATION **6400**
(Revised 09/10)

1. The departmental presentation should be arranged in the order and format prescribed in the current annual budget preparation instructions. Normally the format will follow the presentation of the latest Governor's Budget. The budget spreadsheet should be transmitted through the Agency Secretary (if an Agency department) to Finance.

   If the department is not assigned to an Agency, the budget spreadsheet should be forwarded directly to Finance.

2. Departmental estimates of expenditures and revenue in the Governor's Budget should be based on existing law and policies. No consideration should be given in the budget presentation to proposed program changes in laws amd policies except for those approved by the Administration as part of the Governor's Budget.

3. It is important that fund balance, revenue, expenditure, and other accounting data included in the past year presentation of the Governor's Budget agree in amount and classification with similar data published in the State Controller's Budgetary/Legal Basis Annual Report. Therefore, departments will make certain that data included in budget schedules are identical with their year-end financial reports. Exceptions may be made where departments believe substantial adjustments require otherwise and Finance budget staff agrees in advance of departmental presentation of budget documents.

The following sections of SAM deal with departmental budget presentations. The first part deals with personal services, as the reconciliation of the personnel year base to the legislative authorizations typically is an initial task in building the next budget. Following are sections dealing with operating expenses and equipment, supplementary schedules, Expenditures by Category, Details of Appropriations and Adjustments, Fund Condition Statements, and Schedule 10s.

PERSONAL SERVICES **6403**
(Revised 09/10)

The category of Personal Services includes all payments for personal services except: (1) those obtained under contract; and (2) payments for health and welfare benefits for prevailing rate employees as authorized by Government Code Section 19831. The category contains two objects of expenditure: (1) salaries and wages, which include all direct payments for personal services; and (2) staff benefits, except for those services obtained under contract. See Government Code Section 19830 and SAM Section 6412.

Government Code Sections 19130-19134 provide criteria and procedures regarding the state's use of personal service contracts. These provisions basically provide for personal services contracts to achieve savings when specific conditions are met and for the State Personnel Board to review the contracts for compliance with the specified standards.

POSITION/PERSONNEL YEARS/SALARY COST ESTIMATES PRESENTATION **6406**
(Revised 09/10)

The detailed presentation of Authorized Positions and Personnel Years information consists of two major parts: (1) the Salaries and Wages Supplement (Schedule 7A) which is presented as a separate publication; and (2) the Changes in Authorized Positions presentation in the Governor's Budget.

The instructions which follow are for the preparation of the Changes in Authorized Positions presentation. For examples, refer to departmental presentations in the Governor's Budget. Position entries should be grouped under the appropriate organizational headings and subheadings as reported in the Salaries and Wages Supplement. Footnotes may be used to explain action taken for continuously vacant positions per Government Code section 12439, etc., or to document limited-term positions.

Authorized Positions

This line shows total position/personnel-year count and expenditures and will agree with the corresponding Totals, Authorized Positions shown in the Salaries and Wages Supplement (Schedule 7A). This total will **not** include those positions abolished as vacant by the State Controller per GC section 12439 unless re-established under specified criteria in the code. The number of positions must be reconciled to the number of positions approved in the final budget of the preceding year, less those positions abolished as vacant by the State Controller per GC section 12439, net of re-establishment. That is, the total number of authorized positions shown in the Expenditures by Category is to be reconciled with the total number of positions approved for the current year. Authorized positions may be established as individual positions or for certain blanket authorizations. See section 31.00 of the current Budget Act for restrictions on administratively established positions.

Workload and Administrative Adjustments

Under this major heading, list all administrative changes being made to the Totals, Authorized Positions described above.

1. **Positions Established**

   Positions established as workload and administrative adjustments are limited-term positions and terminate by the end of the fiscal year per section 31.00 of the Budget Act. The date of termination should be noted if it is not June 30.

   Administratively established positions which are proposed for continuation beyond June 30 may not be listed here but need to be included under Proposed New Positions as described below. Positions administratively established in the previous year may not be reestablished as **workload adjustments** in the following year.

2. **Reduction in Authorized Positions**

   List by classification, authorized positions to be abolished. Note that for positions to be abolished during the current year, entries will be required in the columns for both the current and budget years because such positions have been included in the totals forwarded from Schedule 7A for both years. Do not list positions abolished by the State Controller under the provisions of GC section 12439 under this heading. Instead they will be listed as reconciling entries (in footnote format) at the end of the Salaries and Wages Supplement presentation.

3. **Positions Reclassified**

   Change in Established Positions form, STD. 607, is used to reclassify positions. See SAM section 6527 for transactions requiring Finance approval. Section 31.00 of the Budget Act requires that all reclassifications of positions with a minimum monthly salary in excess of the amount specified must be approved by Finance. These positions do not necessarily have to be reported again under Changes in Authorized Positions unless they are major reclassifications. Most of these reclassifications will be minor and can merely be shown in the Salaries and Wages Supplement at their new classification.

   Reclassifications should be considered "major" if any program redirection or organization change is involved, and should always be reported if the position is at all controversial.

POSITION/PERSONNEL YEARS/SALARY COST ESTIMATES PRESENTATION **6406** (Cont. 1)

4. **Positions Transferred**

If a position is to be transferred from one organizational unit to another within a department, the transfer may normally be shown in the Salaries and Wages Supplement. If, however, the position transfer is for a new function and/or legislative review is required, then the transfer should be reported in the Changes in Authorized Positions.

5. **Totals, Workload, and Administrative Adjustments**

Enter totals of the preceding items 1 through 4.

Proposed New Positions. Under this subheading show all additional positions established during the current year and proposed to continue through the budget year and all additional positions proposed for the budget year.

a. If proposing to increase the time for existing part-time positions, list the incremental change as a proposed new position. The increase in number of positions (converted to nearest 1/10) is counted as Proposed New Positions and the additional amount required to fund the positions.

b. List the increases or decreases in part-time seasonal or temporary help, overtime, or terminal-pay.

c. New positions are arranged in the same order as in the Salaries and Wages Supplement. Compute the cost of proposed new positions at the mid step of the salary range.

d. For positions authorized for a time period less than a full fiscal year, the position and dollars should reflect the net position count and dollars.

e. Establishing positions for a portion of a fiscal year is accommodated by the State Controller's system. The SCO's Employment History Database will reflect future effective dates and termination dates.

f. When departments prepare STD. 607s to establish or abolish positions, the effective date can be later than July 1 or the termination date can be earlier than June 30. For example, departments can prepare STD. 607s on July 1 with a future effective date of January 1. The SCO records will report ½ of the position or 0.5 position count.

g. Count each proposed part-time or part-salary position to the nearest 1/10 of a personnel-year.

h. Administratively established positions which meet the provisions of Section 31.00 of the Budget Act and which are to be continued into the budget year are to be listed with the other proposed new positions in descending salary order. The position count and expenditure data will be reported for the current year and budget year, as appropriate.

Totals, Proposed New Positions. Show totals for proposed new positions. Place a dash in the Column, headed Salary Range.

Totals, Salaries and Wages. Enter the totals of the Authorized Positions; Totals, Workload and Administrative Adjustments; and Proposed New Positions.

The Changes in Authorized Positions schedule is summarized in the Expenditures by Category. The following additional personnel data is also required in the Expenditures by Category.

Estimated Salary Savings. See SAM section 6409.

Net Totals, Salaries, and Wages. Subtract the Estimated Salary Savings from the Totals, Salaries, and Wages. Enter the balance here.

Staff Benefits. See SAM section 6412 and the Annual Price Letter.

Totals, Personal Services. Enter totals of Salaries and Wages, Estimated Salary Savings, and Staff Benefits.

ESTIMATED SALARY SAVINGS **6409**

(Revised 09/10)

The Totals, Personal Services entry in the Expenditure by Category shows the gross total of the positions and salaries of authorized positions. In practice, due to leaves of absence, vacancies, downward reclassifications, and turnover (inability to fill a position immediately and at the same step), it is generally not possible to keep all authorized positions filled at the budgeted level for the entire year.

The amount not expended and the number of personnel-years not used result in savings which are subtracted from the gross level to reflect the net levels of position usage and dollars that are likely to occur.

The position count shown with salary savings represents estimated vacant position levels only and does not necessarily have a direct relationship to the dollar amounts. Care should be exercised in computing the personnel-year counts and dollar amounts to avoid erroneous impressions of vacancies and levels of service.

The amount of savings should be estimated partly on the basis of the past year experience of departments. Factors to be considered include the experience in the past year in obtaining qualified personnel to fill vacancies, the turnover rate, and the employment conditions. Departments should also consider other factors that would affect current and budget years.

New positions for the budget year are reflected in the salaries and wages totals at the full salary level. A salary savings adjustment for new positions must be incorporated in the estimated salary savings entry based on the time each new position is expected to be vacant.

Five percent is generally acceptable as a minimum dollar value for salary savings on new positions if the position is to be authorized on July 1.

If a department is proposing additional funding in order to reduce an excessively high budgeted salary savings amount, they must submit a BCP to Finance to explain the basis for their request. Any BCP must meet the guidelines and policy provided by Finance through Budget Letters or other notification process. The justification should include documentation of turnover experience, leaves of absence, projected retirements, vacancies, levels of positions originally funded vs. current/projected levels of filled positions. and any other factors which are expected to have an impact on the departmental funding needs.

STAFF BENEFITS **6412**
(Revised 09/10)

State contributions to the Public Employees' Retirement Fund, Old Age and Survivor Insurance, State Employees' Health Benefits, and Worker's Compensation for state officers and employees will be combined and entered immediately following "Net Totals, Salaries and Wages" in the "Expenditures by Category." The item will be entitled "Staff Benefits" and will show the total contributions by year. Estimates will be prepared in accordance with instructions in the Annual Price Letter and Budget Letters. For the past year, the amount of actual contributions may be taken from the appropriate allotment expenditure account.

1. The Public Employees' Retirement component includes all state contributions for state employees covered under the Public Employees' Retirement System (Government Code Sections 20000 through 21765). Estimates of the amount of contributions are prepared according to the Annual Price and Budget Letters.

2. The Old Age and Survivors' Insurance data include all state contributions for state employees covered under the Federal System (Government Code Sections 22000 through 22603). Estimates of the amount of contributions are prepared according to the Annual Price and Budget Letters.

3. The State Employees' Health Benefits component includes all state contributions for state employees enrolled under any approved health benefit plan (Government Code Sections 22750 through 22944). Costs of payments for health and welfare for nonpermanent, prevailing rate employees as authorized by Government Code Section 19830 will be applied as operating expenses. Estimates of the amount of contributions are prepared according to the Annual Price and Budget Letters.

4. Workers' Compensation for state officers and employees is budgeted as an item of Staff Benefits.

   State entities that carry Workers' Compensation policies with the State Compensation Insurance Fund will not budget **additional** funds for Workers' Compensation benefits. They will continue to budget funds for payments of premiums that will be included as a part of Staff Benefits.

   Because of the nature of this type of expense, some agencies may have to rely upon certain subjective factors in computing requirements. Departments should prepare estimates taking into consideration all pertinent factors, particularly those which might result in a difference in cost from that experienced in past years. Accident and injury experience loss rates, changes in working conditions affecting risk exposure, changes in number of employees and salary rates are examples of areas that can fluctuate yearly.

   If a department is proposing additional funding for staff benefits, a BCP must be submitted to Finance. Any BCP must meet the guidelines and policy provided by Finance through Budget Letters or other notification process. If no variation is expected, the following method may be used in computing Workers' Compensation Insurance expense:

   1. Determine total Workers' Compensation Insurance expenses for departmental employees for each of the past three years. This information is available from the Compensation Insurance Fund.

   2. Determine total salaries and wages paid to departmental employees for each of the past three years excluding staff benefits.

   3. Divide the total expenses for three years by total salary and wages for three years to determine the ratio of Workers' Compensation Insurance expenses to salaries and wages. Apply this ratio to the total salaries and wages estimated to be required for the budget and current years to determine the amount required.

SCHEDULE 7A—SALARIES AND WAGES (STATE CONTROLLER'S OFFICE ROLE) 6415
(Revised 09/10)

The Uniform State Payroll System records maintained by the State Controller's Office (SCO) are used as the basis for the preparation of the Salaries and Wages (Schedule 7A). Each department served by the Uniform State Payroll System will use SCO's information, as of July 1, to update the Schedule 7A spreadsheets. Departments not included in the Uniform State Payroll System will update the Schedule 7A using payroll information from their own system.

The Schedule 8 tabulation is prepared from SCO's payroll records of "Established Positions."

Generally, adjustments will be required to bring the payroll-based data to authorized levels in the Schedule 8. If adjustments are required they should be explained fully on the form 33 (Supplementary Schedule of Salaries and Wages). Adjustments may be required to bring the department and SCO records into agreement. Differences may arise due to problems with position documentation, timing, or error. If the SCO has **erroneously abolished** a position pursuant to Government Code Section 12439 criteria—a position actually filled by a department but not recorded in SCO records—the error may be corrected (See restrictions and instructions in SAM Section 6445). If a position is **properly abolished** under the criteria of Government Code Section 12439 and the department wishes to retain it, the department may be able to re-establish the position under certain specified criteria included in the Government Code. If these specified criteria cannot be met, the department may need to submit a BCP. See SAM Section 6406.

Analysis of the Schedule 7A spreadsheet should be facilitated by reference to the Conversion Code Listing. See SAM Section 6430.

The Schedule 7A spreadsheets are distributed to departments via e-mail by their Finance analyst, usually in August. Departments should carefully review and complete the Schedule 7A per the instructions provided in the Salaries and Wages Spreadsheet Budget Letter.

SCHEDULE 7A—BUDGET SUPPLEMENT OF AUTHORIZED SALARIES AND WAGES (PROCESSING) **6418**
(Revised 09/10)

The Schedule 7A spreadsheets are distributed to departments via e-mail from their Finance analyst, usually in August. Departments should carefully review and make all changes per the instructions provided in the Salaries and Wages Spreadsheet Budget Letter.

Only the important, significant programs or subfunctions which are necessary to understand the department's organization or operations should be presented. Insignificant subfunctions should not be shown separately even though they may have been separately shown on the Schedule 8 tabulation. Changes to the arrangement may be made in the latest salary supplement only after consulting with Finance.

Within each such significant expenditure class or subclass, combine all identical full-time positions by classification regardless of differences in pay rates or other factors. Part-time or part-salary positions of the same class are combined irrespective of the fraction of time. Position classifications are listed in descending order of the minimum step of the salary range.

Under the Number of Positions column, show each year's number of positions for each classification or title. Positions should be shown with the net personnel-year count, based on establishment or abolishment dates, and whether or not they are limited-term or temporary. Blanket position personnel-year counts and the dollars associated with them must be displayed on the temporary help line, not the overtime line. Dollar amounts are to be reported to the nearest dollar. All permanent positions approved in the final budget are to be included. For the past year, positions are counted on an actual basis. Changes in positions authorized by the Legislature in the approved budget (Workload and Administrative Adjustments and Proposed New Positions as amended by the Final Change Book) should be posted and documents (STD. 607s) should be sent to the State Controller's Office. Do not make any proposed staff changes directly to the Schedule 7A spreadsheets. Such changes will be reported in the Changes in Authorized Positions presentation under Workload and Administrative Adjustments and Proposed New Positions. See SAM Section 6406. A position count for blanket positions (seasonal, temporary help, or terminal-pay positions) is included in totals. For the past year, enter actual personnel years of employment. For the current and budget years enter the exact number of personnel years authorized by the Legislature. The necessary changes in blanket positions will be reported under Workload and Administrative Adjustments or Proposed New Positions in the Changes in Authorized Positions presentation. The number of positions reported must be fully reconciled with the number of positions approved in the latest enacted budget.

The Salary Range column will show, for each classification, the established minimum and maximum rates of the approved monthly salary range as of July 1, current year; or, if appropriate, show the established flat monthly rate (e.g., $1,430-2,138; or $2,101). Flat rate salaries fixed by Constitution or statute are shown on an annual basis.

For each blanket position (or authorization), show the actual amounts used in the past year in parenthesis. For the current and budget years enter the position equivalent and dollar amounts authorized by the Legislature. Generally, the authorized temporary help/blanket amounts do not change from year to year. However, they may be increased to include previously approved general or special salary range changes. If general salary increases are not effective at the start of the current fiscal year, it may not be included in Schedules 7A and 8. In this case, the increases will be reflected in a single line entry (salary adjustment) in the Expenditures by Category. All other changes proposed for blanket positions must first be approved by the Legislature as Workload and Administrative Adjustments or Proposed New Positions before being included in the Salary Supplement. When the Salary Supplement is prepared in this fashion, no additional explanation or justification of blanket positions is required.

If an administratively authorized position has been established and has been paid from blanket funds, the position will terminate on June 30 of the current year. However, it may be reestablished upon approval of Finance, provided it is included in the budget submitted to the Legislature as described previously, and provided that this does not result in the establishment of positions previously deleted by the Legislature. See Section 31.00 of the Budget Act.

For a more complete definition and description of blanket positions, see SAM Section 6518.

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SCHEDULE 7A—BUDGET SUPPLEMENT OF AUTHORIZED SALARIES AND WAGES (PROCESSING) **6418 (Cont. 1)**

(Revised 09/10)

Changes because positions were reclassified, filled, or vacant are reported per SAM Section 6406.

Reclassifications of trainee positions to the next higher grade are shown as existing positions. Show both class titles. In the "Salary Range" column give the minimum of the trainee range and the maximum of the range for the higher class. Combine reclassifications in this manner only when the class specifications clearly provide that upgrading is intended after completion of a training period. Amounts requested will include the total amount required for the entrance class as well as for the reclassification. Give complete information.

For example:

	Salary Range	Current Year	Budget Year
Accountant I - Accounting Officer	$2,239–3,602	$26,868	$35,952

The Totals, Authorized Positions line shows the personnel-year count of positions filled and actual amount expended for the past year, the number of positions, and amounts approved by the Legislature in the approved budget for the current and budget years.

SUBMITTAL OF SCHEDULE 7A SPREADSHEET TO FINANCE **6419**
(Revised 09/10)

Upon completion, the Schedula 7A spreadsheets are to be submitted to Finance.

The "as of" date of the reconciled Schedule 7A and the Schedule 8 tabulation is July 1. The Schedule 7A will summarize the information presented in detail in the Schedule 8. The totals for the current and budget years must reconcile to the legislatively authorized positions, less any vacant positions abolished by the State Controller's Office pursuant to Government Code Section 12439 that are not re-established either under department's self certification or approval by Finance. The general rule is that the July 1 current year positions should equal those proposed in the Governor's Budget adjusted for changes reflected in the Final Change Book. Any exception should be footnoted at the end of the Schedule 7A.

STATE CONTROLLER'S OFFICE TABULATIONS (OTHER THAN SCHEDULE 7A) **6421**
(Revised 09/10)

The State Controller's Office prepares several reports to assist in preparation of budget and encumbrance information for the Salaries and Wages Supplement. More detailed explanations of the specific tabulations follow.

SCHEDULE 8 TABULATION **6424**

(Revised 09/10)

In the latter part of July, the State Controller's Office (SCO) prepares a Schedule 8 report from the position and payroll rosters of all positions existing on June 30 of each fiscal year which are maintained by that office. The "as of" date for this report will be July 1 of the current year. The report is then distributed to departments.

No transactions effective July 1 or later will be included with the following exceptions:

- Salary changes effective July 1 will be included if approval is completed by the salary setting and approval authorities prior to mid-July.
- A reorganization effective July 1 which has prior approval of SCO and Finance will be included.
- Continuously vacant positions which are to be abolished under Government Code Section 12439 will not be included in SCO tabulation.
- New permanent positions (full time or fractional) to become effective on July 1 (this does not include California State University positions).

DESCRIPTION OF SCHEDULE 8 TABULATION **6427**
(Revised 09/10)

The SCO will prepare a schedule of established positions (excluding blanket and other positions having serial numbers in the 900 series) as of June 30 of the past year that are authorized to extend beyond June 30, indicating the following for each budget function, in numerical order of budget function code:

1. Class title.

2. Position number—includes codes for department, reporting unit or function, class, and serial.

3. Social security number and name (or "vacant" or "termin"). An asterisk will appear to the right of the name if the employee has OASDI coverage.

4. Salary rate July 1 of the current year, including July 1 adjustment. If vacant, the minimum will be shown. Salary type and range code are also shown.

5. Minimum and maximum salary for the class.

6. Anniversary date—month and year of next adjustment authorized or estimated (month is shown by a two-digit code and year by a two-digit code, XX/XX). Shown as 99/99 if employee is at maximum pay in their class.

   For positions paid on a monthly basis or which are vacant or for which the anniversary date is not known, the estimated anniversary date will be shown as 7 (July of the budget year) or 1 (January of the current year) for classes which have a merit or special in-grade salary adjustment, and an asterisk will appear to the right of the date.

7. Appointment fraction if not full time. A four-digit code of which the first two digits are the numerator and the last two the denominator of the fraction. (0102 = 1/2 time; 0104 = 1/4 time; 0304 = 3/4 time; 1112 = 11/12 time, etc.)

8. Position termination date—stated as 06 30 10 for June 30, 2010 , or 12 31 10 for December 31, 2010.

9. Personnel years to the nearest tenth expended for the past year through July 1 of current year by class within each reporting unit (or budget function). Personnel-year expenditures by individual position are not available and will not be required.

10. Personnel years authorized by position for the current year to the nearest tenth.

11. Personnel years authorized by position for the budget year to the nearest tenth. (Fractional positions extended at same fraction as authorized for the current year).

12. Amount expended by class for the past year through July 1 of current year.

13. Estimated expenditures by position for current year.

14. Estimated expenditures by position for budget year.

The SCO tabulation will also include totals of personnel-years and amounts expended by reporting unit (or budget function) within agency and a grand total for each agency code.

VERIFICATION AND COMPLETION OF SCHEDULE 8 TABULATION **6429**
(Revised 09/10)

Each department will proceed as follows, with clear entries made on all copies:

1. Compare with department payroll roster. Any differences on the Schedule 8 should be analyzed and corrected. A spot-check should be made of the anniversary dates and extensions. A list of State Controller's Office (SCO) discrepancies or errors should be prepared and attached to each copy of the schedule. For each item on the list, include a cross-reference to the specific document which was not properly recorded on SCO records, so that SCO may check original documents before making corrections.

   In the case of a full-time authorized position that is filled on a part-time basis, the SCO's tabulation will carry the position as a part-time position and the amount will be that of a part-time position. This condition will be shown for both current and budget years. The department should make the changes necessary to provide for continuation on a full-time basis.

   Differences other than SCO's discrepancies or errors must be corrected through submission of payroll or position documents. The preparation and submission of such documents are a follow-up condition for certification procedures established in accordance with SAM Section 6521. The exceptions are those positions that can be re-established under specified criteria as listed in Government Code 12439.

2. Correct all of the totals to account for the above changes.

3. For positions marked "vacant" in the tabulation, insert, after the word "vacant," the date the position became vacant. Check the tabulation against the "Vacant Positions" reports (see SAM Section 6445) and make necessary adjustments.

CONVERSION CODE LISTING **6430**
(Revised 09/10)

The Finance Conversion Code (FCC) listing provides detailed instructions to the State Controller's Office (SCO) so that information in the records of the Uniform State Payroll System can be arranged in the format of the Salaries and Wages Supplement by the computer. The listing includes budgetary descriptions, codes, and sequences used to verify the Schedule 7A spreadsheets.

The FCC listing must be amended if the format for the Salaries and Wages Supplement needs to be changed. This could be true if new reporting units have been added or deleted, or if a reorganization is to be reflected in the Salaries and Wages Supplement presentation.

The FCC listing will consist of four columns: from left to right, the Finance Conversion Code, Agency Code, Department Reporting Unit Codes, and Budgetary Description.

The FCC is used as the key for the organizational structure which a department wishes to present in the Salaries and Wages Supplement. The code controls the order and indentation of the budgetary description. Also, it provides for the inclusion of reporting units under a budgetary description. In addition, it indicates where subtotals and totals of personnel years and dollar amounts will be taken. Totals will be provided at the end of the department's section and limited to no more than two sub-departmental levels.

The Budget Description entry becomes the title of the organizational unit or program as it will appear in the Schedule 7A spreadsheets. The description will be limited to 35 characters for all sub-departmental levels.

The Agency Code is to identify the department from which the salaries in the reporting unit are to be paid.

The Reporting Unit Codes identify the reporting unit or units which are to be collated under the particular Budget Description entry. All positions in the reporting units listed under a particular Budget Description entry should be a part of the unit described by the title listed in the Conversion Code Listing.

The SCO will print the FCC Listing used in preparing the Schedule 7A in the preceding year and send it in duplicate in May to each department for review and amendment. The SCO also publishes a Payroll Letter giving specific instructions for amending and processing the listing and setting a date for its return to the SCO. The sole purpose of the FCC Listing is to control the array and detail in the Schedule 7A spreadsheets.

In the review of the FCC, Listing the following points should be checked:

1. Are the Budgetary Titles still appropriate?

2. Have reorganizations been properly reflected in the Budgetary Titles to show authorized changes in organization or program?

3. Will the Budgetary Titles appear with the proper indentation from the margin?

4. Are all the reporting units listed under the proper budget descriptions? A reporting unit to be established effective July 1 should be added under the proper budgetary descriptions.

5. As the FCC Listing will be used during July to verify the Schedule 7A spreadsheet, check that the documents (Change in Established Positions, Payroll Roster Change form, STD. 607) making approved reorganizations and establishing approved new positions are completed and sent to SCO by June 14th to be included in the Schedule 7A.

As significant proposed organizational changes to the Salaries and Wages Supplement may have a major impact to a department's operations/budget presentation, any substantive changes or changes in politically sensitive programs must be cleared with Finance before the listing is released to SCO.

EXPIRING FILLED POSITIONS **6436**

(Revised 09/10)

The SCO will prepare a separate listing titled Report for Schedule 8—Supplementary Tabulation. This listing reflects all authorized appointments that continue beyond June 30 of the past year, but do not have approved positions to continue beyond June 30. The purpose of this listing is to remind the department that these employees should have been separated or placed in an authorized position, and to furnish the department current and budget year extensions using the present salary.

BLANKET POSITIONS **6439**

(Revised 09/10)

The State Controller's office will prepare a separate listing of actual expenditures from blanket positions (temporary, seasonal, and overtime) for the past year. This will include past year expenditures that were posted through July 1 of the current year. These expenditures will need to be reflected in the Schedule 7A.

VACANT POSITIONS REPORT **6445**
(Revised 09/10)

Chapter 1124, Statutes of 2002, as amended by Chapter 227, Statutes of 2004, made major changes to Government Code (GC) section 12439 relating to the abolishment of vacant positions. The major changes include:

- State Controller's Office (SCO) is to identify and abolish vacant positions that are vacant for six consecutive monthly pay periods, during the fiscal year or between two consecutive fiscal years. The rolling six months began July 1, 2002.
- A mechanism for departments to self-certify re-establishments by August 15 for positions that meet specified conditions during the vacancy period.
- Prohibits departments from executing any personnel transactions for the purpose of circumventing the provisions of the Section, e.g., 120 transactions.
- Each department is required to include a section discussing its compliance with this section when it prepares its report pursuant to GC section 13405.

On July 1 of each year, the SCO will abolish the continuously vacant position(s). These abolished positions will not appear on the Schedule 8 or 7A. The SCO will generate an initial listing for departments by mid-July. The positions can be eliminated from the abolishment listing for any SCO technical errors, departmental self-certifications of positions to be exempted from the abolishment, or any Department of Finance (Finance) authorized reestablishments meeting specified criteria.

Technical Errors. Departments are responsible for reviewing the listing and resolving any discrepancies or errors, e.g., late document submittal by departments or late processing of personnel documents by the SCO. Departments are to work directly with the SCO to resolve the discrepancies, (Finance approval is not necessary) between July and August 15. If the position(s) are not to be abolished, the departments must add the positions back on the Schedules 8 and 7A, and report the adjustments on the Schedule 8 Summary. See SAM Section 6448.

If departments miss the August 15 deadline, they may submit Change in Established Positions, STD 607 forms, to Finance between August 15 and September 10 to obtain approval to reestablish technical correction positions. Requests must include complete justification for late technical changes. These STD 607s must include the letter "X" preceding the document number.

Department's Self Certification Criteria. The SCO will reestablish positions when the Director of a department certifies by August 15, one or more of the following criteria existed during part or all of the six consecutive pay periods for the abolished position(s):

- Directly provides 24-hour care in an institution operated by the State.
- Necessary for the State to satisfy any licensing requirements adopted by a local, State, or federal licensing or other regulatory agency.
- Directly involved in services for public health, public safety, or homeland security.
- Held vacant because the previous incumbent is eligible to exercise mandatory right of return from a leave of absence as may be required by any provision of law including, but not limited to, leaves for industrial disability, non-industrial disability, military service, pregnancy, childbirth, or care of a newborn infant.
- Held vacant because a department granted the previous incumbent a permissive leave of absence as may be authorized by any provision of law including, but not limited to leaves for adoption of a child, education, civilian military work, or to assume a temporary assignment in another agency.
- Directly reduces State revenues or other income by more than would be saved by the elimination of the position.
- Positions established and funded from moneys appropriated pursuant to Sections 221 and 221.1 of the Food and Agriculture Code which directly respond to unforeseen agricultural circumstances requiring the relative expertise that the position provides.

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VACANT POSITIONS REPORT **6445** (Cont 1)

Departments must prepare a Change in Established Positions, STD 607 form, for each position to be reestablished for one or more of the above criteria. The SCO must receive the STD 607 form no later than 5:00 p.m. on August 15. STD 607 forms received after August 15 will be returned to the department instructing them to obtain approval to reestablish the position(s) from Finance. These documents must be received by Finance no later than September 10.

STD 607 documents submitted from July 1 through August 15 to reestablish self certified positions must include the alpha letter "Z" preceding the document number.

Departments must add the approved position(s) back on the Schedule 8 and 7A that are self certified positions that are reestablished by SCO or subsequently approved by Finance.

In addition, each department shall maintain for future independent audit, all records on which the department relied in determining that any position or positions satisfied one or more of the criteria specified above.

After August 15, the SCO will update its position control system and prepare and submit a preliminary Abolished Vacant Position Report to Finance by September 10.

Additional reestablishment circumstances. Upon written request by departments, Finance may also approve the reestablishment of positions in the following circumstances:

- A hiring freeze was in effect during part or all of the six consecutive pay periods.
- The department has diligently attempted to fill the position, but was unable to fill within six months.
- The position is designated as a management position and was held vacant pending the appointment of the director, or other chief executive officer, as part of the transition from one Governor to the succeeding Governor.
- The classification of the position is determined to be hard-to-fill.
- Late budget enactment contributed to the delay in filling of the positions.

Departments may submit a STD 607 at any time during the year to their Finance budget analyst requesting reestablishment of a position under one or more of the above. The request must include complete justification regarding the specifics of the circumstances surrounding the abolishment of the position and rationale/need for reestablishment. When Finance approval is required, departments must not send any request to reestablish positions directly to the SCO.

All STD 607 forms must be processed by Finance to SCO prior to September 30 in order for the SCO to include the corrections in the Final Abolished Vacant Position Report that is submitted to the Legislature and Finance by October 15.

Positions abolished by the SCO, under the provisions of GC section 12439, are not authorized and are not to appear on the Schedule 8 and 7A, unless specifically approved by Finance. Departments are to display the abolished positions at the end of the Schedule 7A after the Totals, Authorized Positions line. Positions are to be arranged in the same order they would have appeared in the Schedule 7A and under the appropriate organizational headings. The title to be used is Continuously Vacant Positions Abolished by SCO per Government Code Section 12439.

PREPARATION OF SCHEDULE 8 SUMMARY **6448**
(Revised 09/10)

The Schedule 8 consists of two parts, the summary and detailed tabulation. The instructions for the detailed listing are found in SAM sections 6424, 6427, and 6429, while the instructions for preparing the summary are provided below. The Schedule 8 acts as a payroll authorization for the current year, and an encumbrance document for posting to salaries and wages allotments as well as a source of information for Schedule 7A. See SAM section 6521.

The Schedule 8 Summary will be prepared on the Supplementary Schedule of Salaries and Wages form, STD. 33, as follows:

1. Using the total of each budget function from the Schedule 8 tabulation, enter the total number of personnel years for each of the three years (columns 8, 9, and 10), the total estimated expenditures for the current year for established positions in column 11, and total proposed expenditures for the budget year in column 13.

2. The total of column 11 should be used to encumber current year allotments for salaries and wages.

3. Following each function total, an individual and newly authorized position in the Governor's Budget for the current year but not yet established is to be listed with the estimated expenditures for the current year inserted in column 12 and the proposed expenditures for the budget year in column 13. If a position has been authorized for over a year and is still unestablished, it is in effect a vacant position under the terms of Government Code section 12439 and may **not be added to** the Schedule 8 tabulation and the Schedule 7A as a plus adjustment to increase the total of authorized positions and so continued as an authorization. Such positions may not be established, but are to be listed as part of the reconciliation in step 5 below. The exceptions are those positions that can be re-established under specified criteria as listed in Government Code 12439.

4. Following function totals, insert information regarding blanket position expenditures for the past year (columns 6 and 7), and estimated expenditures for the current year (column 12), and the budget year (column 13). This is not the normal use of columns 6 and 7.

5. At the end of the Schedule 8 Summary, set forth a reconciliation of the total positions shown in column 9, to the current year printed budget as amended by the list of Legislative changes (Final Change Book). Differences in the number of positions in any function or program should be explained with reference to the supporting STD. 607, or as vacant positions abolished by the State Controller’s Office (SCO), unestablished positions abolished as vacant (see paragraph 3 above), limited-term positions expired, or proposed new positions not yet established.

6. Upon completion of the above, send the original and one copy of the Schedule 8 prepared by the SCO, the List of Errors, and STD. 33, to Finance as part of the agency budget request. The remaining copies may be retained by the department.

OPERATING EXPENSES AND EQUIPMENT **6451**
(Revised 09/10)

Each department must prepare departmental supplementary schedules of the various items of operating expenses and equipment needed to support the proposed program of the department.

Although supplemental information is not printed in the budget, schedules must be prepared and sent to Finance per instructions issued in Budget Letters. Legible reproductions of working papers or automated tabulations may be used to complete the schedules. Departments should refer to the state's Uniform Codes Manual (UCM) for the standard objects of expenditures. The Supplementary Schedule of Operating Expenses and Equipment (DF 300), and the Supplementary Schedule of Equipment, (DF 302), are required from each department.

SPACE ACTION REQUESTS (STD. 9) **6453**
(Revised 2/98)

Departments use the Space Action Request form, STD. 9, to request:

> New or additional space (including swing space), lease extensions, or renewals desired by an agency in **noninstitutional** buildings—whether state-owned or state-leased, Relocatable buildings, and Trailers.

Instructions for STD. 9 are provided in SAM Section 1405; additional information on preparation is available from DGS, Professional Services Branch of the Real Estate Services Division.

DOF's Review Requirements. Space action requests are submitted to DGS. The DGS forwards a copy of the request to DOF Capital Outlay Unit for approval if any one of the following conditions exists:

1. Rental costs (excluding one-time costs) as determined by DGS are estimated to exceed $300,000 in any year of the firm term of a lease. Lease **renewals** are exempt from this requirement unless:
   a. A ten percent or greater increase in space is requested; or
   b. The department will propose a budget augmentation to meet rent increases.
2. The department will require a budget augmentation for any year within the firm term of the proposed lease. In this respect, one-time costs, including moving, equipment, furniture, telephones, and data processing related costs, etc. must be considered.
3. The department (or DGS) proposes:
   a. A lease with a purchase option over $2 million pursuant to Government Code Section 14669 (b);
   b. A lease-purchase (installment purchase) arrangement; note that a lease with a "bargain" purchase option is defined, for the purpose of this section, as a lease-purchase;
   c. A lease which in any other fashion meets the definition of a capitalized lease per the Capital Outlay Section in SAM.
   d. A lease which must be noticed to the Legislature pursuant to Government Code Section 13332.10.

(Continued)

4. The DOF re-reviews any STD. 9 for which costs significantly exceed the level originally indicated by DGS and concurred with by DOF. Thresholds for re-review are established by memorandum of understanding between DGS and DOF.

Whenever STD. 9 is submitted to DOF, it must be accompanied with a Estimate of Occupancy Costs form, STD. 10, prepared by DGS and reflecting DGS' recommended space strategy. The STD. 10 provides a clear synopsis of the reasons for the recommended move or other action; how the action is consistent with approved asset management plans; a schedule of estimated costs for each year of the expected term of the lease and a detailed breakdown of the estimated one-time costs and/or savings associated with the action; and any rent overlaps expected. In addition, an OREDS 4083 must be submitted which provides information on employee classifications for the tenant department, type of space, and specifics on specialized space needs.

For certain requests, DGS also prepares a separate economic analysis for DOF verifying that the selected method of procuring space (lease, lease-purchase, lease with purchase option) is the most cost effective, including a comparison with state construction. The conditions of this analysis (i.e., for which projects, and the content) are set by memorandum of understanding between DGS and DOF.

The DOF's review of space action requests consists of two parts:

1. The Capital Outlay analyst reviews DGS' analysis justifying the method of procuring space and the consistency with approved asset management plans.

2. The appropriate DOF support analyst determines whether the program assumptions for the space request are valid, including any possible future growth requirements.

The DOF Capital Outlay unit coordinates this review. The normal time frame for DOF review is 30 days. Questions on the status of any space action request which has been forwarded to DOF should be directed to this unit.

The DOF's approval of STD. 9 does not constitute approval of additional funding for any future rental increase or other costs related to the Form 9. Department may wish to coordinate the timing of space action requests with the budget process to avoid making commitments to new space prior to budgetary approval. Requests for a budget adjustment must be submitted as part of the normal budget preparation process. Requirements are reviewed below.

Coordination of STD. 9s with Support Budget Change Proposals (BCPs). The BCPs are required for any request to increase support budget funding for new or additional space, rent increases on an existing lease, furniture (such as modular), or costs associated with moving. The BCP must be submitted with a copy of the space request package previously approved by DOF. If a final version of this package is not available because the leasing transaction is still under development, DOF will base its review of the BCP on the department's initial estimate on **draft** version of the package. However, the department is still required to complete the space action request approval process by having DGS submit a final set of forms STD. 9 and 10 and OREDS 4083, with complete data, for approval to DOF. As appropriate, DOF may adjust any prior budget decisions to conform with the final space action.

It is not necessary to coordinate the BCP process with the STD. 9 process if the BCP is requesting facility funding as a per-position complement. For example, the department may requests 5 new positions for a program, with a per-position facility component. However, such complements are usually adequate only for marginal adjustments of staff. Therefore, departments are cautioned against using per-position complements if large numbers of staff are being added or specialized space is required. Additional facility funding may not be provided later to correct budget shortfalls.

Coordination of STD. 9s with Capital Outlay Budget Change Proposals (COBCPs). Informational COBCPs are required for proposals to enter in the budget year into a lease-purchase agreement, lease with purchase option, or any other lease which meets the definition of a capital lease, as described in the "Capitalized Assets" Chapter (Capital Outlay Section) of SAM. The opportunity to enter into such a lease may arise, on an unplanned basis, off-cycle with the budget process. The DOF may waive the formal COBCP requirement in this situation, but the client department and DGS must nonetheless provide the same information as well as the economic analysis referred to above as part of STD. 9 approval package.

PREPARATION OF SUPPLEMENTARY SCHEDULE OF OPERATING EXPENSES AND EQUIPMENT 6454
(Revised 09/10)

This supplementary schedule (form DF 300) is designed for summarizing the operating expenses and equipment requirements of the department. If reporting items of expense which vary with changes in population, enrollment, price, or program change, a line labeled "other" may be used with an explanation attached. Submit the schedule with your departmental budget, per the timeframe specified in Budget Letters.

The schedule should list the items of operating expenses in the order of Uniform Codes Manual (UCM) coding and a total amount of equipment (which must tie to DF 302). Expenditures for the past, current, and budget years are to be shown in three separate columns with totals. The totals must be carried forward to the Expenditures by Category in the departmental budget presentation.

BUDGET FOR EQUIPMENT **6457**

(Revised 09/10)

Each department must prepare a Supplementary Schedule of Equipment, DF 302. The schedule should be forwarded with the budget package, per the timeframe and guidelines set forth in the Budget Letters.

For uniformity in budgeting, accounting, and purchasing, the definition of equipment in SAM Section 8602 governs whether equipment/personal property will be budgeted and reported as equipment on DF 302. Some expenditures for equipment may be budgeted as capital outlay if purchased as an initial complement of equipment for the capital outlay project.

Departments should work with their Finance budget analyst if they wish to develop and use internal equipment request forms in preparing the supplemental schedule.

SUPPLEMENTARY SCHEDULE OF FEDERAL FUNDS **6460**
(Revised 09/10)

Budget submissions are required to include a Supplementary Schedule of Federal Funds. The total amount on the Supplementary Schedule of Federal Funds must correspond to the amount shown as federal funds in the "Detail of Appropriations and Adjustments" in each department's budget. Federal funds are all monies received by a department directly from an agency of the federal government.

The information will be prepared on Supplementary Schedule of Federal Funds/Reimbursements, DF 301, or such other format approved by the Finance budget analyst. Each grant (project) must be listed separately by departmental program. Separate listings will be prepared for each character of expenditure.

For each grant, include the following: (1) the title or popular descriptive name as listed in the Catalog of Federal Domestic Assistance; (2) the federal catalog number; and (3) the dollars for the past, current, and budget years Each page should be numbered for ready reference. Instructions for preparation of DF 301 are included on the second page of the form.

If changes have been made during the budget preparation process before submittal of the Governor's Budget to the Legislature which affects this schedule, a final submission of the affected schedule must be made by the originating department to agree with the printed budget and returned to Finance by the timeframe specified in Budget Letters.

REIMBURSEMENTS **6463**
(Revised 09/10)

A reimbursement is cash or other assets received as repayment for the cost of work or services performed, or for other expenditures made for or on behalf and for the convenience of another governmental unit, fund, or department, or for an individual, firm, or corporation. There should be a very positive, direct relationship of the charge to the cost of the particular services performed for an individual or entity before one should consider a receipt to be reimbursement. Reimbursements represent the recovery of an expenditure and are shown in the budget act as a reduction of the expenditures of an item of appropriation and are indicated by a minus (-) sign immediately before the dollar amounts.

All federal funds received directly by a department and not via another state department will be reported as federal fund expenditures. Federal funds received from another agency for the cost of work or services performed will be treated as reimbursements.

SUPPLEMENTARY SCHEDULE OF REIMBURSEMENTS **6466**
(Revised 09/10)

Budget submissions are required to include a Supplementary Schedule of Reimbursements. The information will be prepared on Supplementary Schedule of Federal Funds/Reimbursement, DF 301 or such other format approved by the Finance budget analyst. For a definition of "reimbursement," see SAM Section 6463. Any changes are subject to the provisions of Section 28.00 or Section 28.50, as appropriate, of the Budget Act. The Schedule will include the following: (1) descriptive title; (2) source of funds (indicate the organization code of the paying state department); and (3) the past, current, and budget year expenditures. Each page should be numbered for ready reference. Instructions for preparation of DF 301 are included on the second page of the form.

If changes have been made during the budget preparation process before submittal of the Governor's Budget to the Legislature which affects this schedule, a final submission of the affected schedule must be made by the originating department to agree with the printed budget and returned to Finance by the timeframe specified in Budget Letters.

SPECIAL ITEMS OF EXPENSE **6469**
(Revised 09/10)

Special items of expense are those non-recurring large expenditures or special purpose expenditures that normally require a separate appropriation or schedule to present a clearer fiscal picture.

This class of expenditure appears in the “Expenditures by Category”.

The explanatory title will indicate the purpose for which the expenditure is made.

CLAIMS AND TORT LIABILITY BUDGET PROCEDURE **6472**
(Revised 09/10)

Each year, one or more pieces of legislation is pursued which authorizes payment of: 1) government claims approved by the California Victim Compensation and Government Claims Board (VCGCB, formerly "Board of Control") when there is no other statutory authority for payment, and 2) judgments and settlements by Department of Justice (DOJ) when there is insufficient expenditure authority.

VCGCB Approved Claims

In this situation, VCGCB has approved a claim and, with input from the affected department, determined that there is no statutory authority for its payment. Generally, twice a year, VCGCB sends a list of claims with no statutory authority for payment to the Department of Finance (Finance). Finance analysts work with the affected departments to identify the appropriation to be charged and to certify that the necessary funds are available. These claims are then included in a claims bill and the chaptered bill reduces individual Budget Act items and transfers the authority for payment of claims to VCGCB.

When statutory authority for payment already exists, legislation is not required and the department may pay VCGCB approved claims directly without obtaining approval from Finance. The most common reason why a claim may lack statutory authority for payment is because it arose from a stale-dated warrant and the department no longer has expenditure authority for the fiscal year in which the warrant was issued.

Government Code Section 905.2(f) authorizes VCGCB to assess a surcharge in an amount not to exceed 15 percent of the total approved claim. These surcharges are treated as expenditures to the Budget Act items listed in the legislation.

Judgments and Settlements

In this situation, a chaptered claims bill authorizes DOJ to pay settlements or judgments directly from specified fund balances because there are insufficient funds available in an individual appropriation. To initiate inclusion of a judgment or settlement in a DOJ claims bill, Finance is required to send a letter to DOJ approving the settlement or judgment claim and certifying that the affected department's appropriation cannot absorb the cost of claim.

If the department has sufficient expenditure authority for payment of the claim, legislation is not required and it may pay the claim directly after obtaining approval from Finance. In accordance with SAM Section 8712, Finance approval is required for all claims in excess of $35,000.

Upon request of Finance, DOJ, the Department of Transportation, and the VCGCB shall submit reports to Finance providing actual cost data for the prior fiscal year. Such data is to include the following:

1. Claim payment expenditures by fund.
2. Staff services expenditures by fund.

Although the state no longer carries general tort liability insurance, several departments and agencies carry specialized insurance policies for specific purposes, e.g., Cal Expo and water project bond programs. The Department of General Services Insurance Office shall maintain, and submit to Finance upon request, for all departments and agencies, actual prior year, estimated current year, and anticipated budget year expenditures for tort liability insurance premiums.

EXPENDITURES BY CATEGORY **6475**

(Revised 09/10)

The Expenditures by Category is prepared at the end of the program presentation. Separate Expenditures by Category presentations are required for State Operations and Local Assistance expenditures. The personnel-years (PY) count and the amount of expenditures are shown under the headings Authorized Positions, Total Adjustments, Estimated Salary Savings, Net Totals, Salaries and Wages, and Totals, Personal Services.

Operating Expenses and Equipment are reported as a single line entry. Details are provided in supplementary schedules. See SAM Section 6451.

If there are Special Items of Expense which cannot be included in Operating Expenses and Equipment (SAM Sections 6451 and 6457), they are reported as a single line entry following Operating Expenses and Equipment.

Totals, Expenditures represent the sum of all expenditures.

DETAIL OF APPROPRIATIONS AND ADJUSTMENTS **6478**
(Revised 09/10)

This section of the budget presentation displays the source and amount of appropriations available for the department and the disposition of such appropriated funds between expenditures and unexpended balances. A "Supplementary Schedule of Appropriations" (Schedule 10) provides the information used in this display. See SAM Section 6484.

The order, wording, and meaning of the various entries in each display are set forth below. Omit entries which are not needed. If additional entries are necessary, coordinate the addition with the Finance analyst.

1. **Budget Act Appropriation.** Amount appropriated or proposed to be appropriated in the annual Budget Act.

2. **Continuous Appropriation, Provide the Legal Citation (such as Government Code section XXXXX).** Amount, actual or estimated, available each year under a permanent constitutional or statutory appropriation which is renewed each year without further legislative action. The amount available may be a specific, recurring sum each year; all or a specified portion of the proceeds of specified revenues which have been dedicated permanently to a certain purpose; or it may be whatever amount is required for the purpose as determined by formula—such as school apportionment. For example: Section 42238, Education Code (School District Apportionments).

3. **Allocations For (Purpose).** Total amounts requested or authorized by Executive Order (EO) from an appropriation, which is subject to allocation by Finance or other authority without further action by the Legislature. A separate entry is made for the total amount from each such appropriation from which an allocation is made or requested.

4. **Deficiency Authorizations (Purpose).** For deficiency authorizations per Items 9840-001-0001, 9840-001-0494, and 9840-001-0988 of the Budget Act, use citation “Allocation for contingencies or emergencies.”

5. **Transferred From–(Plus Entry) and/or Transferred To (Minus Entry).** Amount moved or proposed from one appropriation or from certain fund types to another by means of a transfer. Cite the authority for the transfer. Do not include transfers that are charged to or credited against expenditures, such as reimbursements or redistribution’s of expense by plans of financial adjustment. A short “purpose” phrase may be included to describe the reason for the transfer.

6. **Special Appropriation Chapters.** This applies to an appropriation in a Chapter (other than the Budget Act) for the year of enactment only. Continued availability of such an appropriation in a fiscal year subsequent to the fiscal year of enactment is a carryover and will show under Prior Year Balances Available for the following fiscal year.

7. **Proposed Deficiency Bills.** This applies to proposed legislation sponsored by a department to provide an appropriation. Departments sponsor their own deficiency bills for sensitive issues or when the timing precludes use of the statewide omnibus deficiency bill which is generally passed late in the fiscal year. Use citation “Proposed Deficiency Bill.”

