

Office Memorandum

Date: August 8, 2025

To: Agency Heads
Chief Financial Officers

From: Erin Campbell, Commissioner



Subject: After the Bonding Bill - Next Steps for Agencies

This memo provides guidance on key constitutional, statutory, and other legal and administrative requirements regarding how state agency recipients of state capital appropriations may spend the bonding and general fund appropriations in Laws of Minnesota, 2025 1st Special Session, chapter 14, sections 6, 7, 8, and 10, and Laws of Minnesota, 2025 1st Special Session, chapter 15.

This memo is not meant to be an exhaustive reference for all requirements, but a summary of the most noteworthy items, as well as resources for additional information. Please consult with your financial and legal advisors regarding these and other requirements.

The IRS requires the state to monitor tax compliance on its bonds. In response, MMB maintains [Tax Compliance Policies and Procedures](#) relating to its tax-exempt bonds and other tax-exempt obligations to ensure that the interest on these obligations remains exempt from federal income taxation. State agencies play a critical role in helping MMB comply with these policies and procedures. Please review section 15 below and let Jennifer Hassemer, Assistant Commissioner for Debt Management, jennifer.hassemer@state.mn.us, 651-201-8079, know if you have any questions.

Important Requirements and Changes

A. Staff Costs Approval

Agencies seeking to use a portion of their 2025 bonding appropriations for capitalizable internal staff costs need to submit a new request to MMB for approval. See section 7 of this memo for further information about this requirement.

B. Notification to Legislative Committee Chairs When Work is Ready to Begin

The 2025 legislative session modified Minn. Stat. Sec. 16B.335, subd. 2 to clarify that recipients of capital project funding that are exempt from the legislative design review requirement in 16B.335, subd. 1b ([Sec. 10](#) of this memo) must notify legislative committee chairs when work is ready to begin.

The amended statute states, in part, *"All other capital projects for which a specific appropriation is made, including projects that are exempt under subdivision 1, paragraph (b), must not proceed until the recipient undertaking the project has notified the chairs and ranking minority members of the senate Capital Investment*

and Finance Committees and the house of representatives Capital Investment and Ways and Means Committees that the work is ready to begin.”

Notification is still not required for projects needed for ADA compliance, asset preservation projects, or projects funded out of an agency’s operating budget.

C. Prevailing Wage Requirements

For any capital project funded by either the Laws of Minnesota, 2025 1st Special Session, chapter 14, sections 6, 7, 8, and 10, or Laws of Minnesota, 2025 1st Special Session, chapter 15, workers on the project must be paid at least the prevailing wage as defined in Minnesota Statutes, section 177.42, subdivision 6, and the project is subject to the requirements and enforcement provisions in Minnesota Statutes, sections 177.27, 177.30, and 177.41 to 177.45. For additional detail regarding these requirements, please visit <https://www.dli.mn.gov/business/employment-practices/prevailing-wage-information>.

D. Demonstration of Ability to Fund Program

All recipients of general fund capital project grants under Laws of Minnesota, 2025 1st Special Session, chapter 14, sections 6, 7, 8, and 10 must demonstrate to the granting agency that they have the ability and a plan to fund the program intended for the facility. This requirement also continues to apply for recipients of general obligation bond capital grants. See section 5 of this memo for further information about these requirements.

E. Applicability of Rules to General Fund Capital Projects in Laws 2025 1st Special Session, Ch. 14, sections 6, 7, 8, and 10

The following is a list of requirements that remain applicable to capital projects funded by the general fund, with reference to sections of this memo with additional information. This is not an exhaustive list but rather reflects topics that frequently give rise to questions. Please consult your legal advisor on the applicability of any other governing rules.

