

Minnesota Management & Budget Statewide Operating Policy

Minnesota Management & Budget, Budget Operations
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Capital Budgets

Objective

To ensure that the use of capital appropriations complies with the state Constitution, statutes (some of which are listed below), and session laws.

Statute No.	Statute Name	Web Address
16A.632	Capital Asset Preservation and Replacement Account	https://www.revisor.mn.gov/statutes/?id=16A.632
16A.642	State Bonds: Reports; Cancellations	https://www.revisor.mn.gov/statutes/?id=16A.642
16A.502	Nonstate Commitments to Capital Projects	https://www.revisor.mn.gov/statutes/?id=16A.502
16A.695	Property Purchased with State Bond Proceeds	https://www.revisor.mn.gov/statutes/?id=16A.695
16B.335	Review of Plans and Projects	https://www.revisor.mn.gov/statutes/?id=16B.335
16B.307	Asset Preservation Appropriations	https://www.revisor.mn.gov/statutes/?id=16B.307
135A.046	(Higher Education) Asset Preservation and Replacement	https://www.revisor.mn.gov/statutes/?id=135A.046
84.95	Reinvest in Minnesota Resources Fund	https://www.revisor.mn.gov/statutes/?id=84.95

Policy

Appropriation Entries

After each bonding bill is enacted, agencies originate the appropriation entries in the accounting system for both direct appropriations and appropriation accounts for spending dedicated receipts. All appropriations are approved by the Executive Budget Officer (EBO) and Capital Budget Coordinator and must contain a valid legal citation.

Capital projects commonly involve funding from multiple sources. In addition to state funds, non-state sources may include federal, local and private funds. Non-state funds contributed to state-owned projects should be treated as dedicated receipts and established in separate appropriation accounts for each authorization. In general, separate accounts for federal funds are required when federal programs are identified by unique Catalog of Federal Domestic Assistance (CFDA) numbers.

This recording of appropriated resources and dedicated receipts provides accountability for money provided by the Legislature. An appropriation account controls the total amount of an agency's expenditures and provides a summary of sources and uses of funding. An appropriation account and at least one allotment must be established in the accounting system before any money may be encumbered and spent.

Non-state funds should be treated as dedicated receipts for capital projects which will be owned, developed or managed by the state. Dedicated receipts by law or statute are appropriated funds; the accounting system requires an appropriation account to facilitate spending and resource management.

Dedicated receipts need to reference an appropriation account before they can be allotted, obligated or spent (see MMB Operating Policy 0301-01, "Establishing Budgets", for instructions on setting up estimated dedicated receipts). All gift receipts and federal funds received or anticipated for financing a state capital project should be set up in a separate appropriation account for each authorization.

Appropriations for capital expenditures may be set up as projects.

Eligible Capital Expenses

General obligation bond proceeds and general fund cash appropriations which have been limited to capital expenditures may only be used for qualified capital expenditures. Eligible costs include land acquisition, predesign, design, construction, major remodeling (if it adds to the value or life of a building and is not of a recurring nature), and other improvements or acquisitions of tangible fixed assets of a capital nature.

General operating expenses, moving and relocation expenses, overhead, master planning, maintenance, operating costs, software and personal property such as computers are not qualified expenses. Equipment is not eligible unless purchased and installed upon initial acquisition and construction of a building, expansion or major remodeling and needed for the governmental program to be operated in the project.

Expenses that are not qualified capital expenses must be paid from funds other than general obligation bond proceeds or may be paid from general fund cash if not prohibited by law.

Agencies and grantees may use bond proceeds only for direct capital costs and not for depreciation, amortization, overhead, general administration or similar costs.

Agencies (but not grantees) were given legislative authority to use general obligation bond proceeds to pay for agency staff costs effective with bonding appropriations authorized in the 2010 legislative session and thereafter and for earlier appropriations if explicit statutory authority was given to use general obligation bond proceeds to fund staff costs.

Agencies must notify Minnesota Management & Budget (MMB) of their intention to capitalize the costs of staff prior to expending any bond appropriations for this purpose. Staff time expended on capital projects must be tracked on a daily basis by project and by each individual recording time on the project. Agencies are required to submit a memorandum to their EBO and to the Capital Budget Coordinator for approval by MMB, which outlines their proposed plan for tracking and reporting all agency staff time funded with G.O. bond proceeds and an estimate of total staff time to be charged to each project.