8. **Prior Year Balances Available.** This is for continued availability of an appropriation in a fiscal year subsequent to the fiscal year of enactment.

9. Unexpended Balance, Estimated Savings–(Minus Entry). Unencumbered amount remaining at the end of the year, after providing for expenditures, and not available for encumbrance thereafter.

FUND CONDITION STATEMENTS **6481**
(Revised 09/10)

The Fund Condition Statement presents the summary of a fund's operations for the past, current and budget years. This statement is prepared for all special funds and special accounts within the General Fund. Fund Condition Statements are also prepared for other funds which are of special interest to the Legislature or the Administration. In those cases where a number of departments receive appropriations from one special fund, Finance will normally finalize the Fund Condition Statement.

The body of the statement should include the following information, as applicable, in the order indicated below:

1. Beginning Balance.
    a. Prior Year Adjustments (normally consists of prior year expenditure and revenue adjustments and refunds to reverted appropriations for the past year actual only and is always zero for the current year and budget year).
    b. Adjusted Beginning Balance.
2. Revenues, Transfers, and other Adjustments.
    a. Revenues - Detail is typically provided by type of revenue.
    b. Transfers and Other Adjustments - Transfers (transfers to and transfers from other funds that are treated as a transfer of resources between funds).
    c. Total, Revenues, Transfers, and Other Adjustments.
3. Total Resources.
4. Expenditures and Expenditure Adjustments.
    a. Detailed by department with a further breakdown by State Operations, Local Assistance, Capital Outlay, and Unclassified, as applicable.
    b. Expenditures – Spending is typically shown in the organization code of entities that spend from the fund. The expenditures are shown in those departments' Governor's Budget display.
    c. Expenditure Adjustments – Transfers from other funds that are treated as Expenditure Reductions.
5. Total Expenditures (sum of Total Expenditures and any Expenditure Reduction, if applicable).
6. Fund Balance.
    a. Reserve for economic uncertainties.
    b. Other reserves as appropriate – (e.g. unencumbered balance of continuing appropriations).

The Fund Condition Statement printed in the previous Governor's Budget should always be reviewed before preparation of the new statement. The starting fund balance for the past year must agree with the ending fund balance for the past year as shown in the previous Governor's Budget.

The department's year-end accounting reports should provide most of the information needed to prepare the past year portion of the Fund Condition Statement. However, when there are discrepancies between budgeting and accounting treatment of transactions, the budgeting treatment of the transactions should be used to prepare the past year Fund Condition Statement.

SUPPLEMENTARY SCHEDULE OF APPROPRIATIONS—SCHEDULE 10 **6484**
(Revised 09/10)

The Supplementary Schedule of Appropriations is a document that is essential to the budget process. As a source of verification, this schedule lists all appropriations and allocations of funds available for expenditure during each of the three fiscal years reported in the budget. It is used to schedule all spending authority, expenditures, savings, and carryovers for an item of appropriation whether they are budget act items or not. For each fiscal year, separate sets of schedules are prepared for state operations, local assistance, capital outlay, and unclassified budgets. The amounts, by fund and character, in the Schedule 10 must equal the corresponding amounts in the following documents:

Detail of Appropriations and Adjsutments	SAM Section 6478
Expenditures by Category	SAM Section 6475
Three-Year Expenditures by Fund	See Governor’s Budget (departmental presentation)

To aid in the development of the Governor's Budget, Finance provides departments with computer-generated Schedule 10s for the past, current, and budget years. Instructions are issued in Budget Letters used to transmit the Schedule 10s. Finance will not provide Schedule 10s for new items of appropriation because data has not yet been entered in the appropriation database. In these instances, a Schedule 10 Missing Records Report, Form DF-38, needs to be prepared for the appropriation record to be established.

ADMINISTRATION OF THE OPERATING BUDGET **6500**
(Revised 09/10)

The system for budget administration and control is provided in the State Constitution, Government Code provisions, and a number of control sections of the Budget Act. The system also adheres to the Attorney General's opinions.

The operating budget is the total of all the expenditure authorizations provided by law. This includes the Budget Act, continuing or continuous authorizations provided by the Constitution and statutory law, separately enacted appropriation measures and initiatives.

No single document is produced to represent a Final Budget. However, each year a Final Change Book, a publication that provides the details of changes made after January Governor's Budget and the Governor's veto actions, is published by Finance shortly after enactment of the Budget Act. These changes are identified by item number. Each department sets up its initial operating budget accounts based upon its portion of the printed Governor's Budget, the Budget Act and the Final Change Book.

In large measure, Finance has established a system of delegation of the approval authority for routine documents to the department head. Only those transactions which do not meet the criteria for delegation must be referred to Finance for budgetary approval.

LEGAL BASIS FOR BUDGETARY CONTROL **6503**
(Revised 09/10)

The following summaries are intended to serve as a guide to the applicable laws affecting budgetary control. Read the law, not the summary, for an accurate and complete understanding.

1. Government Code provisions relating to fiscal year budgets:

   Section 13070: Gives the Finance general powers of supervision over all matters concerning the financial and business policies of the state.

   Section 13310: States that Finance sets statewide fiscal and accounting policies and procedures, and provides adequate fiscal and accounting training, advice, and consulting services to any state agency that is authorized or required to handle public money or its equivalent.

   Section 13320: Every agency and court for which an appropriation has been made is required to submit an operating budget for the fiscal year.

   Section 13321: Prescribes that the operating budget documents display allotments of appropriations or other funds by quarter or other period of time and by organization unit. Authorizes Finance to require a state agency or court to set aside a reserve for contingencies or other purposes in an amount as specified by Finance.

   Section 13322: Authorizes Finance to amend, alter, or revise any budget until enactment of the Budget.

   Section 13324: Fixes liability of persons, both personally and on official bond, who incur expenditures in excess of budget.

   Section 13326: Requires every state agency to submit requests for federal funds through Finance, for advanced approval before such requests are submitted to the Federal Government, except as specified in SAM Section 0912. Authorizes Finance to approve, disapprove, modify, or amend any request before it is submitted to the Federal Government.

   Section 13335: Requires Finance to develop, issue, and implement consistent and adequate guidelines to be utilized by departments to submit budgets.

   Section 13337: Provides that the Governor's Budget shall be prepared in accordance with guidelines and instructions adopted by Finance.

   Section 19818.12: Position establishment subject to budgetary authorization and availability of funds.

2. Control Sections of the Budget Act:

   A number of sections of the Budget Act impose limitations on expenditures, extend periods of availability of appropriations, authorize specific adjustments, authorize exceptions, and require reports to the Legislature. As appropriate, Budget Letters are issued to inform departments of long-standing or new or revised sections.

   Departmental budget staff should be familiar with all the sections in the Budget Act. The Budget Act includes an index of the sections and provides a short description of the subject matter.

PERSONAL SERVICES **6506**
(Revised 09/10)

Personal services are administered in the operating year by:

1. Reconciling the personnel roster to the number of positions authorized by the Legislature.

2. Establishing and abolishing positions as necessary to stay within budget authorizations.

3. Certifying the continuance of authorized positions to the Department of Finance.

4. Making position changes to support authorized program changes.

5. Supervising and controlling employment practices to stay within budgeted totals.

PERMANENT POSITIONS **6509**
(Revised 09/10)

The budgetary definition of a permanent position is any position authorized by the Legislature for indefinite continuation within any classification established by a salary setting authority. They may be full-time, fractional time, or intermittent. Permanent positions must be certified for continuation at the beginning of each fiscal year. See SAM Section 6521.

The continuation of permanent positions is accomplished by reconciling Schedule 8 with the Final Budget and comparing it with the State Controller's Office roster of established positions. The amount shown in Column 11 of Schedule 8, after verification and correction, represents the encumbrance of salaries for which continuance is approved. Following certification for continuation at the beginning of the fiscal year, no further documentation is required to encumber such positions.

As a matter of clarification, the appointment process is a method of filling positions. A permanent appointment is any appointment which continues for any length of time exceeding the probationary period for that class.

NEW POSITIONS **6512**

(Revised 09/10)

A new position is one which has been newly authorized for establishment in the approved budget. Normally these are presented in the Governor's Budget ("Changes In Authorized Positions" section) as Proposed New Positions.

Proposed new positions (other than in the California State University System) that are likely to be approved by the Legislature should be established as soon as possible if they are to become effective on July 1. The documentation should be submitted to reach the State Controller's Office (SCO) by the June pay period document cut-off date. Departments should prepare the forms STD. 607 and 625 (if necessary) in advance and release those as soon as the legislative intent and the Governor's veto actions are known. The certification in SAM Section 6527 may be used and will be accepted by the SCO. Documents reaching the SCO after the June pay period document cut-off date will not be included in the Schedule 8 Tabulation and the initial galley (Schedule 7A) of the Salaries and Wages Supplement.

LIMITED-TERM POSITIONS **6515**

(Revised 09/10)

A **limited-term position** is any position which has been authorized for a specific length of time. Limited-term positions may be authorized during the budget process or in transactions approved by the Department of Finance. The limitation will be stated in the document establishing the authorization.

TEMPORARY HELP OR OVERTIME BLANKETS **6518**
(Revised 09/10)

Most of the positions listed in the Salaries and Wages Supplement are defined in terms of the staffing authorized for various organizational units by classes established by the appropriate salary setting authority. This is the preferred method of presentation and provides for a clear understanding of staffing needs by the Administration and the Legislature. The second type of legislative authorization is the blanket position (or blanket authorization). Blanket authorizations in the approved budget must be reviewed annually or established by the submission or approval of STD. 607 in accordance with the provisions of SAM Section 6527.

Blanket positions are authorizations in the approved budget (Salaries and Wages Supplement) in terms of full-time equivalent personnel years and amount of salaries and wages (but not by class) that may be spent for short-term or intermittent uses when it would be impracticable to express the needs in terms of classified positions. Such uses are characterized as being temporary, seasonal, or intermittent as contrasted to the classified positions which are normally used for longer-term, more permanent, staffing needs. Any type of position may be paid from a blanket position in the approved budget at the discretion of the department as long as the restrictions established for the use of blanket positions in this section and SAM Section 6527 are met.

Temporary help blankets are authorizations to be used only for payment of employees **for a limited duration of time**. Continuing monthly or periodic payments may not be made to any person for an indefinite period (on a permanent basis). Employees who are employed on a full year basis, whether full-time or part-time, should be paid from a classified position rather than a blanket authorization. Temporary help blankets may be used for the following purposes.

Position overlaps. This includes filling in behind:

1. Employees on temporary or extended leaves of absence, sick leave, military leave, etc.
2. An employee for training purposes. This may be necessary to insure continuity of operations when an employee in a key role leaves a department.
3. Payment to a separating employee for unused, accrued leave.

Employment of limited duration or intermittent use. Such usage would include, but not be limited to, the hiring of additional employees for the following uses:

1. Special consultant studies.
2. Student assistants.
3. Special projects or contracts of a limited nature such as compilation of statistical data or purge of files.
4. Seasonal workload such as processing income tax forms, or inspection of produce before shipment.
5. Overtime peak workloads that are anticipated in program and administrative areas.
6. Special uses may be established for blankets to keep track of funds expended for limited purposes such as escapes and emergencies and other differentiations meaningful to the department.

Overtime blankets are authorizations used to pay employees for compensable, authorized time worked in excess of the regularly scheduled workweek. At the discretion of the department and in accordance with personnel rules of the salary setting authority, overtime may be used in place of temporary help to meet peak workload requirements where feasible and economically advantageous.

If a temporary help blanket has been established, but an overtime blanket has not, it may be more economical to make minor payments for overtime of short duration from the temporary help blanket than to establish a separate overtime blanket for a relatively small total amount.

Approval of the Department of Finance is required for the establishment of a permanent position by transfer of funds from a blanket authorization.

CERTIFICATION FOR CONTINUED PAYMENT OF ESTABLISHED POSITIONS **6521**
(Revised 09/10)

It is the responsibility of each department to certify to the Department of Finance that existing positions established on the State Controller's Office (SCO) position roster, as amended by appropriate department payroll and position documents (STD. 607), reflect the approved program. Each department must reconcile (see SAM Section 6448) the existing positions as reported in the Schedule 8 prepared by the SCO and the positions authorized in the department's Final Budget. The STD. 607s to adjust to authorized staffing need to be prepared and sent to the SCO.

This certification shall meet the following broad criteria:

1. The positions have been established in accordance with approved program, legislative intent, and Administration policy.

2. The positions in the roster have been established in accordance with pertinent statutory and administrative regulations including, but not limited to, the following: the control sections of the current Budget Act, pay scales, Department of Personnel Administration (DPA) rules, State Personnel Board (SPB) rules (CEA established only), and prior approvals such as that of the DPA, SPB, or Finance.

The following certification will be included on the Personnel Years System Worksheet which is distributed to each department with the Schedule 7A galley.

> "I hereby certify that the positions in the SCO's position roster as amended by documentation submitted to the SCO and recorded on the Schedule 8 and 7A submission to Finance are in accordance with the broad criteria established in SAM Section 6521."

The authority to sign the certification is limited to those officers who have been duly authorized by the agency head to execute this certification and whose names and position titles are on record with the SCO. The certifying department will maintain a record of all officers who have been authorized to sign the certification. Finance grants blanket approval to the SCO to use existing positions established on the position roster as amended by actions taken under the authority of Government Code Section 12439 as the basis for payrolls for the July and August pay periods only.

BUDGETARY APPROVAL OF POSITION-RELATED TRANSACTIONS **6527**

(Revised 06/08)

Establishment, amendment, or abolishment of positions, blanket positions, and other position-related transactions are documented by the use of the "Change in Established Positions form," STD. 607.

The temporary downgrading of positions through the use STD. 607 shall not be permitted, except when extraordinary situations occur that require such downgrading. In those situations, STD. 607 must be submitted with appropriate justification and lead time to be evaluated and approved by the DOF prior to the effective date.

Form STD. 607 which meet the following four criteria are exempt from review and approval of DOF provided budgetary review is not otherwise mandated for that transaction.

1. The position has been: (a) specifically identified in the Governor's Budget and approved by the Legislature or; (b) approved by the Legislature and specifically documented in the Final Change Book or enacted legislation.

2. The purposes are consistent with approved program, with legislative intent and with Administration policy. The STD. 607 does not provide for new or expanded programs in this or any subsequent fiscal year nor require supplemental financing.

3. The position transaction is in accordance with a staffing plan for the program or a change to the staffing plan which has been approved by DOF as part of the department proposal approved by the Legislature either before or after enactment by the Legislature. The departmental staffing plan and amendments will be maintained as part of departmental records.

4. All pertinent statutory and administrative regulations such as those of DPA, SPB, BOC, SCO have been applied and prior approvals secured when necessary.

Notwithstanding the general criteria for exemption listed above, budgetary review by DOF is mandated for the types of transactions listed below.

Administrative establishment of positions not authorized by the Legislature,

Reclassification to positions with a minimum step per month as specified in Section 31 of the Budget Act,

Establishment of permanent positions out of the blanket authorizations, and

Temporary downgrading positions through the use of STD. 607.

All departments that are members of the Uniform State Payroll System, except those to which Section 31.00 is not applicable, as stated in Section 13332.16 of the Government Code, should conform to Section 31.00 of the Budget Act. Departments that are exempt per Section 31.00 of the Budget Act must place the required certificate on each copy of STD. 607 prepared in accordance with the instructions in this section.

The officer or employee signing on behalf of the department shall use the following certification which shall appear on all copies of the STD. 607.

> "I hereby certify that all conditions for exemption set forth in SAM Section 6527 have been complied with and this action is exempt from review by DOF."

The authority to sign this certification is limited to those officers who have been duly authorized by the department head to execute STD. 607s and whose names and position titles are on record with SCO and maintained in the department records for audit purposes.

No STD. 607 executed for the above purposes will be exempt from review by DOF under the provisions of this manual or any special exemptions heretofore granted unless it meets the preceding criteria.

(Continued)

(Continued)
BUDGETARY APPROVAL OF POSITION-RELATED TRANSACTIONS **6527** (Cont. 1)

All STD. 607s with justification as deemed appropriate, will be forwarded for review and approval to DOF if they do not bear this certificate. The STD. 607s with this certificate may be forwarded directly to SCO without further reference to DOF.

All proposed establishment of positions and reclassification of positions with a minimum salary step per month as specified in Section 31 of the Budget Act require full justification and explanation on the personnel document. If changes to Budget Act appropriations are involved, the personnel document is to be accompanied by a Budget Revision (BR) form, STD. 26. See SAM Section 6542.

Transactions documented under the provisions of this section shall be subject to audit by representatives of DOF, and a copy of such documents shall be retained for this review.

REVISION OF PROGRAMS AND ALLOTMENTS **6533**
(Revised 09/10)

The annual expenditure program approved by the Legislature may require revision. Each revision must be made separately.

The authority for revising a budget may be provided by existing statute, Budget Act language, special legislation and to some extent, by administrative authority. Departmental budget officers should be thoroughly familiar with the "control sections" in the Budget Act which provide most of the authority for adjusting Budget Act appropriations.

Departments should track bills regularly to determine any impact that financial legislation may have on departmental programs and funding. Adjustments must be estimated and viewed carefully for timely submission of revisions.

Departments should revise allotments so that balances may be made available for encumbrance of items of an urgent nature and so that the department's operating budget and the report based thereon will show the current status of the department's financial plan.

Transfer of Budget Allotment forms, STD. 25 and STD. 26 are both used in order to change allotments, but they may not be used interchangeably.

Revision of allotments either on STD. 25 or STD. 26 is recorded in the agency allotment expenditure ledger upon submission, subject to reversal or adjustment if not approved or if approved only in part. See SAM Section 8302.

REQUEST OF NECESSITY FOR APPROPRIATION AUGMENTATION **6536**
(Revised 09/10)

The appropriations in the Budget Act for the Augmentation for Contingencies or Emergencies (Org. Code 9840) require that funds may be allocated for contingencies or emergencies which, in the judgment of the Director of Finance, constitute cases of actual necessity. As a result, the Director of Finance requires submission of a signed form DF-580 (Request for Funding a Deficiency) from the head of each state department or agency when requesting an allocation from the Augmentation for Contingencies or Emergencies (Org. Code 9840). The form should state why the additional funds are required to meet a case of actual necessity and the nature or cause of such need.

Refer to the provisions of the 9840 items in the annual Budget Act for up-to-date information.

TRANSFER OF BUDGET ALLOTMENT FORM, STD. 25 **6539**
(Revised 09/10)

The STD. 25 may be used **only** when the following criteria are met:

1. The purposes are consistent with approved program, with legislative intent, with Administration policies, and do not involve a change in policy or program, including a redirection of effort or a change in intensity in this or any subsequent fiscal year.

2. The change does not require augmentation of the appropriation, augmentation of scheduled programs and categories of support appropriations, augmentations of projects of major construction appropriations, or increases or decreases in unallotted balances of an appropriation.

3. The change does not require the augmentation of a schedule within an item. Funding changes for these items will be requested on STD. 26.

4. All pertinent statutory and administrative regulations have been applied.

    - Finance exempts from budgetary review and grants advance approval for all Transfers of Budget Allotment which in the judgment of the department head or the duly authorized officer meets the preceding criteria.

    - The following certification shall appear on all copies of the document:

      "I hereby certify that all conditions for exemption for budgetary review set forth in SAM Section 6539 have been complied with and this document is exempt from budgetary review by Finance."

    - The authority to sign this certification is limited to those officers who have been duly authorized by the agency head to execute these documents.

    - Transactions which do not meet the above criteria must be prepared as a BR, STD. 26.

    - For accounting information see Allotment Expenditure Ledger, SAM Section 8324.

    - Although the Transfer of Budget Allotment is a departmental document, a full statement of the need for additional funds in the allotment to be augmented and the availability of unneeded funds in the allotment to be reduced must be given as the basis for the transaction for audit purposes.

5. Uses of Transfer of Budget Allotment

   The STD. 25 serves to make changes **only** between the allotments of a single appropriation and does not affect any accounts outside the Allotment Expenditure Ledger.

   Following are changes in expenditure allotments and receipt allotments which may be made by this means:

   a. Transfer between quarters within the same object category and appropriation.

   b. Transfers between functions or organization units within the same object category and appropriation.

   c. Transfer between minor projects within the same appropriation.

   d. Redistribution of estimated reimbursements between sources when no net change in estimated total reimbursements for the year is involved.

BUDGET REVISION FORM, STD. 26 **6542**
(Revised 09/10)

The STD. 26 is required when any of the following are proposed:

1. Program changes are involved.

2. The changes require additional funds and an Executive Order (EO) can not be used.

3. Funds are to be transferred on the SCO records between programs, projects and functions. Generally, capital outlay appropriation adjustments are made by EO.

4. It is desired to augment (or reduce) a category or program, with a corresponding increase (or decrease) in an estimated source of funds (reimbursements, etc.).

5. The change requires reduction or increases in the remaining balance of an appropriation.

These instructions apply to changes to a schedule within an item.

1. Separation of Requests

The STD. 26, is limited to a single appropriation, including supplemental appropriations augmenting it.

Each request for the revision of a change within an item must be limited to transactions associated with a single proposal. Accordingly, each will be reviewed on its own merits without concern for unrelated transactions. However, all budget changes dependent upon approval of the proposal are included in STD. 26. If space on the form is insufficient, insert totals only and include detail in a supporting schedule.

2. BR Number

Document numbers are assigned by the agency in order of submission. A new series is started each fiscal year. To allow for direct expenditure charges to subsidiary appropriations and funds, departments may need to process a budget revision to remove the payables and schedule the subsidiary items. Budget revisions to remove the payables and schedule the subsidiary items must be processed prior to any other budget revision or executive order.

Departments must identify these budget revisions as BR-1 for both the main and subsidiary items. The "BR-1" is reserved solely for removing payables and scheduling subsidiary items. Any department that does not need to remove payables and schedule the subsidiary items must designate their first budget revision as "BR-2".

3. Appropriations–Source of Funds (Top Portion)

Under this section, list the appropriate (e.g., Budget Act Item) to be revised followed by prior budget revisions, misc. adjustments, EOs, etc. The beginning appropriation amount must agree with the Final Budget Summary. This section must agree with the appropriation accounts maintained by the SCO. For a current operations budget revision, the format of available funds includes such items as:

Item No.____, Budget Act of 20____

EO No. ____, Allocation for Contingencies and Emergencies

EO No. ____, Deficiency Authorization

Transfer (from item ____, Budget Act of ____)

Totals

4. Appropriations–Amounts Available (Top Portion)

This column will carry the dollar amounts available (before giving effect to this revision) of items listed under the Appropriations–Source of Funds column.

5. Appropriations–Revision Requested (Top Portion)

This column reflects the dollar amounts of the proposed revision as listed under the Appropriations–Source of Funds column.

Show "no change" in this column if the revision does not affect the appropriated–amount at the item level.

(Continued)

6. Source of Funds (Bottom Portion)

This section will reflect the distribution of funds when there is an applicable appropriation schedule, by listing the individual programs and any existing or proposed appropriated reimbursement.

7. Amounts Available (Bottom Portion)

This column will carry the distribution of the dollar amounts available, (before giving effect to this revision) for funds to which an appropriation schedule is applicable. All amounts of appropriated reimbursements will be deducted from the Total of Schedule amount to arrive at the Net Appropriations Total which will agree with the total of the balances maintained by SCO.

8. Revision Requested Column (Bottom Portion)

This column will reflect the distribution, by individual programs or categories, of the dollar amounts related to any proposed increase (+) or decrease (-).

Any proposed change in appropriated reimbursements will be shown in this column and either added to or deducted from the Total of Schedule amount.

To avoid doubt of intended distribution place a dash (-) in the column for each program or category line not used.

9. Revision Approved

This column is left blank by the department. It is used by the Finance analyst to indicate amounts approved that are different than revision request column.

10. Purpose of Revision

Present in this section, or in supporting schedules, all of the facts necessary for consideration of the proposal. Complete information will result in more expeditious handling of documents.

Number and Distribution of Copies:

Four copies of BR, STD.26, are required by the Finance budget staff, one of which is returned after approval. The original is forwarded to SCO whenever the request involves any of the following changes of a Budget Act appropriation:

a. Remove payables from the main item and schedule the subsidiary items (BR-1).

b. Transfers between programs, projects, or categories scheduled in the Budget Act.

c. Transfers between projects of a major construction appropriation. Generally, STD. 26 is not used for capital outlay adjustments.

d. Augmentations or reductions in programs, projects or categories by reason of increases or decreases in reimbursements.

e. Scheduling the detail of unallocated adjustments.

INTRASCHEDULE TRANSFERS, SECTION 26.00 OF THE BUDGET ACT **6548**
(Revised 09/10)

Section 26.00 authorizes Finance to augment any program, project, or function of an appropriation by transfer from any other program, project, or function scheduled within the same appropriation. However, augmentations by such transfer are limited to specific percentage increases as detailed in the control section. Departmental fiscal staff should be familiar with all the provisions of this section.

To comply with Section 26.00, each department requesting a transfer will proceed as follows:

- A separate STD. 26 must be submitted for each proposed transfer. The revision should contain no other transaction and clearly state the need and purpose for the transfer.

- The following certification will be typed on the face of the Budget Revision: "The provisions of Section 26, Budget Act of 20__, have been satisfied."

Any transfer in excess of $200,000, or in excess of the limitations provided in the control section, may be authorized not sooner than 30 days after notification in writing of the necessity for the request is provided to the Joint Legislative Budget Committee and to the Chair of each of the legislative committees and appropriate subcommittees.

SECTION 28.00 AND SECTION 28.50 REPORTING **6551**
(Revised 09/10)

Departmental fiscal staff should be familiar with all the provisions of these sections. Section 28.00 (federal and other non-state funds) and Section 28.50 (reimbursements from state departments) require reporting to the Legislature of increases and decreases in the amounts available for expenditure which have not been previously considered and approved by the Legislature. The majority of Section 28.00 and Section 28.50 actions are necessitated by a department or agency receiving federal funds and reimbursements which have not been previously considered by the Legislature in the regular budget review process. In order to minimize the number of Section 28.00 reports, every effort should be made by departments to anticipate federal funds which may be received and to include in the Governor's Budget a description of the project and a cost estimate.

Forms DF-90 (Section 28.00) and DF-91 (Section 28.50) are to be used by departments to request adjustments. The primary responsibility for completing the information on the Section 28.00/28.50 forms rests with the applying department. The completed form may serve as an attachment to a transmittal letter to the Legislature prepared by Finance following a review of the application submitted.

Section 28.00

Section 28.00 authorizes Finance to approve the expenditure of unanticipated funds to be received from federal or local governments or any other non-state entity. Section 28.00 does not allow Finance to increase appropriations authorized by the Legislature. Section 8.50 is the authority to increase federal fund appropriations. Other non-state, unanticipated receipts must be appropriated by other authority or be received as reimbursements. Regardless of the source of the additional funding, any augmentation that exceeds either $400,000 or 10 percent of the amount available for expenditure in the affected program, project, or function must be reported to the Legislature and may not be authorized until 30 days after the notification. This reporting requirement does not apply to federal funds related to caseload increases in the Medi-Cal, CalWORKs, and Supplemental Security Income/State Supplementary Payment programs.

No proposed expenditure may be made from any additional funds reported in a Section 28.00 letter to the Legislature prior to the approval and return of the Section 28.00 application by Finance.

Augmentations for items for which the Administration had knowledge to include in its current budget plan should not be submitted through this Section.

In order to receive consideration for an augmentation, departments are required to either (1) notify Finance within 45 days of receiving official notice of the availability of additional, unanticipated federal or non-state funds, or (2) explain in writing to Finance why the notification was infeasible or impractical. In either case, the department must provide Finance a copy of the official notice of fund availability. If a department expends funds without proper approval, it will be required to absorb such expenditures within its existing appropriations or sponsor legislation to authorize the expenditure.

SECTION 28.50

Section 28.50 authorizes Finance to approve a state department’s expenditure of money received as reimbursement from another state department. Finance approvals that exceed $200,000 must be reported to the Legislature and may not be authorized until 30 days after the notification. However, if the funding for the department providing the reimbursements has been approved by the Legislature, these approvals are considered technical in nature and are authorized in Section 1.50 of the Budget Act.

COMPLETION OF SECTION 28.00 AND SECTION 28.50 APPLICATIONS **6554**
(Revised 09/10)

The Section 28.00 and 28.50 Applications (Forms DF–90 and DF-91) are to be initiated by the applying departments. The application must be signed by the department director before sending to Finance. The Finance budget analyst will be responsible for verifying all the information provided.

In instances where the Applications apply to two fiscal years, usually when the application is submitted too late for inclusion in the next Governor's Budget, fiscal information for the second year will be described in the description portion of the application.

When appropriate, the Section 28.00 or 28.50 Application will be sent by Finance to the Joint Legislature Budget Committee (JLBC) and to the Chair of each of the legislative committees and appropriate subcommittees. A copy of the application as transmitted will be sent to the Agency Secretary, the departmental director, and/or the departmental budget officer, as appropriate.

SECTIONS 28.00 AND 28.50 APPLICATION APPROVAL **6557**
(Revised 09/10)

It is the responsibility of Finance to review and determine whether the Applications will be sent to the Legislature. Finance, when appropriate, will also transmit an approved copy of the Application, with the related budget revision, to the applying department upon receipt of a concurrence letter from the Chairperson of the JLBC, or at the end of the 30-day legislative review period. Finance will send a copy of the approved budget revision to SCO.

In instances where the Legislature requires more information, or requests that the 30-day review period be extended, the Finance budget analyst will inform the applying department and will assist in obtaining the additional data.

EMERGENCY SERVICES BY STATE AGENCIES **6560**
(Revised 09/10)

The California Emergency Services Act establishes the basis for the state to mitigate the effects of natural, man-made, or war-caused emergencies.

Government Code section 8649 provides that, subject to the approval of Finance, any state agency may use its personnel, property, equipment, and appropriations in emergencies declared by the Governor. Because of the need to respond to emergency situations immediately, there may be times when it may be difficult to secure advance approval of Finance. For this reason, Finance, under the authority of Government Code section 13078 and EO B–48–78, has given standing authority to the Secretary of the California Emergency Management Agency (Cal EMA) formerly the Office of Emergency Services (OES)), or the Director's duly designated representative, to direct any agency to utilize and employ state personnel, equipment, and facilities to prevent or alleviate actual or threatened damage due to an emergency, without prior DOF approval, providing the cost of such urgency actions by all state agencies does not exceed $25,000 for each emergency response as directed by the Secretary of the Cal EMA. For expenditures above this level, Finance approval is required.

Government Code section 8649 further provides that any state agency which uses its personnel, property, equipment and appropriation for such declared emergencies, and said agency contains funds which are subject to constitutional restriction prohibiting their use for such purposes, shall be provided reimbursements, and the original expenditure shall be considered a temporary loan to the General Fund.

In the event a department is unable to absorb all the costs associated with an emergency response, it should request assistance from Finance. Appropriate Finance staff will direct immediate attention to the anticipated funding deficiency and provide guidance to the department projecting the shortage. The Director of Finance will evaluate and make decisions on each request for supplemental funding on an individual basis. Budget Letter 09-13, issued April 20, 2009, describes this process.

Preparing for an Emergency

By EO B–48–78, the Governor ordered in part that:

1. Specific assignment of emergency functions to a given agency will be made in an Administrative Order by the Secretary, Cal EMA, following consultation with the respective agency head.

2. Draft copies of agency procedures designed to carry out emergency assignments shall be submitted to the Secretary, Cal EMA, for review and approval prior to publication.

3. Each agency shall prepare for and ensure the utilization of minimum resources required for continuation of normal services and redirection of all other resources to accomplish objectives in accordance with the California Emergency Plan.

Accordingly, each agency must prepare to use existing resources for its assigned emergency response to protect the health and safety and to preserve the lives and property of the people of the State of California.

PREPARATION OF LOCAL MANDATE DETERMINATIONS AND COST ESTIMATES FOR EXECUTIVE REGULATIONS AND ORDERS

GENERAL 6601

(Revised 03/09)

This and the following sections set forth the guidelines to complete the Economic and Fiscal Impact Statement (STD. 399). Pursuant to Government Code Section 11346.5, a rulemaking agency is required, prior to the issuance of an executive regulation, to include in the notice of proposed adoption, amendment, or repeal of a regulation the following:

1. A determination as to whether the regulation imposes a mandate on local agencies or school districts and, if so, whether the mandate requires state reimbursement pursuant to Part 7 (commencing with Section 17500) of Division 4 of the Government Code.

2. An estimate, prepared in accordance with instructions adopted by the Department of Finance (DOF), of the cost or savings to any state agency or local government; the cost to any local government that is required to be reimbursed under Part 7 (commencing with Section 17500) of Division 4 of the Government Code; any other nondiscretionary costs or savings including revenue changes imposed on state and local governments; and the cost or savings in federal funding to the state.

DEFINITION **6602**
(Revised 03/09)

For the purposes of implementing these guidelines, the following definitions apply:

Agency, Local. Any city, county, special district, authority, or other political subdivision of the state.

Agency, State. Every office, officer, department, division, bureau, board, council, or commission in state government. A "state agency" does not include an agency in the judicial or legislative branches of state government.

Costs. All additional expenses for which either supplemental financing or the redirection of existing staff and/or resources (with or without the need for supplemental funding) is required. Costs include those which can be absorbed in an agency's existing budget.

Direct Costs

1. Personnel needed to perform a line function or activity prescribed (expressed or implied) in the regulation.

2. Fringe benefits associated with those personnel, e.g., retirement, OASDI, workers' compensation.

3. Operating expenses associated with those personnel, e.g., if compliance is achieved by contracting with a private vendor.

4. Any additional equipment which will have to be purchased or leased in order to comply with the regulation.

5. Allocation of other personnel-related costs if not otherwise allocated through an indirect cost system. Some agencies may allocate the costs of rent, space, utilities, etc., directly to the personnel involved.

Indirect Costs. Any costs related to the additional personnel or operating expenses described in the preceding which are not directly allocated or assigned to those personnel. They do not include a pro rata share of the costs of any manager or supervisor above the first line supervisors since it is assumed that any such supervisors would be in place whether or not the personnel hired to comply with the regulations were there. For example, if a regulation necessitated the hiring of additional staff in a county welfare department, it would not be appropriate to assign, through an indirect cost system, a portion of the costs of the county welfare director to those new personnel since the director would exist to perform his/her functions even if the new personnel were not hired.

Mandate. A requirement with a consequence of noncompliance of either (1) a criminal penalty, (2) a civil liability, or (3) an administrative penalty.

Public Agency. Any state agency, city, county, special district, school district, community college district, county superintendent of schools, or federal agency.

Reasonable Compliance. No universal definition is available. However, the "prudent person" test can be utilized to arrive at an appropriate definition of the term. For example, if an agency is required by regulation to provide transportation for certain persons, it clearly would not be appropriate to purchase limousine-type luxury automobiles to do so. On the other hand, it would not be appropriate to provide the service by purchasing tandem bicycles. Reasonable compliance can be achieved with some mode of transportation between the two extremes cited. The issuing agency must evaluate each instance separately and determine what "reasonable compliance" would be. The estimate developed must clearly indicate the mode or level of activity it has assumed would achieve such compliance.

Since compliance connotes that the regulation involves a requirement, costs incurred by state or local agencies in exercising any authority granted by a regulation which is permissive or optional are not germane and need not be estimated.

Regulation. Every rule, order, or standard of general application or the amendment, supplement, or revision of any rule, order or standard adopted by any state agency to implement, interpret, or make specific the law enforced or administered by it, or to govern its procedure.

The term "emergency" means a situation that calls for immediate action to avoid serious harm to the public peace, health, safety, or general welfare. An emergency regulation is adopted pursuant to Government Code Section 11346.1.

(Continued)

(Continued)

DEFINITION **6602** (Cont. 1)

Revenues. Any changes in the amounts of operating income received by state and local agencies as the result of an executive regulation must also be identified. In this context, "revenue" includes taxes, state and/or federal assistance, fees, licenses, and so forth.

Savings. Both actual budget reductions and the "freeing up" of staff and/or resources for reassignment to other areas of legitimate concern of the agency.

School District. Any school district, community college district, or county superintendent of schools.

Special District. Any agency of the state which performs governmental or proprietary functions within limited boundaries. Special district includes a redevelopment agency, a joint powers agency or entity, a county service area, a maintenance district or area, an improvement district or improvement zone, or any other zone or area. Special district does not include a city, a county, a school district, or a community college district.

County free libraries established pursuant to Chapter 6 (commencing with Section 19100) of Part II of the Education Code, areas receiving county fire protection services pursuant to Government Code Section 25643, and county road districts established pursuant to Chapter 7 (commencing with Section 1550) of Division 2 of the Streets and Highways Code shall be considered special districts for all purposes of this section.

ECONOMIC IMPACT STATEMENT **6603**
(Revised and renumbered from 6680 on 03/09)

Government Code Section 11346.3 provides guidelines on how to assess the proposed regulation's economic impact on California businesses. The Economic Impact Statement (EIS) section has been added to the STD. 399 for this purpose. The issuing state agencies must include a completed STD. 399 form with each proposed regulation that is submitted to the OAL for publication in the California Regulatory Notice Register.

Questions on the EIS may be directed to the:

California Labor and Workforce Development Agency
801 K Street, Suite 2101
Sacramento, CA 95814
Telephone number: (916) 327-9064
Fax number: (916) 327-9158

CONTENTS OF FISCAL IMPACT STATEMENT (FIS) **6604**
(Revised and renumber from 6610 on 03/09)

A state agency that adopts, amends, or repeals a routine regulation or emergency regulation must make a local mandate determination and an estimate of fiscal impact resulting from the "regulation" on the following:

Local Government

1. Any costs which must be reimbursed pursuant to Section 6 of Article XIII B of the California Constitution and Part 7 (commencing with Section 17500) of Division 4 of the Government Code. See Government Code Section 17514 and SAM Section 6620.
2. Any costs which are not reimbursable under that provision of the Constitution but which will necessarily be incurred in reasonable compliance with the regulations.
3. Any savings.
4. Any other impacts such as revenue changes.

State Agencies

1. Any costs that necessarily will be incurred in reasonable compliance, administration, implementation, and/or enforcement by the issuing state agency and/or any other state agency.
2. Any savings.
3. Any other impacts such as revenue changes.

Federal Funding to the State

1. Any additional funding required.
2. Any reduction in such funding.

The required estimate must include a definitive statement on each of these items. For example, even if there are no resultant reductions in or savings of federal funds, that fact must be so stated and reported. Each of the items is further defined and explained along with suggested methodologies for developing estimates of “costs” and “savings,” in the succeeding sections.

FISCAL IMPACT ON LOCAL GOVERNMENT **6605**
(Revised and renumbered from 6620 on 03/09)

Subdivision (a) of Article XIII B provides that whenever the Legislature or any state agency mandates a new program or higher level of service on any local government, the state shall provide a subvention of funds to reimburse that local government for the costs of the program or increased level of service, except that the Legislature may, but need not, provide a subvention of funds for the following mandates:

1. Legislative mandates requested by the local agency affected.

2. Legislation defining a new crime or changing an existing definition of a crime.

3. Legislative mandates enacted prior to January 1, 1975, or executive orders or regulations initially implementing legislation enacted prior to January 1, 1975.

Subdivision (c) of Article XIII B provides that a mandated new program or higher level of service includes a transfer by the Legislature from the state to cities, counties, cities and counties, or special districts of complete or partial financial responsibility for a required program for which the state previously had complete or partial financial responsibility.

Government Code Sections 17500 et seq. require the state to reimburse local agencies and school districts for any costs that they are required to incur after July 1, 1980, as a result of a statute enacted or any executive order implementing any statute enacted on or after January 1, 1975, which mandates a new program or higher level of service of an existing program.

Government Code Section 17516 defines “executive order” as:

Any order, plan, requirement, rule, or regulation issued by any of the following: (1) the Governor, (2) any officer or official serving at the pleasure of the Governor, or (3) any agency, department, board, or commission of state government.

It is important to note that only those executive orders which implement state statutes that impose a mandate on local governments fall within the purview of Section 6 of Article XIII B of the California Constitution, and that any regulation listed as a statutory exception under subdivisions (a) through (g) of Government Code Section 17556 may have a fiscal impact, but is not a state reimbursable mandate. Specifically, any costs which local governments incur as the result of a regulation which implements a ballot measure approved by the voters, a court order, or a federal directive would not be reimbursable by the state; however, as described in the following sections, the issuing state agency is nevertheless required to include an estimate of these non-reimbursable costs.

FUNDING FOR REIMBURSABLE LOCAL COSTS **6606**
(Revised and renumbered from 6621 on 03/09)

Pursuant to Government Code Section 17561(b)(1) (B), when a regulation involves reimbursable costs, it "...shall be accompanied by a bill appropriating the funds therefore, or alternatively, an appropriation for these costs shall be included in the Budget Bill for the next succeeding fiscal year." Use of the second alternative must receive prior approval of DOF. If the state agency fails to provide appropriate funding, then affected local agencies are authorized to file claims for reimbursement with the Commission on State Mandates.

In order to prepare the local mandate determination required by Government Code Section 11346.5; i.e., a determination as to whether the proposed regulation imposes a mandate on local agencies or school districts, it is necessary to first answer the following question:

> Will the regulation require local entities to undertake a new program or to provide an increased level of service in an existing program?

If the answer to this question is "No," then check box 4, 5, or 6 in Section A of STD. 399. If the answer is "Yes," it is then necessary to determine if the costs resulting from the mandate are not state reimbursable based one or more of the statutory exceptions in subdivisions (a) through (g) of the Government Code Section 17556 as follows:

1. Implements a federal mandate.
2. Implements a court mandate.
3. Implements a mandate in a ballot measure approved by the voters.
4. Results from a documented request from the only local governments affected.
5. Provides (or fall within the purview of existing) revenue sources or other financing mechanisms.
6. Results in savings that are equal to or exceed any costs.
7. Creates, eliminates, or changes the penalty for a new crime or infraction.

In addition to these statutory exclusions, the courts have held that costs of statutes and regulations are not reimbursable if they:

1. Result from an action undertaken at the option of a local government (County of Contra Costa vs. State of California, 177 Cal App 3d 62.79 (1986).
2. Are not unique to local government, e.g., affect both the private sector and the public sector (County of Los Angels vs. State of California et al, 43 Cal App 3d 46 (1987)).

If it is determined that the regulation does not impose a reimbursable mandate on local government, it is still necessary to include a specific statement reflecting that determination in the notice and to develop estimates of any nonreimbursable local costs. If it is determined that the regulation does impose a reimbursable mandate on local government, then it is important to state the mandate precisely. This is normally best accomplished by employing a statement, expressed in mandatory terms, which identifies both the affected local governments by group and the activity that will be required of them, e.g., "county clerks shall provide each polling precinct worker with an American flag," "school districts shall provide each student with a lunch box at no cost to the student," "all local governments shall record on videotape all meetings of their governing bodies." With the mandate so stated, it is then possible to proceed to develop an estimate of its cost to local government.

COST ESTIMATING METHODOLOGY **6607**
(Revised and renumbered from 6622 on 03/09)

A standard methodology has been developed for use in estimating costs in regulations. The main components of that methodology are (1) statement of the mandate, (2) background or introductory material, (3) working data, (4) assumptions, (5) calculations, and (6) conclusion.

Descriptions of these components are as follows:

Statement of the Mandate

This is described in SAM Section 6606.

Background or Introductory Material

This component must include the following:

1. A legal description of the legislation which is the basis for the regulation, e.g., Chapter 1234, Statutes of 1996 (SB 123, Smith).
2. Any other pertinent historical data.

Working Data

Working data are any available statistical data and their sources which would identify the affected universe. (For example: Secretary of State data on the number of registered voters and/or polling places, State Department of Education data on school enrollees, or State Controller's reports for the number of local governments.) Also, any "market place" information or standard costs of items needed to comply with the mandate, e.g., quoted process for forms, lunch boxes, video cameras (sales, rentals, or contract services). In addition, it is very useful and, in some instances essential, that a representative sampling of the affected local governments be contacted and queried as to the impact of the mandate on them. Very often organizations representing the affected local governments such as the California State Association of Counties (CSAC) and the League of California Cities can either provide such information directly or identify those local governments most likely to be most affected by and/or able to provide information regarding the mandate's impact on them. Each county has designated a person, usually in the County Executive's Office, as a "local mandate coordinator" for purposes of providing information, upon request, on pending legislation and handling Commission on State Mandates claims. Those coordinators should also be able to assist in developing fiscal estimates for regulations.

Assumptions

On occasion, data regarding the affected universe and/or the price of the mandated item are not readily obtainable. In these instances, it may be necessary to make some reasonable assumptions about the impact. These assumptions must be clearly stated and kept separate from the "hard" data used in developing the estimate.

Calculations

Any mathematical computations using working data and/or assumptions necessary to arrive at a resultant cost figure must be displayed. Costs for both the balance of the current fiscal year and for the subsequent two fiscal years must be developed. Separate calculations must be provided for local, state, and federal costs, as appropriate, as described in the succeeding sections. Any savings to each level of government must be similarly identified.

Conclusion

Determinations made by the issuing state agency regarding the applicability of the California Constitution to any resultant costs and/or the need to provide additional funding of any state costs. See SAM Section 6606 for the required information.

NONREIMBURSABLE LOCAL COSTS **6608**

(Revised and renumbered from 6623 on 03/09)

Local governments may incur costs as the result of the issuance of executive regulations. These costs must be identified and estimated by the issuing state agencies even when they are not reimbursable state mandated costs. These costs will generally result from regulations which fall under one of the statutory exceptions listed in Section 6606.

The basic estimating methodology is the same as that set forth in SAM Section 6607; however, it is important to clearly indicate that these are not constitutionally reimbursable mandates and to develop estimates of offsetting savings and costs. For these regulations no estimate of costs is required since only "other nondiscretionary costs" are specified in law; however, there may be occasions where it would be desirable to have an estimate of the costs that would be incurred if all eligible local governments took advantage of the authority conferred by the regulation.

SAVINGS TO LOCAL GOVERNMENTS **6609**
(Revised and renumbered from 6624 on 03/09)

In a sense, savings result from what might be called “negative mandates", since local governments are relieved from doing something they were previously required to do. The same basic estimating methodology as set forth in SAM Section 6607 can be employed to determine local savings in state regulations. In fact, it should be relatively simple to derive estimates of savings since affected local governments must be able to identify what they are doing and what the associated costs are. The discretionary savings must also be identified since the state would be providing local governments with the option, if they choose to take it, to reduce the cost of government.

INCREASES OR REDUCTIONS IN LOCAL REVENUES **6610**
(Revised and renumbered from 6625 on 03/09)

The state agency must prepare an estimate of any revenue changes at the local level as the result of a state executive regulation, any such impact must be included in the estimate prepared by the issuing agency. Any local revenue losses resulting from state executive regulations are not reimbursable under the l mandate law.

COSTS TO STATE AGENCIES **6611**
(Revised and renumbered from 6631 on 03/09)

The issuing state agency must accurately identify costs that other state agencies incur as a result of its regulation. The identification will allow the other affected state agencies to take the appropriate action to secure any needed funding. The basic methodology for estimating costs is set forth in SAM Section 6607. The primary difference, of course, is that the governments contacted for cost data would be state, rather than local agencies or school districts.

Each state agency must carefully review the weekly "California Regulatory Notice Register" published by the Office of Administrative Law (OAL) in order to determine whether any proposed regulation therein would impact that department. The state agency proposing to issue the regulation must notify any affected state agency of any potential impact. Each state agency will have to determine for itself whether it needs to obtain additional funding.

SAVINGS TO STATE AGENCIES **6612**

(Revised and renumbered from 6632 on 03/09)

It is especially important to identify savings to a state agency or agencies when there may be corresponding costs to another state agency, e.g., a transfer of responsibility. Any savings must also be identified so that the total potential magnitude of such savings can be known.

FISCAL IMPACT ON FEDERAL FUNDING OF STATE PROGRAMS **6613**
(Revised and renumbered from 6640 on 03/09)

Increase in Federal Funding

Federal funding of state programs could increase as the result of state regulations if the state acts to exercise authority granted by the federal government. Most likely, this would involve programs which have established sharing ratios and the state acts to increase the size of either the client group or the payments themselves. In this context, it is important to distinguish between regulations which implement federal mandates and those which are issued under authority granted by the federal government.

It must be noted that recent court cases have held that the threatened loss of federal funds is not equivalent to a federal mandate.

Rather than sampling any affected state and/or local entities, it would be appropriate and acceptable for the issuing state agency to either calculate the increased federal fund (based on an established sharing ratio) or to contact the federal agencies involved for their estimates of any fiscal impact.

Reductions in Federal Funds

As with increased federal funds decreases would most likely result for programs involving sharing ratios. The same methodology suggested for estimating federal fund increases may be used for federal fund reductions.

SIGNATURE REQUIRED FOR FISCAL IMPACT STATEMENT (FIS) **6614**
(Revised and renumbered from 6650 on 03/09)

A state agency adopting, amending, or repealing a routine or emergency regulation shall use the STD. 399 to make a determination and develop an estimate of that proposed regulation's fiscal impact on local governments. The Fiscal Impact Statement section of the STD. 399 must be completed and signed when a notice of proposed action is submitted for publication in the California Regulatory Notice Register.