- i. Grant Agreement Templates ([Sec. 2](#))
- ii. Full Funding Review ([Sec. 3](#))
- iii. Ability and Plan to Fund the Intended Program ([Sec. 5](#))
- iv. Capitalizable Staff Costs ([Sec. 7](#))
- v. Sustainable Building Guidelines ([Sec. 8](#))
- vi. Predesign Review by Admin ([Sec. 9](#))

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The remainder of this memo is a refresher on the requirements associated with:

- 1) Public ownership, public purpose, and use agreements for state-funded projects
- 2) Standard state grant agreements
- 3) Non-state matching requirements for specific projects
- 4) Reimbursing agencies or local governments
- 5) Review of grant recipient’s operating program
- 6) Qualified capital expenditures

- 7) Staff costs for project management
- 8) Sustainable building guidelines for new buildings; alternative energy sources; recycling construction and demolition waste; solar energy
- 9) Predesign review by the Department of Administration
- 10) Design review by legislative committee chairs
- 11) Up to one percent for art
- 12) Project cancellations
- 13) Reporting of asset preservation expenditures
- 14) Tracking bond financed property
- 15) Post-issuance compliance guidelines and internal controls
- 16) Accommodations for hard-of-hearing
- 17) Targeted group business
- 18) MDHR certificates of compliance and equal pay certificates
- 19) Encumbrance and contract execution policy 21-01

You can find more information on these topics in the [Capital Grants Manual](#). Please also see SWIFT operating policy 0302-01 that applies to capital appropriations. SWIFT policies and procedures are posted on [MMB's website](#).

1) Public Ownership, Public Purpose, and Use Agreements for State-Funded Projects

The Minnesota Constitution, Article XI, Section 5, limits the appropriation of state general obligation bonds to state agencies and political subdivisions of the state. Because of this constitutional constraint, grants or loans for capital projects from bond proceeds **cannot** be made directly to nonprofit or for-profit organizations, to Indian tribes, or to the federal government.

Minn. Stat. Sec. 16A.695, subdivisions 8 and 9, summarize key requirements of general obligation bond financing. This funding can only be used:

- To finance the acquisition and betterment of public lands and buildings and other improvements of a capital nature that are used to operate a governmental program
- For predesign and design of specifically identified projects that involve the operation of a governmental program or activity

The same statute provides guidelines that must be followed when a capital project benefits a nonprofit or for-profit organization. For either a nonprofit or for-profit organization to benefit from state bond proceeds the capital project must be owned by a state agency or political subdivision that then enters into a use agreement with the private organization to provide the public program. Such public ownership can be a fee simple interest or a sufficiently long-term lease or easement interest.

A state agency or political subdivision must be more than merely a fiscal agent with a one-time responsibility of passing the bond proceeds through a grant agreement to the private organization. The public entity that enters into a use agreement with the private organization must be an active participant in the public program, and must also have ongoing oversight of the program. **The Commissioner of MMB must approve all use agreements for bond financed property.**

The Commissioner of MMB's *Fourth Order Amending Order of Commissioner of Finance Relating to Use and Sale of State Bond Financed Property* dated July 30, 2012 (the "[Commissioner's Order](#)"), includes more detail on the requirements that apply to bond financed property, including property that is used by a non-public party. Agency accounting coordinators should review SWIFT operating policy 0302-01 when entering information in the Appropriation Maintenance Application (AMA) for a capital appropriation that benefits a nonprofit or for-profit organization. Agencies may also wish to consult with their Attorney General staff regarding the various legal requirements affecting state capital appropriations that benefit a non-public entity.

2) Standard State Grant Agreements

All general obligation bond capital grant agreements must describe how bond financing will be used, identify the public program to be operated on bond financed property, and otherwise ensure that the provisions of Minn. Stat. Sec. 16A.695 are implemented.

The Attorney General's office, in cooperation with MMB, has developed standard grant agreements for state agencies to use when providing capital grants.¹ These grant agreements contain provisions covering a wide variety of applicable statutory and constitutional requirements, and comply with applicable Internal Revenue Code requirements. Standard grant agreements for bond financed and general fund cash-financed capital projects are posted on MMB's website [here](#).

There are three basic versions of the state grant agreements – construction grants, end grants, and predesign grants. Construction grants provide periodic reimbursement to the grantee during project construction. A construction grant agreement will require contractor performance bonds or a fixed price construction contract. The state agency, as grantor, approves the project budget, receives invoices, and makes payments of state funds to the grantee no more often than monthly. A certificate of occupancy must be included with the final request for payment under the grant.

