

Statewide Operating Policy

Owner: MMB, Accounting Services and Admin, Office of State Procurement

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Encumbrances and M.S. 16A.15/16C.05 Compliance

Objective

To ensure agency compliance with Minnesota Statute (MS) 16A.15 regarding the encumbrance of funds prior to incurring an obligation of the state, and compliance with M.S. 16C.05 requiring completion of contract execution before commencement of work on state contracts.

Policy

M.S. 16A.15

Agencies are required to encumber funds prior to incurring an obligation of the state, except as noted below. A payment made in violation of this statute is illegal.

Per M.S. 16A.15, Subd. 3, "An employee authorizing or making the payment, or taking part in it, and a person receiving any part of the payment, are jointly and severally liable to the state for the amount paid or received. If an employee knowingly incurs an obligation or authorizes or makes an expenditure in violation of this chapter or takes part in the violation, the violation is just cause for the employee's removal by the appointing authority or by the governor if an appointing authority other than the governor fails to do so."

Exceptions

- Sub-system payments processed through Statewide Integrated Financial Tools (SWIFT) using the IF0407 Payment Interface where a purchase order to a specific vendor cannot be referenced. Agencies must ensure there is a sufficient allotment available when committing these funds.
- Imprest cash payments, including the establishment and reimbursement of accounts and increases to accounts.
- Payment of revenue refunds.
- Employee business expenses, advances, and reallocation expenses paid to any employee through Statewide Employee Management System (SEMA4).
- Payments for expenditures within the 410-PAYRLL Account Group. The funds budgeted within this account group are, in effect, reserved because of the control at the allotment

(PAYROLL/NONPAY) level. Agencies are responsible for ensuring that they have sufficient funds budgeted within the PAYROLL allotment.

- Agency indirect costs, statewide indirect costs, and Attorney General costs.
- Interest paid to vendors on late payments.
- Formula grant payments authorized by statute or session law to units of local government or payments made under laws providing for assistance to individuals.

M.S. 16C.05

M.S. 16C.05, Subd. 2 (a), a contractor cannot be authorized to begin work on a contract or contract amendment until ALL the following criteria are met:

1. they are executed by the head of the agency or a delegate who is a party to the contract;
2. they have been approved by the commissioner [of administration]; and
3. the accounting system shows an encumbrance for the amount of the contract liability, except as allowed by policy approved by the commissioner [of administration] and commissioner of management and budget for routine, low-dollar procurements and section 16B.98, subdivision 11.

Agency Internal Procedures

Agencies must have written internal procedures that handle all violations to M.S. 16A.15 and M.S. 16C.05 as defined above. Procedures should include a log to track violations.

Violations of M.S. 16A.15 or M.S. 16C.05

Per Department of Administration Purchasing Policy 14, in the event of a purchasing violation as defined above, the employee (person responsible) who authorized the obligation in violation of state law must submit a completed 16A.15 / 16C.05 Form to the violating agency's department head for signature and approval prior to the agency processing any payment against the obligation. The completed form must describe the circumstances under which the obligation violated M.S. 16A.15 or M.S. 16C.05. Agencies are required to submit a copy of the completed form to the Office of State Procurement at the Department of Administration.

Exceptions which do not violate either M.S. 16A.15 or M.S. 16C.05

In the following instances, a completed 16A.15 / 16C.05 Form is *not required* to execute payment of an obligation:

- Field Purchase Orders (FPOs) issued pursuant to the Department of Administration's Authority for Local Purchase (ALP) manual, Appendix N, Policy 2 regarding field purchase orders.

- **Note:** There are strict limitations relating to the use of FPOs. Unauthorized or inappropriate use of FPOs may constitute a violation of M.S. 16A.15, M.S. 16C.05, or both.
- A grant contract not encumbered upon execution, but encumbered before the grantee begins work.
- A contract amendment that is approved before the original contract expires and the current obligation to be paid does not exceed the remaining encumbrance balance.
- An encumbrance that was canceled in error or prematurely before an invoice was received.

Related Policies and Procedures

[MMB Statewide Operating Policy 0702-01 Reinstating Encumbrances after Close of the Fiscal Year](http://mn.gov/mmb-stat/documents/accounting/fin-policies/chapter-7/0702-01-reinstating-encumbrance-policy.pdf) (<http://mn.gov/mmb-stat/documents/accounting/fin-policies/chapter-7/0702-01-reinstating-encumbrance-policy.pdf>)

Related Forms

[16A/16C Violation Memo – Office of State Procurement](http://www.mmd.admin.state.mn.us/pdf/16a16cmemo.pdf)
(<http://www.mmd.admin.state.mn.us/pdf/16a16cmemo.pdf>)

See Also

[Minnesota Statute 16A.15](https://www.revisor.mn.gov/statutes/?id=16A.15) (<https://www.revisor.mn.gov/statutes/?id=16A.15>)

[Minnesota Statute 16C.05](https://www.revisor.mn.gov/statutes/?id=16C.05) (<https://www.revisor.mn.gov/statutes/?id=16C.05>)

[Minnesota Statute 16B.98](https://www.revisor.mn.gov/statutes/?id=16B.98) (<https://www.revisor.mn.gov/statutes/?id=16B.98>)

[Minnesota Department of Administration – Office of State Procurement Authority for Local Purchase \(ALP\) Manual](http://www.mmd.admin.state.mn.us/alpmanual.htm) (<http://www.mmd.admin.state.mn.us/alpmanual.htm>)

[Minnesota Department of Administration – Office of State Procurement Professional/Technical Services Contract Manual](http://www.mmd.admin.state.mn.us/mn05001.htm) (<http://www.mmd.admin.state.mn.us/mn05001.htm>)

[Minnesota Department of Administration – Office of State Procurement Purchasing Policy 14](http://www.mmd.admin.state.mn.us/pdf/ppolicy14.pdf)
(<http://www.mmd.admin.state.mn.us/pdf/ppolicy14.pdf>)