The STD. 399 must be approved and signed by (1) the Agency fiscal officer and
(2) the Agency Secretary; the highest ranking official in the state agency, if it is not under an Agency Secretary; or a designee having a written delegation from the Agency Secretary or the highest ranking official before it is submitted to OAL. Prior to submitting an emergency regulation to OAL for review, the DOF signature is required on the emergency regulation pursuant to Government Code Section 11346.1; however, the signature is not needed at that time.

ESTIMATES WHICH REQUIRE DEPARTMENT OF FINANCE ACTION **6615**
(Revised and renumbered from 6660 on 03/09)

Subdivision (c) of Government Code Section 11357 specifically authorizes the DOF to "…review any estimate…for content including, but not limited to, the data and assumptions used in its preparation."

A state agency is not required in all instances to obtain the concurrence of the DOF in its estimate of the fiscal impact of its proposed regulation on governmental agencies. Such concurrence is required when the adoption, amendment, or repeal of a regulation results in local agency costs or savings, in state agency costs or savings, or in other nondiscretionary instances such as local/state revenue increases or decreases which must be depicted on the STD. 399 as follows:

A.1–Reimbursable Local Costs	B.1–State Costs
A.2–Non-Reimbursable Local Costs	B.2–State Savings
A.3–Local Savings	B.4-Other
A.6-Other	

In addition, the DOF's approval is required for the inclusion in any such estimate of any statement to the effect that reimbursement of local costs will be requested in a subsequent Governor's Budget, Section A.1 (b) on the STD. 399.

Requests for the DOF's concurrence in or approval of a cost estimate for a proposed regulation must be forwarded to the DOF Principal Program Budget Analyst assigned to the issuing state agency at least 30 days prior to the date on which the "notice of proposed adoption" is to be issued. The completed STD. 399 must be submitted to the DOF along with copies of the calculations and assumptions leading to dollar estimates. Those calculations and assumptions must address the proposed regulation's fiscal impact in the current fiscal year and in the two subsequent fiscal years. A copy of the local mandate determination and any attachments thereto must be retained by the issuing state agency in the rulemaking file required by Government Code Section 11347.3. Questions regarding any technical aspects of the state mandate law should be directed to that DOF analyst or other governmental agencies that may be affected by the proposed regulation.

INPUT FROM OTHER GOVERNMENTAL AGENCIES IN THE DEVELOPMENT OF FISCAL ESTIMATES **6616**

(Revised and renumbered from 6670 on 03/09)

State agencies that propose to issue regulations must allow for input from any and all other governmental agencies which express concern about the potential fiscal impact of the regulation on them. Such input must be solicited by the issuing state agency by practical means such as holding public hearings, publishing a notice in the California Regulatory Notice Register, and offering any other appropriate means.

Although the DOF's concurrence is required only for those circumstances set forth in SAM Section 6615, such concurrence may be requested for any other circumstances as well. When the DOF has concurred in the fiscal estimate, the DOF will, if requested, be primarily responsible for providing evidence and testimony to the Commission on State Mandates on any claim from a local government that the regulation results in increased costs. Conversely, the issuing state agency will be primarily responsible in instances where the DOF’s concurrence was not obtained.

INFORMATION TECHNOLOGY EXPENDITURES **6700**
(Revised 12/11)

In accordance with Government Code (GC) Section 13070, the Department of Finance (Finance) has general powers of supervision over all matters concerning the financial and business policies of the State. In addition, GC Section 11547 states that Finance shall determine availability of information technology (IT) project funding from appropriate sources and project consistency with state fiscal policy.

Established within Finance is the Information Technology Consulting Unit (ITCU). The ITCU performs fiscal analysis of statewide IT policies and enterprise initiatives proposed by the California Technology Agency (Technology Agency), as well as fiscal oversight of Finance-identified critical IT projects. The Technology Agency coordinates review of IT proposals with Finance to streamline the review process and produce one decision for the Administration.

DEFINITIONS **6710**
(Revised 09/10)

For the purposes of this section:

1. An information technology (IT) activity is classified as either new or existing, and is defined as: (a) an IT project, comprised of one-time development and continuing operations/maintenance components, or (b) an ongoing IT effort, such as technical, production, or user support services.

2. Budgetary authority refers to the funds appropriated, expenditure authorizations granted, and expenditure limits/conditions imposed on a department through the provisions of a budget act or other superseding authorization.

EXCLUSIONS **6720**
(Revised 09/02)

See SAM Section 4819.32

REQUIREMENTS **6730**
(Revised 12/11)

The California Technology Agency (Technology Agency) may impose conditions on information technology (IT) activity expenditures for individual departments or for specific IT activities. Such conditions must be met to gain or continue receiving Department of Finance (Finance) support for the IT activity expenditures.

Technology Agency approval is required prior to the commitment of resources to procure, develop, or implement a new IT activity and/or modify an existing IT activity that:

1. Has estimated total development and acquisition costs above a Technology Agency-established delegated cost threshold and does not meet the criteria of a desktop and mobile computing commodity expenditure (see SAM Sections 4989 through 4989.3);

2. Is a new system development or acquisition that is specifically required by legislative mandate or is subject to special legislative review as specified in budget control language or other legislation;

3. Involves a Finance budget action to fund all or part of the IT activity expenditures; or

4. Meets conditions previously imposed by the Technology Agency.

Note that all formal IT solicitations, as defined in SAM 4819.31(9), must be submitted to the Technology Agency for review prior to release to the public. In addition, departments are responsible for reporting to the Technology Agency the completion of an IT activity that meets one or more of the criteria listed above and the expenditures associated with that activity (see SAM Section 4947).

Splitting an IT activity into smaller components to avoid fiscal reporting requirements and controls is prohibited.

See SAM Sections 4800 through 5180 and Sections 5300 through 5360.1, and the Statewide Information Management Manual (SIMM), for statewide policy and process instructions for IT activities.

EXPENDITURE SUPPORT **6750**
(Revised 12/11)

The Department of Finance (Finance) reviews and makes recommendations regarding funding and/or expenditure requests associated with proposed information technology (IT) expenditures through the budgetary process. In addition to business and fiscal factors, considerations to determine whether proposed IT expenditures are supportable include compliance with SAM. Contact your departmental budget analyst or your Finance Budget Analyst for information concerning the various budget request documents available, their intended purpose, and the appropriate use of each. Funding requests associated with IT projects require California Technology Agency approval of a Feasibility Study Report, Special Project Report, or equivalent document.

Finance, at its discretion, may impose expectations and/or conditions for approving a department's proposed IT expenditures when such expectations and/or conditions are in the best interest of the State. Departments will be notified of any such expectations and/or conditions Finance may impose on a department's IT expenditures.

INFORMATION TECHNOLOGY AUDITS **6760**

(Revised 12/11)

All information technology expenditures are subject to audit at the discretion of the Department of Finance.

COST ALLOCATION **6770**

(Revised 09/10)

Each department shall adopt policies and establish procedures for assignment of information technology (IT) costs by program or operational unit within the department, as well as for the assignment and recovery of IT costs for services.

DATA CENTER FINANCIAL MANAGEMENT **6780**
(Revised 03/13)

This financial management policy applies to the Office of Technology Services (OTech), an office within the California Technology Agency.

The data center is to operate on a breakeven cost basis by fiscal year (within any Government Code (GC) provision for carryover of operating surpluses or deficits), charging customer departments for its services according to an approved published service rate schedule. OTech will maintain a formal rate methodology approved by the Department of Finance (Finance). The approved rate methodology will be used to develop and adjust rates as necessary. Rate changes are proposed as circumstances warrant, often annually, and sometimes more frequently.

OTech will submit proposed rates to Finance. Consistent with GC Section 11540, Finance will review and approve the proposed rates based on the reasonableness of the rates and any significant budget impacts to customer departments. Rate changes that result in cost decreases for customer departments will be effective as soon as is reasonably possible. Changes to the rate schedule that result in cost increases to customer departments will be announced at least 30 days in advance of the effective date. All details necessitating such change shall be available to customer departments for review. The approved rate schedule will be published on the OTech website.

To assist customer departments in their planning and budget preparation process, OTech will annually develop a statement for inclusion in a Budget Letter issued by Finance.

OVERVIEW OF CAPITALIZED ASSETS **6801**
(Revised 5/98)

The Capitalized Assets sections of SAM reference policies and procedures on budgeting and financial administration of capital outlay projects and—more broadly—on programs for capitalized asset financing. These sections are divided into five parts:

1. An **overview of capital outlay** and **capitalized asset financing** (SAM Sections 680–6809);

2. **Budgeting** capital projects (SAM Sections 6810–6839);

3. The administrative approval process for **implementing** acquisition, planning, design, construction, and equipping of capital projects (SAM Sections 6840–6868);

4. **Long-term financing** of capitalized assets (SAM Sections 6870–6888); and

5. **Glossary** and cross-index of capital outlay terminology, acronyms, and forms (SAM Section 6899).

The Department of Water Resources for the State Water Project and the Department of Transportation for highway-related projects are not subject to the instructions contained in this chapter. In addition, this chapter does not address projects undertaken with funds not subject to legislative appropriation, such as higher education's housing, student union programs, and other auxiliary organizations.

As used in this chapter, the term *capitalized assets* refers to all processes which may result in the acquisition, new construction, alteration, renovation or betterment of real assets, regardless of character of appropriation for the expenditure. This includes capital outlay projects and budget change proposals, certain leases that meet the definition of a capitalized lease, long-range plans for infrastructure, and financing of projects and capitalized leases.
The term *capital outlay* refers to a subset of these activities, funded specifically under the capital outlay character of appropriation. See Section 6806 for a discussion of characters of appropriation.

CAPITALIZED ASSETS: WHO DOES WHAT **6805**
(New 5/98)

The client department, the State Public Works Board (PWB), the Department of Finance (DOF), the Department of General Services (DGS), the Pooled Money Investment Board (PMIB), and the State Treasurer's Office (STO) all may perform key roles in carrying out an infrastructure program.

1. The **client department** manages the programs for which infrastructure acquisition, construction or improvement is a supporting activity. The department identifies program needs in a strategic plan, determines the related infrastructure requirements, prepares a five-year capitalized assets plan, prepares individual capital outlay budget change proposals, works with DOF and DGS to budget and implement the plan, and may work with PMIB and STO to provide interim and long-term financing for the project. At all stages of a capital outlay project or a capitalized lease project, the client department is responsible for justifying program needs, keeping the project within scope and cost, and meeting administrative requirements set forth in statute and SAM. Some departments have the authority to design and construct projects, exclusive of the control or oversight of DOF, PWB and/or DGS.

2. **DOF** reviews capital outlay budget change proposals (COBCPs) for inclusion in the *Governor's Budget*, reviews legislation proposing capital outlay projects and capitalized leases, has authority to adjust the scope of projects subject to legislative reporting requirements, chairs and provides staff to PWB in that board's oversight of project implementation, and has delegated authority from PWB to carry out certain of the board's tasks. DOF also participates in bond sales activities for capital outlay and capitalized lease projects.

3. **PWB** acquires property for the state, must approve the preliminary plans for capital projects, may set reasonable conditions for any project, and may issue debt instruments and authorize interim financing to construct facilities. PWB ensures that projects remain within legislatively approved scope and cost and are carried out with speed and diligence. The board has authority to augment projects by up to 20 percent, subject to legislative notification requirements and may terminate projects. In addition, the board holds the power of eminent domain (condemnation authority) for most projects. An overview of PWB's role and responsibilities is presented in SAM Section 6842.

4. **DGS** has broad authority for real property acquisition, sales, statewide property inventory, and energy efficiency services for state and K-14 school facilities. Its services are offered on a reimbursable basis. DGS determines whether departments are capable of carrying out minor projects directly. DGS is also staff to PWB for property acquisition and energy efficiency contracts.

5. **PMIB** has the authority to grant requests for Pooled Money Investment Account loans for projects needing interim financing before bonds are sold. Additional information on PMIB's processes is provided in Section 6878.

6. **STO** is the state's official agent for the sale of debt instruments. STO chairs PMIB and sits as a member on PWB. In addition, STO provides (or makes arrangements for) trust services for debt issuances. As agent for sale, STO holds the exclusive right to select financing teams for issuances. STO's agent-for-sale role includes all debt financings of joint powers authorities, regardless of whether the state is a member of the authority. Additional information on STO's role is provided in Sections 6870–6888.

CAPITAL OUTLAY VERSUS STATE OPERATIONS AND LOCAL ASSISTANCE **6806**
(Revised 5/98)

The state appropriates funds in three broad classifications—state operations (support), local assistance, and capital outlay—referred to as the *character of appropriation*. Unless statutory language specifically allows otherwise, once budgeted as one of the three characters, a program or activity must follow that classification's expenditure rules.

Infrastructure management uses all three characters of appropriation, depending on the activity. The general rule is that the acquisition/creation/renovation of real assets is classified as capital outlay if the state holds ownership. Operation and maintenance of state real assets is classified as state operations. State-funded but locally-owned infrastructure is classified as local assistance.

Certain types of leasing activities—called capitalized leasing—which are funded as state operations can also result in a capital acquisition. As used in this chapter, the term *capitalized assets* covers both traditional capital outlay as well as capitalized leasing. (Reminder: Capitalized assets are to be reported to the DGS Statewide Property Inventory [SPI] Unit for inclusion in the SPI.)

Exception to the prohibition against using support funds for capital outlay: Section 6.00 of the Budget Act provides a limited exception to the rule that support funds may not be used for capital outlay purposes. This section allows up to $35,000 of support funds to be encumbered for preliminary plans, working drawings, or construction of any project for the *alteration of a state-owned facility* (Section 6.00 does not apply to leased facilities). This amount may be exceeded only if:

1. DOF determines the proposed alteration is critical and the use of a higher level of support funds is necessary; *and*
2. The maximum cost of the project does not exceed $250,000.

DOF must notify the Legislature not less than 30 days in advance when approving more than $35,000 in support funding for a capital project. Section 6807 on minor capital outlay describes the approval process for projects of more than $35,000.

Guidelines for determining character of appropriation: The following discussion and table are intended as a guide to assist departments in determining whether an activity should be budgeted as capital outlay, support, or local assistance.

Capital outlay: Section 3.00 of the Budget Act defines capital outlay as "acquisition of land or other real property, major construction, improvements, equipment, designs, working plans, specifications, repairs, and equipment *necessary in connection with a construction or improvement project*" (emphasis added). Administratively, capital outlay is defined as:

1. Any real property acquisition or new construction.
2. Any alteration, renovation, addition or betterment (including interior asbestos removal/remodeling) which extends the design life or alters/upgrades the function of a structure.

    a. This does not include repairs and maintenance, which are intended to keep a facility functional at its *designed* level of services and life expectancy.

    b. "Alteration" means any modification of existing space (buildings, structures or other facilities) that changes the use as to function, layout, capacity, or quality. Typical alterations include demolition of fixed partitions and/or construction of new fixed partitions or initial installation of carpeting and movable partitions. *However, there are two instances in which alterations may be done with state operations funding:*

        (1) In a leased space situation, the landlord generally makes the alterations and amortizes them through the lease. The lease, including increases for amortized alterations or lump-sum payment for alterations, is a state operations expense subject to the support budget review process; and

        (2) As noted in preceding text, Section 6.00 of the Budget Act allows the use of the support appropriation for alterations, within specified limits.

"Betterment" means any modification that increases the designed level of services or life expectancy of a facility or other state infrastructure (e.g. seismic improvements, upgrades, etc.).

3. Fixed and movable equipment needed for initial occupancy of a new facility or space, but usually only if the new facility is not replacing an existing facility (see 6806 Illustration). Fixed equipment is referred to as *Group 1* equipment, and movable equipment is referred to as *Group 2* equipment (Section 6855).

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(Continued)

CAPITAL OUTLAY VERSUS STATE OPERATIONS AND LOCAL ASSISTANCE .....6806 (Cont. 2)

4. A lease-purchase (installment payment) agreement because equity is built as payments are made. Although the actual lease payments will be budgeted in state operations, the transaction is a capitalized assets acquisition.

   All planned lease-purchases, whether authorized through the budget or special legislation, must be included in the department's five-year capitalized assets plan. If the lease-purchase will be authorized through the Budget Act, a COBCP is required to verify economic benefits, *whether or not there is a related support BCP for lease costs*. (For lease-purchase agreements authorized through special legislation, DOF may require information similar in content to a COBCP at the proposed legislation stage.) These requirements apply to lease-purchases for state infrastructure financed through a joint powers authority, another level of government, or a private developer (Sections 6818 and 6820).

5. Both the *request* for, and the *exercise* of, a purchase option. A lease with a purchase option gives the state the right, during the course of the lease, to purchase the asset for a predetermined price, if desired, which is a capital outlay acquisition. Adding a purchase option in a lease agreement is considered initiating a *potential* capital outlay acquisition. Although the lease payments prior to the exercise of the option are classified as state operations, the potential acquisition must be tracked as part of the department's overall capitalized asset plan. Therefore, if authorization is sought through the Budget Act, *anticipated purchase options and their exercise* must both be presented for review as COBCPs, subject to dollar thresholds noted in Sections 6818 and 6820. Regardless of method of authorization, the planned use of purchase options must be included in the department's five-year capitalized assets plan.

6. Generally, the following are not considered as capital outlay: relocation (including temporary "swing space" while a project is under construction) and moving expenses, although DOF may authorize moving expenses as a capital outlay cost on an exception basis.

State operations: The following facility-related expenses are classified as state operations:

1. Equipment not included in the complement necessary for initial operation of a new construction or renovation project.

2. Movable equipment for new employees or new programs that are not part of a capital outlay project. (Such equipment is budgeted as an operating expense in the department's support budget when the positions or programs are authorized.)

3. Replacement equipment items (regardless of amount).

4. Repair projects, including special repairs, not connected with a construction or improvement project. Examples of special repair projects include repainting, re-roofing, electrical rewiring, plumbing repairs, dredging of river or stream beds to restore original flow capacity, replacing old equipment items, and road repairs. (Regardless of amount, "special repairs" are budgeted in the client department's state operations appropriation.)

5. Maintenance, including deferred maintenance. Maintenance is budgeted as "facilities operations" in the client department's operating expense schedule.

6. Relocation—including temporary "swing" space—and moving expenses, whether or not related to a capital outlay project. (However, DOF may authorize exceptions to this rule.)

7. Lease or rental costs, and any associated budget requests. (However, as noted in the preceding text, capitalized leasing must be reflected in the five-year capitalized asset plan and COBCPs are required under specified conditions per Section 6818.)

8. Generally NOT alterations in state-owned buildings, except as provided in Section 6.00 of the Budget (see preceding). In leased facilities, support funds may be used for alterations.

Local assistance is: The following infrastructure-related expense is classified as local assistance:

1. Grants to local agencies for the operation, maintenance, and acquisition or development of facilities or land, provided the local entity retains ownership after completion of the project.

Page 6806 ILLUSTRATION DISTINCTION BETWEEN CAPITAL OUTLAY AND STATE OPERATIONS

DESCRIPTION OF PROJECT [1/]	STATE OPERATIONS	CAPITAL OUTLAY	
	OPERATING EXPENSES AND EQUIPMENT	**PROJECT LEVEL MINOR PROJECTS**	**PROJECT LEVEL MAJOR PROJECTS**
Construction projects: New construction, alteration [2/] ,extension or betterment of existing structure. (Construction projects include necessary Group I fixed equipment.)		If $250,000 or less and scheduled as minor projects in Budget Act[3/]	In excess of $250,000 [3/]
Repair and maintenance projects: Repair and maintenance projects that continue the usability of a facility at its designed level of services	Irrespective of amount		
Equipment (Group II, movable) projects (Section 6855): • If related to a specific construction project. • New equipment to meet program needs and not related to a construction project; replacement of existing equipment even though the new equipment is to be used in a new facility.	Irrespective of amount		Irrespective of amount or time of purchase
Purchase of land and/or facility/structure: Including related costs such as condemnation and court costs, legal fees, and title reports etc.			Irrespective of amount
Capitalized leases of real property: All leases which build equity as payments are made. (Section 6818): • Lease-purchase • A lease with purchase option agreement or amend an existing lease to add a purchase option • Any other capitalized lease per Section 6818	The lease payments are budgeted in support appropriation. Use a support BCP to request a budget increase. However, a coordinated capital outlay review is also required.		Transaction is reviewed for infrastructure cost/benefits because the property is acquired—or may be acquired—as a result of the lease. *Submit a COBCP when requesting authority through the Budget Act, per Section 6818.*
Operating leases of real property: Pure leases that do not build up equity as payments are made (Section 6876).	Irrespective of amount		
Exercise of purchase option for currently rented or leased space (Section 6820)			Irrespective of amount
Relocation and moving costs • Unrelated to a specific construction project. • Related to a specific construction project.	Irrespective of amount Irrespective of amount 4/		
Technical assistance/consultants This may include studies, master planning, feasibility studies, program management, and budget packages.	Depends on timing and nature/scope of activities.		Budget packages are generally capital outlay; other studies and assistance depend on timing and nature/scope of activities.

1/ State-funded but locally-owned infrastructure is classified as local assistance.

2/ Control Section 6.00 allows the use of limited support appropriations for the alterations of state-owned facility.

3/ See Public Contract Code Section 10108.5 for exceptions.

4/ DOF may authorize exceptions to this rule.

MINOR CAPITAL OUTLAY **6807**

(Revised 5/98)

Minor capital outlay is any project under $250,000 (except an acquisition project) which is scheduled in the Budget Act specifically under the heading "minors." However, Resources Agency capital outlay projects of up to $500,000 may be proposed as minor projects with the concurrence of DOF (Public Contract Code 10108.5). The $250,000 limit does not apply to district agricultural associations or the State Lands Commission.

Important budgeting points include:

1. Per Section 3.00 of the Budget Act, the term *minor projects* includes planning, working drawings, construction, improvements, and equipment projects not specifically set forth in the budget schedule. It does not include any acquisition project, regardless of amount.

2. Minor projects are generally scheduled together as a single "project" and must be labeled as "minors" in the client department's capital outlay Budget Act item. Any project not scheduled specifically as a minor project, regardless of amount, is a major project. (The decision on how to propose scheduling the project rests with DOF.)

3. DGS may delegate the authority to client departments to carry out a minor project directly, pursuant to the Public Contract Code Section 10808 and 10808.5.

4. Per Section 2.00 of the Budget Act, the period of appropriation availability for minor projects is one year, followed by a two-year liquidation period. (Major projects, on the other hand, have a three-year appropriation availability.)

5. A minor project is not subject to PWB oversight, and by practice PWB does not augment projects which are not subject to its approval processes.

6. DOF may increase the approved amount of a minor capital outlay project through a redirection within the minor program if the project is not scheduled individually and the amount of the increase does not result in a project of over $250,000. Substitution of minor projects is permissible with DOF concurrence, provided the project being replaced is not scheduled individually. Substitutions are based on critical need.

7. Minor projects may be subject to the California Environmental Quality Act (CEQA) as described in Section 6850.

8. Minor capital outlay proposals are due to DOF by July 1 of each fiscal year. Each proposed project must be submitted in the format for major projects outlined in Section 6818.

9. Reappropriation of minor projects is not generally permitted. Minor projects should therefore be projects where all funds can be encumbered in one year.

10. It is not permissible to "piecemeal" larger projects through several minor projects.

Minor projects created through Section 6.00 of the Budget Act: As described in Section 6806, a minor project may be created for *alteration of a state facility* using support funds, subject to DOF approval when the total project amount is between $35,000 and $250,000. When DOF approval is required, the request must be accompanied with all the information required in a COBCP (Section 6818). The request must be submitted at least 60 days in advance of proposed project implementation (30 days for DOF to review the request and notify the Legislature; 30 days for the Legislature's review), and no later than April 30 of each year. (Submit copies of the request to *both* the DOF support analyst and the Capital Outlay Unit, along with any related Form 22 for transfer of funds to DGS' Architecture Revolving Fund.)

THE CAPITAL OUTLAY PROCESS IN BRIEF **6808**
(Revised 5/98)

The ten major phases of the capital outlay process, along with their supporting activities, are described in following text. For projects implemented through multiple or *phase* appropriations, parts of Phase 3 will need to be repeated for *each* appropriation.

Note that this description of the capital outlay process is based on the standard *design-bid-build* approach to project delivery. Other project delivery methods, such as the *design-build* approach, have slightly different project phases. Section 6842 discusses project delivery systems.

Reference to DGS in the following text applies to any department authorized to act as its own project manager.

1. **Concept and documentation phase:** 2 to 5 months (Sections 6816–6821)

   a. Client department defines problem and develops conceptual solution.

   b. Client department collects supporting data and documents how the project supports the department's strategic plan.

   c. Client department documents findings and conclusions in its five-year plan and COBCPs.

2. **Historical resources phase**: Usually coincides with phases 1 and 3 (Section 6822)

   a. Client department submits proposed project and *Historic Resources Inventory* to State Historic Preservation Officer for review *if* the project will impact a state-owned structure over 50 years of age.

   b. The State Historic Preservation Officer may propose mitigations which, if unacceptable to the department, must be mediated by Office of Planning and Research.

3. **Budget approval phase:** 17 months (Section 6814 describes the budget enactment timetable; Sections 6824–6832 gives detailed descriptions of processes).

   a. DOF reviews the five-year plan and COBCPs, including their relationship to the department's strategic plan.

   b. DGS prepares a technical feasibility review for the project, if requested by DOF.

   c. DGS develops budget packages, as requested by DOF.

   d. DOF conducts scope meetings, as required.

   e. DOF conducts Administration budget hearings and includes approved COBCPs in the *Governor's Budget*.

   f. The Legislative Analyst comments on selected projects in *The Analysis of the Budget Bill*.

   g. Policy or technical changes to capital outlay projects proposed in the *Governor's Budget* are submitted by Finance Letter to the Legislature.

   h. The Legislature holds budget subcommittee and conference committee hearings, and approves the capital outlay budget, with any revisions.

   i. After reducing or vetoing selected appropriations in the enrolled bill, the Governor signs the measure.

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THE CAPITAL OUTLAY PROCESS IN BRIEF **6808** (Cont. 1)
(Revised 5/98)

4. **Site selection and acquisition phase:** Up to 12 months (Section 6849)

   a. Client department and DGS make site selection.

   b. PWB approves site selection.

   c. As PWB's agent, DGS acquires property (through the exercise of eminent domain, if needed).

   d. PWB approves settlement price, if any.

5. **Environmental review phase**: May coincide with phases 1 through 4 (Section 6850)

   a. Department meets the CEQA requirements. By policy, if land is purchased as part of a project, CEQA requirements must be completed before acquisition. Otherwise, environmental review must be completed by the end of Phase 6.

6. **Preliminary plan phase:** 3 to 12 months (Section 6851)

   a. Design architect/engineer prepares schematic documents.

   b. Design architect/engineer prepares design development and estimate of project costs
   .

   c. Environmental process certified by department.

   d. PWB approves preliminary plan design.

7. **Working drawing phase:** 3 to 11 months (Section 6852)

   a. Design architect/engineer prepares plans and specifications for bidding and construction work and refines the cost estimate.

   b. Responsible lead design agency obtains mandatory review and approvals (e.g., State Fire Marshal).

   c. DGS submits the design certification to DOF.

   d. DOF approves working drawings and proceeding to bid.

8. **Bidding phase:** 3 to 6 months (Sections 6852 and 6853)

   a. DGS advertises the project for construction bids.

   b. Interested bidders prepare and submit construction bids to DGS.

   c. DOF authorizes award (if within approved funding levels) and approves transfer of construction funds.

   d. DGS awards construction contract to contractor.

9. **Construction phase:** 3 to 36 months (Section 6854)

   a. Contractor constructs project.

   b. DGS processes construction progress payments and change orders within approved contingency amount.

   c. DGS files contract completion notice with DOF.

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(Continued)
THE CAPITAL OUTLAY PROCESS IN BRIEF **6808** (Cont. 2)
(Revised 5/98)

10. **Claims and close-out phase:** (Section 6856)

    a. Contractor files notice of claims.

    b. DGS and contractor resolve claims through arbitration, mediation, and/or court.

    c. DGS closes-out project per Government Code 14959.

Projects funded through bonds and financing leases have additional administrative steps addressed in Sections 6870–6888. Project changes for cost and scope are addressed in Sections 6861 and 6863, respectively.

LEGAL CITATIONS FOR CAPITALIZED ASSETS AND FINANCING **6809**
(New 5/98)

Most citations for capital outlay planning, budgeting, and fiscal administration are contained in the Government Code and annual Budget Act. Citations for capitalized asset financing are also provided in the Government Code. However, the Public Contract Code, the Public Resources Code, and the California Code of Regulations provide significant instruction and constraints on project implementation. Statutory authorization for individual general obligation bond measures is placed programmatically in the code (e.g., prison authorizations are placed in the Penal Code), and are not cited in the following 6809 Illustration. In addition, individual project descriptions (called *project scope*), which are provided in supplemental language to the Budget Act, are not cited in the following table.

Because legal citations change periodically, this table is a only a guide. The citations are not comprehensive, and information should be checked against current publications.

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CITATIONS FOR CAPITALIZED ASSETS AND FINANCING

	Annual Budget Act	Government Code	Public Contract Code	Public Resources Code	Other
Public Works Board		Title 2, Div 3, Part 10.5, 10b & 11			
Creation, membership		15770			
Authority to purchase in lieu of construct		15791			
Authority for long-lead equipment		15792			
Authority to augment, restrictions, approval of prelim plans, notify Legislature		13332.11			
Source of augmentation & transfer of unexpended (*see also DOF below)*		16352, 16352.5,16354, 16409 16351.5 et seq. 15812			
Inmate labor			10103.5		
Emergency public works		15799 et seq. (Chap 5, 10.5)			
State Building Construct. Act (general)		Title 2, Div 3, Part 10b			
PWB capital outlay definitions		15802			
Right of eminent domain		15855			
PWB powers, including debt financing		15809			
Art in public buildings		15813 et seq. (Chap 2, 10b)			
Energy conservation in public buildings, including financing		15814.10 (Chap 2.7, 10b)			
Energy efficiency in public buildings, including financing		15814.30 et seq. (Chap 2.8, 10b)			
PWB lease-purchase of public buildings		15815 et seq. (Chap 3, 10b)			
PWB lease-purchase of prison construction/fund		15819.1 et seq. (Chap 3.1, 10b)			
Financing of various specific programs		15819.30 to 15820.90 (Chap 3.2 & 3.1, 10b))			
High technology facilities/fund		15820 et seq. (Chap 3.5, 10b)			
Financing of various higher ed. facilities		15820.15 to 15820.74 (Chap 3.6 to 3.9)			

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Page 6809 ILLUSTRATION (Cont. 1)

CITATIONS FOR CAPITALIZED ASSETS AND FINANCING

	Annual Budget Act	Government Code	Public Contract Code	Public Resources Code	Other
PWB (continued)					
Lease-revenue bond requirements		15830 et seq. (Chap 5, 10b)			
Authority to employ financial consultants		15837.5			
Inapplicability of specified Public Contract Codes		15837.6			
Public Building Construction Fund		15845 et seq. (Chap 6, 10b)			
Property Acquisition Law		Title 2, Div. 3, Part 11, 15850 et seq.			
Parks and Recreation sites				5006	
Property acquisition: additional requirements		13332.12 & 13332.13			
Public land trusts		831.5			
Parks concession agreements				5080.20	
Combined bids—approval			10127		
Joint Powers Authorities					
Rules, authorities, powers		6500 et seq. (Title 1, Div. 4, Chap 5)			
DGS & state office buildings		6517			
Power to issue revenue bonds		6540 et seq.			
Minor Capital Outlay	Sec 3.00(f)		10808		
Higher thresholds, Resources Agency			10808.5		
Capital Outlay Budgeting Requirements					
Appropriation availability	Sec 2.00		.		
Defined, phases	Sec 3.00				
Restrict use of support funds for CO	Sec 6.00				
No deficiency for CO	Sec 27.00(a)				
Augmentations		see PWB			
Capital Outlay Planning		13100			
Financing					
General obligation bonds authority		T. 2, Div 4, Pt. 3; 16550 et seq.			Calif. Const. Art. XVI, Section 18
Use of proceeds restricted to capital assets, defined		16727			
GO commercial paper		16731.6			

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Page 6809 ILLUSTRATION (Cont. 2)

CITATIONS FOR CAPITALIZED ASSETS AND FINANCING

	Annual Budget Act	Government Code	Public Contract Code	Public Resources Code	Other
Financing, continued					
GO refundings		16780 et seq.			
Lease-revenue bonds: authority: *see PWB and JPA above*					
Not constitutional debt *(aka Offner-Dean rule)*					City of LA v. Offner (1942) 19 Cal.2nd 483, 486
Continuous appropri-ations for		15848			
Financing of:					
Higher ed. facilities		see PWB above			
Prisons		see PWB above			
Office buildings					
Interim financing for LR:					
Negotiable		15809			
Loans		15489.1 15819.13, 15820.19 15820.41 15820.61			
Continuing disclosure					SEC 15c2-12
Period of challenge to a bond issue					Code of Civil Proc. 860 et seq.; "validation acts"
Financing as lease—see DGS					
DGS & state office buildings		6517			
Department of Finance					
General powers over financial and business		13070			
Approve scope changes, bid alternates and prelim. plans; notify Legislature		13332.11			
Transfer of unused balance *(see also PWB above)*		15812			
Administers PWB		15792			
Report on capital outlay plan		13100 et seq.			
Report on capital outlay for cogeneration		13304			
Time-frames for capital outlay budget adjustments		13308			
Adjustment of dollar threshold of "project" per Public Contract Code			10105		
Bid alternates—approval		13332.11(b)	10126		

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Page 6809 ILLUSTRATION (Cont. 3)

CITATIONS FOR CAPITALIZED ASSETS AND FINANCING

	Annual Budget Act	Government Code	Public Contract Code	Public Resources Code	Other
Department of Finance (cont.)					
Combined bid—allocation of costs			10127		
Approve preliminary plans and working drawings		13332.11			
State Treasurer's Office					
As agent for sale		5700			
See also *Financing*, above					
Department of General Services					
Asset management, general		14650 et seq.			
General authority to hire, lease, lease-purchase, or purchase-option		14669			
Notification of long-term leases		13332.10			
Specific project authorities		14669.1-14673			
Proactive asset management goals		14680.8			
State Contract Act			10100 et seq.		
Exclusions, emergencies			10101		
Exclusions, inmate labor			10103.5		
Project, defined			10105		
State procurement			10290 et seq.		
University of California			10500 et seq.		
CA State University			10700 et seq.		
Building Codes					CA Code of Reg., Title 24
Rules Governing Selection of A&E Firms		4525	6106		CA Code of Reg., Title 21
California Environmental Quality Act (CEQA)				21000 et seq. (Div. 13)	CA Code of Reg., Sec 15000 et seq.
Eminent Domain		15854 15802 7267.2			Code Civil Proc 1230.010 et seq.
Arbitration of Public Construction					Code Civil Proc 1296 et seq.
Historical Resources			10110	5024 et seq.	CA Code of Reg., Title 24

CAPITALIZED ASSETS PLANNING AND BUDGETING **6810**
(New 5/98)

Sections 6812–6839 provide budget development highlights and information on the major activities which make up the concept and document phase, the budget package phase, and appropriation approval. An overview of capital outlay phases is provided in Section 6808. Acronyms, terminology and forms are defined and indexed in the glossary, Section 6899.

CAPITALIZED ASSET BUDGET DEVELOPMENT HIGHLIGHTS **6812**
(New 5/98)

No base budget for capital outlay. Capital outlay budgets are zero-based each year. This means the client department must submit a written capital outlay budget change proposal (COBCP) for each new project or subsequent phase of an existing project for which the department would like funding. The requirements for COBCPs are presented in Section 6818.

When COBCPs are due. In general, COBCPs for major capital outlay projects are due in February of each year for the fiscal year commencing *17 months later* (COBCPs for minor projects are due in July, 12 months prior to the budget year). This timing allows DGS to complete feasibility studies and cost estimates for the project and DOF to make site visits. Copies of the COBCPs are simultaneously due to DOF, DGS, and the Legislative Analyst's Office (LAO). See Section 6814 for an overview of the budget enactment timetable. See Section 6816 for a listing of documents in addition to COBCPs required to request capital outlay funding.

When COBCPs are updated. The client department submits *technical* updates (including cost index updates) to the COBCP and five-year plan, generally by September 1, prior to the budget year. New project proposals, unless of a truly urgent nature, are usually not accepted after initial submittal of the COBCPs and five-year plan in February. Cost updates received from DGS (based on budget package estimates) will be incorporated into the *Governor's Budget* if received by early December before the budget year. Otherwise, technical cost updates will be presented to the Legislature through a Finance Letter due to the Legislature no later than May 1, before the budget year. Scope changes to existing projects, or new projects justified on an urgency basis, may be presented to the Legislature in a Finance letter due no later than April 1. Departments' requests for technical and policy Finance Letters are generally due in mid-February; specific due dates are published annually by DOF Budget Letter. *An updated or new COBCP is required for policy and technical Finance Letters.*

COBCPs must clearly support the department's strategic plan. Each department, as defined in Section 6816, must have a strategic plan, and its budget change proposals—including COBCPs—must demonstrate the relationship and relevancy to the department's strategic plan.

Five-year capitalized assets plans, *by project*, are required annually. Each department submitting a COBCP must also submit, at the same time, a five-year capitalized assets plan *by project*. The requirements for this plan are set out in Section 6820. A copy of the five-year plan is due simultaneously to LAO. Exceptions to project-level plans must be approved by DOF.

Annual Budget Letters for COBCPs and five-year plans. DOF releases a Budget Letter each fall setting specific due dates for COBCPs and five-year plans, reiterating information requirements, and describing any form or processing changes. A separate Budget Letter is released in late Fall setting due dates for requests for Finance Letters the following Spring to make policy or technical changes to capital outlay projects proposed in the *Governor's Budget.* Another Budget Letter is released in July of each year publishing the annually-updated cost indexes used to adjust construction costs for inflation.

Ten-year capital outlay survey responses, *by program and fund source*, are required annually. All departments which anticipate needing funds for capital outlay or state-funded infrastructure *in the next ten years* must annually respond to a DOF survey questionnaire regarding those needs. A response is required whether or not the client department will be submitting a COBCP for the upcoming budget year. The requirements for the ten-year survey response are described in Section 6837.

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CAPITALIZED ASSET BUDGET DEVELOPMENT HIGHLIGHTS **6812** (Cont. 1)
(New 5/98)

The state uses the design-bid-build process for most projects; therefore, capital outlay projects are frequently budgeted in multiple phases. The design-bid-build process means that project specifications must be completely developed (i.e., through the working drawings phase) before construction is bid out. Consequently, working drawings and construction appropriations are often not provided until cost information from the previous phases is available. This can result in multiple, sequential appropriations for a single project. However, at the discretion of DOF and subject to legislative concurrence, more than one phase may be budgeted at a time, and in some cases all phases may be budgeted simultaneously. The typical phases for projects are described in Section 6808. A discussion of the design-bid-build process is provided in Section 6841.

No capital outlay deficiencies. The annual Budget Act includes control section language forbidding the Director of Finance to propose a deficiency for any capital outlay projects. If a project is anticipated to exceed its budget, the remedies are a scope reduction (subject to approval by DOF and legislative notification) and/or an augmentation of up to 20 percent (subject to approval by the Public Works Board and, when required, to legislative notification). If those remedies are insufficient, the remaining options are to terminate the project or halt it while seeking a new or supplemental appropriation. Augmentations and scope changes are discussed in Sections 6861 and 6863.

No transfer of capital outlay funds between scheduled projects. The annual Budget Act includes control section language forbidding the transfer of funds between scheduled projects in a client department's capital outlay item. (There may be some exceptions on an item-by-item basis.) However, PWB retains the authority to augment a project's appropriation, provided there are sufficient revenues available in the source fund.

Period of appropriation availability. The *Governor's Budget* includes only those projects or project phases for which funds can be encumbered within the appropriation period. Section 2.00 of the Budget Act specifies that, in general, appropriations and reappropriations for capital outlay pursuant to that act are available for expenditure for three years (with an additional two years for liquidation), with the exception of appropriations for studies, preliminary plans, working drawings, or minor capital outlay which are available for encumbrance for a single year only. However, a construction appropriation reverts to its source fund *at the end of the first year of appropriation availability* if DOF has not allocated the funding through fund transfer or approval to proceed to bid.

A capital outlay appropriation provided through special legislation is also available for expenditure for three years (followed by a two-year liquidation period), unless otherwise specified or unless the chapter makes the appropriation continuous.

CEQA review required. The California Environmental Quality Act (CEQA) requires environmental review of any project undertaken in whole or in part by any public agency. See Section 6850 for more information.

Process exceptions for certain departments. The University of California, the California State University, the California Community Colleges, some Resources Agency departments, and the Department of Corrections' New Prison Construction Program (Penal Code 7003) may handle the design and construction of their own projects without using DGS' services. However, the instructions contained in this chapter are otherwise fully applicable unless waived by statute or Budget Act language. (The Department of Water Resources for the State Water Project and the Department of Transportation for highway-related projects are not subject to the instructions contained in this chapter.)

BUDGET PREPARATION AND ENACTMENT TIMETABLE **6814**
(Revised 5/98)

The following 6814 Illustration will help departments plan their capital outlay budget work. To meet statutory budget time frames, departments must submit requests for *major* capital outlay projects in early February, 17 months prior to the budget year for which funding is requested. *Minor* capital outlay requests are due in early July, one year prior to the budget year (Section 6807). Late requests will be accepted only if DOF has previously approved late submittal. Departments within agencies must have agency concurrence for their proposals, prior to submittal. Submission dates indicated are when documents are due to DOF, DGS, and usually the LAO.

References to DGS in the following table also apply to any department which is authorized to act as its own project manager. Due dates on the chart are approximate; actual dates are set by Budget Letter.

Page 6814 ILLUSTRATION

TIMETABLE FOR FIRST YEAR ACTIVITIES

February 1	Last date to submit five-year capitalized assets plans and capital outlay budget change proposals (COBCPs) for each new or continuing projects to DOF (2 copies), LAO (1 copy), and DGS (2 copies).
February–March	DOF refers selected new projects to DGS for a technical feasibility review.
March	DOF releases funds to DGS for the preparation of budget packages for new projects.
July 1	Last date for departments to submit minor capital outlay requests to DOF and LAO.
July–October	DOF schedules scope review meetings, as required, for both major and minor capital outlay requests. The review may include the department, the LAO, and, if appropriate, DGS.
August 15	Higher education segments submit five-year plans and COBCPs.
September 1	(1) DGS submits completed budget packages, cost updates, and scope refinements to DOF and client departments for potential inclusion in the *Governor's Budget*. (2) Client departments submit any other revisions to their five-year plans and COBCPs made necessary by final budget enactment. (3) Updated fund conditions are due for COBCPs requested from special funds. (4) Responses are due on the ten-year survey for the annual *Capital Outlay and Infrastructure Report*.
October-November	Capital outlay budget hearings with agencies and DOF.
November–December	Following Governor's decisions, DOF authorizes departments to release approved COBCPs to the LAO, incorporating final dollars and approved scope.

TIMETABLE FOR SECOND YEAR ACTIVITIES

January 10	*Governor's Budget* and Budget Bill presented to the Legislature.
February	Client agencies submit requests for Finance Letters for technical and policy amendments to capital outlay projects proposed in the Governor's Budget per annual Budget Letter instructions from DOF. A new or updated COBCP is required.
March–June 15	Legislative budget hearings held.
April 1	*By statute*, any capital outlay Finance Letter of a policy nature (i.e., proposing a scope change or new project) must be submitted to the Legislature by this date.
April 30	Last day project proposals via Section 6.00 will be accepted, if DOF approval is required.
May 1	*By statute*, any capital outlay Finance Letter proposing a technical adjustment to a capital outlay project must be submitted to the Legislature by this date.
June 15–June 30	Budget Bill signed by Governor.

DOCUMENTS REQUIRED TO REQUEST CAPITAL OUTLAY FUNDING **6816**
(Revised 5/98)

A department must make a formal request to DOF by February 1 of each year to have a major capital outlay project included in the annual *Governor's Budget* presented to the Legislature the following January. The following documents are required:

1. A capital outlay budget change proposal (COBCP), as described in Section 6818.

2. The five-year capitalized assets plan, showing projected needs by project (or capitalized lease) for the budget year and four additional years, as described in Section 6820.

3. A current fund condition statement for the proposed fund source, *if* the department manages the fund. (Obtain the fund condition statement from the departmental budget officer.)

4. For departments planning to use prototypes, any proposed new prototypes or changes to existing prototypes (provide with the five-year plan per Section 6821.)

5. A copy of the facility inventory is *optional*, but departments must keep the inventories current in the event DOF or LAO requires a copy.

In addition, all departments within the Administration (which excludes constitutional officers, constitutionally created boards and commissions, and the higher education segments) must have a strategic plan approved by the Governor's Office before DOF will consider a COBCP.

The required items must be approved by the appropriate agency secretary *before* release to DOF. The department then submits the information package simultaneously to DOF (2 copies), LAO (1 copy), and DGS (2 copies). Minor projects are included in the five-year plan as a lump sum for each of the five years. This lump sum for minor projects must be detailed later—by July 1—as described in Sections 6807 and 6814.

CAPITAL OUTLAY BUDGET CHANGE PROPOSALS (COBCP) **6818**
(Revised 5/98)

A COBCP is required for all capital projects proposed for the Governor's Budget and for certain capitalized leases which do not have prior legislative authority. This section provides:

1. An overview of the purpose of the COBCP;

2. Under what circumstances a COBCP is required;

3. Timelines for submittal and updating;

4. Instructions for completing COBCPs, including a section on technical notes; and

5. A sample of the required COBCP format in the illustration for this section.

Additional documents which must accompany the COBCP are outlined in Section 6816 and explained in Sections 6820, 6821, and 6822. Terminology, acronyms and forms are defined and indexed in the glossary (Section 6899).

Purpose of the COBCP: In broad terms, the COBCP justifies the funding request. Specifically, the COBCP must:

1. Define the client department's problem and establish its significance;

2. Demonstrate that the client department has explored all reasonable alternatives to solving the problem and offered the most logical solution;

3. Provide detailed documentation for the proposed solution and its cost; and

4. Explain how the project supports the department's strategic plan.

DOF will consider only those proposals which *convincingly* meet all four of these requirements.

A COBCP (or an updated COBCP) is required for:

1. **Any request for a capital outlay appropriation or reappropriation**, whether for acquisition of land or structures or for construction. (Definitions of what cost elements are classified as capital outlay are provided in Section 6806.) A COBCP is also required for project augmentations which exceed PWB's authority (i.e., over 20 percent of the original appropriation). See Section 6861.

2. **Requests for Finance Letters** to adjust an existing project proposal, whether for technical or policy reasons, or to add an urgent new proposal.

3. **Entering into a lease with purchase option**. Although no capital expenditure is made when entering into a lease with a purchase option, the potential for a capital acquisition is created. At the time the client department submits a STD. 9 space action request for DOF review, it must demonstrate that it has analyzed the potential alternatives (state construction, lease-purchase agreement, pure lease) and selected the best alternative. *For projects then seeking statutory authority for the purchase option through the Budget Act, the cost-benefit or economic analysis must be updated and presented as a COBCP*. (A COBCP is required whether or not there is a related support BCP for lease costs.) For projects seeking purchase option authority through special legislation, similar information will be required as part of DOF's review of proposed legislation. For projects under $2 million, DGS has general statutory authority for purchase options (Government Code Section 14669).

4. **Exercising a purchase option on capital assets.** Exercising a purchase option (even a $1 purchase option) requires a capital outlay appropriation. (The exception is for trailers and relocatable or modular buildings.) At the time the acquisition appropriation is requested, the client department submits an updated COBCP with an economic analysis showing that the proposed purchase is still cost-beneficial, considering any changes in program need, lease market conditions, and state construction alternatives.

(Continued)

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CAPITAL OUTLAY BUDGET CHANGE PROPOSALS (COBCP) **6818** (Cont. 1)
(Revised 5/98)

5. **Entering into a lease-purchase agreement for capital assets.** Although no capital expenditure is made under a lease-purchase agreement, a capital acquisition occurs. If the authorization for a lease-purchase is sought through the Budget Act, the department must submit a COBCP comparing alternatives to meeting its space requirements and demonstrating that a lease-purchase agreement is the most cost-beneficial.

6. **Entering into any other lease which meets the definition of *capitalized lease*, and where authority is sought through the Budget Act**. A lease agreement is a capitalized lease (an "in-substance purchase") when substantially all of the risks and benefits of ownership are assumed by the lessee. If a lease meets *any one of the following conditions*, it is a capitalized lease:

   a. Ownership of the leased asset is transferred to the state at the end of the lease period.

   b. The lease gives the lessee the option of purchasing the leased asset at a nominal value at some point during or at the end of the lease period.

   c. The period of the lease (a *single* term of a lease, not including renewals) is 75 percent or more of the estimated useful life of the leased asset.

   d. The present value of the sum of the minimum lease payments is 90 percent or more of the fair market value of the leased asset (i.e., the lease payments over a *single* term of the lease are substantially the same as the purchase price).

   Unless existing statute authorizes a capitalized lease (for example, Government Code Section 14669 for DGS), the lease requires specific authority. If the Budget Act will be used to provide that authority, a COBCP is required whether or not a capital outlay appropriation is needed.