End grants reimburse the grantee after the project has been completed. The grantee assumes full responsibility for completing the project, including providing up-front financing as needed to see the project through to completion. The state agency pays out the state appropriation for the project once the project is complete and a certificate of occupancy has been obtained.

The third version of the state grant agreements is used when the grant will fund only the predesign and/or design phase of a project.

MMB recommends that agencies use end grants whenever possible. However, agencies will need to meet with grantees and consider the dynamics of each project when deciding which grant agreement is best to use.

¹ If a state agency chooses to use a grant agreement form that it has customized to apply to its particular program, the grant agreement must implement the provisions imposed by Minn. Stat. Sec. 16A.695 and be compliant with Internal Revenue Code requirements. MMB or the Attorney General's office must review a customized grant agreement form to ensure that it properly reflects applicable requirements and statutory provisions.

The state cannot advance funds to grantees prior to executing a grant agreement under any circumstance. Funds will be disbursed only when a grant agreement is signed and project costs have been incurred. No funds will be disbursed prior to the start of the project.

3) Capital Appropriations with Non-State Matching Requirements

Minn. Stat. Sec. 16B.31, subd. 2, requires state capital improvement projects to have full funding. This statute specifies that *“No plan [for specifications for constructing or improving a state building or structure] may be adopted, and no improvement made or building constructed by the commissioner [of the Department of Administration] or any other agency to whom an appropriation is made for a capital improvement, that contemplates the expenditure for its completion of more money than the appropriation for it, unless otherwise provided in this section or the act making the appropriation.”*

Agencies and local government grantees must also be aware of Minn. Stat. Sec. 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; and (2) the appropriation or grant is not available until the commissioner [of MMB] has determined that the commitment is sufficient.”*

Local projects may be required to provide matching funds as a condition of receiving a state capital appropriation, whether by direct earmark or as a condition of a state agency-administered program. Non-state funding may include federal, local and private funds or other state funding if permitted by the program or appropriation language. Even when matching funds are not specifically required, projects still must demonstrate full funding commitment before they can receive their appropriation or grant. Such funding must have been received or a legally binding commitment to provide the funding must be in place. Below are some examples of funds which are sufficiently committed and required documentation thereof:

- Cash in hand – bank statements for segregated accounts, copies of checks
- Federal funds – line items in approved federal budgets, grant award letters from federal agencies; federal authorizations by themselves are not sufficient
- Local government match – line items in approved local government budgets, bond purchase agreements or bond sale resolutions, executed loan agreements with lenders
- Private contributions – pledges which have been received in cash (see documentation for “Cash” above) or that are backed by a loan or irrevocable letter of credit; future pledges by themselves are not sufficient
- In-kind contributions (land or buildings) – documentation must be received with the name of the contributor, a description and the value of the contribution, and details of how the value was determined

MMB instructed agencies on which appropriations from the 2025 bonding bill were required to be set up in SWIFT as conditional appropriations, thus placing the appropriation on “hold” status. In determining which appropriations were conditional, MMB placed each project into one of the following categories: (1) specifically earmarked projects in the bonding bill with conditions; (2) specifically earmarked projects in the bonding bill that did not receive an appropriation for the full amount of their project costs; and (3) state agency-administered grant programs where the terms of the program require the grantee to provide matching funds.

The granting agency must provide documentation to MMB to determine that the recipient has secured sufficient funding to complete the project, including any matching requirements. Each agency should review this

documentation and, if it adequately shows the necessary funding sources, send to MMB (Attn: Roger Behrens, Capital Bonding Coordinator and Jennifer Nelson, Capital Bonding Specialist) for final review. Once MMB approves the funding documentation, agencies may initiate an AMA transaction to remove the “hold” from the appropriation.

If the legislature only intended to finance a discrete phase of a project, the grantee must demonstrate that *all financing* is in place to complete the project or project phase that is described in the appropriation language and as specified in the grant agreement.

For further information, please refer to [SWIFT operating policy 0302-01](#).