After approval of its plan by MMB, each agency must submit a quarterly report to its EBO and to and to the Capital Budget Coordinator detailing the staff costs being charged to each capital project. MMB prepared a template summary cover sheet for agencies to submit these reports. MMB is required to report annually on January 15 to the legislature as to each agency's expenditures of capital appropriations for staff costs and its compliance with MMB's policy on staff costs.

Documentation Requirements

Capital appropriations may be expended once Minnesota Statutes 16A.695 documentation requirements have been met. Requirements vary by type of capital appropriation and are detailed below (an appropriation may fall into more than one category):

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1. For capital appropriations with matching requirements, documentation must be received and approved by MMB which shows that the recipient has complied with all matching requirements outlined in the appropriation authorization and has all the necessary funds to complete the project.
 2. Capital appropriations with program funding requirements should be reviewed by the agency to determine whether the grantee has successfully demonstrated its plan and ability to fund and manage the program anticipated for the facility.
 3. Capital appropriations with other legal requirements should meet all requirements of the statute as well as the Commissioner's Order¹, when applicable, and may also be approved by the Attorney General's office and MMB.

Each of these types of appropriations will be addressed in turn.

1. Capital Appropriations with Matching Requirements

Use of capital appropriations must comply with state constitutional and statutory provisions regarding definitions of eligible capital projects and the proper use of state funds. Bonding bills, appropriation bills, and other session laws commonly specify that a recipient's capital appropriation may not be expended until the recipient has a commitment or receipt of matching funds. Non-state matching sources may include federal, local and private funds. If the appropriation bill requires local match, the account will be set up as a contingent account (i.e., it will be deactivated) and will only be reactivated once match documentation has been provided to MMB.

Agencies must comply with Minnesota Statutes 16A.502 which states, in part, "If a state appropriation or grant for a capital project or project phase is not sufficient, by itself, to complete the project or project phase, and thus requires a commitment from other sources: (1) the commitment, including any required match, must be in an amount that, when added to the appropriation or grant, is sufficient to complete the project or project phase; (2) the appropriation or grant is not available until the commissioner has determined that the commitment is sufficient."

It may become necessary to create a "control" and an "operational" account when an agency has legal authority to spend only a portion of an appropriation or an agency has received a capital appropriation to be disbursed to multiple grantees. This situation requires establishing another appropriation account in the accounting system. The original appropriation account will serve as a "control" account; the new account will function as an "operational" account. As legal authority to spend the funds is met, agencies will process a transfer to move the funds to the operational account. Expenditures will be made only from the operational account.

For projects that will be owned, developed or managed by political subdivisions, non-state matching funds will not need to be deposited in the state treasury. However, in these cases the political subdivisions must provide documentation prior to release of the state appropriations that all non-state funds necessary to complete the projects have been secured or are legally committed.

Please note that pledges do not qualify as a commitment unless received in cash or a cash equivalent through a loan or irrevocable letter of credit from a third-party financial institution. Cash contributions must be deposited in a restricted, segregated account. Commitments of federal funds must be demonstrated by an appropriation identified in federal law or a grant award letter from a federal agency. Commitments of matching funds from local governments must be demonstrated by funds in a segregated account, an approved budget line item, or a full funding resolution enacted by the local governing body.

¹ Minnesota Statutes 16A.695 required the Commissioner of MMB to establish a directive to interpret and implement the statute. This directive is known as the Order of the Commissioner Relating to Use and Sale of State Bond Financed Property (the Commissioner's Order¹). It was issued on July 14, 1994 and has since been amended.

Documentation for in-kind contributions, when permitted by law, must include the name of the contributor, a description of the contribution, and the details of how the amount of the in-kind contribution or service was determined. The value of land or buildings donated to a project should be included when estimating total project costs and may be considered as part of a matching contribution if used exclusively for the purpose of the new capital project. The value of contributed land or buildings should be documented through means such as a qualified appraisal.

In some cases, capital appropriations are authorized to be used as project grants for distribution to local governments based on various matching formulas. Examples include Minnesota Historical Society local preservation grants, Department of Transportation local road and bridge replacement grants, and Department of Natural Resources local recreation grants. In these cases, the agency named in the appropriation bill is responsible for releasing grant funds and must ensure that grantees satisfy applicable matching requirements. It is not the intent of MMB to review each of the individual awards of these grant programs. However, a copy of program and grant application rules which describe applicable matching requirements for grantees must be presented to MMB for review and approval when requesting activation of an inactive appropriation account.