7. **Minor alterations projects authorized by Section 6.00 of the Budget Act**. Section 6.00 projects which require DOF approval and legislative notification (i.e., those between $35,000 and $250,000) must be submitted for review to the DOF Capital Outlay Unit with substantially the same information as required in a COBCP, and no later than April 30 of the year of appropriation availability. See Section 6806.

Additionally, if a support budget increase is needed as a result of a capital outlay project—including for rent increases pursuant to a lease—a support BCP must also be submitted separately to the appropriate DOF support unit.

Timelines for submitting and updating COBCPs. COBCPs are due February 1, seventeen months before the beginning of the budget year, as part of a larger package of documents identified in Section 6816.

Project plans may be affected in timing or scope by enactment of the budget for the intervening fiscal year (i.e., the year prior to the budget year). Therefore, technical project updates are required for COBCPs by September 1, nine months prior to the budget year. However, new projects for the budget year are not accepted as part of this update, unless DOF agrees the program need is urgent. Updated fund condition statements are also due September 1 per Section 6816.

Project costs are adjusted in the fall prior to the budget year, using budget packages prepared by DGS at DOF's request. (See Section 6814 for time-frames.) This information is given directly to DOF by DGS.

Final budget package estimates are sometimes not available in time to include in the *Governor's Budget*. Therefore, DOF annually prepares a Finance Letter for technical adjustments to capital outlay projects which is due to the Legislature by the May 1 before the budget year. Client departments must request technical changes in writing, using a COBCP format, generally no later than mid-February (the specific date is published in a DOF Budget Letter). Finance Letters proposed by the Administration are reviewed by the Legislature in conjunction with the *Governor's Budget*.

The Finance Letter process may also be used to propose scope changes to projects in the *Governor's Budget*, to add new (urgent) projects, or to accelerate project phases. These are termed "policy changes" and are due to the Legislature by April 1. The due date for requests from departments is the same as for technical changes (i.e., mid February). An updated or new COBCP is required for policy Finance Letters.

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CAPITAL OUTLAY BUDGET CHANGE PROPOSALS (COBCP) **6818** (Cont. 2)
(Revised 5/98)

An overview of the project phases—including the budget approval phase—is provided in Section 6809. A timetable for budget preparation and enactment is provided in Section 6814.

Instructions to complete a COBCP. Information required to complete a COBCP is presented as follows in the same order as required on the COBCP (see 6818 Illustration.)

Page 1 of COBCP form:

1. COBCP #: Assigned by department.
2. Priority #: This is the ranking the client department assigns the COBCP in relation to all its other COBCPs. *Only one project per rank is allowed.*
3. Organization code: Use the department's organization code per the Governor's Budget.
4. Department: Use the organization title per the Governor's Budget.
5. Project Title: If the COBCP is for a continuing phase of an existing project, use the same project title as in previous phases.
6. Phases Funded With This Request: The phase(s) to be funded in the budget year by the COBCP. Use the phase codes as defined in Section 6839.
7. Project Identification Code: See Section 6839 for instructions. If the COBCP is for a continuing phase of an existing project, use the same project ID as in previous phases.
8. Project Category: See Section 6839 for project category codes. Only *one* code is permitted. Use the code which is most descriptive of the overall project.
9. Location: The city, county, or other location description typically used by the client department for its capital outlay projects.
10. Congressional, Senate, and Assembly district numbers for the project: District information is available from the client department's legislative office.
11. Problem Statement: A brief synopsis of the problem the department needs to solve, taken from the information provided on Page 4, Part A of the COBCP.
12. Proposal: A brief description of the recommended alternative, taken from Page 4, Part D of the COBCP.

Page 2 of COBCP form:

1. Heading: The following fields should match Page 1: COBCP #, organization code, Department, Project ID code and Project Title.
2. Date: The date this page was prepared.
3. DGS Estimate: DGS job number for budget package, if applicable. This number may not be available for new projects at the time of initial COBCP submittal. However, it should be available for all continuing phases of existing projects managed by DGS.
4. Costs: Provide actual or estimated cost for each phase of the project (in thousands).

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CAPITAL OUTLAY BUDGET CHANGE PROPOSALS (COBCP) **6818** (Cont. 3)
(Revised 5/98)

5. Funding Data: Provide the project's funding history by item of appropriation (or by chapter reference if funded through special legislation). Future year funding must include the balance of the funding necessary to complete the project, not simply the level of funding required for the following year. Costs and funding totals must tie for each column.

6. Schedule: The actual or estimated start or completion date as applicable for each phase of the project.

Page 3 of COBCP form:

1. Heading: The following fields should match Page 1: COBCP #, organization code, Department, Project ID code and Project Title.

2. Date: The date this page was prepared.

3. Project Related: If the COBCP requests funding for any of the following costs in the budget year, attach a detailed list identifying each item and associated cost. If the funding is to be requested in future years provide a descriptive narrative establishing estimated needs. These totals should match the corresponding lines on Page 2.

   a. Construction Detail - Agency Retained;

   b. Construction Detail - Group 2 Equipment (equipment included in construction funding); and

   c. Equipment (Group 2) Phase: (equipment which is to be funded in a separate phase).

4. Impact on State Operations: If the project will cause/necessitate changes to the department's State Operations budget, provide narrative, associated dollars and the fiscal year of impact in each of the following categories: One-time Costs, Future Costs, Future Savings, and Revenue.

Page 4 of COBCP form:

1. Heading: The following fields should match Page 1: COBCP #, organization code, Department, Project ID code and Project Title. The heading should appear on each page of the analysis narrative. (a blank form is attached.)

2. Date: The date this page was prepared.

Purpose of project: What is the problem? What is the underlying program need or infrastructure deficiency?

1. **Explain a program-based need** by relating the infrastructure request to the program that the real property serves. (The Capital Outlay Unit of DOF will verify program-driven needs with the client department's DOF support analyst.) At a minimum, address:

   a. The program change.

   b. The overall infrastructure requirement related to that change.

      (1) *Capacity requirements*: Express capacity (total size) needs in terms of patients housed, inmates, full-time equivalents (FTEs), office space requirements, or other accepted "units" for the program. Some programs are required to use specific DOF-generated data for enrollment or growth, or to use "capacity" measurements approved by DOF and/or the Legislature. If reference is made to any space or cost studies, append these to the COBCP.

      (2) *Special space requirements*: All special purpose rooms and offices must be fully described by purpose, square footage, and need (based on program requirements).

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CAPITAL OUTLAY BUDGET CHANGE PROPOSALS (COBCP) **6818** (Cont. 4)
(Revised 5/98)

c. What the project accomplishes towards that infrastructure requirement. For projects providing an increment towards an overall goal (such as total acreage of wetlands) specify:

(1) What portion of the requirement has already been met;

(2) How much the project would add; and

(3) What the remaining need will be and how the department proposes to meet that need.

2. **If the need is not program related, explain the real property deficiency** in terms of specific mechanical/electrical system inadequacies, code requirements, maintenance/repair difficulties, etc. Include copies of State Fire Marshal citations, Department of Health Services citations, surveys, or other documents to substantiate need.

Relationship of Project to Strategic Plan: Explain the project's relevancy to the department's strategic plan. Projects which lack a clear supporting relationship to the department's strategic plan will be returned.

Alternatives: Present all reasonable alternatives to solve the problem. In developing potential alternatives, address the following questions:

1. Program delivery: are there different ways to achieve the same program outcomes?

2. Is there more than one potential site? What are the required site characteristics?

3. Given a specific site, are there alternative facility solutions? For new construction or capitalized leasing proposals, submit an economic analysis comparing facility alternatives over a 25-year period (i.e., compare straight lease, lease-purchase, new building construction, renovation of existing facility, etc.).

4. What are the alternative funding solutions? Which state funds sources are available? Are funding partnerships feasible with other state agencies or other levels of government?

5. What other management factors are critical in selecting an alternative?

6. For each alternative, provide the following information *in brief*:

   a. Description of alternative;

   b. Overview of scope;

   c. Total cost of all phases of the project (use only approved cost indices, and identify both short term and life-cycle costs);

   d. Funding source, including project eligibility for that source;

   e. Summary of related program benefits and costs (include impacts on the support budget such as personnel years and operating costs specific to the program). Indicate if a support BCP will be required, and when; and

   f. Summary of facility management benefits, such as impact on the department's maintenance budget, extension of the facility's design life, etc.

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CAPITAL OUTLAY BUDGET CHANGE PROPOSALS (COBCP) **6818** (Cont. 5)
(Revised 5/98)

Recommended Solution and Why:

Which is the best alternative, and why? Describe the recommended alternative in detail. This description is the basis on which initial scope will be defined.

1. All factors influencing site selection must be fully justified**. For land acquisition projects where a specific site is already selected**, identify why that site is critical. Address landscape character; existing resource values; existing access, utilities and structures (and how they would be used); and statewide significance.

2. If the recommended solution is not the least expensive, describe the factors/benefits that justify the extra cost. (This justification could address life cycle savings, support budget offsets, or other program/management factors.)

3. Provide a detailed scope description. Include:

   a. Specific program needs to be addressed through the project, including: proposed size (number of stories, gross and usable/assignable square feet, etc.); special features (food service, auditoriums, child care facilities, etc.); special Group 1 or Group 2 equipment needs; types of basic materials to be used if known; and any other items that will allow full understanding of the proposed project. Include any project drawings or renderings if available.

   b. Specific location of the project, including a vicinity map that describes the area served. If the project is for a replacement facility, explain how Group 2 replacement equipment will be funded.

   c. For land acquisition projects, an inventory of existing structures and the approximate appraised value of each parcel (or group of parcels), including the basis for the appraisal (staff appraisals, previous sales, AIA appraisal, etc.). Upon formal request, DGS will assist departments in preparing this information (specifically, parcel values, site selection factors and the economic analysis).

4. Provide a proposed project time schedule that takes into consideration the environmental review process. Section 6846 describes the required format.

5. Provide full cost information.

   a. Approximate cost by phase, indicating the basis on which the estimate was prepared. If costs are based on a previously developed budget package, append that package to the COBCP. Note if costs have been adjusted for inflation and on what basis, (i.e., which specific CCCI).

   b. A proposed funding source for each phase, including identification of any funding partners at the federal, state or local level.

   c. A complete funding history, including all previous submissions and any other data to completely describe past project history and future funding requirements. Section 6845 Illustration 2 describes the required format.

6. Describe the impacts on the support budget.

   a. Include an analysis that identifies future maintenance and operation costs (in operating expenses and personnel years). Identify the proposed source of funds. Note whether a support BCP will be needed concurrently or in the future.

   b. Identify potential cost savings and/or potential revenues or reimbursements with proposed disposition and the basis for calculation.

7. Identify and explain any project risks. If the project was previously rejected by either the Administration or the Legislature for any reason other than lack of funding, explain the basis of the rejection and any significant project changes from the previous submission.

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CAPITAL OUTLAY BUDGET CHANGE PROPOSALS (COBCP) **6818** (Cont. 6)
(Revised 5/98)

8. List coordination responsibilities with other state agencies and levels of government, including any *mandatory reviews and approvals*.

   a. Impacts on other departments.

   b. Required coordination with the State Historic Preservation Officer (see Section 6822).

   c. CEQA requirements as described in Section 6850. Note any probable opposition to CEQA approvals (SAM sections 1000–1099).

   d. Clearances required from planning or review agencies such as the State Fire Marshal, the State Coastal Commission, local jurisdiction general plans, etc.

9. List all items proposed for agency retention. *Agency-retained items* are project elements which the department rather than the architect/engineer or contractor provides. Typical examples include movable equipment, installation, resource protection, etc. DOF approval of a DF-14D (Section 6845, Illustration 1) is required before the department may commence these activities. Identify whether this includes department personnel costs.

Technical Notes:

1. Capital outlay projects which include an information technology (IT) component must also comply with the IT reporting requirements contained in Sections 4800–5953 and Sections 6000–6965 of the State Administrative Manual. Examples of IT activities typically included in capital outlay projects include: the purchase and/or upgrade of IT equipment or software; the installation and/or upgrade of telecommunications equipment (excluding voice only); or the installation and/or upgrade of local area network equipment or software. The Department of Information Technology (DOIT) is responsible for the review and approval of IT activities from a technology feasibility perspective; the Technology Investment Review Unit of DOF reviews IT proposals from a business cost/benefits perspective. In both cases, the review vehicle is the feasibility study report (FSR). Questions regarding DOIT's IT reporting requirements should be directed to DOIT. *All IT reporting requirements must be met before the IT component of a capital outlay project may be approved*.

2. **Group 2 equipment phases of projects**. Group 1, fixed equipment, is incorporated into or attached to the facility and therefore is included in the construction phase of a project. Group 2, movable equipment, is budgeted as a separate phase. For a COBCP requesting the Group 2 equipment phase of a project, provide the project appropriation history, including the project name, budget act items, and project code. Definitions of Group 1 and Group 2 equipment are provided in Section 6855.

   For Group 2 equipment, identify how funding needs were determined. Show *all* items of equipment to be placed in a room, indicating whether the item is to be purchased by the agency or transferred from another building or location. Account for all equipment currently available in buildings to be replaced by the new structure. Final approval of equipment lists generally follows approval of preliminary plans. Exceptions to this rule are discussed in Section 6855.

   Movable equipment which does not meet the definition of capital outlay per Section 6806 is not proposed in a COBCP. These costs are proposed and funded in the state operations appropriation (i.e., they require a support budget change proposal).

3. **Coordination of STD. 9s with COBCPs and BCPs**: Departments submit space action requests (STD. 9s) for:

   a. New or additional space (including swing space), lease extensions, or renewals desired by an agency in noninstitutional buildings—whether state-owned or leased, and

   b. Relocatable buildings and trailers.

   DOF approval of a STD. 9 does not constitute approval for a support budget increase or a capital outlay appropriation, or approval to include authorization language for a lease-purchase, purchase option, or option execution in the Budget Act. If any of these is required, either a support BCP or a COBCP (or both) must be submitted to DOF. SAM Section 6453 provides additional information.

(Continued)

4. **Architectural and engineering (A&E) fees:** A&E fees (basic and nonbasic) are charged for architectural and engineering work performed either by the department or by consulting professionals. Expenses may also include project-related construction management support, such as construction inspection, travel, bidding expenses, and drawings. Generally, A&E fees do not exceed 13 percent of the proposed construction contract amounts (excluding construction contingencies). *Special items exceeding 13 percent* (such as services related to asbestos or seismic) should be separately identified in the COBCPs. Contact the DGS Customer Account Management Branch for assistance with budgeting A&E fees.

5. **Swing space for capital outlay projects**: Swing space, i.e., temporary accommodations during a facility remodel, is a state operations cost which should be noted informationally on the COBCP but requested separately as a support BCP.

6. **Allowable cost indices:** Departments must use the California Construction Cost Index (CCCI). Use of any other index requires DOF concurrence. Each July, DOF releases a Budget Letter identifying the approved CCCI to be used when updating COBCPs for the following fiscal year (Section 6812).

Page 6818 ILLUSTRATION

STATE OF CALIFORNIA
CAPITAL OUTLAY BUDGET CHANGE PROPOSAL (COBCP)
COVER SHEET
(REV 11/97)
Please report dollars in thousands

Department of Finance
915 L Street
Sacramento, CA 95814
IMS Mail Code: A-15

COBCP #	PRIORITY #	ORG CODE	DEPARTMENT

PROJECT TITLE	PHASES FUNDED WITH THIS REQUEST:

PROJECT ID CODE	PROJECT CATEGORY	LOCATION	LEGISLATIVE DISTRICTS Congress: Senate: Assembly:

PROBLEM STATEMENT

SUMMARY OF PROPOSAL

REQUIRES LEGISLATION	CODE SECTION(S) TO BE AMENDED/ADDED	IMPACT ON STATE OPERATIONS – MARK IF APPLICABLE
☐ YES ☐ NO		☐ ONE-TIME COSTS ☐ FUTURE SAVINGS ☐ FUTURE COSTS ☐ REVENUE

PREPARED BY	DATE	REVIEWED BY	DATE
DEPARTMENT DIRECTOR	DATE	AGENCY SECRETARY	DATE

IF PROPOSAL AFFECTS ANOTHER DEPARTMENT, DOES THE OTHER DEPARTMENT CONCUR?

☐ YES
☐ NO

ATTACH COMMENTS OF AFFECTED DEPARTMENT. COMMENTS MUST BE SIGNED AND DATED BY THE DEPARTMENT DIRECTOR OR DESIGNEE.

DOF ANALYST USE
DOF ISSUE #: POLICY CAT: PROJECT CAT: REQUIRES BUDGET PACKAGE:
ADDITIONAL REVIEW : SUPPORT BUDGET☐ TIRU☐ FSCU☐ OSAE☐ CALSTARS ☐

(Continued)

Page 6818 ILLUSTRATION (Cont. 1)

STATE OF CALIFORNIA
CAPITAL OUTLAY BUDGET CHANGE PROPOSAL (COBCP)
PAGE 2 - FISCAL DETAIL
(REV 11/97)
Please report dollars in thousands

Department of Finance
915 L Street
Sacramento, CA 95814
IMS Mail Code: A-15

COBCP #	DATE	ORG CODE	DEPARTMENT
PROJECT ID CODE	DGS ESTIMATE	PROJECT TITLE	

	PRIOR YEARS	BUDGET YEAR	BUDGET YEAR +1	FUTURES YEARS	PROJECT TOTAL
COSTS					
STUDY					
ACQUISITION					
PRELIMINARY PLANS					
WORKING DRAWINGS					
TOTAL CONSTRUCTION (1)					
EQUIPMENT PHASE (GROUP 2)					
OTHER					
TOTAL COSTS	$	$	$	$	$
CONSTRUCTION DETAIL (1)					
CONTRACT					
CONTINGENCY					
A & E					
AGENCY RETAINED					
GROUP 2 EQUIPMENT					
TOTAL CONSTRUCTION	$	$	$	$	$
FUNDING DATA (Chapter/Item) or Executive Order					
FUTURE FUNDING					
TOTAL FUNDING (2)	$	$	$	$	$

SCHEDULE	COMPLETION DATE MM /DD/ YYYY
ACQUISITION APPROVAL	/ /
START PRELIMINARY PLANS	/ /
PRELIMINARY PLAN APPROVAL	/ /
PROCEED TO BID	/ /
CONTRACT AWARD	/ /
OTHER (SPECIFY)	/ /
PROJECT COMPLETION	/ /

(1) Total Construction must tie to the total of the Construction Detail.
(2) Total Funding must match the Total Cost.

(Continued)

Page 6818 ILLUSTRATION (Cont. 2)

STATE OF CALIFORNIA
CAPITAL OUTLAY BUDGET CHANGE PROPOSAL (COBCP)
PAGE 3 - SUPPLEMENTAL INFORMATION
(REV 11/97)
Please report dollars in thousands

Department of Finance
915 L Street
Sacramento, CA 95814
IMS Mail Code: A-15

COBCP #	DATE	ORG CODE	DEPARTMENT
PROJECT ID CODE			PROJECT TITLE:

IDENTIFY ALL ITEMS WHICH FIT INTO THE CATEGORIES LISTED BELOW. ATTACH A DETAILED LIST IF FUNDING IS INCLUDED IN THIS REQUEST. PROVIDE ASSUMPTIONS FOR FUTURE FUNDING.

PROJECT RELATED		
CONSTRUCTION DETAIL - AGENCY RETAINED		
	TOTAL	$
CONSTRUCTION DETAIL - GROUP 2 EQUIPMENT		
	TOTAL	$
EQUIPMENT PHASE (GROUP 2)		
	TOTAL	$
IMPACT ON STATE OPERATIONS		
ONE-TIME COSTS		
	TOTAL	$
FUTURE COSTS		
	TOTAL	$
FUTURE SAVINGS		
	TOTAL	$
REVENUE		
	TOTAL	$

(Continued)

Page 6818 ILLUSTRATION (Cont. 3)

STATE OF CALIFORNIA
CAPITAL OUTLAY BUDGET CHANGE PROPOSAL
PAGE 4 - ANALYSIS OF PROBLEM
(REV 11/97)

Department of Finance
915 L Street
Sacramento, CA 95814
IMS Mail Code: A-15

COBCP #	DATE	ORG CODE	DEPARTMENT
PROJECT ID CODE			PROJECT TITLE:

USING THE ATTACHED SHEET, EACH BCP MUST FOLLOW THE FORMAT OUTLINED BELOW AND FULLY ADDRESS ALL OF THE ITEMS. USE ADDITIONAL SHEETS AS NECESSARY . REFER TO SAM SECTION 6818 FOR INSTRUCTIONS ON WHAT INFORMATION TO PROVIDE. CERTAIN PROJECTS MAY REQUIRE ADDITIONAL INFORMATION. QUESTIONS SHOULD BE REFERRED TO DOF.

A. PURPOSE OF THE PROJECT: (problem, program need, infrastructure deficiency)

B. RELATIONSHIP TO STRATEGIC PLAN: (relevance of problem/need/deficiency to mission and goals)

C. ALTERNATIVES: (for each, describe the proposed alternative and provide a brief summary of scope, cost, funding source, program benefits, facility management benefits, impact on support budget)

D. RECOMMENDED SOLUTION:
   1. Which alternative and why?
   2. Detail scope description.
   3. Complete description of impact on support budget.
   4. Identify and explain any project risks.
   5. List required interdepartmental coordination and/or special project approval. (including mandatory reviews and approvals, e.g. technology proposals).

STATE OF CALIFORNIA
CAPITAL OUTLAY BUDGET CHANGE PROPOSAL
PAGE 4 - ANALYSIS OF PROBLEM
(REV 11/97)

Department of Finance
915 L Street
Sacramento, CA 95814
IMS Mail Code: A-15

COBCP #	DATE	ORG CODE	DEPARTMENT
PROJECT ID CODE			PROJECT TITLE:

ANALYSIS NARRATIVE - PAGE _____ OF _____

FIVE-YEAR CAPITALIZED ASSET PLAN **6820**
(Revised 5/98)

The five-year capitalized asset plan is a planning tool to help DOF and the Legislature review capital outlay projects and capitalized leases proposed for the budget year within the context of a multi-year program. Any department submitting a COBCP must also submit a five-year plan. The plan relates the department's capital outlay program to its strategic plan, identifies needs by project (and by phase), and establishes priorities.

At a minimum, the five-year plan must include the following elements:

1. **A narrative overview of the five-year plan** addressing both:

   a. **Program factors:** What has created the need for capital outlay (from a program perspective), and what are the future trends? Discuss program population, enrollment, caseload, or other growth trends, including changing methods or locations of service delivery and new service requirements. *Relate program needs to the department's strategic plan.* Discuss those needs in at least as much detail as presented in the *Governor's Budget* (i.e., at the program, element, or component level, whichever is appropriate.) Cite DOF or other DOF-approved organization statistics and projections, and changes in statute driving program needs.

   b. **Infrastructure management factors:** What structural corrections are required, and why? Discuss facility aging, code compliance, and structural deficiencies unrelated to program factors. As appropriate, cite changes in codes or statutes.

   If the department produces a real asset management plan, facilities management plan, or master facilities plan which provides the preceding information, a copy of that plan may be substituted for the narrative overview.

2. **An overview of real estate** used/owned by department which shows the total of acres/square feet (both gross and usable/assigned) for state-owned versus leased space. Categorize leased space by:

   a. Leased space under lease-purchase agreement;

   b. Leased space with purchase options; and

   c. Pure (straight) leases.

   Use the format provided in 6820 Illustration 1 of this section. Separate instructions apply for the higher education segments; contact the DOF Capital Outlay Unit.

3. **Leasing information:**

   a. A list of leases due to expire in the next five years by location, facility type, square footage, annual lease payment, and year of expiration. Note which of these leases has a purchase option and the amount of that option. Use the format in 6820 Illustration 2 Chart A of this section.

   b. A list of any proposed new purchase options or lease-purchase agreements within the next five-year period, by location, facility type, and square footage. Use the format in 6820 Illustration 2 Chart B and 2 Chart C of this section.

   DGS has a data base called the State Property Inventory (SPI) which departments may find helpful in developing information on leases. This data base is accessible through the Stephen P. Teale Data Center. For further information, contact the Business Operations Policy and Planning Branch in DGS' Real Estate Services Division.

   Separate instructions apply for the higher education segments; contact the DOF Capital Outlay unit.

4. **A map** showing the location of the department's statewide operations (major facilities and land holdings).

(Continued)

(Continued)
FIVE-YEAR CAPITALIZED ASSET PLAN **6820** (Cont. 1)
(Revised 5/98)

5. **A listing, by project, showing basic project background information**. Use the format in 6820 Illustration 3 (Cont. 1) Chart C of this section. An explanation of the headings is provided in the following:

   a. Rank means priority order of projects for the entire department, with no more than one project per ranking.

   b. Location of Project: Name of county, city, etc.

   c. Type of Facility/Lands: Office space, warehouse, laboratory, academic building, park, wetlands, etc.

   d. Project Name: If this is an ongoing project, use the same project name as in previous phases of the project.

   e. Project Identification Code: This code is assigned by the department according to rules established in Section 6839. If this is an ongoing project, be sure to use the same project identification code as in previous phases of the project. All COBCPs for the budget year must have a project identification code; project codes are optional for new projects proposed to begin after the budget year.

   f. Proposed Action Codes:

      CN construct new
      CR construct replacement
      R renovate
      A acquire
      D demolish
      E equipment
      O other

   g. Project category: These codes indicate project function as defined in Section 6839.

6. **TWO listings of all proposed capital outlay appropriations** for the next five years. The first listing is by project priority ranking. The second listing is by project location. Use the format in 6820 Illustrations 3 Chart A and 3 Chart B of this section. An explanation of the headings is provided in the following:

   a. Rank means priority order, department-wide, and must be the same ranking as on the project background table.

   b. Location of project: name of county, city, etc. Use the same location names as on the project background table.

   c. Funding history and projections: by year, list project dollars by amount and phase. Some columns also require fund source information. Use additional lines, (as many required per project) for reporting multiple phases in a single year.

      (1) Round project dollars to the nearest thousand.

      (2) List amounts for each project phase separately, and indicate the phase using the coding rules in Section 6839.

      (3) For proposed funding sources, use the appropriate fund code. Contact the departmental budget officer for fund code listings.

   Be sure to include in the project listing any existing purchase options which the department plans to exercise within the five-year period.

7. Estimating costs for the five-year plan. **When estimating costs for COBCPs and five-year plans, departments must use the current California Construction Cost Index. Use of other indices requires prior DOF approval. See "Technical Notes" in Section 6818.**

Page 6820 ILLUSTRATION 1

OVERVIEW OF REAL ESTATE INVENTORY
FOR FIVE-YEAR CAPITALIZED ASSETS PLAN

Department: Department of ABC

Contact Person and Phone Number: John Doe, (916) 445-9694

Date of data: February 1, 1997

Identify the total current space under the department's control. Include both owned and leased space managed either by the department directly, or on behalf of the department by the Department of General Services. Use the applicable unit of space (i.e. acres, gross square feet, net/usable/assignable square feet or other categories). Adaptations of this format to meet special department needs must be approved by the DOF Capital Outlay Unit.

Occupied space:

Facilities (both owned and leased):

1. State-owned space (facilities): 500,000 usable square feet (usf)
2. Facility space in the process of being acquired under lease-purchase arrangements: 200,000 usf
3. Space under a lease with a purchase-option: 400,000 usf
4. Space under pure operating leases: 30,000 usf

Property (owned only):

1. Acreage in use, other than open space: 13.2 acres
2. Acreage programmed as open space: 25.7 acres

Vacant/unutilized space

Facilities:

1. All facility space owned/leased but not occupying, if any: none

Property:

1. Vacant property (not programmed as open space): 2.3 acres.

Total space:
Facility: 1,230,000 usf
Acreage: 30.3 acres

Page 6820 ILLUSTRATION 2

LEASING INFORMATION FOR FIVE-YEAR CAPITALIZED ASSETS PLAN

A. Existing Leases Due to Expire in the Next Five Years

Location	Facility Type	Size (Specify Units)	Annual Lease Payment	Fiscal Year Expires	Include Purchase Option? (Y/N)	Amount of Option, if Any
Sacramento	General Office	20,000 usf	$480,000	2000-01	Y	$3,500,000
San Diego	Lab	10,000 usf	$240,000	2001-02	N	n/a

B. Planned New Lease-With-Purchase-Option Arrangements in the Next Five Years:

Location	Facility Type	Size	Annual Lease Payment	FY In Which Option Can Be Exercised	Option Amount
Riverside	General office	10,000 usf	$240,000	2002-03	$3,000,000

C. Planned New Lease-Purchase Arrangements in the Next Five Years:

Location	Facility Type	Size	Length of Time	Annual Lease-Purchase Payment
Los Angeles	Warehouse	50,000 usf	20 years	$275,000

Page 6820 ILLUSTRATION 3 PLANNED CAPITAL OUTLAY PROJECTS FOR THE NEXT FIVE YEARS

A. Project Appropriations by Ranking

(Dollars in Thousands)

A	B	C	D	E	F	G	H	I	J	K
Rank	**Project Name**	**Previous Funding $/Phase/Fund Code**	**$ Next 5 Years**					**Total 5 Years/ Fund Code**	**Costs to Complete**	**Cum Total**
			BY $/Phase	**BY+1 $/Phase**	**BY+2 $/Phase**	**BY+3 $/Phase**	**By+4 $/Phase**	**(Sum D thru H)**	**(Beyond BY+4)**	**(C+I+J)**
1	Project A	1,300/A/0001	100/P	200/W	1,000/E					
		____	____	9,000/C	____					
	Subtotal, Project A	1,300	100	9,200	1,000			10,300/0001		11,600
2	Project B			50/P	100W	3,000/C		3,150/0001		3,150
3	Project C						2,500/A	2,500/0001	15,250	17,750
4	Project D						1,275/P	1,275/0001	6,750	8,025
	TOTAL	**1,300**	**100**	**9,250**	**1,100**	**3,000**	**3,775**	**17,225**	**22,000**	**40,025**

B. Project Appropriations by Location

(Dollars in Thousands)

A	B	C	D	E	F	G	H	I	J	K
Location	**Project Name**	**Previous Funding $/Phase/Fund Code**	**t 5 Years**					**Total 5 Years/ Fund Code**	**Costs to Complete**	**Cum Total**
			BY $/Phase	**BY+1 $/Phase**	**BY+2 $/Phase**	**BY+3 $/Phase**	**By+4 $/Phase**	**(Sum D thru H)**	**(Beyond BY+4)**	**(C+I+J)**
Los Angeles	Project B			50/P	100W	3,000/C		3,150/0001		3,150
San Diego	Project A	1,300/A/0001	100/P	200/W	1,000/E					
			___	9,000/C	____					
	Subtotal, Project A	1,300	100	9,200	1,000			10,300/0001		11,600
	Project D						1,275/P	1,275/0001	6,750	8,025
San Francisco	Project C						2,500/A	2,500/0001	15,250	17,750
	TOTAL	**1,300**	**100**	**9,250**	**1,100**	**3,000**	**3,775**	**17,225**	**22,000**	**40,025**

Phase Codes:
Fund Codes: check with departmental budget officer or Uniform Codes Manual (available in Accounting Office)

S Studies
A Acquisition
P Preliminary plans
W Working drawings
C Construction
E Equipment (i.e., group 2 equipment)
O Other

Page 6820 ILLUSTRATION 3 (Cont. 1)

PLANNED CAPITAL OUTLAY PROJECTS FOR THE NEXT FIVE YEARS

C. Project Background Information

Rank	Location	Type of Facility/Lands	Project Name	Project ID Code	Action Code	Project Category
1	San Diego	General Office	Project A	XX.XX.XXX	CN	
2	Los Angeles	Laboratory	Project B	NA	R	
3	San Francisco	Field Office	Project C	NA	A	
4	San Diego	Wetlands	Project D	NA	A	

Project ID Codes: For continuing phases of existing projects, use same code as prior phases. See SAM Section 6839 for instructions.

Action Codes

CN	Construct, new program
CR	Construct replacement facility
R	Renovate
A	Acquire
D	Demolish
E	Equip
O	Other

Project Category Codes: (See SAM 6839 for additional descriptions of categories.)

FLS	Fire/life safety (imminent threat)
CRI	Critical infrastructure deficiencies impairing delivery of services.
CD	Code deficiency
SC	Security
SM	Seismic
ADA1	Americans with Disabilities Act compliance for 24-hour care facilities and institutions only.
ADA2	All other ADA compliance
PS	Public safety
ECP	Enrollment/caseload/population (but report correctional ECP projects as public safety).
WRK	Workload-driven projects, relating to existing programs
POL	Program change of a policy nature (generally new programs)
ECON	Projects justified primarily by economic impacts such as savings, cost avoidance or revenue generation.
O	Other

PROTOTYPE DEVELOPMENT/CHANGES **6821**
(New 5/98)

DOF encourages the use of prototype plans in construction programs. The process for authorizing a facility prototype has three steps:

1. Assessing whether a department's construction program would benefit from development of a prototype;

2. Development of the budget package for the prototype by DGS; and

3. Evaluation and adoption of the prototype for capital outlay planning and budgeting purposes.

DOF participates in the first and third step; LAO participates in the third step only. Any department planning to propose the use of prototype plans, or to amend an existing prototype, should contact its DOF capital outlay budget analyst to determine specific information needs. In general, submit requests to use or change prototypes along with the five-year capitalized assets plan (Section 6816). This allows DOF and LAO to review the proposed change within the context of the overall program. DOF may authorize exceptions to this submittal time-frame for projects on critical time paths.

HISTORICAL RESOURCES **6822**
(Revised 5/98)

The State Historical Building Code (Title 24, California Code of Regulations) allows alternatives to any and all prevailing codes as they relate to qualified historical buildings.

An historical resource is defined as any state-owned structure, over 50 years of age which is listed—or could be listed—either on the National Register of Historic Places maintained by the United States Department of the Interior or as a state historical landmark. Under Public Resources Code 5024, each department must:

1. Prepare and annually update its *Historic Resources Inventory* (DPR-523) listing the structures under its jurisdiction which are over 50 years of age:

    a. Contact the State Historic Preservation Officer at the Office of Historic Preservation, Department of Parks and Recreation for the latest version of the inventory form and instructions on how to complete it.

    b. Each department should assign a staff member as a cultural resources coordinator to prepare and maintain the inventory.

2. Submit the inventory annually to the State Historic Preservation Officer.

3. Notify the State Historic Preservation Officer of any capital outlay or special repair project which proposes any alteration, transfer of ownership, or demolition of any structure on the inventory, *prior to requesting funds for the project.*

The State Historic Preservation Officer has 30 days to comment on the project (Public Resources Code 5024.5). Based upon review of the inventory, if the officer determines the structure is potentially eligible for the National Register of Historic Places and that a proposed project will have an adverse effect, the officer may propose measures to eliminate or mitigate adverse impacts. If a department and the officer cannot concur on mitigations or alternatives, the Office of Planning and Research mediates the issue.

Requirements for COBCPs: The department must note on the COBCP whether the project potentially affects a structure which is on, or could be on, the inventory. If the outcome of the historical resources review process affects project costs or scope, the client department must notify the DOF Capital Outlay unit.

USE OF CONSULTANTS **6823**
(Revised 5/98)

Technical consultant assistance: Departments may need professional input from consulting architects, facilities planners, engineers, or contractors in the development of a potential COBCP. For example, such assistance may be solicited to prepare a needs assessment or facilities plan which examines current and future space and employee data, transportation issues, etc. DGS can assist in preparing such plans. In addition, DOF's Technology Investment Review Unit (TIRU) is a resource for technology phases of projects. Services from both offices are available on a reimbursable basis.

Program management consultants: For large/complex projects, or a series of related projects which comprise a program, a department may need the services of a program management consultant to provide expertise in the unique needs of the agency. In this case, the consultant assists in the preparation of a long-range, multiple-year program in order to:

1. Establish facilities planning criteria and objectives;
2. Develop time-lines for designing and constructing the various facilities; and
3. Estimate the design, construction, and related costs for each facility.

The consultant may also help prepare a multiple year budget for the total program, work with DGS in obtaining the services of design and other consultants, and assist in preparing construction bid data and obtaining construction management services.

Funding technical or program management consultants: Technical or program management consultants may be funded from either the client department's state operations appropriation or as a capital outlay project, *depending on the timing and scope of the services*. The client department should discuss budgeting alternatives with DOF before submitting a support BCP, a COBCP, or using existing support funding. COBCPs which include funding for these services should clearly identify these costs and provide a cost-benefit analysis.

DGS' FEASIBILITY REVIEW **6824**
(Revised 5/98)

After a preliminary review of a department's COBCP and five-year plan, if DOF has questions about the project's feasibility it may request DGS to review the project. If DGS determines the proposal is incomplete, not technically feasible, or inadequate as a solution, DOF will either withdraw the project from budget year consideration or request the department to modify and resubmit it immediately for reconsideration.

Departments may also ask DGS to prepare a feasibility study for a project *before* deciding whether to propose a project through a COBCP. At this stage, i.e., before a project proposal is made, feasibility studies may be paid from the support budget (Section 6806).

For larger or more complicated projects, departments (or DOF) may propose that a feasibility study be performed as the first budgeted phase of a capital outlay project. A separate COBCP is required (Section 6818) and a separate appropriation is requested from the Legislature for this phase.

SCOPE MEETINGS **6826**
(Revised 5/98)

Departments may be requested to schedule meetings and/or arrange site visits to help DOF clarify and evaluate project necessity and scope. Participants usually include DOF capital outlay staff, department staff, DGS, and LAO, and may also include other legislative staff. The scope meeting establishes a common understanding among all parties about project scope and priority. *Scope* is defined in Section 6863.

BUDGET PACKAGE PREPARATION, BUDGET ESTIMATES **6828**
(Revised 5/98)

The budget package refines the department's estimate of the project's total cost as presented in the COBCP. DOF then uses this refined estimate to prepare the *Governor's Budget*. An example of a budget package (comprised of a cost estimate summary and a statement of cost by phase) is presented in 6828 Illustrations 1 and 2 of this section.

DOF authorizes DGS to prepare budget packages only for those projects with a strong likelihood of funding. (The following entities are authorized by statute to prepare their own budget packages: the higher education segments, the Department of Water Resources, and the California Department of Corrections for new prison construction.) Payment for DGS' services typically is provided by departments or—for those agencies without capital outlay programming funds—from a project planning appropriation administered by DOF. Transfer of funds to DGS is made through a Form 22, (6868 Illustration 1.)

As DGS completes the budget packages, it submits them to DOF for final policy and cost review, with a copy to the department. At that time, DOF may schedule additional meetings with the department and DGS to complete its review. (See Section 6814 for a budget enactment timetable.)

For construction projects, budget packages consist of a project description, a project schedule, pre-schematic plans, outline specifications, and a cost estimate. DGS prepares these items from information provided by the client department in the COBCP, in scope meetings, during the environmental review process, and from data compiled during the feasibility review process (if any). Any department authorized to act as its own project manager is required to provide equivalent information using the same format and time-frames.

For real property acquisition projects, a budget package refines the purchase value figure. DGS updates the value figure upon formal requests by the department.

Page 6828 ILLUSTRATION 1

DEPARTMENT OF GENERAL SERVICES
PROJECT MANAGEMENT BRANCH
CAPITAL OUTLAY COST ESTIMATE

PROJECT:	ANNEX I	BUDGET ESTIMATE:	B97-1901
LOCATION:	YOUNTVILLE, CA	WORK ORDER NO:	OPDM 0558
CLIENT:	DEPT. OF VETERAN AFFAIRS	ESTIMATE RUN DATE:	October 1, 1996
DESIGN BY:	PMB/CONSULTANT	PREPARED BY:	RGE/CLK
PLAN DATE:	N/A	ESTIMATE CCCI-M/L:	3482
		ESCALATED TO:	3577

DESCRIPTION

This project consist of 100% remodeling of the hospital Annex I. Construction shall consist of new partitions, ceilings, flooring, doors, and frames, exterior windows, HVAC, and electrical systems, plumbing and hospital support systems. Additional work includes demolition and abatement of hazardous materials.

ESTIMATE SUMMARY

New Architectural	$286,000	
Site Work/Landscaping/Demolition	$2,085,000	
Metals	$147,000	
HVAC		$1,226,000
Plumbing		$570,000
Medical Gas		$151,000
Fire Protection		$122,000
Electrical		$1,102,000
Asbestos Abatement		$298,000
Lead Paint Abatement		$162,000
ESTIMATED TOTAL CURRENT COSTS:		$6,149,000
Adjust CCCI Form 3482 to 3577		$168,000
ESTIMATED TOTAL CURRENT COSTS ON JULY 1, 1997:		$6,317,000
Escalation to Midpoint	8 Months @ .25%/mo.	$126,000
ESTIMATED TOTAL CONTRACTS:		$6,443,000
Contingency at:	7%	$451,000
ESTIMATED TOTAL CONSTRUCTION COST:		**$6,894,000**

(Continued)

Page 6828 ILLUSTRATION 1 (Cont. 1)

PROJECT:	ANNEX I	BUDGET ESTIMATE:	B-97-1901
WORK ORDER NO:	OPDM 0558	ESTIMATE RUN DATE:	October 1, 1996

ESTIMATED TOTAL CONSTRUCTION COST:	$6,894,000
ARCHITECTURAL & ENGINEERING SERVICES:	$873,000
OTHER PROJECT COSTS:	
Special Consultants (Hazmat)	$90,000
Materials Testing	$67,000
Project/Construction Management	$148,900
On-Site Construction Management	$388,000
A&E Travel and Expense	$0
Agency Retained Items	$775,000
Small and Minority Assessment - A&E	$2,400
Small and Minority Assessment - Const.	$15,200
School Checking	$0
Hospital Checking	$96,600
Essential Services	$0
Handicapped Checking	$2,900
Environmental Document	$0
OTHER PROJECT COSTS TOTAL	**$1,586,000**
ESTIMATED TOTAL PROJECT COST	**$9,353,000**
FUND TRANSFERS	
TOTAL FUNDS TRANSFERRED	
TOTAL FUNDS RETURNED	
BALANCE OF FUNDS REQUIRED	**$9,353,000**

NOTES:

The construction costs in this estimate are indexed from the CCCI Index as of the date of estimate preparation to the CCCI index that is projected as of July 1, 1997. The project estimate is then escalated for a 8 month period to an assumed construction midpoint. When an actual construction start date is establish, escalation to the index for that date will be an added cost.

The Agency has retained items that are included in this estimate. OPDM has not verified agency retained pricing.

Page 6828 ILLUSTRATION 2

SUMMARY OF COSTS BY PHASE

PROJECT:	ANNEX I	BUDGET ESTIMATE:	B97-1901
LOCATION:	YOUNTVILLE, CA	WORK ORDER NO:	OPDM 0558
CLIENT:	DEPARTMENT OF VETERANS AFFAIRS	ESTIMATED RUN DATE:	October 1, 1996
		CCCI:	_____
PREPARED BY:	RGE/CLK		

CONSTRUCTION DURATION	16 MONTHS	
ESTIMATED CONTRACT COST	$6,443,000	$6,443,000
CONSTRUCTION CONTINGENCY	$451,000	$451,000
TOTAL	$6,894,000	$6,894,000

CATEGORY	STUDY 00	PRELIMINARY PLANS 01	WORKING DRAWINGS 02	CONSTRUCTION 03	TOTAL
ARCHITECTURAL AND ENGINEERING SERVICES					
A&E Design	$0	$25,000	$377,000	$145,000	$547,000
Construction Inspection(incl.pt. constr	$0	$0	$0	$227,000	$227,000
Construction Inspection Travel	$0	$0	$0	$0	$0
Coordination & Contract Management	$0	$7,000	$0	$0	$7,000
Advertising, Printing and Mailing	$0	$0	$22,000	$0	$22,000
Plan Revisions	$0	$70,000	$0	$0	$70,000
SUBTOTAL A&E SERVICES	$0	$102	$399,000	$372,000	$873,000
OTHER PROJECT COSTS					
Special Consultants (Hazmat)	$0	$10,000	$20,000	$60,000	$90,000
Materials Testing	$0	$0	$25,000	$42,000	$67,000
Project/Construction Management	$0	$15,000	$37,500	$96,400	$148,900
On-Site Construction Management	$0	$0	$0	$388,000	$388,000
A&E Travel and Expense	$0	$0	$0	$0	$0
Agency Retained Items	$0	$0	$0	$775,000	$775,000
Small and Minority Assessment - A&E	$0	$100	$900	$1,400	$2,400
Small and Minority Assessment - Const.	$0	$0	$0	$15,200	$15,200
School Checking	$0	$0	$0	$0	$0
Hospital Checking	$0	$0	$96,600	$0	$96,600
Essential Services	$0	$0	$0	$0	$0
Handicapped Checking	$0	$0	$2,900	$0	$2,900
Environmental Document	$0	$0	$0	$0	$0
SUBTOTAL OTHER PROJECT COSTS	$0	$25,100	$182,900	$1,378,000	$1,586,000
TOTAL ESTIMATED PROJECT COST	$0	$127,100	$581,900	$8,644,000	$9,353,000
LESS FUNDS TRANSFERRED	$0	$0	$0	$0	$0
FUNDS RETURNED	$0	$0	$0	$0	$0
CARRY OVER	$0	$0	$127,100	$709,000	
BALANCE REQUIRED	$0	$127,100	$709,000	$9,353,000	$9,353,000

BUDGET HEARINGS, FINAL BUDGET DOCUMENT PREPARATION **6830**
(Revised 5/98)

Following review of the budget packages, DOF may conduct budget hearings on capital outlay proposals with departmental staff, and as applicable, with agency secretaries and the Governor's Office. Upon completion of these hearings, the client department must:

1. Adjust any approved COBCPs to reflect final decisions;
2. Post decisions in its capital outlay budget galley and supporting budget schedules; and
3. Distribute copies of final COBCPs to DOF and legislative staff in accordance with instructions issued by DOF in its annual Budget Letter.

GOVERNOR'S BUDGET AND LEGISLATIVE APPROVAL **6832**
(Revised 5/98)

The *Governor's Budget* and related budget bill are presented annually to the Legislature on January 10th. Following the formal submission of the budget, LAO prepares its analysis of the projects included in the budget bill. The results of this analysis are usually published the third week of February. Using the findings of the LAO and any independent subcommittee analysis, the Legislature then conducts formal hearings involving the LAO, DOF, departments, and agencies, as appropriate. *During this time, it is the client department's responsibility to work closely with DOF to answer legislative questions on proposed projects*. Based on the outcome of these hearings, the Legislature revises the Senate and Assembly versions of the budget bills. The Budget Conference Committee is held to resolve differences between these versions, and a single bill is passed by both houses and sent to the Governor. After making line item vetoes, the Governor signs this bill. The final product is referred to as the Budget Act.

CAPITAL OUTLAY REAPPROPRIATIONS **6834**
(New 5/98)

DOF reviews the need to reappropriate funding for capital outlay projects during the annual budget development process. Reappropriations, when appropriate, are proposed in the annual budget bill.

Appropriations for capital outlay included in the Budget Act are available for expenditure pursuant to Control Section 2.00 of that act unless otherwise noted. Funding authority for studies, preliminary plans, working drawings, or minor capital outlay is generally available for expenditure for one year unless reappropriated. Construction appropriations that have not been allocated through fund transfer or approval to proceed to bid by June 30 of the fiscal year of appropriation are reverted to the fund from with appropriated unless reappropriated.

The availability period for expenditure of reappropriations is consistent with the original appropriation. For instance, reappropriations of studies, preliminary plans, and working drawings are generally available for expenditure for one year. Minor capital outlay is not generally eligible for reappropriation (Section 6807).

The client department must monitor project status to determine if a project will require reappropriation. Department project liaisons should consult with DGS project managers to maintain current schedule information and to determine (in consultation with DOF Capital Outlay Unit staff) the need for reappropriations.

Departments must submit a COBCP outlining the need for reappropriations consistent with COBCP and finance letter deadlines, as discussed in Section 6818. Use the COBCP form, Page 1 as a cover sheet for all reappropriations and provide narrative using COBCP form, Page 4, for the follow questions for each reappropriation requested:

1. Original Budget Act Year, Item, Schedule and Project ID;
2. Project Title and narrative description;
3. Dollars to be reappropriated; and
4. Reasons why the reappropriation is needed.

TEN-YEAR SURVEY OF CAPITAL OUTLAY AND INFRASTRUCTURE NEEDS **6837**
(New 5/98)

DOF annually surveys departments to determine ten-year needs for state capital outlay and state-funded local infrastructure, by program and fund source. Specific instructions and timetables are issued annually by Budget Letter. Surveys are typically due at the end of summer. Summary results are shared with the Legislature for capital outlay and bond financing planning purposes.

The first five years of capital outlay needs reported on the ten-year survey must match the annual totals and fund source break-out for the department's five-year capitalized assets plan (Section 6820). However, for most departments the second five years will be based on a general assessment of program need, rather than on specific projects.

CAPITAL OUTLAY CODING STRUCTURES **6839**
(Revised 5/98)

This section addresses coding structures for project identification codes, project categories, and phase codes.

Project Identification Codes

1. The objective of project identification codes is to:

   a. Provide consistency in project identification across fiscal years and in the various automated state budgetary and accounting systems;

   b. Provide unique project identification from start to finish, eliminating the need to assign different codes to phases or appropriations of a specific project; and

   c. Eliminate code duplication.

2. **Project definition for purposes of assigning codes**. Phases of work necessary to implement projects are not separate projects and are not given separate project identification codes. Land acquisitions associated with capital outlay projects use the same code as the balance of the project. However, a general acquisition for habitat or recreation may be treated as a separate project.