4) Reimbursing Agencies or Local Governments

Agencies and local governments that receive a capital grant or loan from state general obligation bond proceeds or general fund cash often want to be reimbursed for past expenses which they have already paid from other funds. As a general rule, expenses that an agency or grantee pays from its own funds prior to the effective date of the bonding bill are not eligible to be reimbursed from bond proceeds. The 2025 omnibus bonding bill (Laws of Minnesota, 2025 1st Special Session, chapter 14 and Laws of Minnesota 2025 1st Special Session, chapter 15) became effective on June 12, 2025.

Federal tax law regulates the issuance and use of tax-exempt bonds by states and local governments. Tax regulations severely limit the ability to use the proceeds of tax-exempt bonds to reimburse costs that have already been paid from other funds.

Expenses incurred before enactment of the relevant bonding bill should be paid from other project funding sources, such as the local match. Agencies receiving reimbursement requests should not make any payments out of bond proceeds for project costs paid prior to enactment of the bonding bill without first consulting MMB.

For reimbursements for expenses incurred after the enactment of a bonding bill, but prior to grant execution, agencies should be familiar with the Encumbrance and Contract Execution Policy 21-01 discussed in [Section 19](#) of this memo.

5) Operating Program Review of Grantees

Agencies administering capital grants funded by bond proceeds have oversight responsibility to review the financial capability of a grant recipient’s operating program. Minn. Stat. Sec. 16A.695, subd. 5, requires that *“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.”* This requirement also applies to general fund cash funded capital projects under Laws of Minnesota 2025 1st Special Session, chapter 14 and Laws of Minnesota 2023, chapter 71.

[SWIFT operating policy 0302-01](#) provides guidance as to the financial review that agencies should conduct to satisfy this legal requirement. Certain types of financial information will need to be requested from grantees in the course of an agency’s review process. Agencies that administer capital grant programs may wish to request that certain financial documents be included in the application materials submitted by grantees.

6) Qualified Capital Expenditures

General obligation bond proceeds 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, general administration, overhead, master planning, depreciation, amortization, maintenance, , and personal property 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. Computers, software and other information technology expenditures are generally ineligible. Expenses that are not qualified capital expenses must be paid from funds other than general obligation bond proceeds or from general fund cash if not prohibited by law.

As a reminder, MMB has adopted [SWIFT operating policy 0308-01](#) stating that **bond proceeds cannot be used for moving and relocation expenses**. This policy applies to all bonding appropriations, current and past, regardless of whether the funds have been encumbered.

7) Staff Costs for Project Management

State agencies are strongly encouraged to charge the time of state employees working on capital projects to non-bond funding sources because of the undesirable practice of amortizing such salary costs over the 20-year life of state general obligation bonds.

On October 20, 2009, MMB adopted a [policy](#) regarding use of general obligation bond proceeds to fund capitalizable staff costs. Agencies may submit a plan to MMB seeking approval to use general obligation bond proceeds to pay for staff costs for bonding appropriations. The staff costs must be properly capitalizable under generally accepted accounting principles. See Exhibit A to the policy for additional guidelines on what is properly capitalizable.

For each bonding bill, agencies must receive MMB's approval 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 person recording time on the project. Agencies are required to submit a memorandum to their EBO and to Roger Behrens, Capital Bonding Coordinator, seeking prior approval by MMB, which outlines a proposed plan for tracking and reporting all agency staff time funded with 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 ongoing quarterly reports to its EBO and to Roger Behrens and Jennifer Nelson, Capital Bonding Specialist at MMB, detailing the staff costs being charged to each capital project. MMB has prepared a template summary cover sheet for agencies to submit these reports, which is available on MMB's website at <https://mn.gov/mmb/debt-management/capital-projects/staff-costs/>. 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.

8) Sustainable Building Guidelines for New Buildings; Energy Conservation; Alternative Energy Sources; Recycling Construction and Demolition Waste; Solar Energy

Under Minn. Stat. Sec. 16B.325, all new buildings and all major renovations receiving funding from general obligation bond proceeds must follow the sustainable building guidelines and exceed the state energy code by at least 30%.