The methodology and schedule for state payments to local grantees should be clearly identified in a grant agreement as prepared by the state agency and reviewed by the Attorney General's office. Grant agreements may be structured as either an end grant (state payments are disbursed to the grantee at project completion) or a construction grant (state payments are disbursed to the grantee as costs are incurred). In a construction grant, state reimbursements are typically disbursed on a pay-as-you-go basis as a percentage of total project costs. Grant agreement templates which have been approved by the Attorney General's office are available on MMB's website.

2. Capital Appropriations with Program Funding Review Requirements

Minnesota Statutes 16A.695 imposes oversight responsibilities on agencies with bonding appropriations for capital grants to other local government recipients. Subdivision 5 of the statute reads in part, "Recipients of grants from money appropriated from the bond proceeds fund must demonstrate to the commissioner of the agency making the grant that the recipient has the ability and a plan to fund the program intended for the facility. A private nonprofit organization that leases or manages a facility acquired or bettered with grant money appropriated from the bond proceeds fund must demonstrate to the commissioner of the agency making the grant that the organization has the ability and a plan to fund the program intended for the facility."

The purpose of this section of this MMB operating policy is to provide guidance to agencies regarding the type of information to be requested of grantees. The grantees must demonstrate to the agency making the grant that a satisfactory program has been developed for operation of the facility. Agencies should solicit the necessary information during the grant application and approval process and/or prior to loading the appropriation into the accounting system and disbursing the grant funds.

Generally, the ability of a grantee to successfully operate an anticipated facility will depend on a number of circumstances, including the type of facility being built; program costs, funding sources, and the grantee's experience in operating similar facilities or public programs.

The information required to demonstrate an anticipated, successful operation may also vary. For example, information needed to demonstrate a public entity's funding plan for an expanded or replacement facility housing a successful, continuing public program might logically be less than the information requested for a start-up facility to be managed by an organization with no previous program operating experience.

In the first example, a resolution of the public entity's governing board that establishes multi-year funding for the continued operation of the facility or its public budget that includes adequate program funding may

be viewed as a satisfactory level of information. In cases where the facility will be operated by a nonprofit group or managed by a public entity with little or no experience in the operation of a particular program or facility, a wider range of financial information and documents should be requested to provide assurances of the grantee's plan and ability to successfully operate the facility.

Such financial documents may include:

- General information on the organization, management structure, and mission of the recipient; and
- Annual financial statements from the last three to five years, budget for the current fiscal year and for the first full year of the facility's operation, pro-forma income and expense projections for a three- to five-year horizon, and a detailed listing of all non-state funding sources for capital and operating expenses including pledge commitments and assumptions used to make and justify pro-forma income and expense projections.

The agency should undertake a financial analysis of the documents presented, including consideration of management capabilities, revenue and expense trends, determination of the availability of unrestricted balances and other reserves to provide necessary liquidity, comparison of the past financial performance of the organization or facility in comparison to prior year budgets, and examination of the underlying assumptions and reasoning for the revenue and expense projections.

After complete review of these or other documents, the agency should determine whether the grantee has successfully demonstrated its plan and ability to fund and manage the program anticipated for the facility. Before capital appropriations may be expended from the accounting system, the agency must submit a written certification to MMB that the agency has satisfied the program funding review requirements of Minnesota Statutes 16A.695.

If an agency making a grant does not have the capability to adequately analyze these financial documents or is otherwise unable to make a determination of the recipient's plan and ability to successfully operate the public program, the agency may request that the commissioner of MMB convene a meeting of the state nonprofit review committee to provide such analysis. For more information regarding this process, please contact the MMB assistant commissioner for Treasury.

Please note that it is not the intent of MMB to review each capital appropriation award intended for disbursement to multiple grantees from agencies demonstrating a successful history in awarding capital grants for that program. In this situation, the agency may submit a copy of program funding policies or grant application rules that demonstrate an overall satisfactory program funding review process, rather than submitting individual project certifications and financial documents for each grant.

Specific questions on program funding review requirements of Minnesota Statutes 16A.695 and this MMB Operating Policy may be addressed to the agency-assigned EBO or to the Capital Budget Coordinator.

3. Capital Appropriations with other Legal Requirements

The Minnesota Constitution specifically states that "Public debt may be contracted and works of internal improvement carried on for the following purposes...", which include, "to acquire and to better public lands and buildings and other public improvements of a capital nature and to provide money to be appropriated or loaned to any agency or political subdivision of the state for such purposes...".