3. **Project identification code structure**. The project identification code, as shown in *the Governor's Budget* and Budget Act, and as utilized by SCO and departments, is generally a seven-digit numeric code comprised of the first seven digits (program-element-component) of the ten-digit Uniform Codes Manual program field. The only exception to this rule is when a project has more than one phase *scheduled separately* in the same appropriation time (normally separate phases in a single budget act would be scheduled together). Although this situation is rare, the Legislature does sometimes appropriate in this manner. When this occurs, the additional three digits of the program field (also called the task code) are used to distinguish between the separately scheduled phases.

   The assignment of the last three digits is made by the DOF Capital Outlay and Financial Operations Units, when necessary. The three digits of the task field are used to identify the year of appropriation (two digits) and as a "sequencer" for the phases as follows:

Project Identification Code			**Task Code**	
			Year of	
Program	Element	Component	Appropriation	Sequencer
XX	XX		XXX	XX X

   Except for the task code, the responsibility for code control and assignment lies with the departmental accounting office which should establish and maintain an ongoing log of numbers so that codes will not be duplicated. When working on the five-year capital outlay program or the budget year projects (*Governor's Budget*, Finance Letters, and Change Book), the client department's budget office and the DOF Capital Outlay Unit staff should coordinate with the client department's accounting office for the assignment of codes.

4. **Meaning of Statewide Code**

   a. Program: The two-digit agency specific program code denotes the *capital outlay program* within a department's overall program structure (this is not applicable to the Departments of Transportation and Water Resources).

   b. Element: The two-digit element code denotes the applicable *location*s for major capital outlay projects for institutional and non-institutional departments with location breakdown. (The Department of Parks and Recreation is authorized to use an alpha-numeric code.) For those projects of a general nature not identified to a specific location, an agency specific code for "statewide" will be used. A separate element code is to be assigned for minor capital outlay. When developing the location codes, departments need to allow for expansion, i.e., plan for any new locations in the coding structure.

   c. Component: The three-digit component code denotes the *project*s. If possible, numbering should be in increments of five or ten to allow for expansion. These should be unique to each location (element).

   d. Task: The three-digit task code can be assigned only by the DOF Capital Outlay and Financial Operations Units when a project has more than one phase scheduled separately in the same appropriation item (reference number and fund).

(Continued)

(Continued)

CAPITAL OUTLAY CODING STRUCTURES **6839** (Cont. 1)
(Revised 5/98)

Project Categories

Project categories describe functional purpose. Use the following coding structure for COBCPs (Section 6818) and in the five-year capitalized assets plans (Section 6820).

FLS	**Fire/life safety**. Projects required to avoid imminent danger to state employees or the public from physical characteristics or facility siting.
CRI	**Critical infrastructure deficiencies** which impair program delivery, such as replacement of aging mechanical systems.
CD	**Code deficiencies**. Non-critical fire/life safety projects, and all other code deficiencies except Americans with Disabilities Act **(**ADA)requirements.
SC	**Security**.
SM	**Seismic**.
ADA1	**ADA compliance for 24-hour care facilities and institutions only**.
ADA2	**All other ADA compliance**.
PS	**Public safety**. Any project needed to deliver critical public safety benefits.
ECP	**Enrollment/caseload/population (ECP).** Usage is limited to changes to existing programs for recognized ECP departments.
WRK	**Workload-driven projects.** For non-ECP departments, these are projects for existing programs resulting from workload (i.e., non-policy) changes.
ECON	**Projects justified primarily by economic impacts.** Examples include savings, cost avoidance, or revenue generation.
O	**All other.**

Phase Codes

Phase codes describe the activity to be funded within the sequences of activities, from project inception to completion. Not all projects require studies, acquisition, or equipment to complete the project. Some projects are solely for acquisition (either property—such as wetlands or a park—or improvements).

S	Studies.
A	Acquisition.
P	Preliminary plans.
W	Working drawings.
C	Construction.
E	Equipment (i.e., Group 2 equipment).
O	Other.
M	Minor project.

ADMINISTRATION OF THE CAPITAL OUTLAY PROGRAM **6840**
(Revised 5/98)

Sections 6840–6869 address policy and procedures for fiscal administration of funded capital outlay projects. The primary oversight entities are PWB, DOF, and the Joint Legislative Budget Committee (JLBC). Although long-term and interim financing for capital outlay projects are part of project implementation, they are addressed in a separate financing portion of the chapter (Sections 6870 et seq.). An overview of capital outlay is provided in Section 6801 to 6809. Acronyms, terminology and forms are defined and indexed in the glossary, Section 6899.

METHODS OF PROJECT DELIVERY **6841**
(New 5/98)

The state traditionally uses the *design-bid-build* method of procuring design and construction services for most of its capital outlay projects. In addition, the state also uses various lease methods to obtain the *use* of facilities, both with and without facility acquisition at some point in the lease. The following discussion briefly outlines standard procurement methods in the building industry and the resulting budget implications.

Design-bid-build. The state's contract law and budget processes for capital outlay are based on design-bid-build processes because that approach allows the state to determine the exact product before it begins construction. Projects are not bid on by construction contractors until working drawings are completed by a separate architect-engineering firm.

In the traditional design-bid-build process, preliminary plans, working drawings, and construction are all separate phases; an overview of all typical capital outlay phases is provided in Section 6808. Funds are not normally committed to a phase unless there is a strong assurance that they can be encumbered within a single fiscal year. Consequently, most design-bid-build projects are budgeted in several phases over two to three years (sometimes longer). Each separate appropriation requires a COBCP (Section 6818) and must be included in the client department's five-year capitalized assets plan (Section 6820).

In addition, PWB and DOF perform an oversight role for design-bid-build projects by reviewing and approving the design phases of a proposed project (Sections 6842 and 6851).

Design-build. In design-build projects, design work is performed by the same entity that constructs the project, and the design-build contract award is made in a lump sum. Consequently, there are no separate phases—or appropriations—for preliminary plans, working drawings, and construction. The client is responsible for providing a project definition which the design-build firm uses as the basis for its bid. The advantage of the design-build approach is that the project delivery team has single-point responsibility for the project. This helps expedite construction time-frames and may reduce the number of change orders.

There are variations of design-build in which the project definition is elaborated through more detailed narrative specifications and/or drawings. This modified approach is called *bridging design-build* and for some projects may result in project performance specifications that are nearly as detailed as preliminary plans. Greater specificity is helpful when program needs reduce the range of acceptable design solutions or materials. From a budget perspective, the development of performance specifications may require a separate phase appropriation since the level of detail required could substantially exceed that of a budget package (Section 6828).

State contract law currently does not support the design-build process, except for the California State University and the University of California which have specific design-build authority. Similarly, the PWB process does not presently recognize an alternative to preliminary plans approval.

Turnkey, Design-Build-Lease, Lease-Purchase. These are financing methods in which an owner retains an entity which has single-point responsibility for developing a project. In addition to design and construction, the selected entity is responsible for providing one or more other project development functions, such as selecting and acquiring a site, financing, and even owning or operating the facility which is leased to the client department (with or without an option to purchase). From a budget perspective, these financing approaches are subject to this chapter if they meet the definition of a capitalized lease (Section 6818), or if—when being financed—an obligation for continuing state disclosure is created (Sections 6876 and 6884).

The following discussion on capital outlay administration (Sections 6842–6869) deals with *design-bid-build state construction projects*—i.e., excludes leased facilities. Leasing alternatives are addressed in the capital asset planning and budgeting portion of the chapter (Sections 6810–6839) and as part of capital asset financing (Sections 6870–6888).

STATE PUBLIC WORKS BOARD (PWB) OVERVIEW **6842**
(New 5/98)

The following summarizes statutory and administrative provisions relating to PWB.

Origin/Role: PWB was created by the Legislature in 1946 to offset any economic decline due to the cessation of a wartime economy, with two major areas of responsibility:

1. Approving plans, allocating funds and determining the timing of major construction projects of state agencies after appropriations for such projects have been made by the Legislature; and

2. Selection and acquisition of real property for location or expansion of state facilities and programs.

Over the past 50 years, the role of PWB has changed to:

1. Providing a review and approval process for adherence to the Legislature's intent in its appropriation of funds for capital outlay projects;

2. Carrying out various statutory control provisions relating to capital outlay projects;

3. Selecting and acquiring real property for location or expansion of state facilities;

4. Approving sales of surplus property pursuant to annual statutes authorizing the disposal of surplus real property; and

5. Acquiring property and constructing facilities from the proceeds of revenue bonds (also called *lease-revenue bonds*) issued by the board.

Membership: Voting members are the:

1. Director of Finance, who historically has chaired PWB;

2. Director of Transportation;

3. Director of General Services;

4. State Controller (for revenue bond matters only); and

5. State Treasurer (for revenue bond matters only).

In addition, PWB has the following advisory members: The Director of the Employment Development Department when PWB is engaged in contingency planning for emergency public works per Government Code Section 15799.2; and non-voting legislative advisors (three Senators appointed by the Senate Rules Committee and three Assembly members appointed by the Speaker).

PWB staff: The DOF Capital Outlay unit administers the functions of PWB and provides whatever assistance the board may require. DGS provides staff support for real property acquisitions and sales, and for energy assessment programs.

Meetings: The PWB process, including monthly meetings, is described in Section 6844.

Certifications/notifications to the Legislature that the project is within scope and cost: Prior to board action on any capital outlay appropriation, DOF certifies in writing to the Chairperson of the JLBC, the chairpersons of the respective fiscal committees, and the legislative members of PWB whether the requested action is in accordance with scope and cost as approved by the Legislature. If DOF approves changes to the legislatively approved scope or cost, or both, it must detail the changes and associated cost implications. Such reports also include all proposed or potential augmentations, as well as anticipated recognized deficits in excess of ten percent of the amount appropriated for the capital outlay projects. See additional procedures for certifications/notifications in Sections 6844, 6861, and 6863 of this chapter.

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STATE PUBLIC WORKS BOARD (PWB) OVERVIEW **6842** (Cont. 1)
(New 5/98)

Approval of preliminary plans: Per Government Code Section 13332.11, funds appropriated for capital outlay may not be expended by any state department until DOF and PWB have approved preliminary plans for the project. PWB's approval of preliminary plans ensures that a project proceeding into the working drawing and construction phases is consistent with legislatively approved cost and scope. This requirement does not apply to the Department of Transportation, to higher education segments' non-state funded capital outlay, to the California Exposition and State Fair, or to any project specifically exempted from Section 13332.11. In addition, this provision does not apply to acquisitions, equipment, minor projects, or amounts appropriated specifically for preliminary surveys, studies, or program planning. Finally, PWB processes in general do not apply to the State Water Project.

Project augmentation: Sections 16352, 16352.5, 16354, and 16409 of the Government Code make appropriations and authorize PWB to approve allocations of additional funds to augment construction and acquisition appropriations when projects cannot be undertaken because the cost exceeds the funds available for the projects.

PWB's authority to augment projects is limited to the following by Government Code Section 13332.11:

1. PWB must defer any augmentation in excess of 20 percent of the amount appropriated for a capital outlay project until the Legislature makes additional funds available for the specific project;

2. Augmentations in excess of 10 percent (but no greater than 20 percent) of the amount appropriated for each capital outlay project must be reported to the Chairperson of the JLBC, or his or her designees, 20 days prior to PWB approval.

3. PWB must defer approval of preliminary plans or any portion of an acquisition project if the estimated cost of the total project exceeds 20 percent of the amount appropriated, unless in the case of an acquisition project the board determines that a lesser portion of the property is sufficient to meet the objectives of the project approved by the Legislature.

By resolution, PWB has authorized the Director of Finance to augment projects within the following limits:

1. 10 percent of the total of the official estimate for that portion of the work, including related overhead and contingency expenses for such portion, or $50,000 whichever is the lesser; or

2. The anticipated deficit previously recognized by the board; or

3 $1,000 or less.

See Section 6861 for further discussion of PWB practices in interpreting Government Code Section 13332.11.

Property acquisition law: The Legislature enacted the property acquisition in 1944, which is now set forth in Government Code Sections 15850–15866. Principal provisions include:

1. PWB selects and acquires real property for state departments when funds are appropriated by the Legislature, except for acquisitions for the following entities: Department of Water Resources; the State Reclamation Board; the Wildlife Conservation Board; the Department of Transportation; the Public Employees Retirement System; the Department of Fish and Game; the State Teachers' Retirement System; the Department of Housing and Community Development; and the State Lands Commission. In addition, PWB approval processes for real property transactions do not apply to projects for the University of California and the California State University which are not funded through state appropriations. (Limited exemptions for the state conservancies have been authorized in statute.)

2. All proposed acquisitions are brought to PWB for site selection and acquisition by negotiation or, if unable to purchase by negotiation, by filing an eminent domain action (Government Code Section 15853). Sites for lands acquired on behalf of the State Park System are selected by the Director of Parks and Recreation (Section 5006, Public Resources Code).

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STATE PUBLIC WORKS BOARD (PWB) OVERVIEW **6842** (Cont. 2)
(New 5/98)

3. Government Code Section 15853 also requires PWB to make reports on the status and timing of park acquisitions to the Legislature. The essential feature are:

   a. For any park acquisition not completed through negotiations and/or condemnation, or abandoned by the Department of Parks and Recreation within six months of commencement of purchase negotiations, notice is given to appropriate fiscal committees and legislative members whose districts are affected; and

   b. Six months after the notice set forth in the preceding text, the same legislators are given the status of the projects, if parcels have been abandoned or not acquired. DGS prepares this report for PWB.

4. PWB may acquire any interest in real property it deems advisable.

5. PWB may purchase furnishings contained with any acquired improvement if the owner agrees to sell.

6. PWB has eminent domain (condemnation) authority as described in Section 6866. Pursuant to Government Code Section 15855 (b), the board is the only state agency that may exercise this authority, with the exception of the following entities:

   a. The Department of Transportation,

   b. The Department of Water Resources,

   c. The State Lands Commission,

   d. The State Reclamation Board,

   e. The Department of Fish and Game,

   f. Hastings College of the Law, and

   g. The University of California.

   Current law and procedure require that certain "evidences" (discussed in Section 6849) must be provided before an acquisition is submitted for board consideration. Until the property acquired is actually needed, jurisdiction lies with DGS (Government Code Section 15862).

   As staff to PWB on acquisition matters, DGS obtains the information needed to assure PWB that:

   - The location of the proposed site meets the requirements of the department for which it is being acquired;
   - The site is suitable for the project's purpose and will not result in increased project costs;
   - The site can be acquired within the funds available and is in accordance with the intent of the Legislature; and
   - The price paid for the property is fully supported by an appraisal.

Sale of surplus property: DGS sponsors an annual bill to authorize disposition of excess state-owned real property (Government Code Section 11011). The legislation typically provides that PWB approves final disposition. However, DGS does not handle the sale of property for the Department of Transportation and the Department of Water Resources, or for properties of the University of California, the California State University or the California Community Colleges acquired through non-state funds.

PWB lease-revenue bonds: PWB is authorized to issue revenue bonds (commonly referred to as lease-revenue bonds). The board administers four lease-revenue programs: public building construction, new prison construction, high technology educational and research facilities in public universities, and energy conservation. For additional information on these programs, see Section 6873.

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STATE PUBLIC WORKS BOARD (PWB) OVERVIEW **6842** (Cont. 3)
(New 5/98)

Contingency plan for emergency public works: If conditions warrant, PWB may develop a contingency plan for emergency public works pursuant to Sections 15799.2 and 15799.4 of the Government Code. The plan consists of capital outlay or maintenance projects that have not been included in the Governor's Budget or otherwise presented for legislative review but which PWB believes would serve a useful public purpose if implemented. PWB then submits the plan to the Governor for incorporation into the annual economic report to the Legislature required by Section 15901 of the Government Code.

Public land trusts: Section 831.5 of the Government Code allows non-profit public land trusts to enter into agreements with the state to preserve open space and allow public access to natural resources and, in return, receive certain immunities from liability for injuries caused by natural conditions of unimproved property. The State Coastal Conservancy can enter into such agreements for projects in the Coastal Zone, and the Tahoe Conservancy can enter into agreements in the Tahoe Basin. PWB is responsible for agreements in the rest of the state.

Department of Parks and Recreation concessions agreements: Public Resources Code Section 5080.20 requires PWB to approve any proposed concessions agreements with a total investment or estimated annual gross sales in excess of $500,000, which has not been approved by the Legislature in the Budget Act. The agreement may not be advertised for bid, negotiated, or amended in any way until PWB has notified the Legislature that:

1. The proposed concession agreement could not have been presented to the Legislature for review and approval or that it is necessary to revise the terms after legislative approval; and
2. It would be adverse to the interests of the public to defer the review and approval to the time the Legislature next considers a budget bill.

PWB may approve the proposed concession after giving at least 20 days written notice to the JLBC and the appropriate fiscal and policy committees.

Long-lead capital outlay equipment: Pursuant to Government Code Section 15792, PWB approval is required for state departments to incur obligations, to be met during the fiscal year following the year of project completion, for the purchase of equipment related to capital outlay projects for which the Legislature has approved construction funds. See also Section 6855, “long-lead equipment.”

Quarterly reports: Client departments must submit quarterly reports to PWB on each project’s progress with respect to schedule, scope, and actual and projected expenditures (Section 6864).

MONTHLY PUBLIC WORKS BOARD PROCESS **6844**
(New 5/98)

Board meetings: PWB meets monthly to consider proposed capital outlay expenditures. Meetings are normally held in Sacramento on the second Friday of each month. The meeting notice and the agenda are distributed at least ten days in advance of the board meeting (Government Code Section 11125). To be placed on the mailing list, contact the Capital Outlay Unit of DOF. Agenda package requirements for proposed board actions are described in Section 6845.

The chairperson may call special meetings to consider projects of an emergency or high priority nature. For example, a special meeting might be called if a critical project milestone cannot otherwise be met, such as awarding of low bid or acceptance of a time-limited acquisition settlement. Special meetings are held to a minimum and require a ten-day notice, except for emergency meetings due to the disruption or threat of disruption of state facilities.

Screening meetings: PWB staff conducts a screening meeting for proposed agenda items, usually three Wednesdays prior to the monthly meeting. The purpose of the screening meeting is to verify the accuracy of all information contained in the proposed agenda and resolve any open questions the board's staff may have. Departments must attend the screening meeting if they have submitted an agenda item, unless attendance is waived by PWB staff.

Annual calendars: PWB approves an annual calendar showing planned board meetings as well as staff screening meetings. The annual calendar and its updates are distributed to all departments with active capital outlay programs and to interested parties who request inclusion on the mailing list.

Key monthly time-frames:

1. **Proposed board actions requiring legislative notification:** Prior to any board action, DOF reviews projects with proposed scope changes or cost increases and, if concurring, may need to notify the Legislature. (Section 6861 describes which project cost increases require legislative notification.) Capital outlay legislative notifications are referred to as "20-day letters," meaning the Legislature has twenty calendar days to respond before PWB will take action on the project. For requests which require a 20-day letter, departments must submit PWB agenda items *30 working days in advance of the scheduled board meeting.*

2. **Proposed board actions NOT requiring legislative notifications:** All items except scope changes and certain project cost increases may be approved by the board without waiting for a legislative response. These items are due at least *20 working days prior to the board meeting*.

3. **Certification letters:** In conjunction with each PWB agenda, DOF must certify to the Legislature whether proposed PWB actions are within legislatively approved limits. Although minimum time requirements are not specified in law, DOF submits this certification letter to the Legislature not less than seven calendar days prior to the scheduled PWB meeting. (See also Section 6842.)

Delegated agenda items (reportables): By resolution, PWB has delegated to DOF approval for selected non-policy actions. These actions, referred to as "reportables", include:

1. Lesser augmentations, described in Section 6842 under the heading "Project Augmentations,"

2. Reversions of a non-policy nature (Section 6862),

3. Cost increases within appropriation (Section 6861),

4. Settlements related to real estate transactions of a non-policy nature,

5. Revisions of previous board actions of a non-policy nature.

STANDARD INFORMATION REQUIRED WHEN REQUESTING PWB OR DOF ACTION **6845**
(New 5/98)

PWB and DOF information needs related to capital outlay projects are very similar. Both require an action request called the DF-14D, *Request for Approval to Proceed or Encumber Funds*, as well as standardized project cost and history information. This chapter refers to that common block of information as "standard fiscal reporting requirements." In addition, PWB requires an agenda package made up of a specifically-formatted agenda item, a briefing document, and additional information depending upon the type of proposed board item.

This section describes the standard reporting requirements used by both PWB and DOF, and the PWB agenda package.

Standard fiscal reporting requirements: When submitting a request for an action or approval by either PWB or DOF, the department must provide completed versions of the following standard reporting forms. (Only one set of standard reporting forms is required if submitting a request for multiple actions on the same project.)

1. **DF-14D, Request for Approval to Proceed or Encumber Funds:** The DF-14D, shown in 6845 Illustration 1 of this section, is the official request document which identifies the project and the requested action, and serves as the official, signed certification by the department related to scope, cost and CEQA compliance. For projects managed by DGS, the "Project Manager" signature is the DGS project manager, otherwise it is the department's project manager. The "Department Director or Designee" signature is the department requesting the action (submitting the DF 14D). DOF's signature on the returned DF-14D is evidence of PWB/DOF approval of the request. Any conditions of approval will be noted on the document.

2. **Project Cost, Funding and Schedule Summary:** This summary, shown in 6845 Illustration 2 of this section, is a chronological history of costs, funding and schedules. Each submittal requires a new column with the most recent totals and dates. The cost summary is provided in the same manner as in the project's COBCP. A section is provided to detail construction costs. The funding data includes all approved appropriations and executive orders, changes included in this request, and future funding requirements. "Total funding" must equal "total costs". The schedule reflects the same events as those in the initial budget package. The first column must reflect the project as initially approved. Additional columns reflect the project at the time of the submittal of the requested action.

3. **Project Cost Detail Worksheet:** The department must provide cost information in sufficient detail to communicate and support the request. The level of detail should be consistent with the budget package detail displayed in 6828 Illustration 2. The total costs must tie to the Project Cost, Funding and Schedule Summary, 6845 Illustration 2.

PWB agenda package:

1. **Who submits an agenda package:** The project manager—either DGS or the client department if it is authorized to act as project manager—submits the agenda item. However, if DGS submits the agenda item, the client department is nonetheless responsible for the accuracy of program information and for providing all required supporting documents to DGS in a timely manner.

2. **What comprises the agenda package:**

   a. *An agenda item,* which is the legal action the client department is asking the board to take.

   b. *A briefing document,* which is used as part of the staff analysis for the board agenda. Briefing documents must include all the information described in the following text and in general should fit on one page.

   c. *All pertinent backup material*. Different types of agenda items have different information requirements. See the various sections on site selection and acquisition, preliminary plans, construction, bond items, augmentations, and project scope.

   d. *A draft 20-day notification letter* for items which must be noticed to the Legislature (scope changes and certain augmentations). See Section 6861 for augmentations and Section 6863 for scope changes. Examples of notification letters to the Legislature are available from the DOF Capital Outlay Unit.

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STANDARD INFORMATION REQUIRED WHEN REQUESTING PWB OR DOF ACTION **6845** (Cont. 1)
(New 5/98)

3. **Format for agenda items:** Departments must use a specific format for each type of agenda item. Because there are a number of possible board actions, formats are not included in this chapter. Obtain format guidelines from the DOF Capital Outlay unit and use only those guidelines when preparing agenda items for PWB action.

4. **How to submit agenda packages:** For all agenda items and briefing documents, provide both an electronic copy on disk as well as a hard copy. The rest of the agenda package is submitted only in hard copy.

5. **When to submit agenda packages**: See "key monthly time-frames" in Section 6844.

Briefing document for agenda packages: As noted in the preceding text, a board briefing document must accompany each agenda package requesting a board action. This information is used in the staff analysis for the board meeting. Present information in the following format:

1. Project title, matching agenda item.
2. Project authority (all phases).
3. Purpose of project and nature of proposed action:
   a. For preliminary plan approvals:
      (1) Square footage by program use, and
      (2) Number and type of buildings and landscaping etc.
   b. For site selection approvals:
      (1) Estimated dollar amount,
      (2) Acreage, and
      (3) Ultimate purpose.
   c. For reversions, the reason for the reversion and the fund source reverted monies will be returned to (Section 6862 describes types of reversions).
4. Statement of scope and cost:
   a. Identify any legislatively-imposed restrictions on the project;
   b. If the project is within scope and cost, a statement of consistency is adequate;
   c. If the scope has changed, provide a brief description of change, its necessity and the date that the request for JLBC notification was submitted;
   d. If the cost has changed, cite the dollar amount of the change. For increases, also provide the percentage of increase based on the legislatively approved cost for that phase. (Section 6861 provides instructions for computing augmentations.) If the increase exceeds 10 percent, provide the date that the request for JLBC notification was submitted to DOF; and
   e. Identify any previously approved augmentations and the total cumulative costs in both dollars and percentages.
5. Depending upon the type of item, certify that funds are available. If the fund is managed by another department, provide a certification from that department that funds are available. If the appropriation is not project-specific, the department should declare that use of these funds for this project is consistent with the department's expenditure plan for the appropriation. Fund certification is not required for funds managed by DOF (e.g., the General Fund, Public Resources Account, etc.).
6. For construction projects, departmental certification per Section 6850 that CEQA requirements have been met.

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(Continued)
STANDARD INFORMATION REQUIRED WHEN REQUESTING PWB OR DOF ACTION **6845** (Cont. 2)
(New 5/98)

7. For site selections and acquisitions, departmental certification per Section 6849 that:
   a. CEQA has been complied with, including date final review period will be completed. (Provide a copy of the dated State Clearinghouse document.)
   b. Implied dedication has been considered in the property value.
   c. If necessary, a relocation study has been prepared and adequate funds are available for relocation costs.
8. Project identification code (Section 6839).
9. Summary of the construction/implementation schedule.
10. Identify and discuss any other risks, concerns, controversy or other information that the board may need to make a fully informed decision.

Examples of briefing documents are available from the DOF Capital Outlay unit.

Page 6845 ILLUSTRATION 1

REQUEST FOR APPROVAL TO PROCEED OR ENCUMBER FUNDS

The Department of _____ hereby requests PWB / DOF action related to the following project:

1. Project ID: _____ Project Title: _____

2. Requested PWB/DOF Action Date: _____ Date of last approval: _____

3. Requested Action: (all reporting requirements related to this request as defined in SAM, are attached)
   ____ Site Acquisition - Section 6848 (an agenda package has been submitted to DGS)
   ____ Approve Preliminary Plans - Section 6851
   ____ Approve Working Drawings - Section 6852
   ____ Approve Proceed to Bid - Section 6852
   ____ Approve Construction Contract Award - Section 6853
   ____ Request for Augmentation / Reversion - Section 6861, 6862
   ____ Approve Scope Change - Section 6863
   ____ Other, Specify:_____

4. Project Completion Reporting: (reporting requirements as defined in Section 6856 are attached)
   ____ Project Occupancy
   ____ Project Completion
   ____ Project Close-out

5. Project Certifications:
   CEQA Compliance: (reporting requirements as defined in Section 6850 are attached)
   ____ This project meets CEQA compliance requirements.
   ____ The action requested does not invalidate the CEQA compliance.
   ____ The action requested mandated a review of the CEQA compliance.
   Scope Changes: (reporting requirements as defined in Section 6863 are attached)
   ____ Project scope has not changed from that as defined in the previous reporting.
   ____ A change in project scope is necessary in order to proceed with the project.
   Costs/Funding/Schedule Changes: (reporting requirements as defined in Section 6861 are attached)
   ____ Costs, funding, and schedules have not changed from that as defined in the previous reporting.
   ____ Changes in cost, funding and/or schedules are necessary in order to proceed with the project.

I hereby certify that the preceding text is accurate and that the necessary reporting requirements as defined in SAM are included with this request.

_____ _____

Project Manager Department Director/Designee

Date: _____ Date: _____

RESULTING ACTION

____ The following action(s) are approved. Authority is granted to proceed when funding authority permits.
____ The following must be addressed prior to granting approval of all actions: _____

_____

_____

_____ Date: _____

Department of Finance DF 14D (rev 12/97)

Capital Outlay Cost, Funding and Schedule Summary

Organization Code: _____ **Department:** _____
Project ID Code: _____ **Project Title:** _____

This form provides a chronological history of the project. The initial column reflects the detail related to implementing the Budget Act or authorizing legislation. Subsequent columns reflect all reportable project phases listed in the schedule section below plus additional reporting for mid-phase scope/funding changes.

Requested Action:

	_____	_____	_____	_____	_____	_____
PWB/DOF Action Date:	_____	_____	_____	_____	_____	_____

COSTS - Display new totals for each category.

Study						
Acquisition						
Preliminary Plans						
Working Drawings						
Total Construction						
Equipment Phase (Group 2)						
Other						
Total Costs		-	-	-	-	-

Construction Detail - Must tie to total construction costs above.

Contract						
Contingency						
A&E Costs						
Group 2 Equipment						
Agency Retained						
Total Construction		-	-	-	-	-

FUNDING DATA - Include all funding provided. For reversions and augmentations indicate EO number.

Chapter / Item			Must tie to Total Costs, above			
97-3680-301-0516						
_____						
_____						
_____						
Change Requested						
Future Funding						
Total Funding		-	-	-	-	-

SCHEDULE - Include all project dates (MM/DD/YYYY).

Study Completion						
Acquisition Completion						
Start Preliminary Plans						
Preliminary Plan Approval						
Approval to Proceed to Bid						
Contract Award Approval						
Project Completion						

TYPICAL PROJECT PHASES, RELATED FORMS AND BOARD ITEMS **6846**
(New 5/98)

Sections 6848–6856 describe project phases and processes for a *design-bid-build project approach*. This discussion relates primarily to securing DOF/PWB budget approval to initiate new phases and for project changes; it is not intended to address other project administrative requirements, such as state procedures related to contract law or project accounting. For assistance with capital outlay administrative requirements other than budget authorizations, contact DGS. Section 6841 provides further information on the design-bid-build process.

STARTING PROJECTS **6847**

(New 5/98)

No PWB action is required to start projects. However, DOF or DGS must authorize release of funds and give approval to proceed, depending upon the phase of the project and the task. Unless the project involves an acquisition, the first (and frequently only) formal PWB approval normally occurs at the preliminary planning stage.

Major projects: Once the Legislature authorizes funding for studies, site acquisition, or preliminary plans in the Budget Act or separate statute, DGS initiates a Form 22 (or for bond funds a GS-OSA 220) requesting that funding for this phase be transferred to the Architectural Revolving Fund. DGS forwards the form to the department for approval, which then submits it to DOF for approval. See Section 6868 Illustrations 1 and 2 for samples of the fund transfer forms. The form is then forwarded to SCO.

Minor projects: A STD. 23 is used to request approval for departmental supervision of a minor capital outlay project. The client department initiates the form and sends it to DGS for final approval. Examples of the form are available from DGS.

Reminder to departments on "project" per State Contract Act: Before beginning a project, departments are reminded to verify whether the project is governed by the State Contract Act. Section 10105 of the Public Contract Code sets a specific dollar threshold for projects, beyond which the act has governance. That dollar threshold is updated periodically by DOF in a Management Memo.

STUDIES **6848**

(New 5/98)

As a separately-funded phase, project studies are most frequently used for an extended site selection process, to help establish program infrastructure needs or scope for a specific project, or to clarify project feasibility. (Environmental studies are normally funded as part of the preliminary plans phase.)

Upon budget enactment, the study phase is initiated with a request to DOF to release funds, as described in Section 6847. For studies addressing program needs, project scope, or feasibility, no PWB action is required at the conclusion of the phase since the results of the study are typically used to prepare budgetary requests for subsequent phases. For site selection studies, PWB action is required to authorize actual site selection and acquisition (Section 6849).

As discussed in Section 6823, feasibility studies and needs assessments may be funded from either the support or capital outlay budget, *depending upon the timing and scope of the services.* Site selection and scope studies are project-specific and therefore a capital outlay expense.

SITE SELECTION AND ACQUISITION **6849**
(Revised 5/98)

PWB's role: Using DGS as its agent, PWB selects and acquires real property for most departments when the appropriation is subject to the Property Acquisition Law (Government Code Sections 15850–15866). Exceptions are listed in Section 6842. Even if a specific site is designated for acquisition by the Legislature, PWB must approve the site before any purchasing activities can begin, including negotiating with the prospective seller. DGS prepares all land acquisition and related agenda items for consideration and approval by the PWB.

Overview of site selection and acquisition: The phase has two major steps:

1. Site selection, CEQA compliance, and PWB approval of the chosen site with authorization to proceed to purchase; and
2. Site purchase with subsequent PWB approval of the settlement price only if it exceeds the previously reported appraisal price.

This phase starts when the client department makes a written request to DGS to prepare a formal appraisal for the approved project. The request must be made by a department manager authorized to commit project funds and must give the Budget Act appropriation citation or statutory authority.

After the appraisal, but before beginning any formal acquisition activities, DGS obtains PWB approval for a specific site consistent with the requirements of the Budget Act or enabling statute. (Where a specific site is not designated in the appropriation, DGS first assists the department in selecting a site).

After PWB approves the site, DGS negotiates a settlement with the owner. If the settlement price exceeds the appraised value DGS reported to PWB at the time acquisition was authorized, DGS returns to the board for approval of the higher settlement price (and may, as necessary, request augmentation). Typically, the property acquisition phase must be completed before DOF releases design and construction funds to improve the site. Site selection and acquisition costs include:

1. Investigations,
2. Surveys,
3. Title costs,
4. Appraisal fees,
5. Staff time, and
6. Relocation assistance (depending upon DOF's assessment of need; requires specific justification).

Evidence required by PWB: Current law requires that before a project is submitted to PWB for concurrence on site selection, there must be evidence that:

1. Implied dedication has been considered in the appraised value. *Implied dedication* refers to a public easement which has been created through a history of use. (Determination of implied dedication is case-specific and based on facts involved in a given situation.) Implied dedications may reduce the value of a property.
2. The project has complied with CEQA, as described in Section 6850.
3. If improved property is to be acquired, a relocation study has been prepared and adequate funds are available for relocation costs.
4. A legal description and title report covering each parcel to be selected has been completed.
5. Notice has been given of the time and place of the PWB meeting and an agenda has been mailed to interested parties.

Types of board action to acquire property: There are three types of board actions associated with this phase (not including any possible augmentations or scope changes):

1. Approval of site selection and authorization of acquisition;
2. *Possibly* approval for acquiring less property than originally contemplated;
   a. Submit this item only if the project is solely an acquisition project, the reduction in property exceeds 20 percent of the legislatively-approved acquisition value, *and* the client department believes that a lesser portion of the property is sufficient to meet the objectives of the project approved by the Legislature (see Section 13332.11 [g] of the Government Code);

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(Continued)
SITE SELECTION AND ACQUISITION **6849** (Cont. 2)
(Revised 5/98)

b. Legislative notification is required; therefore the item must be submitted 30 working days in advance of the proposed PWB meeting date.

3. *Possibly* approval of the settlement price, but only if it exceeds the appraisal price previously reported at the time PWB authorized the acquisition.

In all cases, DGS is responsible for submitting the agenda package to DOF for those departments which must acquire property through PWB (for exempt departments, see Section 6842). However, client departments are responsible for meeting DGS' information needs to prepare the agenda packages.

Agenda information:

1. **Site selection and acquisition.** The following information is required:

   a. All elements specified in Section 6845 for both the agenda package and standard fiscal reporting requirements;

   b. CEQA documents per Section 6850.

2. **Acquiring less property pursuant to Government Code Section 13332.11 (g).** The agenda package includes:

   a. All the elements specified in Section 6845 for both the agenda package and standard reporting requirements. However, if this request is made at the same time as the board item for site selection and acquisition, it is handled as a sub-item and uses the agenda package and standard reporting requirements for the main item;

   b. A written statement explaining why the purchase of lesser property fulfills the Legislature's intent; and

   c. A draft notification letter to the Legislature.

3. **A settlement price which exceeds the appraisal.** The agenda package includes:

   a. All elements specified in Section 6845 for both the agenda package and standard reporting requirements. However, if this request is made at the same time as the board item for site selection and acquisition, it is handled as a sub-item and uses the agenda package and standard reporting requirements for the main item;

   b. An explanation for the increase in the settlement price;

   c. If an augmentation is required, a separate agenda package is not needed but the submittal must include the additional information outlined in Section 6861.

Interim property management by DGS after acquisition: Until property acquired under the Property Acquisition Law is needed, jurisdiction lies with DGS:

1. The Director of General Services may transfer jurisdiction to the client department if in his opinion early transfer is in the best interest of the state (e.g., the department requires interim use for parking);

2. DGS may lease all or any part of the property;

3. DGS may remove or demolish structures;

4. DGS may sell or dispose of the improvements; and

5. Rentals received are deposited in a special account in the General Fund and, when appropriated by the Legislature, are available to DGS to maintain, improve or care for the property until needed for the purpose acquired (Government Code Section 15863), with the exception of lands acquired for the State Park System (Public Resources Code 5003.17). However, proceeds of sale of improvements are *not* deposited in the special account or available for maintenance.

ENVIRONMENTAL IMPACT REVIEW PROCESS **6850**
(New 5/98)

PWB requires satisfaction of environmental concerns in accordance with the California Environmental Quality Act (CEQA) before it will approve preliminary plans for a project and generally prior to approval of site selection as well. Legal statutes and related regulations covering CEQA can be found in Public Resource Code Section 21000 et seq. and its accompanying regulations, California Code of Regulations (CCR) 15000 et seq. Many actions brought before PWB for consideration and approval are "projects" within the definition of CEQA. These statutes and regulations set out the environmental review requirements for such projects.

Key definitions: For assistance on understanding the documents and notices required by CEQA, see the *Guidelines for California Environmental Quality Act*, Section 15000–15387, CCR, Title 14, Chapter 3. The guidelines provide an explanation of the environmental process and the definition of many common terms. The following summarizes a few frequently used terms and describes what CEQA documents include:

1. **Project per CEQA:** The term *project* per CEQA is defined in CCR Section 15378(a) (3) as an activity involving a lease, permit, or license issued to a person or entity.

2. **Environmental impact report:** An *environmental impact report (EIR)* is one of the three basic types of environmental documents that may be prepared by a lead agency to disclose the potential environmental consequences of an action. An EIR consists of draft and final documents. There are several types of EIR (focused, supplemental, program, etc.). An EIR "…is an informational document which will inform public agency decision-makers and the public generally of the significant environmental effect of a project, identify possible ways to minimize significant effects, and describe reasonable alternatives to the project" (Section 15121, Title 13, Chapter 3 of the CCR). An EIR is required when a project will have one or more significant environmental effects that cannot be either avoided or reduced to a level of insignificance through the use of mitigation measures or changes to the project.

3. **Negative declaration/initial study:** A second type of environmental document is a *negative declaration.* A negative declaration may be used if the project is not expected to have one or more significant effects on the environment. A negative declaration typically is supported by an initial study or initial study checklist.

4. **Categorical exemption**: A *categorical exemption* is an exemption from CEQA based on one or more classes of actions/projects established in regulation. Each class of projects has been determined to not have a significant effect on the environment.

Related notices include:

1. **Notice of determination:** A *notice of determination* is a brief notice filed by the lead or responsible agency after it approves or determines to carry out a project or action that was subject to CEQA. For state projects, the notice is filed with the State Clearinghouse, Office of Planning and Research. Filing of this notice starts a 30-day litigation period. See Sections 15075 and 15094 of CCR, Title 14, for the contents of this notice. A notice of determination is used for both EIRs and negative declarations.

2. **Notice of exemption**: A *notice of exemption* is a brief notice that may be filed by the lead agency after it approves or determines to carry out a project or action that was exempt from CEQA because the project was *ministerial, categorically exempt*, etc. For state projects, the notice is filed with the State Clearinghouse. Filing of this notice starts a 35-day litigation period.

Client department's role: Environmental review is typically required for construction projects, projects funded through multi-year capital programs, land acquisitions, and land transfers. Other PWB actions may also be subject to the CEQA environmental review process. The lead agency in each case has the responsibility for determining whether the project is subject to CEQA.

The client department is responsible for meeting the requirements of CEQA. Departments must certify to the PWB that CEQA requirements have been met, including successful completion of the litigation period on each respective project approval, and must provide corroborating evidence (such as a date-stamped notice of determination or categorical exemption). In addition, departments must notify DOF of any developments, subsequent to completion of CEQA, that may indicate environmental contamination or other environmental issues that may require additional activities and/or costs.

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ENVIRONMENTAL IMPACT REVIEW PROCESS **6850** (Cont. 1)
(New 5/98)

Changes in the project: The client department as lead agency ensures that there have been no changes in the project, site conditions, or other factors that may make it necessary to prepare additional environmental documentation. The need for additional documentation could arise for a variety of reasons, especially if there has been a substantial period between completion of the environmental review process and project submittal to the board. For example, if information becomes available that there is an unexpected problem of soil contamination within the project site, the lead agency may need to revise the previously approved environmental document. Other examples include the adoption of new regulatory standards that impose constraints on the project, changes in the setting of the project site such as the reduced availability of on-site utilities (water supplies, sewer service, etc.), increased traffic congestion, or the development of adjacent land uses that conflict with the project.

The client department must also ensure that all projects remain in compliance with the environmental document prepared and adopted for each respective action. In some cases, it may be necessary to provide additional documentation to support the finding that the original environmental process remains valid. Both state and federal environmental review processes provide guidance on when supplemental or revised environmental documentation may be needed subsequent to the approval of a project.

PWB practices: Because resolution of CEQA concerns should generally precede PWB's approval of state funds for a project, PWB follows these practices:

1. **When processes should be completed**: Departments must provide PWB with evidence that the state's environmental review process has been completed by the lead agency (the public agency with primary authority for carrying out the action) *prior* to the required PWB action.

   a. For construction projects, this means prior to approval of preliminary plans; and

   b. For acquisition projects, this means prior to approval of site selection and acquisition.

2. **Notice of determination, categorical exemption:** In most cases, completion involves filing of the applicable project approval notice by the lead agency—either a *notice of determination* or a *categorical exemption*, as required by state regulation.

3. **Litigation period**: The litigation period (described in the preceding text) on the notice must have expired without a valid challenge *before* PWB will consider the item. The litigation period for a notice of determination is 30 calendar days; the litigation period for a categorical exemption is 35 calendar days. Consult the regulations for litigation periods for other types of notices.

Evidence of the completion of this process assures the board that it has minimized risk in committing state funds to a particular project or undertaking.

CEQA compliance outside the PWB process: CEQA requirements are not limited to projects reviewed by PWB. Actions not reviewed by PWB, such as minor capital outlay projects, may nonetheless constitute "projects" within the definition of CEQA and its accompanying regulations. Again, in each case the lead agency is responsible for determining the application of CEQA to each project and fulfilling the relevant requirements.

Sections 6849 and 6851 describe how CEQA compliance should be presented in the PWB agenda package.

PRELIMINARY PLANS REVIEW **6851**
(Revised 5/98)

What are preliminary plans? Preliminary plans are the initial design phase in preparing the construction bidding documents. The discussion in this section applies to the design-bid-build process used for most state projects (Section 6841).

These documents are developed from the information contained in the budget package. Typically the preliminary plans are developed in two distinct steps referred to as schematics and design development. The two-step process allows the department and architect/engineer to interact before the design is developed, helping to ensure a mutual understanding of the design objectives, limitations and budget.

1. **Schematic documents**: Schematic documents are the initial architectural and engineering plans prepared during the preliminary plan phase, depicting the designer's conceptual solution to project needs. The major difference compared with design documents is the amount of detail.

2. **Design documents**: These are the final documents which result from the preliminary plan phase, defined by Section 3.00 of the Budget Act as a site plan, architectural floor plans, elevations and a cost estimate. For each utility, site development, conversion, and remodeling project, the drawings must be sufficiently descriptive to convey accurately the location, scope, cost, and the nature of the improvement being proposed.

Beginning and end of phase: If a department contracts with DGS for project management, the preliminary plans phase starts with the request to DOF to release funds for preliminary plans funds using a Form 22 or a GS-OSA 220 for bond items (6868 Illustrations 1 and 2). Upon approval of the release of funds, the design/construction administrator has the design prepared either by state personnel or through contracts with private sector architects/engineers. This phase ends when PWB approves the preliminary plans. An overview of all capital outlay phases is provided in Section 6808.

Client department's role: The client department is responsible for obtaining PWB review and approval of preliminary plans *prior to* expenditure of appropriated funds for subsequent phases. When requesting approval of preliminary plans, the client department must either:

1. Certify on the DF-14D that all present and future phases will be within scope and cost per supplemental budget language and legislatively-approved COBCPs; or

2. Request adjustment through the appropriate change process (Section 6861 discusses cost increases; Section 6863 discusses scope changes).

In addition, the client department must demonstrate that it has met environmental requirements for the project before PWB will approve preliminary plans (Section 6850).

Departments are reminded not to start preliminary plans (or any other phase) with any funds other than the approved phase appropriation or in advance of DOF authorization of a DF-14D.

PWB's role/restrictions related to preliminary plan approval: Section 13332.11 (a) of the Government Code requires both DOF and PWB to approve all preliminary plans to ensure that projects proceeding to working drawings and construction are consistent with legislatively approved cost and scope. Section 13332.11 (g) requires the board to defer action with respect to approval of preliminary plans if the estimated cost of the project exceeds 20 percent of the amount appropriated.

If construction has not yet been appropriated, there is no requirement under statute for the board to defer action on the preliminary plans. However, PWB will calculate the project's estimated percentage increase based on the last legislatively recognized project cost. Depending upon the circumstances, it is generally board practice to defer action and notify the Legislature when such increases are estimated to exceed 20 percent.

Value engineering may be required before PWB considers a request for a recognized deficit: If a project is expected to exceed cost based on the preliminary plans, PWB may require value engineering to determine cost savings strategies *before* it will recognize a potential deficit. The principal concepts which underlie the value engineering methodology are function, cost, and worth. The approach is to analyze the functional requirements of a project's materials, methods, components and subsystems in order to explore alternate solutions which improve project efficiency without reducing program value. During this process, all expenditures relating to design, construction, maintenance, operation, replacement, etc., are considered.

Mandatory review approvals: Various statutes require that certain elements of preliminary plans and working drawings be reviewed by oversight agencies before proceeding to bid. Examples of possible mandatory reviews at the preliminary plans stage include the State Fire Marshal, the California Coastal Commission, and the State Historic Preservation Officer. (Note: mandatory review approvals must be identified in the COBCP per Section 6818.)

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PRELIMINARY PLANS REVIEW **6851** (Cont. 1)
(Revised 5/98)

PWB agenda package for preliminary plans: When submitting requests for approval of preliminary plans, provide the following:

1. All information requested in Section 6845, including both the standard fiscal reporting requirements and the agenda package;
2. A completed, dated set of preliminary plans, outline specifications, and a cost estimate (note: all department-retained funds and federal or other non-state funds contributing to the total project costs must be accounted for);
3. For proposed cost increases, the information required in Section 6861;
4. For proposed scope changes, the information required in Section 6863;
5. A "*Public Works Project Authorization and Transfer Request*"—Form 22 (6868 Illustration 1) for the working drawings phase. Projects financed from bond funds use a different transfer form (GS-OSA 220, 6868 Illustration 2); and
6. Evidence of CEQA compliance per Section 6850, such as a copy of the *filed* Negative Declaration.

Preliminary plans presentation meeting: Client departments must present their preliminary plans to PWB staff in a *plans review meeting* before PWB staff will consider a request for plans approval. This meeting must occur prior to the screening meeting for that month's agenda. The purpose of the meeting is to verify that the project is within scope based on document review.

After the board has approved preliminary plans: DOF will sign copies of the DF-14D and Form 22 and return them to the client department for distribution to DGS and SCO. Time-frames for submitting requests for preliminary plans approval to board staff are presented in Section 6843.

Approved preliminary plans become the final definition of project scope: For most projects, scope is initially defined in the COBCP and published in supplemental language to the Budget Act. The preliminary plans and specifications, as approved by the PWB, later become the final definition of the approved scope of the project. Scope changes to these documents must be specifically approved by DOF in writing *before* the department can make additional expenditures to revise the plans or to redesign the project, unless such changes are authorized in the Budget Act or other subsequent legislation (Government Code Section 13332.11 [b]). Scope changes are discussed in Section 6863.

APPROVE WORKING DRAWINGS AND PROCEED TO BID **6852**
(Revised 5/98)

What are working drawings? Working drawings are the final design phase in preparing the construction bidding documents. Section 3.00 of the Budget Act further defines working drawings as "a complete set of plans and specifications showing and describing all phases of a project, architectural, structural, mechanical, electrical, civil engineering, and landscaping systems to the degree necessary for the purposes of accurate bidding by contractors and for the use of artisans in constructing the project. All necessary professional fees and administrative service costs are included in the preparation of these drawings." Documents also include a dated final cost estimate. The discussion in this section applies to the design-bid-build process used for most state projects.

This phase starts with the approval by DOF to release working drawing funds and ends with DOF approval to proceed to bid. Both approvals use a Form DF-14D as shown in 6845 Illustration 1.

Before the working drawing phase can begin, PWB must approve the project's preliminary plans (see Section 6851). A Form 22 is used to authorize transfer of working drawings funds to the Architectural Revolving Fund (ARF) (Section 6868). Departments use a DF-14D to request authority to spend working drawing funds. The architect/engineer then prepares the documents described in the preceding text along with any approved bid alternates as described in the following text.