As required by state law, the Departments of Administration and Commerce have developed sustainable building design guidelines for all new state buildings. The primary objectives of these guidelines, known as the “B3 Guidelines,” relate to the energy efficiency of new state buildings and are available [online](#). Questions regarding the B3 Guidelines and their applicability should be directed to Patrick Smith at 612-626-9709, guidelines@b3mn.org.

All capital improvement projects must comply with applicable energy conservation standards, including Minn. Stat. Secs. 216C.19 to 216C.20. Information and technical assistance may be obtained from the Division of Energy Resources in the Department of Commerce on energy conservation and alternative energy development at 800-657-3710 (Greater Minnesota only) or 651-539-1886, energy.info@state.mn.us.

Minn. Stat. Sec. 16B.32 relates to energy use by state-owned buildings. Under subd. 1, if the incorporation of cost-effective energy efficiency measures into the design, materials and operations of a building or major renovation is not sufficient to meet Sustainable Building 2030 energy performance standards, then cost-effective renewable energy sources or solar thermal energy systems, or both, must be deployed to achieve these standards. Under subd. 1a, the total aggregate nameplate capacity of all renewable energy sources utilized to meet Sustainable Building 2030 standards in a state-owned facility may not exceed 120% of the average annual electric energy consumption of the state-owned facility.

Note: Excess energy generation may constitute private use of a bond financed facility under federal tax law, and would therefore be subject to strict limitations in order to protect the tax-exempt status of the state’s bonds. Please consult with MMB Debt Management at the earliest opportunity if you will be designing a building or renovation project that would generate more than 100% of the building’s annual energy consumption needs.

Minn. Stat. Sec. 16B.327 requires recycling of at least 50% of nonhazardous construction and demolition waste (measured by tonnage or volume) generated by construction, renovation or demolition of any building owned or leased by a state agency, Minnesota State Colleges and Universities or the University of Minnesota. It applies to appropriations of \$5,000,000 or more if a recycling facility is located within 40 miles of the project.

9) Predesign Review by the Department of Administration

As part of the state’s efforts to encourage better informed capital investment decisions, agencies and local government grantees are required to prepare predesign documents for review by the Department of Administration before proceeding with design work (Minn. Stat. Sec. 16B.335, subd. 3). This requirement applies to all capital projects unless specifically exempted by the statute.

The *Predesign Manual for Capital Budget Projects (Seventh Ed., Jul. 2019)* is posted on the Department of Administration’s website [here](#). Questions regarding the predesign process should be directed to Eric Radel at Construction Services, eric.radel@state.mn.us, 651-548-5700.

10) Design Review by Legislative Committee Chairs

Paragraph (a) of Minn. Stat. Sec. 16B.335, subd. 1, restricts a recipient of a capital appropriation from preparing *“...final plans and specifications for any construction, major remodeling, or land acquisition in anticipation of which the appropriation was made until the agency that will use the project has presented the program plan and cost estimates for all elements necessary to complete the project to the chair of the senate Finance Committee and the chair of the house of representatives Ways and Means Committee and the chairs have made their recommendations, and the chair and ranking minority member of the senate Capital Investment Committee and the chair and ranking minority member of the house of representatives Capital Investment Committee are notified.”*

Paragraph (b) of this same statute exempts certain types of projects from the legislative design review requirements.

Please review this statute in its entirety and consult with the legislative chairs named in the statute for further information regarding the documents that must be submitted to meet applicable legislative design review requirements.

11) Up to One Percent for Art

Minn. Stat. Sec. 16B.35 allows an appropriation *“for the construction or alteration of any state building”* to include up to one percent for the acquisition of works of art for the public spaces of the building or its grounds. Participation in this program requires an interagency agreement with the State Arts Board, who will manage the procurement and acquisition of the art. Please note section 6 of this memorandum regarding qualified capital expenditures and section 7 regarding staff costs. For this purpose, a state building is one where the construction or alteration is paid for, wholly or in part, by the state.

The law provides for three instances where none of the bonding appropriation may be spent on art under the “1% for Art” provision: 1) building projects in state prisons; 2) projects where the state funding is less than \$500,000; and 3) projects where the Commissioner of Administration has determined that the provision is inappropriate.