Private parties and nonpublic organizations are not eligible to receive state general obligation bond proceeds directly. In this situation, the general obligation bond proceeds may only be spent on land or a facility owned by a political subdivision which is or will be used for a public program, and the program may be operated or managed by a private party or other nonpublic organization.

State agencies, political subdivisions and nonpublic organizations should review Minnesota Statutes 16A.695 and the Commissioner's Order in its entirety and consult with their legal advisors to understand the requirements related to appropriations of general obligation bond proceeds for their capital improvements, use of bond-financed property by nonpublic organizations and the requirements related to the future sale of bond-financed property.

The main points contained in the Commissioner's Order include the following:

- State general obligation bonds can be issued only to finance publicly-owned land, buildings or improvements to be used to conduct governmental programs of the state or its political subdivisions.
- "State bond-financed property" means property acquired or bettered in whole or in part with the proceeds of state general obligation bonds.
- A use contract between a public agency and a nonpublic party can be entered into only for the express purpose of carrying out a governmental program established by law and as authorized by official action of the contracting public officer or agency.
- The use contract must provide for ongoing program supervision by a public officer or agency, which includes the right of termination, and must be approved by the commissioner of MMB.
- Certain requirements apply to the sale of state bond-financed property and associated reimbursements to the state of Minnesota.
- Additional legal requirements that can only be understood by reviewing the Commissioner's Order in its entirety and consulting with agency legal advisors.

All interested parties are strongly encouraged to read the complete Commissioner's Order, as amended, to obtain a full understanding of all applicable requirements.

Projects that are financed by funding sources other than state general obligation bonds typically have fewer Constitutional and statutory requirements that apply regarding public ownership. In these cases, the facility or asset receiving state funds (other than general obligation bond proceeds) is not required to have public ownership unless specified in the appropriation act. In all cases, however, the public purpose prescribed in the appropriation act is expected to continue throughout the life of the facility or asset.

Definitions

A capital appropriation established within the accounting system is used to record resources that have been appropriated by the Legislature and to record dedicated receipts that the Legislature has authorized an agency to expend for capital projects. Appropriated dollars entered into the accounting system are identified as a specific sum or a calculated amount explicitly stated in session laws or state statutes. This recording of appropriated resources and dedicated receipts provides accountability for money that is made available by the Legislature.

See Also

Operating Policy 0301-01: Establishing Budgets (NOT CREATED YET)

[MMB Statewide Operating Policy 0402-02 Single Audit: Accounting for and Reporting of Federal Financial Assistance](http://www.beta.mmb.state.mn.us/doc/maps/policies/ch4/0402-02.pdf) (<http://www.beta.mmb.state.mn.us/doc/maps/policies/ch4/0402-02.pdf>)

[MMB Policy Regarding Use of General Obligation Bond Proceeds to Fund Staff Costs](http://www.beta.mmb.state.mn.us/doc/bonds/policy/bond-proceeds-fund-staff%20costs.pdf) (<http://www.beta.mmb.state.mn.us/doc/bonds/policy/bond-proceeds-fund-staff%20costs.pdf>)

[MMB Post-Issuance Compliance Guidelines](http://beta.mmb.state.mn.us/doc/bonds/legal/tax-compliance.pdf) (<http://beta.mmb.state.mn.us/doc/bonds/legal/tax-compliance.pdf>)

[Strategic Capital Budget Plan Instructions Manual](http://www.beta.mmb.state.mn.us/doc/budget/bud-cap/01/budget-plan.pdf) (<http://www.beta.mmb.state.mn.us/doc/budget/bud-cap/01/budget-plan.pdf>)

[State of Minnesota Capital Grants Manual](http://www.beta.mmb.state.mn.us/doc/bonds/grants/grants-manual.pdf) (<http://www.beta.mmb.state.mn.us/doc/bonds/grants/grants-manual.pdf>)

[Predesign Manual for Capital Budget Projects](http://mn.gov/admin/images/RECS-CS-PDM4thE.pdf) (<http://mn.gov/admin/images/RECS-CS-PDM4thE.pdf>)

[Order of the MMB Commissioner issued July 14, 1995 as amended](http://www.mmb.state.mn.us/doc/bonds/legal/07-20-95-bond-order.pdf)
(<http://www.mmb.state.mn.us/doc/bonds/legal/07-20-95-bond-order.pdf>)