NOTE: Requests for Approval of Working Drawings and Approval to Proceed to Bid are generally submitted concurrently if the construction funding has been appropriated. The requirements are separated in the following discussions for clarity. If submitted simultaneously, duplicated requirements should be combined.

Approval of working drawings: Government Code Section 13332.11 (b) requires PWB to approve working drawings and also authorizes DOF to approve working drawings. PWB delegates it's approval to DOF and therefore an agenda package is not required. However, if the drawings result in cost or scope changes, those changes must be approved by DOF and then submitted as an agenda item the PWB (see Sections 6861 and 6863). To obtain DOF's approval of workings drawings, the client department must:

1. **Develop adequate working drawings**: Demonstrate that the working drawings are adequate for bidding and construction of the proposed project:

   a. For most projects, DOF requires a letter attesting to the adequacy of the working drawing documents (as defined in Section 3.0 of the Budget Act), and summarizing the estimated construction, contingency, and project support costs.

   b. DOF may elect to review actual working drawings. If requested, departments must provide DOF with a complete, dated set of working drawings, bid specifications, and a final cost estimate with a statement from the department Director/designee that the documents are adequate for constructing the proposed project.

2. **Evaluate changes:** Attest that any changes from the preliminary plans have been evaluated for scope changes as defined in Section 6863 and funding changes as defined in Section 6861.

3. **Obtain mandatory review approvals:** Various statutes require that certain elements of preliminary plans and working drawings be reviewed by oversight agencies before proceeding to bid. Examples of mandatory reviews which may be required at the working drawing phase include the State Fire Marshall, the State Historic Preservation Officer, and the California Coastal Commission.

4. **Information requirements for approval of working drawings:**

   a. Standard fiscal reporting defined in Section 6845;

   b. Working drawing completion letter or set of working drawings as detailed in the preceding text; and

   c. If the request includes changes in scope and/or costs, an agenda package as defined in Section 6845 and reporting requirements as defined in Section 6861 and/or 6863.

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Obtaining approval to proceed to bid: Prior to initiating the bidding process, the client department must request approval to proceed to bid. To obtain DOF approval to proceed to bid after working drawings are completed, the client department must:

1. **Have a construction appropriation:** A construction appropriation for the project must be authorized (chaptered budget act and/or legislation) prior to advertising the project or issuing the bid .

2. **Obtain approval of bid alternates**: Public Contract Code Section 10126 allows bids to be accepted on alternates, additions or deductions from a basic project bid, not to exceed 10 percent (10%) of the estimated cost of the base project. Government 13332.11(b) requires DOF approval of bid alternates.

   The purpose of bid alternates is two-fold. If a project comes in over budget, deductive alternates can help avoid the need to re-bid the project. Conversely, if bids come in under budget, additive alternates can allow project improvements. Bid alternates (which must be bid separately from the main contract) must include all proposed deductive items in priority order followed by all additive items in priority order. DOF encourages submittal of at least three deductive alternates to ensure a successful contract award in the event that all bids submitted exceed budget.

3. **Obtain PWB/DOF approval for combined bids:** Public Contract Code 10127 authorizes DGS to receive bids for construction of several projects, treated as a single project for bidding purposes. PWB must first approve combined bids. Departments are required assign costs to the various projects and appropriations and to maintain separate cost accounting for each project.

4. **Reporting requirements for approval to proceed to bid:**

   a. Standard fiscal reporting requirements as defined in Section 6845;

   b. If proposed, a list of bid alternates, deductive and additive, in priority order;

   c. If the request includes a request for combined bids, an agenda package as defined in Section 6845 and an explanation of the benefits of combined bids in this situation; and

   d. If the request includes a change in scope and/or costs, an agenda package as defined in Section 6845 and reporting requirements as defined in Section 6861 and/or Section 6863.

As soon as DOF signs the DF-14D, the client department notifies DGS to proceed to bid. Typical activities during the bidding process include advertising the project in construction trade papers, submission of bids by interested parties, analysis of those bids, and selection of the lowest responsible bidder.

AWARD CONSTRUCTION CONTRACT **6853**
(Revised 5/98)

Awarding the construction contract is the first step in the construction phase. The construction phase consists of awarding the bid (this section) and the actual construction (Section 6854). *Please note that the discussion in this section applies to the design-bid-build process used for most state projects.* Projects built under the design-build process use different phases.

What occurs during the bidding step of the construction phase? Typical activities during the bidding step are advertising the project in construction trade papers, submission of bids by interested parties, analysis of those bids, selection of the lowest responsible bidder, contract execution, and delivery of a formal notice to the contractor to begin the construction work.

Information requirements to release construction funds. After bids have been received and DGS certifies that a valid low bid exists, the client department requests DOF to authorize award of the contract and to transfer construction funds to the Architecture Revolving Fund (ARF). The client department provides the following information with this request:

1. The standard fiscal reporting requirements specified in Section 6845;
2. Form 22, *Request to Transfer Funds* (6868 Illustration 1). Projects financed with bond funds use a different transfer form—GS-OSA 220—also discussed in Section 6868;
3. A copy of the bid tabulation (see 6853 Illustration); and
4. A PWB agenda item and briefing document for reversion. These are required only if there are savings in the appropriation because of a favorable bid. The item must request reversion of savings and a proportional reduction in contingency funds at the next regular PWB meeting. Formats and examples for PWB agenda items are available from the DOF Capital Outlay unit. Include *all* information required in Sections 6845 and 6862.

Steps following release of construction funds: Upon approval of the DF-14D and related documents, DOF signs the Form 22 and returns all documents to the client department for transmittal to SCO and DGS. With this approval, an official award of the contract may be made to the low bidder. Following execution of the construction contract, DGS gives the contractor formal notice to proceed with construction.

Construction without bid/contract: If a department is authorized to construct a major project in-house, either by statute or provisional language in the Budget Act, the department may submit the standard fiscal reporting requirements specified in Section 6845 to request release of funds to proceed to construction. The option "other" should be selected on the DF-14D and write: "in-house construction."

CAPITAL OUTLAY PROJECT REPORTING

BID TABULATION

Org Code: **Organization:**

Project Code: **Project Title:**

Award Period:

Latest PWB/DOF Approved Contract Estimate (excluding Contingency):

BIDDERS					
Rank					
BID ITEMS					
BASE BID					
DEDUCTIVE ALTERNATES					
ADDITIVE ALTERNATES					
BASE + ALTERNATES	$ -	$ -	$ -	$ -	$ -
ACCEPTED BID TOTAL	$ -	$ -	$ -	$ -	$ -

Explanation of Rejected Bidder(s):

I certify that this is a true tabulation of bids received.

Departmental Approving Officer **Date**

The actual construction is the second step in the construction phase: As noted in Section 6853, the construction phase consists of two steps: awarding the bid (previous section) and actual construction (this section). Section 3.00 of the Budget Act stipulates that "construction, when used in connection with a capital outlay project, shall include all such related things as fixtures, installed equipment, auxiliary facilities, contingencies, project construction, management, administration and associated costs." Construction may also include departmental staffing costs for agency-retained construction work.

Construction cannot begin until the contractor receives a notice to proceed from the project manager (which occurs after DOF has approved the DF-14D and released construction funds as described in Section 6853). Construction occurs in accordance with contract requirements. Any changes must be by contract amendment, and in some cases, DOF must concur with those changes (see following change orders). The phase ends when construction is complete and the contractor files a *Notice of Completion* with DGS or other project manager.

Competitive versus non-competitive construction: In a competitive bid situation, work during the construction phase is accomplished under a contract. In non-competitive situations, the work is done by either the DGS, the California Department of Corrections inmate labor, or departmental staff, as appropriate.

What are the contract documents? The contract documents consist of the agreement between the state and the contractor, notices to contractors, instructions to bidders, the written specifications and drawings prepared by the architect/engineer for constructing a project, general and supplementary conditions, contract bonds, addenda, change orders, and supplementary agreements.

What are the cost elements of construction?

1. **Construction support:** The terms *construction support* or *project administration* are applied to all project expenses incurred during the construction phase other than actual construction costs. The major construction support/project administration cost items are inspection, construction management, architect/engineer review, and special consultants—primarily for materials testing and asbestos abatement monitoring. Project *soft costs* include costs for all pre-construction phases, plus construction support expenses.

2. **Construction contract**: This is the actual amount of the construction bid award, plus any approved change orders (referred to as "hard costs").

   a. **Change orders** are formal contract amendments executed during the course of construction as required to address unforeseen site conditions, errors and omissions in the contract documents, and changes in the work resulting from client department requests. When a proposed change order potentially modifies project scope or would require a project augmentation, the client department must discuss the desired change with DOF **before executing the change order** to determine if the matter requires DOF/PWB action. (See Section 6863 for scope changes.) Change orders are funded from the contingency line item of the project budget, discussed in the following text. Approved scope changes may be funded partially or entirely from the contingency line-item, depending upon cost and how close the project is to completion. DOF makes this determination, in consultation with the client department, on a case-by-case basis.

Construction contingency: The construction contingency is a set percentage of the construction contract amount budgeted for unforeseen emergencies or design shortfalls identified *after* a construction project commences.

a. Construction contingencies are limited to 5 percent of the construction estimate/bid for a new facility and 7 percent of the construction estimate/bid for remodeling/renovation projects.

b. A construction contingency is included in the budget so the project can proceed with minimal interruption for small (non-scope) changes or cost overruns. The typical construction contract includes a specific completion date or working days to complete clause, and the contractor can be assessed liquidated damages if the work is not completed within this specified time. Concurrently, the contractor is entitled to proceed with the work without interruption. To minimize state-caused delays, the client department must be able to implement *minor* (i.e., non-scope) changes without administrative delay.

c. Generally, the project manager approves the use of contingency funds. However, if the project requires an augmentation or a scope change, DOF may require that contingency funds be used in part to meet that need. This decision is made on a case-by-case basis. (Likewise, if an augmentation is requested and a review of change orders reveals that contingency funds were used for a non-essential purpose, PWB may disapprove the request for additional funds and direct the client department to identify alternative solutions.)

Construction augmentations: See Section 6861.

EQUIPMENT **6855**

(Revised 5/98)

Group 1 and 2 equipment: Capital outlay equipment is categorized either as *Group 1* or *Group 2* equipment:

1. Group 1 equipment is installed equipment such as heating and air conditioning units and is budgeted as part of the construction phase.

2. Group 2 equipment is movable equipment, such as tables and chairs (but not replacement equipment) and is budgeted as its own project phase, typically following construction.

Not all equipment is classified as capital outlay: See Section 6806 for the difference between equipment budgeted through the support appropriation versus capital outlay equipment.

How to request funds for capital outlay equipment: Specific information is required when requesting funding for capital outlay equipment. See Section 6818 for budgeting instructions.

Expenditure of equipment funds requires DOF approval: Government Code Section 13332.11(c) limits the cumulative expenditure of project funds for equipment to $2,000 without prior approval by DOF. This refers to the purchase of Group 2 equipment budgeted in the equipment phase of a project. The project manager requests approval by providing the standard fiscal reporting requirements specified in Section 6845.

Long-lead equipment: Although final equipment lists are generally not approved for purchase until after PWB has approved preliminary plans, there are instances when equipment must be ordered in advance because of installation problems or extended manufacturing time. Subject to DOF and PWB approval, Government Code Section 15792 allows departments to incur equipment obligations to be paid during the fiscal year following the year of a project completion. This authorization:

1. Is limited to the purchase of equipment related to capital outlay projects for which the Legislature has appropriated construction funds;

2. Applies to both Groups 1 and 2 equipment, although in practice the request is made generally for the latter; and

3. Is subject to the determination of future year equipment funding needs based on the project schedule.

See also Section 6842 on PWB's role and responsibilities related to capital outlay equipment.

Agenda package for approval of long-lead equipment. Provide the following:

1. All information required in Section 6845, including the standard fiscal reporting requirements and the agenda package; and

2. Identification of which equipment needs to be ordered early and why.

PROJECT COMPLETION **6856**

(Revised 5/98)

Project Occupancy: DOF must be notified by the department when the project is ready for occupancy (the date of final inspection, beneficial use or occupancy of the project, whichever is earliest). For lease/revenue funded projects, this is typically the date when insurance must be in place and triggers when lease payments begin.

1. **Information requirements related to notification of project occupancy**:

   a. The standard fiscal reporting requirements described in Section 6845; and

   b. The project occupancy letter. For projects managed by DGS, DGS sends a letter to the client department attesting to the project occupancy including project occupancy date. The department must forward a copy to DOF. Departments exempt from DGS project management must prepare a letter attesting to project occupancy. (For lease/revenue funding projects, this letter must also be sent to the STO.)

Modifications after occupancy: If the client department has determined that there are modifications necessary to complete the project after occupancy, and savings are available or an augmentation can be justified, the department may submit an item to the board for either a "cost increase within appropriation" or an augmentation (Section 6861). The board item should include a list of proposed modifications to be completed under the existing contract and, for each modification, a justification narrative including cost estimates and scheduled completion date. This board item should be submitted with the Project Occupancy Letter.

Project Completion: When the contract has been accepted and completed by both the contractor and DGS (or exempt department) and claims have been settled, the DGS (or exempt department) prepares a "Notice of Completion" pursuant to Section 3093 of the Civil Code. A copy of this notice is sent to DOF and for lease / revenue funded projects a copy is also sent to the STO. This notification must be prepared within 1 year of the date of occupancy as described in the preceding text. Extensions to the deadline (i.e. for scheduled completion of approved "modifications after occupancy") must be approved by DOF.

1. **Information requirements related to notification of completion**:

   a. The standard fiscal reporting requirements described in Section 6845; and

   b. A copy of the "Notice of Completion."

Project Close Out: "Project close out" reflects the closing of the financial records related to a project. Final project financial statements are reportable to DOF within three months of project completion unless an extension has been approved by DOF.

1. **Return of Funds Transfer:** Government Code, Section 14959 requires that DGS transfer the unencumbered project funds out of the Architectural Revolving Fund to the originating appropriation within three months of project completion. The client department must submit a Return of Funds Transfer form (available from DGS) to effect that transfer.

2. **Financial statements:** Departments shall provide final project financial statements to DOF**.** These statements should include an accountability for agency retained authority. Outstanding claims should be treated as encumbrances.

3. **Reversion of remaining project funds:** Departments must submit an item to the board for reversion of any remaining project appropriation authority to the originating fund (Section 6862). Reversion items should include an accountability for agency retained authority. Outstanding claims should be treated as encumbrances.

BOARD ITEMS FOR INTERIM FINANCING AND BOND SALE **6860**
(New 5/98)

Interim financing: For projects funded from PWB lease-revenue or energy efficiency bonds, departments may need financing for expenses incurred in the interim period before a bond sale is conducted. The board must approve the use of interim financing, and simultaneously authorize a *future* bond sale to ensure that the interim financing will be repaid. The board action includes the approval of various supporting documents (indenture, site agreements, facility agreements, energy contracts, etc.). This is all presented in a single board item, with several sub-items.

1. **Agenda requirements for interim financing**. Provide the following information for the board:

   a. Standard fiscal reporting requirements specified in Section 6845. Also submit the agenda *briefing package*. However, PWB staff will format the agenda item itself;

   b. A completed PMIB loan application or loan renewal application;

   c. Anticipated project schedule;

   d. The date planned to go to PMIB; and

   e. The anticipated amount and duration of the loan.

2. **When ready for the actual sale:** The actual bond sale will require a subsequent bond item. This request is initiated by STO rather than the client department, and PWB prepares the agenda item. The client department may be asked to provide a briefing document, however.

   See Section 6878 for additional information on interim financing.

AUGMENTATIONS, ADDITIONAL COSTS (WITHIN APPROPRIATION) AND RECOGNITION OF DEFICITS **6861**

(Revised 5/98)

PWB's authority to augment: PWB's authority to augment capital outlay projects, and the appropriations for those augmentations, are set out in Government Code Sections 16352, 16352.5, 16354, and 16409. Section 13332.11 of the Government Code limits that authority as follows:

1. Augmentations are limited to 20 percent of the amount appropriated;

2. PWB must defer approval of preliminary plans or any portion of an acquisition project if the estimated cost of the total project exceeds 20 percent of the amount appropriated. (A limited exception is provided for acquisition projects—see Section 6849.) If construction has not yet been appropriated, there is no requirement under law to defer action on preliminary plans, but PWB will nonetheless calculate the project's estimated percentage increase based on the last legislatively recognized cost. As appropriate, it is generally board practice to defer action and notify the Legislature when such increases exceed 20 percent;

3. Any single augmentation or cumulative augmentation exceeding 10 percent of the funds appropriated requires a 20-day notification to JOBC *prior* to action by the PWB;

4. Augmentations of construction phases have specific limits discussed in the following text under "How to compute an augmentation;" and

5. PWB may recognize a potential augmentation of a future project phase, which the board terms a *recognized anticipated deficit.*

In addition, by board policy and practice:

1. Recognition of anticipated deficits is generally limited to the construction phase.

2. Augmentations of less than 10 percent *may* be treated as a delegated item to DOF, and at DOF discretion *may* be approved prior to the PWB monthly meeting.

The balance of this section describes PWB procedures in implementing Section 13332.11. A broad overview of PWB authority is provided in Section 6842.

Compelling need: While PWB is authorized to augment capital outlay projects, augmentations are not approved unless there is a compelling need, and only after:

1. Non-committed project funds (contingencies) have been considered as a possible source of funding;

2. Cost reductions which do not affect scope are evaluated. PWB staff may request the client department to evaluate and include deductive alternates before proceeding to bid (see Section 6852); and

3. For higher education projects, use of non-state funds is evaluated.

PWB authority to augment projects in no way relieves departments of the responsibility to keep projects within approved cost and scope to the maximum extent possible. PWB will not use its augmentation authority to fund client revisions for "nice-to-have" items.

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AUGMENTATIONS, ADDITIONAL COSTS (WITHIN APPROPRIATION) AND RECOGNITION OF DEFICITS **6861** (Cont. 1)

(Revised 5/98

How to compute the augmentation:

1. If an appropriation is for a single project phase—such as preliminary plans, working drawings or construction—the amount of the phase is used to calculate the allowable augmentation (i.e., no more than 20 percent).

2. If the appropriation funds both preliminary plans and working drawings, PWB staff has the option to use the total of these two phases to determine the allowable augmentation for any one phase. However, PWB does not normally entertain augmentations for preliminary plans or working drawings.

3. Augmentations for construction are based on the total amount appropriated for the construction phase and are calculated on construction contract costs and A&E costs (Government Code Section 13332.11 [e]).

   a. Construction contract costs include the principal construction contract or bid packages, agency-retained activities, landscaping, change orders and contingencies to the principal contract or bid packages.

   b. A&E services are interpreted to mean architecture and engineering services including architectural supervision, project administration and/or management, testing, inspection, specialized consultation and other similar line items in support of the actual construction of the project.

   c. Amounts for planning, working drawings or equipment will not be used to calculate the allowable augmentation to the construction phase.

4. All other existing restrictions, such as policy limits on contingency (Section 6854) and A&E fees (Section 6818, "Technical Notes") are to be observed.

PWB agenda item requirements for augmentations, anticipated deficits, and cost increases within appropriation: A PWB agenda item is required for any augmentation or departmental request for PWB to recognize an anticipated deficit or cost increase within appropriation. If the request requires formal board action (i.e., not delegated to PWB staff), it must be submitted to DOF 20 working days preceding the PWB meeting. Those requests for augmentation and recognition of anticipated deficits which require legislative notification (i.e., those in excess of 10 percent) must be submitted to DOF 30 working days prior to the scheduled PWB meeting. Formats and examples for agenda items are available from the DOF Capital Outlay unit.

Agenda packages for augmentations:

1. **Construction augmentations to award bid.** Provide the following:

   a. All information requested in Section 6845, including the standard fiscal reporting requirements and the agenda package;

   b. A draft legislative notification if the augmentation exceeds 10 percent;

   c. A copy of the bid tabulation for construction augmentations (see the illustration in Section 6853); and

   d. A narrative description justifying the need for such augmentation. This must address efforts to include deductive alternates, value engineering, contingency reductions or scope modifications to address augmentations needs, and the consequences if the request is not approved.

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AUGMENTATIONS, ADDITIONAL COSTS (WITHIN APPROPRIATION) AND RECOGNITION OF DEFICITS **6861** (Cont. 2)

(Revised 5/98)

2. **Construction augmentations during construction.** Provide the following:

   a. All information requested in Section 6845, including the standard fiscal reporting requirements and the agenda package;

   b. A draft legislative notification if the augmentation exceeds 10 percent;

   c. A complete narrative description justifying the need for such cost increases, including the following:

      (1) Status of the project and percentage complete;
      (2) Full description of the unanticipated items, their cost, why needed, and alternative solutions;
      (3) Reason(s) why costs were not included in the original bidding documents and/or as deductive or additive alternatives to the bid, as appropriate;
      (4) Reason(s) why deductive alternates cannot be change ordered to cover the additional costs;
      (5) Reasons why these items cannot be funded within the construction contingency;
      (6) Explanation of efforts to value engineer remaining project components;
      (7) Consequences if not approved; and
      (8) Whether the additional items are within the scope approved by the Legislature.

3. **Agenda package for augmentations of land acquisition projects.** Provide the following:

   a. All information requested in Section 6845, including the standard fiscal reporting requirements and the agenda package;
   b. A draft legislative notification if the augmentation exceeds 10 percent;
   c. A listing of all budgeted parcels and a description of the acquisition status of each parcel (acquired, in negotiation, etc.);
   d. A complete narrative description of alternative solutions, including why the augmentation is the correct solution, and consequences if not approved; and
   e. A parcel map showing the relationship of the parcels requiring augmentation to the total funded acquisitions.

Agenda packages for recognized anticipated deficits: At the end of the preliminary plans or working drawing phase, if the project is estimated to exceed its construction budget, the client department may request PWB to approve the preliminary plans or working drawings *and* to recognize an anticipated deficit. PWB notifies the JLBC of the anticipated deficit if it exceeds 10 percent of the construction appropriation. In the absence of a construction appropriation, PWB generally interprets these limits and notification requirements based on the last legislatively recognized estimate for construction.

1. When requesting a recognized deficit as part of preliminary plans approval, provide:

a. A *sub-item* recognizing the anticipated deficit including a complete narrative description justifying the need for the cost increase in the briefing text as follows:

   (1) A full description of the unanticipated items and estimated cost;

   (2) The need for the items, the reasons why those items were not included in the original proposal, alternative solutions, and consequences if not approved;

   (3) Discussion of alternatives such as value engineering, deductive alternates, or reworking the preliminary plans or working drawings; and

   (4) Whether the additional items are within the scope approved by the Legislature (if not, a separate scope change item is required with the information specified in Section 6863).

b. A draft legislative notification if the anticipated deficit exceeds 10 percent.

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AUGMENTATIONS, ADDITIONAL COSTS (WITHIN APPROPRIATION) AND RECOGNITION OF DEFICITS **6861** (Cont. 3)

(Revised 5/98

2. When requesting a recognized deficit at the working drawings stage, prepare a *full agenda item* in accordance with Section 6845, plus all information noted immediately preceding.

   When the bid is awarded, if the augmentation actually needed is equal to or less than the anticipated deficit as recognized by PWB, PWB does not notify the JLBC again. However, the client department must submit the formal augmentation request to PWB as outlined in the preceding text.

Agenda packages for cost increases within appropriation: Occasionally a department may need PWB to approve additional project costs for items not anticipated in the bidding documents. If there are bid savings to cover the costs (i.e., revised project cost remains within the original appropriation), and the additional items are within approved scope, PWB may approve the increase without notifying the Legislature. (Otherwise, such a request must be for an augmentation and/or scope change). For cost increases within appropriation, provide the following information:

1. All information requested in Section 6845, including the standard fiscal reporting requirements and the agenda package;

2. A complete narrative description justifying the need for such cost increases. At a minimum, include the following:

   a. Full description of the unanticipated items;

   b. Reasons why they were not included in the original bidding documents;

   c. Reasons why these items cannot be funded within the construction contingency;

   d. Consequences if not approved; and

   e. Whether the additional items are within the scope approved by the Legislature

BID SAVINGS, PROJECT SAVINGS, AND REVERSIONS **6862**

(Revised 5/98)

There are five potential reasons for project reversions:

1. The construction bid came in lower than budget (i.e., experienced **bid savings**) permitting reversion of surplus funds. (Bid savings are reverted at time of award; any other use of bid savings requires DOF review and concurrence.) This is a non-policy reversion delegated to DOF for approval.

2. The project is complete and there are **project savings** (which would be net of any bid savings previously reverted). This is also a non-policy reversion delegated to DOF for approval.

3. The project failed to meet requirements of Section 2.00 of the annual Budget Act. This is a policy reversion which the board considers.

   Section 2.00 provides that appropriated funds shall revert if DOF has not allocated them (either through a fund transfer or approval to proceed to bid) on or before June 30 of the fiscal year. This means that DOF must approve Form 22 requests for either the preliminary plan phase or the working drawing phase by June 30, or, in the case of construction, approve the Form DF-14D to proceed to bid by June 30. A client department must be familiar with these requirements and with the time-frames laid out in DOF Budget Letters. The client department is advised to discuss deadlines for submitting these forms with its DOF capital outlay analyst to determine whether there will be a need to reappropriate project funding.

4. The project has a proposed scope change which will result in savings to be reverted. This is a policy reversion which the board considers.

5. The project has been terminated by statute or for a policy reason. This is a policy reversion which the board considers.

Agenda packages for reversion items. Submit the following information for proposed reversions:

1. All information requested in Section 6845, including the standard fiscal reporting requirements and the agenda package;

2. The type of reversion (see preceding);

3. If the reversion is of a policy nature as defined in the preceding text, an explanation of the cause; and

4. The fund to which savings will be reverted.

SCOPE CHANGES **6863**

(Revised 5/98)

What is scope? The scope of a project is *what* will be constructed (or acquired) and *why*. Thus, scope encompasses both the physical characteristics of the project and the intended program use. Scope is established initially in the COBCP, with key elements reiterated (or restricted) in supplemental language to the Budget Act. The preliminary plans—and later the working drawings—refine scope in terms of the physical characteristics of the project. The various information sources for a project's scope are discussed in more detail in the following text.

Scope changes require DOF approval. Section 13332.11 (b) of the Government Code states that "no substantial change shall be made from the preliminary plans or working drawings as approved by the State Public Works Board and the Department of Finance without written approval by the Department of Finance." This approval must be granted *before* the department can make any expenditures to redesign the project or to revise the plans, unless those revisions are authorized in the budget act or other subsequent legislation.

Subparagraph (9) of Section 13332.11 (b) requires DOF to report approved scope changes to the Legislature. In practice, this restriction and related notification requirement *begins with project authorization*, even before preliminary plans are considered by PWB.

After DOF approves a scope change and the Legislature has been noticed, PWB "recognizes" the scope change in a board item, incorporating it into the board's official record for the project. As appropriate, PWB may also require that a formal revision to the preliminary plans be submitted for approval.

When is a proposed change *substantial*? DOF determines whether a proposed change is substantial and therefore a scope change, based on a review of the facts on a case-by-case basis and in consideration of legislative intent. Therefore, it is not practical to publish absolute definitions for scope. However, administrative guidelines follow for determining which project changes should be discussed with DOF to assess their significance.

Guidelines to determine which project changes are *potentially* substantial: The client department is required to report to DOF any proposed project change as outlined in the following text. DOF will work with the client department to assess whether the change meets the definition of *substantial.* (The initial report can be made by phone or e-mail; DOF may require written follow-up for its records. For changes deemed to be scope adjustments, the client department must submit all information required at the end of this section.)

A client department must discuss the following with its DOF capital outlay analyst to determine whether a scope change would result:

1. Changes to the **approved program use**, as defined by:

    a. Assigned program space for facilities. Any change which would add space for a new function, increase capacity for a program activity, use space for a function or activity different than originally intended, or alter the ratios in multi-use space, is reportable to DOF for evaluation as a *potential* scope change;

    b. Land use purpose for acquisition projects; and

    c. Any other expectations or restrictions regarding program use set forth in the authorizing statute.

    In this context, *program* is defined at the *activity* level (i.e., a more narrow definition of program than typically used in the Governor's Budget or the budget act).

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SCOPE CHANGES **6863** (Cont. 1)

(Revised 5/98)

2. Changes to the **physical characteristics of the real asset** as it relates to:

   a. Facility size, shape, major structural characteristics, and location.

      (1) Size generally may be described in either gross square feet or assignable square feet. For some projects, such as sewer, electrical or HVAC, size may be a function of capacity.

      (2) Shape is a function of both the footprint and elevation of a structure. *Footprint* includes the interior arrangement as well as the facility perimeter.

      (3) Major structural characteristics will vary by project, but may include the structural system, architectural style, construction materials, and major mechanical, electrical or utility systems.

      (4) Location may be as specific as parcel number, or more generally city, county or region, depending upon initial definition in the COBCP, statutory language, or supplemental language.

   b. Acreage size, land type, and location; and

   c. Any other expectations or restrictions regarding the physical characteristics of the real asset as set forth by authorizing statute.

Changes which meet the reporting requirements to DOF, as described in the preceding text, are not necessarily scope changes unless DOF so determines. Reasonable judgment is required in contacting DOF; however, because the consequences of unapproved scope changes can be severe (including project termination), client departments and project managers should err on the side of caution.

Generally, the following project changes are not reportable to DOF (as potential *scope* changes):

1. **Cost**, although the impact of a scope change on project and related operational costs must be carefully considered (cost changes may or may not result in scope changes; conversely, scope changes can occur with or without associated cost changes). See Section 6861 for instructions on approval processes for project cost changes.

2. **Changes** to correct minor errors and omissions in the construction documents or to respond to minor unforeseen site conditions (i.e., substitution of fixtures when products are no longer manufactured, corrections required by code authorities, minor demolition of materials not foreseen during design, addition of electric services to motors, etc.). However, when such changes cannot reasonably be categorized as minor, or if they alter programmatic capability or requirements, the matter must be discussed with DOF to assess impact on project scope.

Construction contingency funds should be reserved for correcting problems in achieving approved scope and for essential scope changes. Construction contingency funds should be used to pay for the cost of resolving problems arising from design errors/oversights, unforeseen conditions, code requirements, and the cost (if any) for approved scope changes. Non-essential client change orders should be avoided. See Section 6854.

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SCOPE CHANGES **6863** (Cont. 2)

(Revised 5/98)

Source references for project scope: As noted in the preceding text, a project's scope is defined in several source documents.

1. For budget act projects, the **COBCP**: A detailed description of project scope is required in the COBCP (Section 6818). This description becomes one of the primary references for later interpretation of potential scope changes.

2. For budget act projects, the **supplemental language report of the Legislature**: This language summarizes the COBCP for each specific project and outlines costs for studies, acquisition, preliminary plans, working drawings, construction and equipment using the California Construction Cost Index (CCCI) as published in *Engineering News Record* for the year of the original project appropriation. While a proposed schedule for the commencement and completion of various phases of each project is contained in the scope language, this project schedule is not considered part of the project scope for purposes of scope changes**.**

3. For non-budget act projects, **special legislation**: For projects approved through special legislation, where preliminary program guides and budget packages are not available, the language in the legislation may provide initial definition of approved scope. Other documents used to support the need for the legislation, such as project descriptions, which may be included or supplemented in master plans, special reports, and costs estimates, may provide more detailed scope definition. Also, subsequent documents submitted to and approved by the Legislature (if applicable), further define legislatively approved scope.

4. **Preliminary plans and working drawings** as approved by DOF and PWB. Once preliminary plans have been approved by the board, the specific plans and specifications become the final definition of the scope of the project, as it pertains to physical characteristics.

Agenda packages for scope changes: Provide the following information:

1. All information requested in Section 6845, including the standard fiscal reporting requirements and the agenda package; and the following additional information:

   a. Any mandated reviews and approvals required related to the project change;

   b. Any required CEQA compliance related to the change;

   c. What design corrections were required, and why;

   d. *What* programmatic changes were required, *why*, and *when* those changes were approved by the DOF support analyst; and

   e. What the change's savings or cost implications are, and why.

2. If an augmentation is also required, a sub-item must be attached consistent with Section 6861 (and also noticed to the Legislature, if necessary).

QUARTERLY REPORT **6864**

(Revised 5/98)

Each department with an active capital outlay appropriation must submit a quarterly report to DOF no later than April 15, July 15, October 15, and January 15 of each calendar year as shown in 6824 Illustration 1.

The fiscal data should include all funding (appropriations and executive orders) related to the project plus any transfers related to each appropriation. Comments should describe the status of the current phase. Detail of change orders should recap any scope changes and construction change orders issued or pending. The schedule, at a minimum, should reflect the original dates (at time of project funding approval), and the latest revised dates and actual dates. In addition, it is helpful to enter into a history of schedule changes.

CAPITAL OUTLAY PROJECT REPORTING

QUARTERLY REPORT FOR QUARTER ENDING _____

Organization Code: _____ Organization Title: _____

Project Code: _____ Project Title: _____

FISCAL DATA:

Chapter/Item Number	Appropriation Amount	Early Work Transfers (cumulative $)	Preliminary Plan Transfers ($)	Working Drawing Transfers ($)	Construction Transfers ($)	Other Transfers (cumulative $)	REVERSION OF FUNDS Previously transferred $	REVERSION OF FUNDS Not Prev. transferred $	Totals - all transfers, net after reversions	Contingency Balances ($)	Amount of Change Orders Issued/Pending

Comments:

Detail of Change Orders Issues/Pending:

PROJECT SCHEDULE

	PWB Approval of Preliminary Plans	Working Drawing Fund Transfer	DOF Approval to Proceed to Bid	Construction Fund Transfer	Construction Completion
Original Date					
Revised Date					
Actual Date					

Reason for delays:

Signature:

Name:

Title:

Phone No.

INMATE DAY LABOR **6865**

(New 5/98)

Public Contract Code Section 10103.5 provides an exclusion to the State Contract Act for work performed by prisoners pursuant to an order by the Director of the Department of Corrections. If the total cost of a project for the construction of new, previously unoccupied prison facilities or additions to an existing facility exceeds $50,000, use of inmate day labor must first be approved by PWB.

If the project budget was not estimated using inmate day labor, there should be bid savings. This savings should either be reverted, or—if proposed for redirection within the contract—be approved by DOF.

Agenda package for inmate day labor: The request to use inmate day labor for services exceeding $50,000 is normally presented as a sub-item under the request for approval of preliminary plans, although it can be presented later. Assuming that the main item (approval of preliminary plans) has been prepared with all the information requirements specified in Section 6845, the only additional information required is:

1. Check "other" on the DF-14D and write: inmate day labor;
2. Indicate whether the use of inmate day labor was assumed in the original project cost estimate; and
3. If not, indicate the anticipated savings, and whether it is to be reverted or redirected contingent upon DOF approval. If no savings are anticipated, explain why.

CONDEMNATIONS (EXERCISE OF EMINENT DOMAIN) **6866**

(New 5/98)

PWB holds the power of eminent domain under property acquisition law. Prior to commencing condemnation proceedings, PWB must first adopt a resolution of necessity authorizing condemnation in accordance with the Code of Civil Procedure (CCP) Sections 1245.220 and 1245.230. At least 15 days notice of the board hearing is given in writing to the property owner (CCP 1245.235). Also, the board must have made a good faith offer to purchase the property or, if an offer has not been made, must determine that the property owner cannot be located (Government Code Section 7267.2).

PWB may reach agreement with the owner of part or all of the property being condemned on the price to be paid, and may incorporate the agreement in a stipulation in the condemnation proceeding (Government Code Section 15857). PWB may abandon a condemnation proceeding (CCP Section 1268.510). Upon completion of condemnation proceedings, PWB has the right to immediate possession (CCP 1255.010).

Agenda packages for proposed condemnations: When requesting that the board condemn a property, the client department (and/or DGS) must provide all the following:

1. All information requested in Section 6845, including the standard fiscal reporting requirements and the agenda package;
2. A statement of the property's proposed public use;
3. A description of the general location and extent of the property to be taken, with sufficient detail for reasonable identification;
4. An analysis of necessity showing that:
   a. The public interest and necessity require the proposed project;
   b. The proposed project is planned or located in the manner that will be most compatible with the greatest public good and the least private injury; and
   c. The property is necessary for the public good;
5. Chronology of attempts to purchase the property and/or contact the owner; and
6. Certification that 15 days advance notice has been provided the owner.

PWB's resolution is conclusive evidence that the elements of necessity have been met.

ENERGY SERVICE CONTRACTS **6867**

(New 5/98)

Program overview (see also Section 6873): Cost-effective energy conservation projects reduce the cost of running state government. When PWB issues Energy Efficiency Revenue Bonds (see Section 6873), the proceeds are loaned to state agencies to build projects that conserve energy at state institutions. Loans made to state institutions are structured so that the energy savings generated are always greater than the loan payment. The savings that remain after the loan payment is made are split equally between the General Fund and the department conducting the project.

The facility's share of savings must be dedicated to maintenance, energy projects or infrastructure improvements. This approach reduces the overall cost of state government, allows institutions to modernize facilities without using capital funds, and funds continued infrastructure improvement. DGS' Office of Energy Assessments (OEA) staffs this PWB program. OEA identifies energy-savings projects, performs technical and financial analyses, and structures the loans.

In the development of projects for potential financing, two important guidelines are followed: 1) conservative financial and technical assumptions are used, and 2) only proven energy-savings technologies are implemented. These guidelines help ensure that the projects produce the anticipated energy and dollar savings. They also eliminate the requirement for expensive project metering since projected energy-saving assumptions can be accepted with confidence.

The energy service contract: The energy service contract is the legal loan agreement that defines the project and ensures repayment of the borrowed monies. The department is required to repay the loan regardless of the success of the project. This is necessary to assure bondholders they will be repaid.

The contract contains the "boiler plate" contract language, a project description, cash flow, payment schedules and the department's intention to apply for benefit sharing. It is signed by the participating department, OEA and PWB. Once the contract is in final form, it must be submitted to the Legislature for comment at least 45 days prior to PWB taking action to approve the loan. When the project is completed, the department applies for benefit sharing by submitting a BCP to request retention of half of the projected savings (intended use must be described).

Agenda requirements: PWB agenda requests are prepared by OEA on behalf of participating departments. In addition to information required in Section 6845, OEA reports the contract amount by cost component, the payment structure (amounts and due dates), and the net benefit to the state over the life of the contract.

TRANSFER OF FUNDS TO THE ARCHITECTURE REVOLVING FUND (ARF) 6868

(New 5/98)

Section 14957 of the Government Code establishes ARF which receives, through transfer, funds for the construction, alteration, repair, and improvement of state buildings, including:

1) Studies,
2) New construction,
3) Major construction and equipment,
4) Minor construction,
5) Maintenance,
6) Improvements,
7) Equipment, and
8) Other building and improvement projects.

Transfers require approval from DOF. Construction funds transferred for major capital outlay projects may not exceed the amount necessary based on competitive bids. Any excess amounts must be transferred immediately back to the source fund through the reversion process. DOF also approves the use of ARF to advance the cost of federally or locally reimbursed projects, provided assurances specified in statute are received from the federal government. Money in ARF is available for the purposes transferred without regard to fiscal year; however, funds in ARF will revert to the originating fund source if they are not encumbered within three years of being placed in ARF or within three months of a project's completion (see Section 6856) in accordance with Government Code Section 14959. DGS tracks expenditures in the ARF and generates a Return of Funds Transfer for any unencumbered balance that remains beyond the earlier of these time frames. Time extensions may be approved by DOF. DGS estimates upon receipt of bids are considered valid encumbrances for determination of the amount of an unencumbered balance.

Forms used to transfer funds to ARF:

1. Transfer of non-bond funds: Client departments use *Public Works Board Authorization and Transfer Request* form, STD. 22,, to move *non-bond* funds into of ARF. This form is initiated by DGS when it serves as project manager. This form is available from DGS.

   a. Departments use STD. 22 to transfer funds to ARF for each budgeted phase of a capital outlay project. This type of transaction is approved by the *DOF capital outlay analyst* for the department.

   b. Departments also use STD. 22 to transfer support funding for those facilities expenses (such as carpeting or modular furniture) which are classified as state operations. This type of transaction is approved by the DOF *support analyst* for the client department.

   c. Since the same form is used to transfer either support funds or capital outlay funds into ARF, the client department must correctly identify the nature of the transaction—i.e., support or capital outlay. Section 6806 identifies how facilities expenses are classified by character of appropriation.

   d. Except as allowed in Section 6.00 of the Budget Act, transfer of s*upport* funds to ARF for *capital outlay purposes* is not allowed. See Section 6806 and 6807 of this chapter. Section 6.00 transfers of support funds to ARF must be approved by *both* the DOF support analyst and the DOF capital outlay analyst. Submit the original STD. 22 to the support analyst, with a copy to the capital outlay analyst. The last day to submit a STD. 22 for a Section 6.00 purpose is April 30. Allow 30 days for DOF review and 30 days for review by JLBC, as needed.

   e. Due to the volume of proposed STD. 22s at the end of the fiscal year, and the potential for incorrect classification of the request, departments must allow extra time for verification by DOF of the nature of—and need for—the transaction. Proposed transfers to ARF which cannot be verified in the time available will not be approved.

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TRANSFER OF FUNDS TO THE ARCHITECTURE REVOLVING FUND (ARF) **6868** (Cont. 1)

(New 5/98)

2. STD Form 22 Instructions Related to Capital Outlay Transfer Requests:

   To complete STD. 22 related to Capital Outlay transfers, provide the described information for each of the following fields:

   a. Work Order Number - The DGS/RESD work order number.

   b. Description of Project - "Request transfer of $_ _ _ _ _ _ _ to complete the __ _ _ _ _ _ _ _ _ Phase for the following project:" followed by a brief project description. This block may also contain any restrictions and or qualifications on the use of funds, i.e. "these funds will not be utilized prior to _ _ _ _ _ _ _." (Note: departments cannot request transfer of funds for more than one phase at a time.)

   c. Date of Public Works Board Approval - The intended date of PWB approval (blank if prior action did not require PWB approval).

   d. Prior Expenditures for Preliminary Plans -

   e. Fund - Title of fund(s) from which the preliminary plans were funded; and

   f. Amount - Total amount of the preliminary plans.

   g. Total Estimated Project Cost - Latest reported and approved total project cost (as displayed on the Project Cost, Funding, and Schedule Summary).

   h. Source of Funds -

   i. Fund - Title of fund(s) from which the transfer will occur;

   j. Appropriation - Appropriation authority related to each source of funds; and

   k. Dollar Amount - Amount to be transferred.

   l. Unencumbered Balance Before Posting This Estimate - Funding available for this project from prior transfers.

   m. Amount to be Transferred - Dollar amount to be transferred. This amount must match the request in the Description of Project.

   n. Approved By - The signature of the client department's project manager.

   o. Funding Certification - The signature of the client department's Accounting Officer.

   p. Approved By - The signature of the client department's Director or designee.

3. **Transfer of bond funds**: For bond-funded projects, a *Public Works Project Authorization Bond Proceeds Funded Projects* (GS–OSA 220) accomplishes the same purpose as a STD. 22 This form is available from DGS. The form is used to request SCO to reserve a portion of the department's project appropriation authority in a separate account within the appropriate bond fund. This reserve is used to reimburse ARF for actual expenditures.

   a. *All transfer requests from lease-revenue bond funds must be submitted first to DOF's Capital Outlay unit to determine whether the purpose of expenditure is lawful under the bond indenture and state/federal tax law.* This applies whether or not the transfer is for a support purpose. The Capital Outlay unit will then coordinate the request with the appropriate support unit in DOF.

   b. For budgetary purposes (as distinguished from cash flow purposes), GS-OSA 220 is treated as an encumbrance recorded in the fiscal year in which approved by DOF. Departments which manage their own projects—such as the higher education segments and the Department of Corrections for the new prison construction program—do not use GS-OSA 220.

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TRANSFER OF FUNDS TO THE ARCHITECTURE REVOLVING FUND (ARF) **6868** (Cont. 2)

(New 5/98)

4. **Form GSA-OSA-220 Instructions Related to Capital Outlay Bond Transfer Requests**

To complete form GSA-0SA-220 related to bond transfers, provide the described information for each of the following fields:

a. Work Order Number - The DGS/RESD work order number.

b. Description of Project - "Request transfer of $_ _ _ _ _ _ _ to complete the __ _ _ _ _ _ _ _ _ Phase for the following project:" followed by a brief project description. This block may also contain any restrictions and or qualifications on the use of funds, i.e. "these funds will not be utilized prior to _ _ _ _ _ _ _." (Note: departments cannot request transfer of funds for more than one phase at a time.)

c. Date of Public Works Board Approval - The intended date of PWB approval (blank if prior action did not require PWB approval).

d. Amount Requested - Total amount to be transferred.

e. Cumulative Authorization - Total (net) amount transferred to date including this request.

f. Signature/Title/Date - The signature of the client department's project manager.

g. Amount to be Transferred - Dollar amount to be transferred. This amount must match the request in the Description of Project and the Amount Requested fields.

h. PMIA Loan No. - Loan Number of the loan from the Pooled Money Investment Account prior to bond sale.

i. Agency Certification - The signature of the client department's Accounting Officer.

j. Authorized Signature/Date - The signature of the client department's Director or designee.

CAPITALIZED ASSETS FINANCING **6870**

(New 5/98)

This portion of the Capitalized Assets chapter addresses the methods used by most state departments for long-term financing of the ownership and/or use of infrastructure. In addition, this chapter addresses interim (short-term) financing needs for projects. ***Please note that nothing in this chapter is intended to commit either the STO or PWB to policies or practices***.

Capitalized assets may be paid by direct appropriation—sometimes called "pay-as-you-go"—or financed over multiple years. Long-term financing follows one of five paths:

1. If the client department has project authority with a **GO bond** appropriation, the state issues GO bonds to finance the project. Debt service is paid automatically by the General Fund without the need for an annual appropriation.

2. If the client department has project authority with a lease-revenue appropriation, **lease-revenue bonds** are issued by PWB or—in some cases—by a state-membership joint powers authority (JPA). A separate lease rental payment item is included in the annual Budget Act under the client department's organization code.

3. When the client department has obtained authority to *acquire* real assets through leasing, it may execute a tax-exempt ***financing lease*** using an installment sale agreement or lease-purchase agreement. Payments may be budgeted as a separate appropriation or in some cases in the rent line-item of the department's support appropriation.

4. If the client department has only ***operating lease*** authority, a vendor or other third party provides the facility and *may* finance it on a taxable basis using the client department's lease as the security for a debt offering. Payments will normally be budgeted in the rent or contract line of the department's support appropriation.

5. For departments with projects which generate their own enterprise fund revenue streams, projects may be financed with tax-exempt **enterprise revenue bonds** (e.g., the Department of Transportation's toll bridges and the Department of Water Resources' State Water Project).

Because most departments do not use enterprise revenue bonds, this type of financing is not discussed in detail in this chapter. Debt instruments other than those referenced in the preceding text may be used, but the principles will be similar. Acronyms and terminology are defined and indexed in Section 6899.

For an understanding of other forms of debt financing, refer to the California Debt and Investment Advisory Commission's *Debt Issuance Primer*. The Commission also offers a course entitled *Fundamentals of Debt Financing*.

GENERAL OBLIGATION (GO) BONDS **6871**

(New 5/98)

Definition: GO bonds are a form of long-term borrowing in which the state issues municipal securities and pledges its full faith and credit to their repayment. Bonds are repaid over many years through semi-annual debt service payments. The California Constitution requires that GO bonds be approved by a majority vote of the public and sets repayment of GO debt before all other obligations of the state except those for K-14 education.

Key statutory authorities: Article XVI, Section 1, of the California Constitution prohibits the Legislature from creating debt or liability which exceeds $300,000 without a majority vote by the people, except in case of war.

Government Code, Title 2, Division 4, Part 3 (Section 16650 et seq.) sets out the statutory framework for GO bonds. Statutory authorization for individual GO bond measures is placed programmatically in the codes (e.g., prison authorizations are located in the Penal Code).

Fiscal highlights:

1. GO debt is a key component considered in the overall debt load of the state. The most commonly used measure of debt is annual debt service (for non self-liquidating bonds) as a percentage of General Fund revenues or receipts.

2. Self-liquidating GO bonds are backed by project-generated revenue streams and therefore the bond market does not include them when calculating debt service ratios. An example is the veterans' home loan program where expenditures are reimbursed through mortgage payments.

3. There is no California statutory or constitutional limit on the absolute level (or any other measurement) of state debt, other than that specified in Article XVI referred to in the preceding text.

4. GO debt repayment is continuously appropriated and therefore not included as a separate appropriation in the annual Budget Act.

5. GO issues have the highest credit quality in the state and therefore the lowest tax-exempt rates.

6. Debt service consists of both principal and interest payments.

7. GO debt repayment is frequently structured as level principal payments, i.e., the initial payments are the highest, decreasing as principal balances and therefore interest decline.

8. The California Constitution authorizes GO bonds with up to 50-year maturities, but the economics of the bond market usually dictate that bonds be issued on a 20- to 30-year basis. Some bond acts also limit the maximum maturity to 20 years. To meet cash needs before bonds are issued, GO programs may require interim financing through loans from the Pooled Money Investment Account or the General Fund, or through the issuance of tax-exempt commercial paper or other short-term negotiable instruments. See Section 6878.