12) Project Cancellations

Minn. Stat. Sec. 16A.642 requires the Commissioner of MMB to report to the Legislature by February 1 of each year regarding unencumbered or unspent balances of capital appropriations enacted more than four years prior to that date. The reported amounts automatically cancel unless re-authorized by the Legislature.

The Commissioner of MMB will report the status of projects authorized in the 2025 bonding bill to the Legislature on February 1, 2030. Accordingly, all 2025 capital projects are being entered in SWIFT with an end date of December 31, 2029. All funding from the 2025 bonding bill that has not been contractually obligated or expended by December 31, 2029 will be placed on hold in SWIFT effective January 1, 2030 and cancelled effective July 1, 2030 unless it is re-appropriated by the Legislature. To avoid having a project included in the 2030 cancellation report, agencies and grantees should be prepared to move the project along to completion.

13) Reporting of Asset Preservation Expenditures

All of the asset preservation statutes (Minn. Stat. Secs. 16B.307, 16A.632 (CAPRA), 84.946 (NRAPR) and 135A.046 (HEAPR)) contain a reporting requirement. Agencies that have received asset preservation appropriations must report to specified legislative committee chairs and to MMB each year a list of projects that have been funded with asset preservation money during the preceding calendar year. The statutes also require agencies to provide a list of priority asset preservation projects for which appropriations will be sought during that year's legislative session. This latter requirement is met through an agency's capital budget request through MMB for asset preservation funding.

14) Tracking Bond Financed Property

The [Commissioner's Order](#) requires that a declaration be recorded against real estate that is purchased or improved with state general obligation bond proceeds. Agencies and local governments may request a waiver from MMB, under Section 7.02(b) of the Commissioner's Order, of the declaration requirement for bond financed projects or portions of projects which lie within roads, highways or utility or transit corridors, easements or rights of way, subject to signing a certification in which the bond proceeds recipient acknowledges that the property purchased and/or improved is still state bond financed property and thus subject to certain statutory requirements. **It is important that photocopies or scans of every declaration or certification be sent to Roger Behrens and Jennifer Nelson at MMB so that MMB can maintain the records required by Section III.A. of the Tax Compliance Policies and Procedures.**

In order for MMB to successfully track that this requirement is being met by grantees, state agencies need to report to us in the following manner. Agencies should send a report to Roger Behrens (roger.behrens@state.mn.us), Capital Bonding Coordinator, by July 30 of each year, which contains the following information for each grant agreement that was signed during the preceding fiscal year ending on June 30:

1. Name of grantee
2. Name and location of project
3. Amount of grant
4. Either the program under which grant was awarded, or legal cite to legislative appropriation

Agencies can use either a Microsoft Word table or Excel spreadsheet for the submitted report.

15) Post-Issuance Compliance Guidelines and Internal Controls

Sections I, II, and III of the [Tax Compliance Policies and Procedures](#) specify requirements that apply to state agencies' use of state general obligation bond proceeds for financed projects, and provide a framework for establishing good internal controls over the use of bond proceeds and bond financed property. Please review these sections carefully for detailed guidance on the requirements.

Certain agency representatives ("Agency Representatives") are identified in Exhibit A to the Tax Compliance Policies and Procedures and these individuals should be familiar with that document. Further, Agency Representatives should ensure their agency commissioners, managers, other officials and program staff are trained in the proper use of bond proceeds and of bond financed facilities.

Several requirements in the Tax Compliance Policies and Procedures are summarized elsewhere in this memo, including section 1 (use agreements), section 2 (grant agreements), section 4 (reimbursement) and section 7 (staff costs). Other important provisions to be mindful of include the following:

- Agency Representatives must review the expenditure of bond proceeds, shall correct any erroneous uses of bond proceeds, and should report any irregularities to MMB.
- There can be no expectation that the state bond financed property will be sold or otherwise disposed of by the grantee during the term of the bonds issued to finance the project.
- Agency Representatives should meet at least annually with their facilities personnel to discuss any planned third-party use of state bond financed property, and should consult with MMB about any such use.