9. Various GO finance committees must approve the use of interim financing and authorize the sale of bonds.

10. STO is the agent for sale and the registrar and/or paying agent for state GO bonds. GO bonds are normally sold using a competitive rather than negotiated process.

11. DOF provides fund condition statements and participates in sales preparation, due diligence, rating agency presentations and continuing disclosure.

12. Client departments are responsible for informing STO of program cash flow needs so that bond sales can be scheduled or interim financing arranged.

LEASE-REVENUE BONDS **6872**

(New 5/98)

Definition: Revenue bonds (or enterprise revenue bonds) are a form of long-term borrowing in which the debt obligation is secured by a revenue stream produced by the project. Because revenue bonds are self-liquidating and *not* backed by the full faith and credit of the state, they may be enacted in statute and therefore do not require voter approval. .

Lease-revenue bonds are a variant of revenue bonds used in the state's capital outlay program. The revenue stream backing the bond is created from lease payments made by the occupying department to the governmental financing entity which constructs the facility. Generally, this entity is PWB or occasionally a joint powers authority (JPA) of which the state is a member. The financing authority constructs the facility, issues financing bonds, and retains title to the facility until the debt is retired.

Lease-revenue bonds do not require voter approval because the transaction is set up to mirror a typical *financing lease* (discussed in Section 6876), i.e., lease payments are due on a year-to-year basis and required only if the facility can be occupied. The California Supreme Court has reviewed and determined that the lease-revenue financing mechanism does not create constitutional debt. The court's decision framework is referred to as the *Offner-Dean rule.*

Nonetheless, bond rating agencies include lease-revenue payment obligations when calculating the state's bonded indebtedness burden. Thus, there is a distinction between the concept of *California constitutional debt* and *debt as defined by the municipal bond market*.

PWB's lease-revenue program is described in Section 6873. Lease-revenue programs for state capital outlay can also be implemented through JPAs, as described in Section 6874.

Fiscal highlights:

1. In contrast to GO bonds, annual appropriations are necessary for lease-revenue debt service. However, the obligation to pay is *not* extinguished if appropriations are not provided.

2. Government Code Section 15848 provides for debt service payment in the event of no budget.

3. Lease-revenue bonds pay interest at tax-exempt rates which are slightly higher than tax-exempt rates for GO bonds.

4. Lease-revenue payments are due only if there is "beneficial use and occupancy." If the facility cannot be occupied, no lease payment is due (i.e., abatement is a required element of the underlying lease). Because payments would still be owed to bondholders, rental interruption insurance is required for lease-revenue projects. In addition, lease-revenue bond issuances are sized larger than actual project needs primarily for:

   a. A capitalized interest account to pay debt service during the construction period until the facility can be occupied; and

   b. A debt service reserve fund. A reserve fund is created by the indenture or trust agreement and is usually funded from bond proceeds. Reserve funds are generally required by rating agencies for bonds other than GO bonds as a prerequisite for investment grade rating. A reserve fund is used to replenish the interest and principal accounts in case of deficiency or to pay debt service if no other money is lawfully available (i.e. insurance proceeds). Drawing on a reserve fund is absolutely a last resort and is an event frowned upon by the financial markets. The amount of the reserve fund is governed by tax law and, for state lease financings, is generally one-half of the maximum semi-annual debt service.

5. Lease-revenue debt service is structured as level debt payments (as opposed to level principal payments for GO debt service) because the repayment schedule must be similar to that for a commercial operating lease.

6. The term of the bonds cannot exceed the useful life of the facility.

7. Lease-revenue bonds are typically sold on a negotiated basis because the bond market has greater information requirements about the security underlying lease-revenue issues. A financing team, in place before the bond sale, helps meet these information needs.

Lease-revenue bonds may not be issued for any project for which a lease cannot be created. (Without a legally enforceable lease, there is no security for the issue.) .

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LEASE-REVENUE BONDS **6872** (Cont. 2)

(New 5/98)

8. Lease-revenue projects may require interim financing for costs incurred before the bonds are issued. Interim financing for preconstruction costs for lease-revenue programs requires substantial assurance that the loan will be repaid in another manner in the event bonds authorized for the project are not sold. For PWB projects, this is generally in the form of Budget Act or statutory language which authorizes repayment of interim costs from a department's support appropriation.

9. DOF, STO, the client department (and in some cases DGS) all have roles in the successful completion of lease-revenue project financing. For further discussion, see Sections 6873 for PWB lease-revenue bonds, Section 6874 for JPA lease-revenue bonds, Section 6880 for preparing for a bond sale, and Section 6884 for continuing disclosure. Client department responsibilities are summarized in Section 6886.

10. Other lease requirements are set forth in Section 6876 under the heading "financing leases."

STATE PUBLIC WORKS BOARD (PWB) LEASE-REVENUE BOND PROGRAMS **6873**
(New 5/98)

PWB is authorized to issue lease-revenue bonds to finance acquisition and construction projects when such projects are authorized by the Legislature.

In a typical project, the client department leases the site for a nominal fee to PWB, although for some projects the board may acquire the site directly. The client department then constructs the project as PWB's agent. The board leases the *completed facility* back to the client department for a rental fee equal to the amount needed to provide for the debt service on the revenue bonds and associated administrative expenses. Leases can be for periods up to 35 years, although 20 to 25 years is typical. The lease term cannot exceed the useful life of the capital asset.

Although there are limited exceptions, under federal tax laws arbitrage rebate penalties will be incurred or any arbitrage profits have to be rebated to the federal government if construction proceeds of revenue bond financing are not expended within two years. ("Arbitrage" refers to interest earnings on the investment of bond proceeds that result in a return in excess of borrowing costs.) To avoid this rebate, PWB may defer long-term bond sales and instead authorize loans from PMIA or the General Fund to cover interim financing needs, with a commitment to subsequently sell bonds (Section 6878). Long-term bonds are later sold in an amount sufficient to repay interim financing and to provide for the balance of construction costs, required debt service reserves, the capitalized interest account, and administrative expenses.

PWB's lease-revenue programs:

Public Buildings Construction Fund. Government Code Sections 15815 et seq. establish a financing program for the acquisition of sites and construction of public buildings. PWB issues lease-revenue bonds for acquisition of sites and construction of public buildings when such projects are specifically authorized by the Legislature. The fund contains a construction account for the project, and a revenue account from which principal and interest on the bonds are paid, and into which is deposited any revenue derived from the operation of the facility.

New Prison Construction Revenue Fund. Government Code Section 15819.3 authorizes PWB to finance prison facilities by the issuance of revenue bonds. Authorizations for specific prison projects have been enacted in legislation and codified in the Penal Code. These authorizations mirror those contained in the Government Code. Certain terms of the bonds must be reported to the appropriate legislative committees at least 20 days prior to bond sale (Government Code Section 15819.8).

High Technology Educational and Research Facilities in Public Universities. Government Code Section15820 et seq. authorizes PWB to finance the construction or renovation, and the equipping of facilities for lease-purchase to the University of California, the California State University, and the California Community Colleges for educational and research purposes related to specific fields of high technology. This has been expanded to also be used for instructional or library purposes.

Energy and Water Conservation Revenue Bond Projects. PWB may issue revenue bonds pursuant to Government Code Section 15814.15 to finance the cost of alternative energy equipment and for energy and water conservation measures in state public buildings, defined to include local school districts' (K-12) buildings. The total amount of revenue bonds authorized to be issued is $500 million through January 1, 2000. The client department is responsible for payment of debt service on issued bonds under an energy service contract. Proposed energy service projects, agreements and leases must be reported to the appropriate legislative committees at least 30 days prior to PWB action. DGS implements this program on behalf of PWB. See also Section 6867.

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STATE PUBLIC WORKS BOARD (PWB) LEASE-REVENUE BOND PROGRAMS **6873** (Cont. 2)
(New 5/98)

Fiscal highlights:

1. PWB issues the bonds. The board adopts resolutions authorizing sales/interim financing and setting policy guidelines for the issuance, works with STO in preparing for the bond sale and sizing the bonds, executes sales documents, has responsibility for providing certain disclosure information on an initial and continuing basis, and periodically reviews balances in bond fund accounts to determine surplus status.

2. DOF has general powers of fiscal supervision pursuant to Government Code Section 13070, works with STO in preparing for the bond sale, may participate in rating agency meetings, prepares fund condition statements as required for the bond sale and for continuing disclosure, and evaluates (in conjunction with STO) the disposition of surplus bond funds, if any. In addition, DOF includes appropriations in the annual Budget Act for lease-revenue rental payments based on calculations of need provided by STO.

3. SCO and the State Auditor participate in the due diligence process and provide certain financial information necessary for General Fund disclosure.

4. The State Attorney General's Office also participates in the due diligence process and, together with bond counsel, provides a legal opinion required for the issuance of the bonds.

5. If the bond sale is for a DGS-managed project, DGS provides project time tables, makes recommendations to PWB/DOF on bond sizing, participates in due diligence meetings, and keeps PWB, DOF and STO informed of any events with material impact on project status or budget. If DGS manages the facility after construction, it is responsible for obtaining rental interruption, casualty (fire) and liability insurance. (Otherwise, the owning department is responsible for obtaining this insurance.)

6. STO is the agent for sale and the trustee of PWB bonds, with all associated rights and responsibilities including appointment of the underwriting team, setting the bond sale date, organizing meetings and due diligence associated with the sale, securing ratings and bond insurance, and pricing. STO coordinates continuing disclosure for PWB issues. By policy, the board has delegated to STO the appointment of bond counsel and the selection of financial advisory services related to sales activities.

7. The client department has responsibilities as summarized in Section 6886.

Fiscal information generic to lease-revenue bonds is found in Section 6872. PWB oversight of lease-revenue projects is described in the portion of this chapter on project administration (Sections 6840–6869). Lease requirements for lease-revenue bonds are described in Section 6872 and in Section 6876 under the heading "financing leases."

JOINT POWERS AUTHORITY (JPA) LEASE-REVENUE BOND PROGRAMS **6874**
(New 5/98)

Government Code Section 6500 et seq. provides for the joint exercise of powers by public agencies. *Public agency* is broadly defined to include the federal government and its agencies and departments, the state, another state or any state department or agency, as well as cities, and counties and other districts.

The joint powers agreement, which is approved and signed by all government participants, states its purposes and how that purpose will be accomplished or joint powers will be exercised. The agreement may be administered by one or more of the parties, or by a board or commission created specifically for this purpose.

The entity created by the joint powers agreement is separate from the parties to the agreement. When vested with specified powers, such as the power to make contracts, hire employees, or construct or operate buildings, the entity may sue and be sued in its own name. However, in general the debts, liabilities and obligations of the JPA will be those of the parties to the agreement, unless the agreement specifies otherwise.

JPAs have the power to issue revenue bonds—including lease-revenue bonds—for the acquisition, construction, maintenance and operation of specified infrastructure. The power to issue such bonds is described as an "additional" power of the agency, but one to which each of the member agencies must specifically agree. Further, the revenue bonds issued pursuant to this authority are *not* obligations of the participating members unless there is a specific assumption of liability.

State building construction accomplished through state-membership JPAs: State building construction and acquisition accomplished through JPAs (where the state is a member of a JPA established specifically for such a purpose) is usually exempted from PWB oversight by the authorizing statute. However, such construction and related financing is subject to DOF's general powers of financial supervision pursuant to Government Code Section 13070.

Fiscal highlights:

1. State funds expended through *any* JPA may not be used to accomplish a state capital outlay purpose that has not been authorized by the Legislature.

2. DOF may require that an economic analysis be performed on state projects financed by a JPA to ensure that cost/benefits are favorable. By a memorandum of understanding between DOF and DGS, such an analysis is required for all DGS office building projects. DOF also works with STO to prepare the bond sale, reviews proposed bond sizing, may participate in rating agency meetings, prepares fund condition statements as required for the bond sale and for continuing disclosure, and reviews JPA proposals for disposition of surplus bond funds, if any.

3. If the state is a member of a JPA which has been created specifically by the Legislature to accomplish a state construction purpose, the capital project is generally eligible for interim financing through the PMIB or other short-term mechanism such as a General Fund loan.

4. The JPA issues the bonds. It adopts resolutions authorizing sales and setting policy guidelines for the agent for sale, appoints bond counsel, prepares estimates of cash flow needs, works with the STO in preparing for the bond sale, executes sales documents, and (together with the participating state agency) coordinates responsibility for providing all required disclosure information—on an initial and continuing basis—to STO.

5. If DGS is the project manager (or the state liaison to the project), DGS provides project time tables, calculates cash flow needs on behalf of the JPA, provides recommendations to DOF on bond sizing, participates in due diligence meetings, and keeps DOF and STO informed of any events with material impact on project status or budget.

6. STO is the agent for sale of the bonds and acts as the trustee or selects the trustee, with all associated rights and responsibilities including appointment of the underwriting team, setting the bond sale date, organizing meetings and due diligence associated with the sale, securing ratings and bond insurance, and pricing. STO is also dissemination agent for continuing disclosure for the bonds.

7. The credit underlying a state-membership JPA bond issuance (for a state capital outlay project) will be the same as for a PWB issuance, i.e., the state lease and the state fund from which the lease payments are being made. Financial statements for that fund may be included in the official statement and are subject to continuing disclosure.

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JOINT POWERS AUTHORITY (JPA) LEASE-REVENUE BOND PROGRAMS **6874** (Cont. 1)
(New 5/98)

8. The key client department responsibility is to notify DOF and STO, at least eight months in advance (preferably one year) of a proposed sale for any project outside the normal budget process which may require the services of STO as agent-for-sale or continuing disclosure agent. The department must meet as necessary with STO to clarify the agent-for-sale-role and may not make commitments regarding financing structure, underwriters, or timing of sale until concurrence is received from STO. Since the leases associated with the bonds include financial terms, the department should consult the STO before final financing terms are negotiated. The client department has other responsibilities summarized in Section 6886.

Fiscal information generic to lease-revenue bonds is found in Section 6872. Lease requirements for lease-revenue bonds are described in Section 6872 as well as in Section 6876 under the heading "financing leases."

FINANCING LEASES VERSUS OPERATING LEASES/CONTRACTS **6876**
(New 5/98)

Financing leases:

1. **Background**: If a client department has the authority to acquire real assets, a *financing lease* provides an alternative to finance capital assets over a multi-year period. A tax-exempt financing lease typically falls into one of two general categories:

   a. A capital asset may be financed by leasing it directly from the vendor or leasing entity, with the lessor receiving a portion of each rental payment as tax-exempt interest; or

   b. Certificates of participation (COPs) may be sold to the public. COPs are similar to lease-revenue bonds but represent undivided interests in the rental payments under the tax-exempt lease.

   If statute does not clearly create financing lease authority for a transaction, the client department is limited to an operating lease (see following).

2. **Statutory reference**: Government Code Section 14669 authorized DGS to hire, lease, lease-purchase, or lease with the option to purchase any real or personal property for the use of any state agency, subject to specified restrictions.

3. **Requirements for a financing lease**: The tax-exempt obligation may be structured as an installment purchase agreement, installment sale agreement or lease-purchase agreement. As with lease-revenue bonds, the state's debt obligations under the lease must be structured consistent with the Offner-Dean exception, i.e., cannot be structured in a way which would classify them as *constitutional debt*:

   a. Rentals are paid only for those periods in which beneficial use and occupancy of the leased property is available to the lessee;

   b. If there is no annual appropriation for rent when the leased property is available for use and occupancy, the state will be in default under the lease, and remedies may be available against the state. These remedies may include the vendor's or lessor's right to continue the lease in existence and sue the state for each installment of rent as it becomes due.

   c. Acceleration of rental payments is not permitted;

   d. The obligation to pay rental payments may be from any lawfully available funds of the client department, which may covenant to place in its annual budget and seek appropriation of the rentals that are due and payable during the fiscal year;

   e. The terms and conditions in the lease must be similar to the lease terms found in a commercial context for similar types of facilities;

   f. The lease term should not extend beyond the anticipated useful life of the leased property, and fair market rental should be paid;

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FINANCING LEASES VERSUS OPERATING LEASES/CONTRACTS **6876** (Cont. 1)
(New 5/98)

g. Termination provisions must match the underlying capital financing (such as certificates of participation). Usually the lease may be terminated only if the remaining unpaid rental payments are *prepaid* and title to the leased property vests in the client department (or other state agency, such as DGS); and

h. The credit underlying the transaction is the state lease and the fund from which lease payments are made. Financial statements for that fund may be included in the official statement and are subject to continuing disclosure.

4. **Other fiscal highlights**:

a. Per Government Code Section 5700, STO is the agent for sale of any state or JPA debt issuance, including those over $10 million, unless statute specifies otherwise. This provision includes debt issuance for a financing lease. In this context, "JPA" means *any* joint powers authority, whether or not the state is a member. If the issuer for bonds for a state financing lease is neither a JPA nor a state entity, STO may nonetheless reserve the right to be the agent for sale if continuing state disclosure is required. Other STO roles are as described for JPA issuances (Section 6874).

b. The roles of DOF and DGS are as described for JPA issuances. The client department, DOF, and/or DGS may consult with the Attorney General to ensure that the underlying lease has all appropriate provisions to ensure that the transaction is not constitutional debt.

c. The key client department responsibility is to notify DOF and STO, at least eight months in advance (preferably one year), of any pending financing lease project outside the normal budget process *which may require the services of STO as the agent for sale or continuing disclosure agent*. The client department will meet as necessary with STO to clarify what entity is the agent for sale. DOF may require an economic analysis for the project. The client department needs to consult with the STO before final lease terms are negotiated and, until concurrence is received from STO, the client department may make no commitments to local government entities or private vendors regarding: financing structure; timing; selection of underwriters, financial advisors, or bond counsels; or use of state credit. DOF may schedule lease payments as a separate Budget Act item. In this case, the client department's budgeting and accounting requirements are the same as for lease-revenue debt service. Other responsibilities of the client department are summarized in Section 6886.

Operating leases/contracts used as security for third-party financings:

1. **Background**: A client department may be limited to entering into an operating lease or contract for the use of real assets (i.e., no authority to enter into a financing lease to acquire assets). Typically such operating leases or contracts may be terminated before their maximum term if there is no legislative appropriation for their payment. In some cases, the vendor may elect to use the operating lease or contract as security for borrowing funds to acquire or construct those real assets. However, in this situation there is no authority to commit the state legally or morally to any obligation to appropriate funds beyond the current fiscal year.

2. **Statutory reference**: same as for financing leases described in the preceding text.

3. **Fiscal highlights for operating leases/contracts** :

a. The provisions of the lease must include:

(1) All restrictions applicable to a financing lease as stated in the preceding text; and

(2) Termination provisions, including the right of the state to terminate the lease before the end of the term. For example, the state may include the right to terminate the lease if the state is not satisfied with the condition of the building or the lessor's compliance with the lease terms, may no longer need the space, or for any reason applicable in a commercial context. The exact terms will depend upon the specific factors applicable to each lease. Termination provisions may be short-term—i.e., the useful life of the leased property (e.g. 20 years) may be substantially greater than the stated maximum lease term (e.g. 10 years). In addition, the operating lease or a contract typically will terminate if there is no appropriation of rentals for a fiscal year (hence the name *nonappropriation lease* is sometimes used to describe these operating leases or contracts).

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FINANCING LEASES VERSUS OPERATING LEASES/CONTRACTS **6876** (Cont. 2)
(New 5/98)

Upon termination, the leased property must be returned to the vendor, who may sell or relet the leased property to someone else. In this case, however, the vendor or lessor cannot have the right to continue the lease in existence and sue the state for each installment of rent as it becomes due.

b. The borrowing may not represent itself as an obligation of the state. Therefore, disclosure of state fund financial statements in an official statement or offering memorandum is generally not desirable since this may carry an implication of a state commitment greater than that of an operating lease. The official statement or offering memorandum must specifically acknowledge that the state's commitment or credit relationship to the transaction is limited to what is appropriate for an operating lease. However, tax-exempt financing of operating leases may require State General Fund disclosure. In those cases, the financing becomes very similar to financing leases and the involvement of the DOF, STO and other state agencies is necessary (refer to *financing leases* in preceding text.)

c. All financing needs, including interim needs, must be provided by the vendor (i.e., the project is not eligible for state-funded interim financing).

d. Most long-term operating leases require legislative notification before a lease can be executed. Because the state can terminate an operating lease/contract more easily than a financing lease, the market risk is greater, and financing costs charged back through the lease rates will be correspondingly higher.

e. STO is not typically the agent for sale. *STO, DOF and DGS all have an interest in ensuring that non-state financings using a state lease or contract as security do not misrepresent the state's credit relationship to the transaction.*

f. The key client department responsibilities are:

(1) Verify authority to enter into the specific operating lease or contract;

(2) Verify that the public or private vendor has no expectations that the state will provide continuing disclosure relating to the financing transaction; *otherwise, contact STO and DOF at least eight months in advance of the anticipated issuance sale date (preferably one year) to determine whether such disclosure requests are appropriate and whether STO will require being the agent for sale.* As with financing leases, the client department needs to consult with the STO before final financing terms are negotiated in the lease*;*

(3) Include in the lease or contract all provisions required to prevent the creation of constitutional debt;

(4) If the operating lease or contract is to include a tax-exempt interest component in the rental payments, be sure that a nationally recognized bond counsel firm has reviewed the terms of the operating lease or contract to confirm that it qualifies as "debt" for purposes of federal income tax laws and that appropriate arrangements have been made to satisfy the ongoing federal income tax requirements concerning arbitrage rebate and other tax rules; and

(5) Include in the lease or contract all termination provisions appropriate for an operating lease. Contact the Attorney General, as necessary, for direction on appropriate contract or lease requirements.

Depending on the nature of the lease or contract, the client department may also be responsible for verifying project cost and financing information used as the basis for lease or contract payments. (For example, the agreement with the vendor may be that the state pays only actual construction costs, financing costs, or both.) In this situation, the client department should participate in financing meetings and/or the preparation of audit financing documents. Depending upon the complexity and cost of the transaction, the client department may benefit from the services of a financial advisor to protect the state's interests, especially to assess what is included in the financing costs.

Other client department responsibilities are summarized in Section 6886.

INTERIM FINANCING **6878**
(New 5/98)

The purpose of interim financing is to meet project cash flow needs for expenses incurred after project authorization, but prior to the issuance of long-term debt instruments. Unless statute provides otherwise, projects eligible for state-funded interim financing are those financed through:

1. GO bonds;

2. PWB lease-revenue bonds; and

3. Lease-revenue bonds issued by a joint powers authority, of which the state is a member, with state construction authority.

Most GO bond programs are eligible for commercial paper interim financing.

Interim financing for lease-revenue bonds may be necessary for preconstruction costs (preliminary plans, working drawings) as well as a portion or all of construction costs. Lease-revenue bonds are typically sold after the construction bids are received and awarded and, for small projects, after several projects are grouped together to make a sizable sale. When long-term bonds are sold, proceeds are used in part to repay interim financing costs.

General Fund loans: Section 15849.1 of the Government Code authorizes loans from the General Fund for PWB lease-revenue projects (within the Public Building Construction program) to be repaid from the proceeds received from the sale of bonds. Government Code Section 15819.13 includes similar provisions for PWB prison facilities construction. Government Code Sections 15820.12, 15820.19, 15820.41 and 15820.61 provide General Fund loan authority for PWB higher education projects; however the Legislature must specifically approve such loans.

Pooled Money Investment Account loans: Government Code Section 16470 et seq. establish the Pooled Money Investment Board (PMIB) and Pooled Money Investment Account (PMIA) for investment of surplus state and local government funds. Government Code Section 16312 permits PMIB to make loans to projects otherwise eligible for interim financing through a General Fund loan. PMIB may also make loans to any special fund for a project authorized to be debt-financed.

PMIB meets monthly (usually the third Wednesday of each month).

1. Loans are made at taxable rates set by PMIB in accordance with policies set forth in Government Code Section 16314.

2. Requests for interim financing for GO projects must first be approved by the appropriate bond finance committee. PWB projects must first be approved by PWB. Requests for state-membership JPA projects must be approved by resolution of the JPA's governing board.

3. For preconstruction costs of lease-revenue bond programs, PMIB requires substantial assurance that the loan will be repaid. This is generally met for PWB lease-revenue projects with the following Budget Act language:

   In the event the bonds authorized for the project are not sold, the Department of _____ shall commit a sufficient portion of its support appropriation provided for in this act to repay any loans for interim financing. It is the intent of the legislature that this commitment shall be included in future Budget Acts until outstanding loans for interim financing are repaid either through the sale of bonds or from an appropriation.

4. PMIA loans for interim financing generally do not exceed 12 months in length. If a project requires a longer loan, it must apply to PMIB annually for loan renewal.

5. A PMIB loan application form is available from STO.

Commercial paper program: Commercial paper notes are short-term negotiable instruments which may be used to meet a project's interim financing needs. Government Code 16731.6 authorizes the use of short-term negotiable instruments for interim financing needs for general obligation projects; Government Code Section 15809 does the same for PWB projects. Commercial paper has maturities ranging from 1 to 270 days. Borrowing is at variable, tax-exempt rates. ("All-in" financing costs historically are lower than PMIA loans.) Principal and interest are paid at maturity or refinanced by issuing new commercial paper notes.

THE BOND SALE **6880**
(New 5/98)

The bond sale process begins months in advance of the actual sale. Throughout the process, the framework for the sale is developed and the legal interests of the client department, the state, the prospective bondholders, and potential third-party financing entities (such as a vendor or local government entity) are reviewed and safeguarded. The brief discussion that follows assumes that the Legislature has authorized a financing, interim financing needs have been met, and the project is ready for a bond sale. For further information, contact the California Debt and Investment Advisory Commission which offers a course entitled *Mechanics of a Bond Sale*.

When STO is agent for sale: Pursuant to Government Code Section 5700, STO is the agent for sale for all state and JPA debt issuances, including those over $10 million, unless statute specifies otherwise. In this context, *JPA* means any joint powers authority whether or not the state is a member. By policy, STO reserves the right to be agent for sale for any issuance in which ongoing disclosure is required relative to state credit.

Bond sales calendar/timing restrictions: Each spring and fall, STO prepares a sales calendar for the following half of the calendar year. Bond sales usually require a minimum of eight weeks of preparation before pricing is conducted. Closing (which is when funds become available) is typically two to four weeks following pricing. No sales using state General Fund disclosure (appendix A of the Official Statement) are conducted during the "blackout periods"—from January 1 to the issuance of the Governor's Budget and the time between the May Revise and the enactment of the annual budget bill. In addition, certain holiday periods are avoided when scheduling sales due to slack market interest. Considering these timing factors, requests for a bond sale should be made *at least eight months in advance* of the proposed sale date, and preferably one year in advance.

Although STO routinely contacts client departments to determine sales needs, the responsibility for requesting a sales date lies with the client department (or DGS for projects it manages, and PWB for its projects). STO sets sales dates at its discretion, considering overall program priorities for access to the municipal bond market. See also Section 6860 for instructions on preparing PWB agenda requests bond sale.

Appointment of members to the financing team; kickoff meeting: For negotiated sales, the issuer appoints bond counsel and financial advisors; STO appoints the underwriters. PWB has delegated to STO the appointment of bond counsel and the selection of financial advisors for pricing of bond sales. These parties, the issuer, the client department, STO, DOF and other state agencies (and DGS for projects it manages) convene at a *kickoff meeting* to initiate the sale formally and to establish a *time and responsibilities (T&R) schedule* for the project.

Document review and due diligence: Bond sales involve the preparation of a number of documents. STO, other state agencies, department representatives, DOF and the financing team jointly review bond sales documents throughout a series of meetings, ensuring that the documents are properly drawn and that disclosure requirements are fully met. Brief definitions of key documents are provided in the following text:

1. **Authorizing resolution**: Authorizes the issuance of bonds, the execution of major legal documents, and delegates the authority to close the issue and administer the program. The resolution is executed by the governing body of the issuer (e.g., GO finance committee, PWB or a JPA).

2. **Indenture**: Pledges certain revenues and other property as security for the repayment of the issue, sets forth the terms of the bonds, and contains the responsibilities and duties of the trustee and the rights of the bondholders. (The responsibilities of the trustee are discussed in Section 6882.) The indenture may be in the form of bond and sales resolutions or trust agreement and typically contains the text to be printed on the bond. A supplemental indenture is an indenture that amends or supplements a prior indenture, whether that prior indenture stands by itself, is a general indenture, or a series indenture. The indenture is executed by an issuer and the trustee (who may be the STO). *The client departments administering lease-revenue bond programs should review the indenture carefully because it establishes the disposition of surplus project funds, if any.*

3. **Official statement (including preliminary official statement)**: Provides all information that would be "material" to a prospective purchaser of the bonds, including descriptions of the issuer, terms of the bonds, security for the bonds, major legal documents, risk factors and tax matters, and financial statements.

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THE BOND SALE **6880** (Cont. 1)
(New 5/98)

The preliminary official statement is a version used by the issuer or underwriters to inform the marketplace of the terms of the bonds being issued prior to receipt of bids at a competitive sale or prior to the determination of interest rates and purchase price in a negotiated sale. *The official statement is of particular interest to the client departments administering lease-revenue bond programs because it contains departmental disclosure requirements and project descriptions, as well as debt service requirements and the cost of issuance. However, not that because GO bonds are backed by the full faith and credit of the state, disclosure about the client department(s) is not necessary.*

4. **Bond purchase agreement/contract**: In a negotiated sale, an agreement between an issuer and an underwriter or group of underwriters, i.e., a syndicate who has agreed to purchase the issue. The agreement sets forth the purchase price, interest rates and other terms of the bonds (often by reference to the official statement), date and time of closing, representations and warranties of the issuer, conditions to underwriters' payment for bonds, and underwriter duties. In a competitive sale, the notice of sale serves the same function, specifying the factors used to determine the winning bid; the notice, the underwriter's bid, and the issuer's acceptance of the bid together constitute a bond purchase agreement.

5. **Continuing disclosure agreement**: Sets procedures for continuing disclosure, the contents of the annual report, and specific events to be disclosed. Parties to the document may include the issuer, trustee, dissemination agent, client department, and bond holders as third-party beneficiaries. See Section 6884 for a more complete discussion of continuing disclosure. *The client department, if an obligated party, should review its disclosure responsibilities carefully. Failure to disclose material events as required under the agreement can result in liability.*

6. **Tax certificate or agreement**: Certifies to the facts and expectations necessary for the tax-exempt treatment of interest on the bonds. Those signing the document include the issuer, and other obligated parties. For GO bonds, the client department signs a department tax certificate.

7. **Reimbursement agreement**: If applicable, provides: the terms of the repayment of credit enhancement (e.g., a letter of credit); the terms of obligation to reimburse, including the maturity and interest rate; the pledge of security for reimbursement obligation; and covenants and security. Parties to the document are the issuer, other obligated parties and the credit enhancement provider.

8. **Revenue source agreements**: The following descriptions are written from the perspective of PWB, but they apply to other lease-purchase financings. *The revenue source agreements require careful review by the client department because they outline departmental obligations to PWB.*

   a. **Site lease**: The client department leases the site on which the project will be constructed to PWB for the term of the bonds. The rental fee is generally nominal and paid through the financing. PWB agrees to use the site solely for the purpose of constructing the project. It then leases the facility and site back to the department (see following facility lease). The term of the lease is the same as the debt repayment.

   b. **Facility lease**: PWB leases the facility, defined as the project and the site, to the client department including, without limitation, the terms and conditions of the site lease. The department covenants to use the facility during the term of the lease solely for public purposes and to take no actions related to the facility that would jeopardize the tax-exempt status of the bonds. The term of the lease is the same as that of the debt related to the project. The rental amount is equal to the annual principal and interest on the bond debt, plus any additional rental amounts ordered by PWB (such as trustee fees, accounting fees, PWB costs, etc.). The lease includes a requirement for the department to maintain replacement insurance for loss, damage, and earthquake (the latter only if available at a reasonable cost), liability insurance, and rental interruption insurance (normally to cover an interruption of up to two years).

   c. **Equipment lease**: PWB leases the facility equipment acquired with proceeds of either interim financing or the long-term bonds. The department covenants to use the equipment solely for public purposes. The term of the lease is consistent with the debt for the equipment (generally shorter than the facility lease). The rental amount is calculated in a manner similar to that for the facility lease. The lease contains a requirement that the department maintain both the equipment and insurance on it.

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THE BOND SALE **6880** (Cont. 2)
(New 5/98)

d. **Construction agreement**: PWB and the client department enter into an agreement wherein PWB finances the facility and the department—acting as PWB's agent—performs all activities required to plan, construct and equip the facility, in accordance with the applicable provisions of the State Building Construction Act and the Budget Act.

9. **Closing documents**: Documentation of satisfaction of closing conditions, receipts, and legal opinions.

The term ***due diligence*** means the inquiry made to disclose all facts about the issuer, the client department, the issue, and the security for the issue that would be material to a prudent investor in making a decision to purchase the issue. Due diligence inquiries are made by underwriters, lawyers, and other members of the financing team to determine, for example, whether the issue follows the purpose and scope outlined by the enabling legislation, statutes, and resolutions of the issuer and whether all material facts have been accurately disclosed in the official statement.

In lease-revenue and financing lease transactions, the client department has an obligation to participate in the due diligence process and to disclose all material facts relating to the transaction. (This responsibility may also occur in third-party financings of operating leases; see Section 6876.) In GO bond sales, DOF, STO and the State Controller handle most due diligence tasks; the client department's responsibility is limited to providing project cash flow needs.

Structuring the issuance: The structure of an issue refers to the amount and timing of principal repayments (maturities) and interest payments. GO issuances are typically structured with *level principal repayment* (Section 6871); lease-revenue issuances are structured with *level total payments* (Section 6872). STO normally prepares a schedule which has serial maturities for the first 10 to 15 years, and term maturities subsequent to that. A serial maturity is one which is due every year. A term maturity is usually due from two to ten years beyond the last serial maturity. However, regardless of the structure of the serial and term maturities, departmental payments for debt service are still made every year into a bond sinking fund. The total repayment schedule for GO bonds may extend up to 50 years, although market pressures generally require maturities of half that length. Lease-revenue repayment schedules may extend to 35 years but are also usually only 20 or 25 years in length.

STO solicits information from client departments and PWB (or DOF) to assist in structuring lease-revenue issuances. Client departments provide information on cash flow needs and whether sub-schedules are needed for assets (such as equipment) with shorter effective life-spans than the main facility. PWB (or DOF) provide direction on the overall length of the issue.

Obtaining the bond rating: The state generally sells only investment-grade municipal securities. An investment rating is secured prior to the bond sale from one or more independent third parties, called rating agencies.

1. Generally, an investment rating lowers interest rates by giving investors additional comfort and increasing the universe of buyers.

2. Ratings are based on an analysis of the relative strengths and weaknesses of the various factors potentially affecting the likelihood of debt repayment for the specific obligation. (The ratings applies only to that obligation.)

3. Long-term debt ratings are expressed in symbol form: *Aaa* means the best quality, with extremely strong capacity to pay principal and interest. *Baa* means medium grade quality, with adequate capacity to pay principal and interest (the lowest "investment grade" long-term rating). *Ba* and lower means speculative quality with low capacity to pay principal and interest. Typically, the state receives ratings from three rating agencies: Moody's Investor Services, Standard & Poor's and Fitch Investor Services.

Presentations made to the rating agencies generally involve STO, the issuer, and potentially the client department when a new market credit is being established.

Pricing: GO bonds are sold on a competitive basis; low bid establishes price (i.e., interest rates and other underwriting costs). Lease-revenue bonds are normally sold on a negotiated basis. STO prices the bonds (i.e., negotiates interest rates and any discounts with the market). PWB delegates pricing to STO. STO advises the client department of the final financing costs by maturity and in total.

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THE BOND SALE **6880** (Cont. 3)
(New 5/98)

Bond closing: Moneys are not exchanged in a bond sale—and interest rates are not effective—until the bond sale closes, typically two to four weeks after pricing. The client department (in the case of lease-revenue bonds) and issuer must review and sign all pre-closing documents prior to closing to ensure a smooth conclusion to the sale, and should have a representative at the closing (except for GO sales). Net proceeds are normally transferred by the underwriter to the State Treasury by wire in immediately available funds.

POST-SALE ACTIVITIES **6882**
(New 5/98)

Establishing account records/transferring funds for debt service: Client departments must establish accounting and budgetary records so that lease rental payments can be budgeted and paid to provide for debt service during the life of the bonds. For lease-revenue bond projects, lease rental payments are generally budgeted as a separate item under the client department's organization code in the annual budget. The department, in accordance with the terms of the lease agreement, pays the lessor the lease rental payments from the department's lease rental appropriation. The lessor deposits the lease rental payment into the appropriate debt service accounts of the bonds. The trustee for the bonds (generally the STO) submits claims against the debt service accounts of the bonds on behalf of the bondholders. For GO debt service, STO arranges transfer of funds with SCO; the client department is not involved.

Project management—staying within funds availability: The client department is responsible for completing its lease-revenue project within available bond proceeds. Lease-revenue projects which cannot be completed within available funds present a grave risk to bondholders and therefore to the state's credit rating. For this reason, a construction reserve may be included when sizing lease-revenue or financing lease projects. Any material threat to project progress or budget must be reported immediately to DOF and STO. (This is also an element of continuing disclosure responsibilities as described in Section 6884.)

Trust services/payment of debt service: The state acts as trustee for GO bonds and PWB lease-revenue bonds; STO provides the majority of the services with DOF and SCO performing specific support functions. Trustee services for other state bonds may be provided by (or arranged through) STO. Other trustees, such as the trust departments of commercial banks, are used for some bond programs.

The responsibilities and duties of the trustee may include, among others, the following:

1. Regulating the disbursement of the proceeds of the issue for the intended purposes;

2. Fund transfers to assure that bondholders receive timely and complete payment;

3. Protecting the assets of the trust if a default occurs; and

Exercising a specified standard of care in the administration of those trusts (the timing of interest and principal payments, interest rate setting provisions, investment of funds, events of default, remedies, and the mailing of notices of various events).

Client departments should refer questions from bondholders to STO (or other trustee). Communication of any confidential information to bondholders is not permitted (e.g., the possible refinancing of outstanding bonds).

Computation of lease-revenue debt service for budgetary purposes: See Section 6888.

Project completion: When the lease-revenue project is complete and no additional funds are necessary to complete approved work, the client department files a Notice of Completion with STO and DOF. Any excess funds after completion of the project are budgeted by DOF and used by the trustee to pay debt service. DOF specifically discourages leaving the project status open to use surplus funds available for tasks not part of the approved project scope.

If a department believes moneys are available to pay debt service from excess project funds or surplus revenue, it must submit a request to use such funds to DOF and STO. After approval, funds are then moved from the construction and/or surplus funds to the revenue fund to pay debt service.

Continuing disclosure: All *obligated persons* to a municipal security have a requirement under Securities Exchange Commission (SEC) regulations to make continuing disclosure (i.e., until debt is fully repaid) of certain specified information which is material to investment decisions on the securities. This is a major responsibility for issuers and client departments, with serious legal ramifications for failure to perform. See Section 6884 for a detailed discussion.

CONTINUING DISCLOSURE **6884**

(New 5/98)

The Securities and Exchange Commission requires issuers and other parties to an issuance who meet the definition of *obligated persons* to make disclosures about their bonds after the date of issuance (Rule 15c2-12). An *obligated person* is "any person who is either generally or through an enterprise, fund, or account of such person committed by contract or other arrangement to support payment of all, or part of the obligations on the municipal securities to be sold." Therefore, continuing disclosure is required on virtually all lease-revenue bonds, financing lease issues, and even on operating lease transactions, unless the transaction meets narrow exceptions to continuing disclosure set forth in SEC rules (e.g., certain private placements of securities with a limited number of sophisticated investors, certain short-term issues, and variable rate issues with tender options).

Disclosure is made through annual reports and notices of certain events. Material misstatements or omissions in the annual reports or events notices may be the basis for claims of securities fraud under federal or state securities laws, actionable by the Securities and Exchange Commission or private plaintiffs, with substantial potential liability for issuers or other obligated persons.

When STO act as the agent for sale, it will apprise client departments of their disclosure responsibilities. These will relate primarily to any actions which might modify the rights of security holders or release, substitution or sale of property securing repayment of the securities, and maintenance of required insurance. In transactions where STO is not the agent for sale, client departments are advised to obtain independent legal review of potential disclosure responsibilities.

In lease-revenue bond issues and other issues where rentals are payable from specific state special funds (e.g., the State Highway Account), the continuing disclosure agreement may require that particular information concerning the special fund be updated and provided in an annual report to investors. This information should be described in detail in the continuing disclosure agreement and carefully reviewed by the client department to be sure that it can be made available each year and that appropriate procedures have been established within the client department to assure compliance in future years.

CLIENT DEPARTMENT'S RESPONSIBILITIES **6886**
(New 5/98)

The 6886 Illustration for this section summarizes key client department responsibilities when obtaining long-term financing for projects. For a more complete discussion, refer to Section 6871 for general obligation bonds, Section 6872 for lease-revenue bonds, Section 6873 for JPA lease-revenue bonds, Section 6876 for financing leases and operating leases used as security for vendor debt issuances, and Section 6884 on continuing disclosure.

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Client Department Key Responsibilities Related to Financing (DGS may handle certain tasks if managing the project)	**Type of Project**				
	GO Bonds	**PWB Lease-Revenue**	**JPA Lease-Revenue**	**Financing Lease**	**Securitized Operating Lease/Contract**
Explain project requirements; determine which other responsibilities DGS will handle	Yes	Yes	Yes	Yes	See Sec 6867
Notify DOF and STO, at least eight months in advance—preferably one year—of any pending project outside the normal budget process *which may require the services of STO as agent for sale or continuing disclosure agent*. Meet as necessary with STO to clarify agent-for-sale role. Make no commitments to local government entities or private vendors regarding financing structure, timing, teams, or use of state credit until concurrence is received from STO. Meet DOF requirements for economic analysis.	NA	NA	Yes	Yes	See Sec 6867
Request placement on STO's bond sale calendar, as necessary, at least eight months in advance of desired bond sale date for project—preferably one year.	Yes	Yes	Yes	Yes	See Sec 6876
Projections of cash flow needs for design and construction					
Make projection	Yes	Yes	Yes	No	No
Review vendor projections	NA	NA	NA	Yes	See Sec 6876
Submit all required information to issuer on a timely basis for authorizing resolutions for bond sales and interim financing.	Yes	Yes	Yes	See Sec 6876	No
Submit requests for interim financing to PMIB or other provider of interim financing	Yes	Yes	Yes	No	No
Participate in pre-sale meetings, including document review and due diligence; provide information necessary to meet initial *and continuing* disclosure requirements.	Yes	Yes	Yes	Yes	See Sec 6876
Ensure that any lease or contract securing an issuance has all required elements exempting it from the definition of state constitutional debt (and that securitized operating leases have appropriate termination provisions). Obtain Attorney General review, as needed.	NA	Yes	Yes		
Ensure that the issuer understands: STO's roles and responsibilities when agent for sale; time-frames for bond sales scheduling and other preparation activities; any required DOF reviews for economic viability; any required lease notifications to the Legislature.	NA	NA	Yes*	Yes*	See Sec 6876
Stay within available funds; inform DOF and STO immediately of any material threat to project progress or budget which may affect completion within available funds.	Yes	Yes	Yes	Yes	No
Send STO and issuer *Project Closure Memo* when project is done.	Yes	Yes	Yes	Yes	See Sec 6876
Obtain liability and rental interruption insurance for project.	NA	Yes	Yes	Yes	No
Set up accounting and budgetary records for payment of debt service.	No	Yes	Yes	Sec 6876	No
Refer bondholder questions to STO; do not communicate confidential information.	Yes	Yes	Yes	Yes	See Sec 6876
Obtain DOF and STO concurrence on use of any potential surplus or excess bond funds.	Maybe	Yes	Yes	Yes	See Sec 6876
Repay interim financing from support appropriation if project is not completed.	No	If required	Not usually	No	No

BUDGET TREATMENT OF LEASE-REVENUE DEBT SERVICE PAYMENTS **6888**
(New 5/98)

The STO prepares a schedule annually of debt service payments for all programs with outstanding issuances. STO works with client departments and DOF to estimate debt service for any new programs (or additional issuances for existing programs) for the budget year. This information, in addition to administrative and insurance costs, is used to prepare the *Governor's Budget* and the debt service payment items in the budget bill for lease-revenue projects.

Prior to budgeting annual debt service items, DOF reviews lease-revenue bond accounts to determine whether surplus bond funds are available (in advance of project completion) to schedule as reimbursements towards debt service, thereby reducing the net cost of the appropriation. The client department is required to maintain a forecast of project cash flow needs and budget requirements to assist in these tasks.

The following definitions and discussions clarify capital outlay and financing terms. These definitions are only a guide; statutory definitions and context take precedence.

20-day letters/ notifications: **A notification to the Legislature that a project is proposed for either an augmentation between 10 and 20 percent, or a scope change. Section 6861, augmentations. Section 6863, scope changes. Section 6844, PWB processing requirements.**

Additional costs within appropriation: PWB may approve additional project costs within the approved appropriation if there are bid savings to cover the costs. This action normally takes place within the construction phase. Section 6861.

Agency-retained items: Project elements which the department rather than the architect/engineer or contractor provides. Typical examples include equipment, moving, easements, installation, resource protection, etc. Section 6818, requirements related to COBCPs. Approval process uses a DF-14D form (see following *forms*).

Agent for sale: The entity providing sales services for the bonds on behalf of the issuer; for state and JPA issuances, this is the State Treasurer's Office. Sections 6805 and 6880.

Alterations: Any modification of existing space (buildings, structures or other facilities) that changes the use as to function, layout, capacity, or quality. Must be budgeted as a capital outlay expenditure; for exceptions, see Section 6807.

Anticipated deficit: See *recognized anticipated deficit*.

Arbitrage: Interest earnings on the investment of bond proceeds that result in a return in excess of borrowing costs. Section 6873.

Architect/engineer: Usually design work is done under the general direction of a professional architect. However, for very technical work (e.g., electrical upgrading, personal alarm systems, etc.), the lead may be assumed by an engineer. Architect/engineer services are provided by DGS or through contracts with approved firms in the private sector. Certain departments (such as the higher education segments) are authorized to secure these services directly.

Architecture and engineering(A&E) fees: Fees (basic and nonbasic) charged for architectural and engineering. These fees could be internal to the department or for external professional services. Items include professional charges for A&E construction management support that are project-related, such as construction inspection, travel, bidding expenses, and drawings. Depending on the nature of the project, A&E fees typically do not exceed 13 percent of the proposed construction contract amounts (excluding construction contingencies). See Section 6818 for requirements related to COBCPs.

Architectural Revolving Fund (ARF): A DGS non-governmental cost fund used for project management. Client departments transfer project monies to DGS which are held in this account. Section 6868.

ARF: See *Architectural Revolving Fund.*

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GLOSSARY AND INDEX FOR CAPITAL OUTLAY TERMINOLOGY AND FORMS **6899** (Cont. 1)
(New 5/98)

Augmentation: PWB may approve allocations of additional funds to a project, up to 20 percent, subject to reporting to the Legislature. Sections 6842 and 6861.

BCP: Budget change proposal—usually meaning a *support* proposal.

Betterments: Any modification that increases the designed level of services or life expectancy of a facility or program infrastructure. Section 6806.

Bid alternates: Additions to or deductions from a basic project bid, not to exceed ten percent of the estimated cost of the base project. If a project comes in over budget, deductive alternates can help avoid the need to re-bid the project; conversely, if bids comes in under budget, additive alternates can allow project improvements. DOF approval is required. Section 6852.

Bidding phase: The bidding phase is a set of activities, starting after completion of working drawings, which results in the selection of a contractor. Typical activities in this period are advertising the project in construction trade papers, submission of bids by interested parties; analysis of those bids, selection of the lowest responsible bidder, contract execution, and delivery of a "Notice to Proceed" to the contractor to begin the construction work. Section 6809, overview of capital outlay phases. Section 6852, working drawings and proceeding to bid.

Bid tabulation: A listing of bids received for a project; must be submitted to DOF when requesting release of construction funds. Section 6853.

Bond counsel: An attorney (or firm) retained by the issuer to give a legal opinion that the issuer is authorized to issuer proposed securities, has met all legal requirements, and that the interest will be exempt from federal income taxation and, where applicable, from state and local taxation. Sections 6873 and 6874.

Bond anticipation notes: Short-term negotiable instruments with a fixed maturity used to meet projects' interim financing needs. Section 6878.

Bonds: A method of financing capital projects through long-term borrowing. The state raises money by issuing financial securities to investors. Section 6870. See also *general obligation bonds* and *lease-revenue* bonds.

Bond insurance: Noncancellable insurance purchased by the issuer from a bond insurer where the insurer promises to make scheduled payments of interest, principal and mandatory sinking fund payments if the issuer fails to make timely payments. In an insured issue, the investor relies on the insurer's credit, not the issuer's. The insurer's payment of an installment does not relieve the issuer of repaying the insurer. Sections 6873 and 6874.

Bridging design-build: See *design-build*.

Budget letter: A statewide communication from the Department of Finance containing budget development or implementation instructions.

Budget packages, budget package estimate: Prepared under the direction of DGS, budget packages refine departments' initial project estimates and are used by DOF to evaluate a project and size a project appropriation. They generally contain a project description, pre-schematic drawings, outline specifications, and a cost estimate. Refined cost estimates developed in this process are referred to as budget package estimates (as distinguished from preliminary cost estimates of a project provided by the department in the COBCP). Section 6828.