16) Accommodations for Hard-of-Hearing

Minn. Stat. Sec. 16C.054 requires projects to construct or improve a public gathering space to meet national acoustical standards, and if they have permanent audio-amplification systems, must additionally include audio-induction loops that meet international standards. A public gathering space is defined as space (1) that accommodates and is intended to be used for gatherings of 15 or more people, and (2) in which audible communications are integral to a use of the space. For additional detail regarding this requirement, please contact the Minnesota Commission of Deaf, Deaf Blind & Hard of Hearing at mncdhh.info@state.mn.us or 651-431-5961.

17) Targeted Group Business

Minn. Stat. Sec. 16C.16, subd. 13 requires certain organizations, including municipalities defined in Minn. Stat. Sec. 466.01, subd. 1, administering contracts for state-funded capital improvement projects in excess of \$100,000 to promote the use of targeted group businesses designated by the Department of Administration and take steps to remove barriers to equitable participation of targeted group businesses. Targeted group businesses include small businesses owned or operated by women, persons with a substantial physical disability or specific minorities. The statute also requires organizations to cooperate with the state's efforts to monitor and measure compliance with the subdivision in the performance of state-funded contracts. The Department of Administration's Office of Equity in Procurement is a resource for identifying targeted group businesses. For additional details on this requirement please contact procurement.equity@state.mn.us or 651-201-2402.

18) MDHR Certificates of Compliance and Equal Pay Certificates

The Minnesota Department of Human Rights' (MDHR) affirmative action plan requirements (Minn. Stat. Sec. 363A.36) and equal pay certificate requirements (Minn. Stat. Sec. 363A.44), now require additional state entities as well as local units of government to ensure their contractors comply with these statutes.

MDHR's affirmative action plan requirements and equal pay certificate requirements now apply to all political subdivisions, state boards, commissions, authorities, departments or other agencies of the state execute branch, the Minnesota Historical Society, the Minnesota State Colleges and Universities, and the University of Minnesota for capital projects funded by state general obligation bonds. Affirmative action plan requirements apply to all contracts for goods and services entered into by political subdivisions on bond financed property for contracts exceeding \$250,000 and by all other designated entities for contracts, regardless of the property's bond financed status, exceeding \$100,000. Equal pay certificate requirements now apply to all contracts entered into by political subdivisions on bond financed property for contracts exceeding \$1,000,000 and by all other designated entities, regardless of the property's bond financed status, for contracts exceeding \$500,000. These requirements apply to capital projects for which the legislature appropriated funds on or after January 1, 2022.

For additional detail regarding these requirements, please contact MDHR-Contract Compliance Division at 651-539-1100 or email Contract Compliance at compliance.mdhr@state.mn.us, or visit MDHR's website at <https://mn.gov/mdhr/certificates/workforce-certificate/> or <https://mn.gov/mdhr/certificates/equalpay/>

19) Encumbrance and Contract Execution Policy 21-01

The [Encumbrance and Contract Execution Policy 21-01](#) emphasizes that agencies must normally encumber funds prior to incurring an obligation of the state and fully execute contracts prior to authorizing contractors to start work. However, the policy contains an exception for capital grant projects funded in a bonding bill, namely:

- Capital project grants subject to M.S. 16A.695 or 16A.86, which provide an option to the granting agency to reimburse the grantee for project costs paid prior to grant execution but no earlier than enactment of the authorizing legislation.

Grantees that begin work after enactment of a bonding bill, but prior to grant execution do so at their own risk and are responsible for understanding and complying with all applicable public contracting rules. Agencies may elect not to reimburse for capital project costs paid prior to grant execution.

Questions

Agencies should direct any questions about these topics or any other capital project questions to:

- Their assigned Executive Budget Officer (EBO),
- Roger Behrens, MMB Capital Bonding Coordinator, roger.behrens@state.mn.us, 651-201-8131,
- Jennifer Nelson, MMB Capital Bonding Specialist, jennifer.nelson1@state.mn.us, 651-201-8154, or
- Jennifer Hassemer, MMB Assistant Commissioner of Debt Management, jennifer.hassemer@state.mn.us, 651-201-8079.