Building Cost Index: See *California Construction Cost Index*.

California Construction Cost Index (CCCI): The construction cost index departments must use in escalating construction costs. Based on the average Building Cost Index (BCI) for Los Angeles and San Francisco as published in the Engineering News Record. Section 6818, technical notes.

California Environmental Quality Act (CEQA): A body of law and regulation setting out environmental review requirements for projects, including capital projects. Sections 6808, 6812, and 6850.

Capitalized assets: As used in this chapter, all processes which *may* result in the acquisition, new construction, alteration, renovation, extension or betterment of real assets, *regardless of character of appropriation* for the expenditure. Includes capitalized leases as well as processes which may result in a capital acquisition, such as leases with purchase options. Sections 6801, 6806, and 6876.

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GLOSSARY AND INDEX FOR CAPITAL OUTLAY TERMINOLOGY AND FORMS **6899** (Cont. 2)
(New 5/98)

Capitalized interest account: Bond proceeds which are reserved to pay interest on a revenue (or lease-revenue) bond issue for a period of time early in the term of the issue; also called funded interest. Commonly, in a project financing, interest is capitalized through the date on which it is anticipated that construction will be completed and the project capable of providing lease payments for repayment of debt service.

Capitalized lease: A lease agreement is classified as a capital lease (in-substance purchase) when substantially all of the risks and benefits of ownership are assumed by the lessee. Sections 6818 and 6820.

Capital outlay: A subset of *capitalized asset* activities, funded specifically under the capital outlay character of appropriation. Includes acquisitions, new construction, alterations, renovations, extensions, and betterments. Does not include capitalized (financing) leases where payment is made through the rent line item. Sections 6801 and 6806.

Capital outlay budget change proposal (COBCP): A written request for funding required for each project proposed in the Governor's Budget (both new projects and continuing phases of previously funded projects). Section 6818.

Categorical exemptions: An exemption from CEQA based on one or more classes of actions/projects, as established in regulation. Section 6850.

Category codes: *Program* categories and *project type* categories are used on the COBCP to classify the broad purpose for the proposed project. Public safety and education are examples of program categories; fire/life safety, code correction are examples of project type categories. Section 6839**.**

CEQA: See *California Environmental Quality Act.*

Certification letters: A periodic notification from PWB to the Legislature certifying that projects on which it is taking action at its next meeting are within scope and cost, or (otherwise) the dates and amounts of approved changes. Sections 6842 and 6844.

Certificates of participation (COPs): A certificate (which looks like a bond) representing an undivided interest in the payments made by a public agency pursuant to a financing lease (or an installment purchase agreement). Although not treated as state constitutional debt, federal tax law treats the lease obligation as if it were debt. Section 6876.

Change orders: Formal revisions of the construction contract based on approved modifications to the capital outlay project. Change orders must be approved by DGS and are funded from the contingency line-item of the project budget. Section 6854.

Character of appropriation: The three broad classifications: (state operations, local assistance, and capital outlay) the state uses when appropriating. Generally, once a program or activity is budgeted as one of the three characters, it must follow the expenditure rules for that classification. Section 6806

Client department: Department which manages the programs for which capital outlay is needed. Section 6805.

COBCP: See *capital outlay budget change proposal*.

Combined bids: Bidding construction for two different projects as if they were one. Requires DOF and PWB approval. Section 6852.

Commercial paper: Short-term negotiable instruments with variable maturity and interest rates used to meet projects' interim financing needs. Section 6878.

Concession agreement: Subject to legislative notification, PWB has the power to review and approve the Department of Parks and Recreation's park concession agreements where the need arises off the normal budget cycle. Section 6842.

Condemnation authority: See *eminent domain.*

Constitutional debt: Article XVI of the California Constitution prohibits the Legislature from creating debt or liability which exceeds $300,000 without a majority vote by the people, except in case of war.

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GLOSSARY AND INDEX FOR CAPITAL OUTLAY TERMINOLOGY AND FORMS **6899** (Cont. 3)
(New 5/98)

Construction cost index: Standardized value for estimating construction cost escalation over time. In application, generally projected to the mid-point of construction. See *California Construction Cost Index (CCCI).* Section 6818, technical notes.

Construction phase: The construction phase begins with the award of the construction contract (see Section 6853) and ends when construction is complete and a Notice of Completion is filed with DGS or other project manager (see Section 6854). An overview of capital outlay phases is provided in Section 6808.

Construction management: Construction management services include reviewing construction documents; clarifying contract documents during construction, including change order analysis and estimating; coordinating among designers, contractors, inspectors, facilities operations, etc.; monitoring schedules; and generally overseeing daily on-site construction operations. DGS is the project manager for most state departments. Departments which have the authority to manage their own projects may use contracted project management services. Such services are most commonly used for large or complex projects, (e.g. the construction of new prisons). Fees for these services typically range from 1.0 to 4.5 percent of the estimated contract cost and do not include fees for architectural and engineering services. Section 6854.

Construction support (project administration): The terms *construction support* or *project administration* are applied to all project expenses other than construction contract costs incurred during the construction phase. The major construction support/project administration cost items are inspection, construction management, architect/engineer review, and special consultants—primarily materials testing and asbestos abatement monitoring. Section 6854.

Contingency funds: The construction contingency is a prescribed percentage of the construction contract amount which is budgeted for unforeseen emergencies or design shortfalls identified after a construction project commences. Construction contingencies are limited to 5 percent of the construction estimate/bid for a new facility and 7 percent of the construction estimate/bid for remodeling/renovation projects. Section 6854.

Contract documents: The agreement between the state and the contractor, notices to contractors, instructions to bidders, the written and diagrammatic instructions prepared by the architect/engineer for constructing a project, general and supplementary conditions, contract bonds, addenda, change orders, and supplementary agreements. Generally, the written source is referred to as the specifications and the diagrammatic source is referred to as the working drawings. The contract documents are typically developed in phases. Section 6854.

Contractor: The builder; generally selected through competitive bidding. In some instances, the contractor is DGS, the Inmate Day Labor Branch of the Department of Corrections, or the individual department. The contractor uses the contract documents prepared by the architect/engineer to build the project.

Cost changes: For augmentations, additional costs (within appropriation) and recognized deficits, see Section 6861. For bid savings, project savings, and reversions. See Section 6862.

Cost increase within appropriation: See *additional cost within appropriation.*

Cost index: See *construction cost index*.

Debt service ratio: Annual debt service (for non self-liquidating bonds) as a percentage of General Fund revenues or receipts. One of the most commonly used measure of debt.

Delegated items: By resolution. PWB has delegated selected non-policy actions to DOF for approval. Section 6844.

Department of Finance (DOF): Financial control agency for the state. For capital outlay, DOF reviews and approves project proposals for inclusion in the Governor's Budget, approves movement from one project phase to the next, releases funds for phases, and has other administrative oversight functions related to the Public Works Board.

Department of General Services (DGS): The state department responsible for real property management, project planning, project management, construction management, construction and leasing services, real property acquisition and sales, the Statewide Property Inventory (SPI), and energy efficiency services for state and K-14 school facilities. DGS is also staff to PWB for property acquisition and energy efficiency contracts.

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GLOSSARY AND INDEX FOR CAPITAL OUTLAY TERMINOLOGY AND FORMS **6899** (Cont. 4)
(New 5/98)

Department of Information Technology (DOIT): Department charged with assessing the technical feasibility of information management proposals. Works with DOF's Technology Investment Review Unit (TIRU), which determines whether the proposal is the appropriate business solution. Capital outlay projects with technology components must be reviewed by DOIT and TIRU. Section 6818.

Design-bid-build: The state's traditional method of project delivery in which construction is not bid out until preliminary plans are approved by PWB and a full set of working drawings is produced. Section 6841.

Design-build: A method of project delivery that combines the design and construction of a facility into a single contract, preceded by a separate phase to develop project specifications, usually more detailed than a budget package, but less detailed than full preliminary plans.. *Modified* or *bridging* design-build is a version of the process that results in very detailed project specifications, more closely approximating preliminary plans. Section 6841.

Design documents: The final documents of the preliminary plans stage, including a site plan, architectural floor plans, elevations, outline specifications, and a cost estimate. Section 6851.

DGS: See *Department of General Services*.

DOF: See *Department of Finance.*

Due diligence: In preparing for a bond sale, the inquiry made to disclose facts about the issuer, the issue and the security for the issue that would be material to a prudent investor in making a decision to purchase the issue. Section 6880.

EIR: See *environmental impact report*.

Eminent domain: The taking of private property by a governmental entity for public necessity; also called condemnation authority. Sections 6842 and 6866.

Energy efficiency bonds: A PWB program administered by the Office of Energy Assessments of DGS. Energy-savings projects are completed through contracts financed by energy efficiency bonds. The savings are used to pay debt service. Section 6873.

Engineering News Record (ENR): See *cost index*.

Enterprise revenue bonds: Revenue bonds which are self-liquidating based on project-generated revenues such as airport fees, hospital fees, dormitory fees, etc. Section 6870 and 6872.

Environmental impact report (EIR): An informational document which informs public agency decision-makers and the public generally of the significant environmental effect of a project. Section 6850.

Equipment: Capital outlay equipment is divided into Group 1 and Group 2. Group 1 equipment is installed equipment such as heating and air conditioning units and is budgeted as part of the construction phase. Group 2 equipment is movable equipment, such as tables and chairs (but not replacement equipment) and is budgeted as its own project phase, typically following construction. Not all equipment is classified as capital outlay. See Section 6855 for a discussion of capital outlay equipment, Section 6818 for capital outlay budgeting instructions, and Section 6842 for PWB's role in approving long-lead equipment.

Finance Letter: An amendment to the Governor's Budget proposed by the Administration to the Legislature in the spring immediately following introduction of that budget. Finance Letters are considered by the Legislature in budget subcommittees coincident with review of the Governor's Budget. Sections 6812 and 6818.

Financial advisor: With respect to municipal securities, a consultant who advises an issuances' structure, timing, marketing, fairness of pricing, terms and bond ratings. May also provide advice on cash flow and investment matters. Sections 6872–6876.

Financing lease: The document by which the issuer leases to another public entity (the "obligor" the project to be acquired or constructed with the proceeds of the issue and by which the obligor agrees to make periodic lease payments to the issuer, generally for the period of time the issue is outstanding. Section 6876.

Fitch Investor Services: See *rating agency*.

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GLOSSARY AND INDEX FOR CAPITAL OUTLAY TERMINOLOGY AND FORMS **6899** (Cont. 5)

(New 5/98)

Forms, standard notices and other required formats:

- **Bid Tabulation**: A listing of bids received for a project; a copy of the bid tabulation must be submitted to DOF when requesting release of construction funds. Section 6853.
- **Closure memo**: A notification from the client department to DOF, and in the case of bond projects, to the issuer and to the project bond trustee, that the project is complete, the construction account may be closed, and for bond projects, the surplus funds—if any—may be disposed of in accordance with the indenture. Sections 6856 and 6882.
- **DF-14D: Request For Approval to Proceed or Encumber Funds.** Used by client department to request DOF/PWB approval of various steps in capital outlay phases, e.g., approval of preliminary plans; approval to proceed to working drawings phase, approval to proceed to bid. Section 6845 Illustration 1.
- **DF-14E, Capital Outlay Budget Change Proposal.** Used to request funding for a capital outlay project to be included in the annual Governor's Budget. Section 6818.
- **FORM 22, Public Works Board Authorization and Transfer Request.** For state agencies which contract with DGS for project management, used to transfer funds to the Architecture Revolving Fund (ARF) for each budgeted phase of work. DGS initiates the form; the client department signs and forwards it to DOF for final approval. Section 68681 Illustration 1.
- **GS–OSA 220**, **Public Works Project Authorization Bond Proceeds Funded Projects.** This form is used to request SCO to reserve a portion of the department's project appropriation authority in a separate account within the appropriate bond fund. This reserve is used to reimburse the Architecture Revolving Fund for actual expenditures. Section 6868 Illustration 2.
- **Historic Resources Inventory (DPR 523)**: A Department of Parks and Recreation form on which department's list their facilities, 50 years or older, which are on—or potentially on—the National Register of Historic Places. Section 6822.
- **Negative Declaration**: Under CEQA, a negative declaration is a form of finding which may be used if the project is not expected to have one or more significant effects on the environment. A negative declaration typically is supported by an initial study or initial study checklist. Section 6850.
- **Notice of Completion**: A notice initiated by DGS or the project manager to advise DOF of the completion of the project. Section 6856.
- **Notice of Determination**: A brief notice filed by the lead or responsible agency after it approves or determines to carry out a project or action subject to CEQ requirements. Section 6850.
- **Notice of Exemption**: A brief notice filed by the lead agency after it determines to carry out a project or action exempt from CEQA. Section 6850.
- **Project Cost, Funding and Schedule Summary**: A chronological history of costs, funds and project schedules which is part of the standard fiscal reporting requirements for any request to DOF or PWB to approve phase completion and release of funds for the next stage (or for project scope or funding changes). Section 6845.
- **Return of Funds Form**: A DGS form used to transfer surplus project funds at project completion, or upon appropriation reversion, from ARF back to the source fund**.** Section 6856.
- **STD. 9, Space Action Request**. Used to request DGS real estate services; for projects meeting conditions specified in Section 6453, also used to solicit DOF approval for budget-related impacts of lease renewals, new space requests, and associated support impacts. The DOF review process for all STD. 9s is coordinated through the DOF capital outlay unit. Section 6818, technical notes.
- **STD. 23.** A DGS form used to request approval for departmental supervision of a minor capital outlay project. Sections 6807 and 6847.

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GLOSSARY AND INDEX FOR CAPITAL OUTLAY TERMINOLOGY AND FORMS **6899** (Cont. 6)
(New 5/98)

General Fund: The state fund into which non-dedicated revenues are deposited and from which the majority of state expenditures are made.

General obligation (GO) bonds: A form of long-term borrowing in which the state issues municipal securities and pledges its full faith and credit to their repayment. Requires approval by a majority vote of the public. Section 6871.

Hard costs: Actual construction costs. See *architectural and engineering fees*.

Historical resources: Any state-owned structure over 50 years of age, which is listed—or could be listed—on either the National Register of Historic Places maintained by the United States Department of the Interior or as a state historical landmark. Section 6822. See also Historic Resources Inventory (DPR 523) under *forms* in this glossary.

Implied dedication: The term refers to a public easement which has been created through a history of use. Implied dedications can reduce the value of a property; such effects must be considered in appraisals for site selection. Section 6849.

Indenture: An agreement executed by an issuer and a trustee which pledges certain revenues and other property as security for the repayment of the issue, sets forth the terms of the bonds, and contains the responsibilities and duties of the trustee and the rights of the bondholders. Section 6880.

Installment payment: In a lease-purchase agreement, the periodic payment which builds equity in the capital asset. Section 6876.

In-substance purchase: See *capitalized leases*.

Interim financing: The financing project costs, on an interim basis, until long-term securities are sold. Depending upon project statutory authorities, may include pre-construction appropriations, bond anticipation notes, commercial paper, PMIB loans or other loan programs. Section 6878.

Issuer: The public entity that issues securities and is named as the issuer-obligor on those securities. The public entity is the "issuer" even in those cases where the actual source of the money to pay debt service is to be an entity other than the issuer. See Capitalized Assets Financing, Sections 6870–6888.

Items to complete: Items necessary to complete a project, not included in the initial project. DOF may approve the funding of such items through project savings or an augmentation (requires PWB action), but only is it can be shown these items are critical and not the responsibility of the contractor. Section 6856.

Joint Legislative Budget Committee (JLBC): A fiscal oversight committee, with members from both houses, charged with reviewing budget administration.

Joint powers authority (JPA): . An agreement between governmental entities (sometimes in the form of a separate entity) that provides for the joint exercise of powers. May issue revenue (and lease-revenue) bonds. Section 6874.

LAO: See *Legislative Analyst's Office.*

Lease-purchase agreement: An installment purchase agreement under a financing lease. Section 6876.

Lease-purchase bonds: Same as *lease-revenue bonds*.

Lease-revenue bonds: A variant of revenue bonds used in the state's capital outlay program. The revenue stream backing the bond is created from lease payments made by the occupying department to the entity issuing the bonds (usually PWB or a joint powers authority). Sections 6873 and 6874.

Legislative Analyst's Office (LAO): A governmental entity under the Legislature, providing staff support to the Joint Legislative Budget Committee. Produces the analysis of the annual budget bill; reviews and may comment on variety of administrative transactions, including capital outlay actions such as augmentations and scope changes.

Legislative notifications: See *20-day letters* and *Section 6.00* of the Budget Act.

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GLOSSARY AND INDEX FOR CAPITAL OUTLAY TERMINOLOGY AND FORMS **6899** (Cont. 7)
(New 5/98)

Mandatory review and approvals: Refers to various provisions in statute requiring preliminary plans and working drawings for certain projects to be reviewed and approved by oversight agencies such as the State Fire Marshall (within the Department of Forestry and Fire Protection). Section 6852.

Master reserve account: See *reserve account.*

Major capital outlay: Any project not meeting the definition of a minor capital outlay project. Generally, any project over $250,000, although there are exceptions.

Minor capital outlay: Excluding the purchase of land, any capital outlay project with a total estimated project cost of $250,000 or less. However, Resources Agency projects up to $500,000 may be budgeted as minors with the concurrence of DOF (Public Contract Code 10108.5). There are additional requirements to qualify as a minor project; see Section 6807.

Modified design-build: See *design build*.

Moody's Investor Services: See *rating agency*.

National Register of Historic Places: See *historical resources*.

Negative declaration: See *forms*.

Notice of completion: See *forms.*

Notice of determination: See *forms.*

Notice of exemption: See *forms.*

Obligated person: See *continuing disclosure*.

Official statement: A document prepared for the bond sale which provides all information that would be "material" to a prospective purchaser of the bonds, including descriptions of the issuer, terms of the bonds, security for the bonds, major legal documents, risk factors and tax matters, and financial statements. The *preliminary official statement* is a version used by the issuer or underwriters to inform the marketplace of the terms of the bonds being issued prior to receipt of bids at a competitive sale or prior to the determination of interest rates and purchase price in a negotiated sale. Section 6880.

Offner-Dean rule (or exception): Case law that has established that lease-revenue bonds does not meet the constitutional definitions (and therefore restrictions) of debt. Sections 6872 and 6876.

Operating lease: A pure lease for facility space. Where client departments have long-term lease authority, the lessor may choose to use such a lease as security for a debt offering to finance the project, but the state's credit involvement is limited solely to that of a party to a lease or contract. Section 6876.

Option to purchase: See *purchase option.*

Phase: Steps in a project which may be budgeted separately or together, depending upon project complexity. The most common phases are studies, site selection/acquisition, preliminary plans, working drawings/bidding, construction, and equipment to complete the project. Section 6808.

Planning estimates: In capital outlay, the approximate appraisal value for property used at COBCP stage (Section 6818). The term has a different usage in support budgeting.

Pooled Money Investment Account (PMIA): See *Pooled Money Investment Board*.

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GLOSSARY AND INDEX FOR CAPITAL OUTLAY TERMINOLOGY AND FORMS **6899** (Cont. 8)
(New 5/98)

Pooled Money Investment Board (PMIB): The Pooled Money Investment Board (PMIB) administers the Pooled Money Investment Account (PMIA) for investment of surplus state and local government funds. Among other investment strategies, PMIB may make loans to projects otherwise eligible for interim financing through a General Fund loan. PMIB may also make loans to any special fund for a project authorized to be debt-financed. Section 6878.

Preliminary official statement: See *official statement.*

Preliminary plans/phase: Initial design phase in preparing the construction bidding documents, typically developed in two distinct steps: schematics and design development. Final documents include a site plan, architectural floor plans, elevations, outline specifications, and a cost estimate. This phase starts with DOF releasing funds via a Form 22 or GS-OSA-220 and ends when PWB approves the preliminary plans. Section 6851.

Pre-schematic documents: Plans prepared during the budget package phase, usually by DGS, to depict a possible solution to the department's stated needs and to serve as the basis for a budget package cost estimate. The design architect/engineer later uses these plans to develop the schematic documents as part of the preliminary plans phase. Section 6828, budget package preparation. Section 6851, preliminary plans.

Program management: Program management, which is a department responsibility, is the overall administration of a major capital outlay program such as new prison construction or renovating mental health facilities to meet licensing requirements. When needed for program planning, special consultant assistance may be funded from either the support appropriation or from the capital outlay budget as a separate project. Sections 6805 and 6823.

Property Acquisition Law: The body of law in the Government Code covering acquisition of real property. Section 6842.

Project Cost Detail Sheet: see *forms*.

Project Cost, Funding and Schedule Summary: see *forms*.

Project management: See *construction management*.

***Project* per CEQA**: Section 15378 (a) (3) of the California Code of Regulations defines *project* as an activity involving a lease, permit or license issued to a person or entity. Section 6850.

***Proje*ct per State Contract Act:** For purposes of contract law, Section 10105 of the Public Contract Code defines *project* as the erection, construction, alteration, repair, or improvement of any state-owned structure, building, road, or other state improvement of any kind with a total cost exceeding an amount periodically adjusted by the Director of Finance by Management Memo. Section 6847.

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Project phase: See *phase*.

Public lands trust: Landowner agreements with the state to preserve open space and allow public access to natural resources, in exchange for certain immunities. Certain agencies may create public land trusts; PWB has the authority for the balance of the state. Section 6842.

Public Works Board (PWB): The state board empowered to oversee administration of most state capital outlay projects, exercise eminent domain, make augmentations, and establish final project scope through review of preliminary plans. Sections 6842 (overview) through 6866, and Section 6873.

Purchase option: A lease with a purchase option gives the state the right, during the course of the lease, to purchase the asset for a predetermined price, if desired. The exercise of a purchase option, regardless of dollar amount, is always a capital outlay expenditure and therefore requires a COBCP. Entering into a purchase option is not a capital outlay expenditure, and lease payments until the option is exercised are a support expense. However, if using purchase options as a deliberate capital acquisition strategy, a COBCP must be submitted if authorization is sought through the Budget Act. Sections 6818 and 68520.

PWB agenda package: A standard set of narrative project information required whenever requesting PWB to take an action on a project. Consists of the formatted agenda item, the briefing document, and whatever specific information is needed for the type of actions proposed. Section 6845.

Rating: Designations used by rating agencies to give indications of relative credit quality. *Aaa* means the best quality, *Baa* medium grade quality (the lowest "investment grade" long-term rating; and *Ba* and lower means speculative quality with low capacity to pay principal and interest. Section 6880.

Rating agency: An investment rating is secured prior to the bond sale from one or more independent third parties, called rating agencies. The two largest and traditional rating agencies in the tax-exempt market are Moody's Investors Service, and Standard & Poor's. In the mid-1980's, Fitch Investors Service became active in public finance. Section 6880.

Recognized anticipated deficit: A request for PWB to recognize a *possible* future augmentation (generally construction). Section 6861.

Reportables: By resolution, PWB has delegated approval for certain types of actions to DOF. These actions are referred to as "reportables" because they are listed to the board each month. Section 6844.

Reserve account/fund: An account from which moneys may be drawn to pay debt service on an issue if pledged revenues and other amounts available to satisfy debt service are temporarily insufficient. In lease-revenue issuances, the reserve account is typically sized to the maximum annual debt service payment. PWB uses a *master reserve account program*—in effect, a pooled reserve approach which reduces the aggregate amount of funds its issuances must hold in reserve. Section 6872.

Revenue bonds: A bond payable from a specific source of revenue and to which the full faith and credit of an issuer with taxing power is not pledged. Pledged revenues may be derived from operation of the financed project, grants and excise or other specified no-ad-valorum taxes. Generally, no voter approval is required prior to issuance. Section 6872.

SAM: State Administrative Manual.

Schematic documents: The initial architectural and engineering plans prepared as the first step during the preliminary plan phase, depicting the designer's conceptual solution to the department's capital outlay needs. See Section 6851.

SCO: State Controller's Office.

Scope: The project program as it relates to location, site, facility size and shape, use of assigned program space, or physical characteristics of a facility. Scope is typically approved by the Legislature and published in the Supplemental Report of the Budget Act prepared by the Legislative Analyst's Office. Section 6863.

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Scope changes: A revision to the approved project program requiring the advance written approval of DOF. Section 6863.

Section 2.00 of the Budget Act: Establishes appropriation time-frames (both encumbrance and liquidation) for capital outlay projects. Section 6807 and 6812.

Section 3.00 of the Budget Act: For capital outlay projects, defines key terms as used in the Budget Act. Sections 6807 (minor projects), 6851 (preliminary plans), 6852 (working drawings), and 6854 (construction).

Section 6.00 of the Budget Act: Provides a limited exception to the rule that support funds may not be used for capital outlay purposes. The section allows up to $35,000 of support funds to be encumbered for preliminary plans, working drawings, or construction of any project for the *alteration of a state facility*. Section 6806.

SEC: Securities and Exchange Commission. See *continuing disclosure*, Section 6884.

Settlement price: Acquisition price. Requires PWB approval if the amount exceeds the appraised price reported to the board at the time of site selection. Section 6849.

Site selection: The process that results in identification of a site for a project; requires PWB approval. Section 6849.

Soft costs: All preconstruction costs, plus the A&E portion of the construction phase. See architectural and engineering fees.

State Historic Preservation Officer: See *historical resources.*

State Treasurer's Office (STO): The agent for sale for most state debt issuances. Sections 6805 and 6870—6888.

Standard and Poor's: See *rating agency*.

Standard fiscal reporting requirements: A set of three documents (DF-14D, *Project Cost, Funding and Schedule Summary*, and *Project Cost Detail Worksheet*) required whenever requesting action from DOF or PWB to approve completion of a phase and release funds for the next phase (or requesting changes to project scope or cost). See *forms*. See also Section 6845.

State Property Inventory (SPI): An inventory of all real property held by the state. Each agency is required to update its real property and structure records in the SPI. Section 6820.

STO: See State Treasurer's Office.

Technical consultants: Consulting architects, facilities planners, engineers, or contractors used in the development of a potential project. Section 6823 and 6806 Illustration.

Technology Investment Review Unit (TIRU): The DOF unit charged with assessing whether the technology aspects of a capital outlay proposal are an appropriate business solution. Works in conjunction with the Department of Information Technology (DOIT) which assesses the technology aspects of information management proposals. (Section 6818). Also available as a technical consultant in when preparing a project feasibility study. Sections 6818 (technical notes) and 6823.

TIC: See *true interest cost*.

Total project costs: All project costs from the start of the design phases until the completion of construction and equipping of the project. Major line item costs include: architect/engineer fees, construction contract, inspection fees, administration, agency-retained items, mandatory review fees, small business administration fees, and bidding phase costs.

Transferring funds to Architecture and Revolving Fund (ARF): **S**ee *forms* (Forms 22 and GS-OSA 220). Section 6868. See also *Architecture and Revolving Fund.*

True interest cost (TIC): A measure of the interest cost of an issue that accounts for the time value of money; sometimes called the *internal rate of return* or the *net effective interest rate."* Overall interest costs on a bond sale are expressed as the TIC.

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Turnkey construction: A procurement method in which the vendor delivers a ready-to-operate facility to the client department's specifications, either through a long-term (pure) lease or a financing lease. Section 6841.

Underwriters: A dealer which purchases municipal securities for resale to investors. The underwriter may acquire the securities either by negotiation with the issuer or by award on the basis of competitive bidding. In either case, the underwriter assumes complete risk and responsibility for selling the bonds. Section 6880.

Value engineering: A project evaluation technique which seeks to reduce costs and/or increase value by analyzing the functional requirements of a project's materials, methods, components and subsystems. PWB may require value engineering as a precondition to a recognized deficit. Section 6851.

Working drawing phase: The final design phase in preparing the construction bidding documents. Includes a complete set of plans and specifications and a final cost estimate (dated). Section 6852.

THE LEGISLATURE **6900**

(New 2/98)

The California State Legislature is a two-house (bicameral) body composed of an Assembly, whose 80 members are elected to two-year terms; and a Senate, whose 40 members are elected for four-year terms. The California Legislature meets for two-year sessions and each house conducts business in its own chamber within the Capitol, often referred to as the Senate and Assembly "floors."

Each house of the Legislature has established a number of standing committees with differing purviews. When a legislative measure is sent to a committee for review, it is said to be "referred" to that committee. It is the job of the committees to review legislation and to recommend amendments to the floor of the house if the committee believes them warranted. A committee may also "hold" a measure by making no recommendation to the floor to pass or amend it. Technically, only the house floors can (by majority vote) amend a piece of legislation. However, the recommendations of the committees are nearly always carried out by the floors as a matter of course.

There are basically two types of committees: "policy" committees and "fiscal" committees. The vast majority of measures are sent to a policy committee for review of the proposed programmatic or public policy change. If a measure would have a fiscal impact on the state, then it is also sent to a fiscal committee for review of financial implications of the measure.

In the Senate, there are two fiscal committees, Appropriations and Budget and Fiscal Review. The Budget and Fiscal Review Committee deals primarily with the Budget Bill. However, it will also conduct hearings on other pieces of legislation which would directly amend or otherwise significantly affect the Budget Act. The Appropriations Committee hears all non-Budget Bill legislation that would have a fiscal impact. The Assembly has two fiscal committees, Appropriations and Budget, whose functions are the same as their Senate counterparts.

Each house also has a Rules Committee which is considered neither a policy nor a fiscal committee since it deals with "housekeeping" and other matters internal to that house. It is the Rules Committees that assign bills to the various standing committees.

There also are a number of "joint" committees comprised of members from both houses. Some examples of these are the Joint Legislative Budget Committee (which oversees the operation of the Legislative Analyst), and the Joint Rules Committee (which develops rules that govern the two houses in addition to the individual houses' rules).

Each house may also establish "special" and "select" committees. These committees generally are established to conduct research into or provide oversight on narrow areas of subject matter for the purpose of providing special expertise and advice to the house which created them. They generally do not hear bills and meet infrequently.

A complete listing of all committees and their memberships can be found in each "Daily File."

LEGISLATIVE CALENDAR **6905**

(New 2/98)

The Legislature meets in two-year sessions. The sessions roughly coincide with the biennial elections at which all of the Assembly seats and half of the Senate seats are up for election. Each two-year session is considered a "regular session." The California Constitution (Article IV, Section 3) prescribes that the regular session shall begin on the first Monday in December in each even-number year (i.e., following the election the preceding November) and end November 30 two years hence (i.e., after the next election). The sessions are referred to by the two calendar years which they almost encompass (e.g., the session after the elections in 1996 is the 1997–98 regular session—it begins in December 1996 and ends in November 1998.)

Within the constitutionally prescribed dates of convening and adjourning the session, the Legislature has freedom to set its own calendar of meetings and recesses. Generally, however, the Legislature begins meeting in January each year and concludes its work for the year in September. During the year, the Legislature traditionally has scheduled two recesses, an Easter recess of one week and a summer recess of usually four weeks.

In addition to the regular session, the Governor may by proclamation require the Legislature to meet in "special session." A special session may run concurrently with the Legislature's normally scheduled meeting time and/or during its recesses. During the special session, the Legislature may only act on subjects specified in the proclamation. To handle both the regular session and a special session at the same time, the Legislature may have to temporarily recess its work in the regular session, convene in the special session and then reconvene the regular session after temporarily recessing the special session. This recessing and reconvening may happen more than once on the same day.

Other than being limited to the subject matter for which it was called, there is no significant difference in process between a regular and special session. However, the effective dates for bills enacted during a special session are somewhat different than those for a regular session. (See Article IV, Section 8 for more details.)

LEGISLATION **6910**
(New 2/98)

Measures considered by the Legislature fall into six classes. There are differences among these classes in their requirements for passage and the weight of authority they carry. The six classes are Bills, Constitutional Amendments, Joint Resolutions, Concurrent Resolutions, House Resolutions, and Rules Committee Resolutions. Each of these types of measures are designated as originating either in the Assembly or the Senate and are assigned a number. The first of any given type of measure to be introduced in a session is numbered "1" and the numbering continues sequentially throughout the two-year session. At the beginning of a new session, the numbering starts over. For example, the tenth Senate bill introduced in a session is labeled "SB 10"; the third Assembly Constitutional Amendment is "ACA 3.")

BILLS (AB/SB) **6915**
(New 2/98)

In California, most laws are enacted, repealed, or amended through the medium of bills, which are proposals to add new laws or change or repeal existing laws.

To become law, a bill must be passed in both houses by at least a simple majority. A two-thirds vote is required if the bill contains a General Fund appropriation, unless the appropriation is for education, in which case only a majority vote is required. In addition, any bill which contains an urgency clause (i.e., a provision which would make the bill effective immediately upon gubernatorial approval, rather than on Jan. 1 following signature by the Governor as is normally the case) requires a two-thirds vote.

After passage by both houses of the Legislature, the bill is sent to the Governor who may either sign or veto the bill within a specified period of time (either 12 or 30 days depending on what time of the year it is sent to him/her) or it becomes law without his signature. There is no "pocket veto" in California such as exists at the federal level. If the Governor fails to act on a bill sent to him/her within the prescribed period, the measure becomes law without the Governor's signature. (For more specifics regarding deadlines for gubernatorial actions on bills, refer to Section 10 of Article IV of the State Constitution.)

CONSTITUTIONAL AMENDMENTS (ACA/SCA) **6920**

(New 2/98)

A constitutional amendment can be initiated by the Legislature if it passes both houses by a two-thirds vote. A constitutional amendment does not need the Governor's signature, but becomes part of the constitution only if the electorate approves it at the next general election. A special election can also be called by the Governor to consider a proposed constitutional amendment, if it is deemed necessary.

When the Legislature adopts a proposed constitutional amendment, it often also adopts a "companion bill"; i.e., a bill which takes effect only if the constitutional amendment is passed by the people. These companion measures generally contain detailed statutory provisions which would implement the constitutional amendment.

The constitution can also be amended through the "initiative process," in which the signatures of the requisite number of voters on a petition is sufficient to cause the Secretary of State to place the petition on the ballot. No action by the Legislature is needed in this process and the Legislature cannot prevent it from occurring.

JOINT RESOLUTIONS (AJR/SJR) **6925**
(New 2/98)

Joint resolutions are initiated when the Legislature wants to comment to Congress and/or the President on a federal matter of concern to the state. These resolutions require a majority vote in both houses. Joint resolutions neither need the signature of the Governor nor have the force of law. They take effect upon their being filed with the Secretary of State.

CONCURRENT RESOLUTIONS (ACR/SCR) **6930**

(New 2/98)

Concurrent resolutions deal with state matters that are of concern to both houses. They are used for such things as adopting the joint rules, creating joint committees, requesting studies, expressing legislative intent and expressing the Legislature's congratulations to organizations, persons, or other states. Concurrent Resolutions need a majority in each house to pass and take effect upon their being filed with the Secretary of State. These measures do not go to the Governor for approval.

HOUSE AND SENATE RESOLUTIONS (HR/SR) **6935**
(New 2/98)

"House" (i.e., Assembly) and Senate resolutions are acted on in one house only. These resolutions are usually congratulatory, but they are also used to adopt and amend the house rules and create house interim committees. These measures do not go to the Governor for approval.

RULES COMMITTEE RESOLUTIONS **6940**
(New 2/98)

The Rules Committee of each house also takes action by way of the resolution. A majority vote of the committee is required to pass such measures which usually deal with internal operations of the Legislature.

THE LEGISLATIVE PROCESS **6945**
(New 2/98)

When a legislator wants to propose a measure, she/he must go to the Legislative Counsel to have the specific language of the proposal put in proper bill form. The Legislative Counsel's staff, which provides legal services to both houses in support of the legislative process, will draft the language of the code section amendments to accomplish the author's purpose.

The staff attorney will also write the Legislative Counsel's Digest for the bill, which includes a summary of the current law and what the proposed changes will do. At the end of the Digest, Counsel will indicate the vote required for passage of the bill (usually "majority" or "two-thirds"), whether the bill must be referred to the fiscal committees, and whether the bill contains a state-mandated local program.

When the bill is written, it is returned to the author who will then introduce it in the house of which she/he is a member. From there, the bill proceeds through the legislative process.

The following presents the steps a bill typically goes through to become law.

BILL FLOW IN THE CALIFORNIA LEGISLATURE

I. Introduction (first reading)

A. Author puts a legislative measure "across the desk" of the floor of the member's house.

B. Measure is given a number (e.g., AB 456, SB 612, ACA 3, SJR 1).

C. Title of measure is read on the floor of the house of origin. (The State Constitution prohibits any bill from being enacted unless it is "read" on three separate days in each house, or unless two-thirds of the members of a house vote to dispense with the reading of a bill. Reading aloud the title of a bill at this point constitutes the first of the three readings.)

D. Measure is assigned ("referred") to a standing policy committee by the Rules Committee of the house of origin. The committee of assignment is based generally on the subject matter of the bill.

II. Consideration by Policy Committee

A. Committee holds public hearing.

1. Date set by committee and published in advance in the Daily File of the house of origin.

2. Hearing may be scheduled any time beginning 30 days after introduction of the bill unless it is an urgency measure, in which case the 30-day provisions can be waived by a 3/4 vote of the house.

3. On the day of the hearing, the author presents the bill to the committee and explains why the committee should approve it. The policy committee is concerned **primarily** with the policy or programmatic features of the bill, not its fiscal consequences. Proponents and opponents also present their views on the measure. In addition, the committee may invite experts on the issue under consideration to testify.

B. Committee recommendations to the floor, which generally require a majority vote of the committee, are customarily in one of the following forms:

1. "Do pass"–if the committee wants the bill to become law.

2. "Amend and do pass as amended"–if the committee rejected the original form of the bill, but approved it with certain specified changes or "amendments."

3. "Amend and re-refer"–if the committee wants the bill to be considered by a committee again after it is reprinted as amended. "Amend and re-refer" may bring the amended bill back to the same committee or it may specify another committee (usually a fiscal committee) that can properly consider the measure.

(Continued)

4. "Do pass and re-refer"–if the committee recommends the bill favorably without amendments but sends it to another committee. If the bill has a fiscal impact ("Fiscal committee: yes" at end of digest) it will be re-referred to the fiscal committee.

5. "Do not pass"–if committee opposes the bill, but prefers to let the house decide.

6. "To the house without recommendation"–if the committee is divided or uncertain and wants the house to decide the bill on its merits.

7. "Refer to Interim"–if the committee believes the subject is of sufficient importance to need further in-depth study by a legislative committee before adequate legislation can be written, then this recommendation suggests that the bill receive detailed analysis and hearings during the Legislature's recess (interim) period.

C. Instead of reporting its recommendation, the committee may effectively kill the bill by voting to "lay it on the table" or by taking no action (i.e., “holding” the bill in committee).

III. Consideration by Fiscal Committee

Essentially the same procedural requirements apply to the fiscal committees as do to the policy committees. However, these committees' attention, and the testimony they hear, is focused primarily (though not necessarily exclusively) on the fiscal ramifications of legislation, not the program or policy issues involved.

IV. Second Reading in House of Origin

A. The measure is listed in second reading file of the floor of the house of origin, but consideration usually involves no more than reading the bill number to satisfy procedural requirements.

B. If the committee recommended amendments, such amendments are printed as part of the bill and may be discussed and adopted.

V. Third Reading in House of Origin

A. The measure listed on third reading file is taken up for final passage when the author is ready to present it.

1. The author of a bill makes the case for approving the bill and floor debate may take place.

2. Members of the House may ask questions of the author and make statements of support or opposition to the measure.

3. Vote on final passage of bill is by roll call.

B. According to the California Constitution, "Any bill introduced during the first (odd) year of the biennium of the legislative session that has not been passed by the house of origin by January 31 of the second (even) calendar year of the biennium may no longer be acted on by the house. No bill may be passed by either house on or after September 1 of an even numbered year except statutes calling elections, statutes providing for tax levies or appropriations for the usual current expenses of the state, and urgency statutes, and bills passed after being vetoed by the Governor."

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THE LEGISLATIVE PROCESS **6945** (Cont. 2)
(New 2/98)

VI. Procedure After Bill Passes House of Origin [1]

A. Sent to other house where same general procedure is followed.

B. If passed in second house, bill is returned to house of origin with a transmittal message stating either:

1. Bill passed second house and may be enrolled and sent to the Governor[2] or

2. Bill passed second house with amendments, and concurrence in amendments by house of origin is requested so that bill may be enrolled and sent to Governor.[2]

An exception to the above is specified in the Constitution: "Until the budget bill has been enacted, the Legislature shall not send to the Governor for consideration any bill appropriating funds for expenditure during the fiscal year for which the budget bill is to be enacted, except emergency bills recommended by the Governor or appropriations for the salaries and expenses of the Legislature."

C. If amendments are not satisfactory to house of origin, it appoints members of its house to a Committee on Conference and notifies the other house to appoint its Committee on Conference members (each house appoints three members to a conference committee).

1. Conference Committee considers the bill and seeks agreement on its final form.

a. If conferees cannot agree, a new Committee on Conference is appointed.

b. If no agreement is reached on the third conference try, the bill is dead.

2. Conference Committee reports its recommendations to both houses, each of which must adopt the conference report at a roll-call vote (majority or two-thirds, depending upon the nature of the bill) before the bill can be sent to the Governor.

[1] Simple resolutions (HR and SR) require no further action than acceptance by the house of origin.

[2] Neither resolutions nor constitutional amendments require the signature of the Governor. Constitutional amendments, however, must receive a favorable vote at the next statewide election before they become effective.

VII. Action by Governor

A. Sign or Veto—Article IV, Section 10 of the California Constitution provides: "Each bill passed by the Legislature shall be presented to the Governor. It becomes a statute if he signs it. He may veto it by returning it with his objections to the house of origin, which shall enter the objections in the journal and proceed to reconsider it. If each house then passes the bill by roll-call vote entered in the journal, two-thirds of the membership concurring, it becomes a statute." This latter action of the Legislature to approve by a two-thirds vote a bill vetoed by the Governor is referred to as a "veto override."

B. Item Veto—The California Constitution provides: "The Governor may reduce or eliminate one or more items of appropriation while approving other portions of a bill.

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C. He shall append to the bill a statement of the items reduced or eliminated with the reasons for his action. The Governor shall transmit to the house originating the bill a copy of his statement and reasons. Items reduced or eliminated shall be separately reconsidered and may be passed over the Governor's veto in the same manner as bills." Overriding a gubernatorial veto requires a two-thirds vote.

D. Deadlines for Action—The Constitution goes on to specify how much time the Governor has to act on (sign or veto) a bill sent to him/her. If the Governor does not act within that time, the bill becomes law without signature. Generally, the Governor's deadlines are as follows:

1. In the first year of the session:

   If the bill is delivered to the Governor before the interim recess: 12 days to act.
   If the bill is delivered after the beginning of recess: 30 days to act.

2. In the second year of the session:

   If the bill is delivered before adjournment: 12 days to act.
   If the bill is delivered on or after September 1: until September 30 to act.

The Governor's timeframe for action begins when the bill is **received**. The date a bill passes the Legislature usually is not the day the Governor receives it. After passage by the Legislature, the bill must go to "enrolling and engrossing" where it is prepared for formal transmission to the Governor. Sometimes, several days will elapse between the time of final legislative approval of a bill and the time the Governor receives it.

VIII. Effective Dates of Statutes

A. Under the State Constitution, except for statutes calling elections, statutes providing for tax levies or appropriations for the "usual current expenses of the state," and urgency statutes, "...a statute enacted at a regular session shall go into effect on January 1 next following a 90-day period from the date of enactment of the statute and a statute enacted at a special session shall go into effect on the 91st day after adjournment of the special session at which the bill was passed."

B. Urgency statutes are those "...necessary for immediate preservation of the public peace, health, or safety." A statement of facts constituting the necessity shall be set forth in one section of the bill (the "urgency clause"). Urgency bills become effective upon enactment unless a different effective date is specified in the bill. An urgency statute may not create or abolish any office or change the salary, terms, or duties of any office, or grant any franchise or special privileges, or create any vested right or interest.

DEPARTMENTAL PROPOSED LEGISLATION **6950**
(New 2/98)

The subject matter of legislation is derived from a variety of sources. In some instances, legislators introduce bills based on their own knowledge of, or personal experience with, the subject matter the bill proposes to affect. More frequently, legislators are asked by individuals or organizations to introduce (or "author" or "carry") a bill for them. Those making such requests are said to be the "sponsors" of the bill.

One large source of sponsorship is the individual departments within state government. A department may feel that if a particular statute is amended, repealed, or enacted, then some aspect of its administrative function will be done more efficiently or the effectiveness of a program will be enhanced. If this is the case, the department will request a member of the Legislature to introduce such legislation.

No department under the authority of the Governor may sponsor legislation without the prior approval of the department's Agency Secretary and the Governor's Legislative Secretary.

All proposals to introduce legislation from departments under the control of the Governor are sent to the Legislative Unit in the Governor's Office after approval at the Agency Secretary level. The Legislative Unit then forwards copies of the proposals to DOF for review and comment. In addition, a department's proposal may also be forwarded to other departments which may be affected by the proposal for their comment.

All legislative proposals must be consistent with the decisions made during budget preparation. Proposed legislation is routed by the Governor's Office through the DOF for analysis. The fiscal impact of proposed legislation is of particular concern. Fiscal impact includes proposals which would: (1) appropriate money; (2) result—for any reason—in additional expenditure of state money by any state agency or to reimburse any local government for a state mandate; (3) result in any loss or gain of revenue to a state or local government entity; or (4) result in a substantial reduction in expenditures of state money by reducing, transferring, eliminating or making more efficient the administration of any existing responsibilities of any state agency, program or function.

It is the responsibility of the originating organization to develop valid fiscal information for proposed legislation. This information must include the estimated fiscal impact to both state and local government.

The proposal must include an estimate of the initial fiscal impact in the first year of implementation and the full-year cost for a succeeding fiscal year. It must also identify the source of funds involved (e.g., General Fund, a particular special fund, a specific federal grant). When funds are available in the department's budget to cover any costs of a proposal, those resources must be identified to DOF by the proposing department. If the proposal does not involve an appropriation or state fiscal impact, a statement attesting to that fact and noting that funds will not be requested in subsequent budgets is to be included in the department's proposal.

If it has prepared a bill analysis (see Bill Analysis section below) and recommended a position which has been approved by the Governor's Office Legislative Unit, a department under the control of the Governor may testify at policy committee hearings. A department should not express any position on a measure unless that position has been approved by the Governor's Office Legislative Unit.

In the Assembly and Senate Revenue and Taxation committees (which are policy committees), Finance has an established role. Staff of Finance present testimony on the Administration's position on each bill heard by those committees. The basis of both the testimony and the Administration's position is the Finance bill analysis after it has been approved by the Governor's Office Legislative Unit.

Except for the Revenue and Taxation Committees, Finance typically does not get involved with a bill while it is in the jurisdiction of a policy committee. Finance does, however, have a role in the fiscal committee (Appropriations and Budget) hearing process. A Finance "testifier" attends the hearings of the Assembly and Senate Appropriations committees to present testimony and the Administration's position on legislation before those committees. The basis of both the testimony and the Administration's position is the Finance bill analysis after it has been approved by the Governor's Office Legislative Unit. On bills that would effect them, departments may join Finance in this testimony to augment or reinforce the view expressed by Finance.

In the Budget committees, which deal almost exclusively with the Budget Bill, Finance staff play the essential role of presenting and defending the Governor's Budget in hearings of the subcommittees which review different components of the Budget Bill. Departments under the control of the Governor join Finance in this function by elaborating on the justification for decisions reflected in the Governor's Budget.

BILL ANALYSIS **6960**

(New 2/98)

Bill analyses are prepared for bills, constitutional amendments, joint resolutions, and concurrent resolutions when they are set for a hearing or otherwise requested by the Governor's Office. Bills which are passed by both houses and referred to the Governor have enrolled analyses prepared (see Enrolled Bill Report, SAM Section 6965).

The purpose of the bill analysis function is to provide the Governor, his/her staff, Agency Secretaries, the department heads, and DOF with information concerning the probable program and fiscal effects of proposed legislation pending before the Legislature. Typically, the bill analysis also recommends a position which the Administration should adopt on the proposed legislation. The analyses from various departments are used by the Governor's Office in determining what position will be taken by the Administration on the proposed legislation.

Until approved by the Governor's Office, bill analyses prepared by departments under the control of the Governor are not public documents and may not be made available to anyone outside of the review process. Once a position has been determined by the Governor's Office, an analysis consistent with that position generally is made available to the public and the Legislature. An analysis that has not yet been approved, or which expresses a position inconsistent with that adopted by the Governor's Office may not be made public, since such documents are working papers of the Administration and do not necessarily reflect the policy position of the Governor.

ENROLLED BILL REPORT **6965**

(New 2/98)

When a bill is passed by the Legislature and sent to the Governor, departments under the control of the Governor that would likely be affected by the bill must prepare an enrolled bill report (EBR) for the Governor's Office. The EBR serves essentially the same function as the bill analysis except that it recommends to the Governor what action (i.e., sign, veto, sign with a message) should be taken on the measure. EBRs are considered confidential communications with the Governor and therefore are not public documents. Consequently, even if approved, EBRs may not be released to the public by anyone without Governor's Office approval.

The EBRs are not prepared for constitutional amendments and resolutions as these kinds of legislative measures are not sent to the Governor for approval.