MANAGEMENT AND BUDGET

Statewide Operating Policy

Minnesota Management and Budget, Budget Division
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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), session laws, and internal control objectives.

Statute	Name and 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.307	Asset Preservation Appropriations (https://www.revisor.mn.gov/statutes/?id=16B.307)
16B.335	Review of Plans and Projects (https://www.revisor.mn.gov/statutes/?id=16B.335)
135A.046	(Higher Education) Asset Preservation and Replacement (https://www.revisor.mn.gov/statutes/?id=135A.046)
84.946	Natural Resources Asset Preservation and Replacement (https://www.revisor.mn.gov/statutes/?id=84.946)

Policy

Appropriation Entries

After each bonding bill is enacted, agencies originate the appropriation entries in the Appropriation Maintenance Application (AMA) 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. EBOs will send information about the legal citation and other appropriation attributes to agencies following enactment of a bonding bill. 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.

Capital projects commonly involve funding from multiple sources. In addition to state funds, nonstate sources may include federal, local and private funds.

Nonstate funds contributed to state-owned projects should be treated as dedicated receipts and established in separate appropriation accounts for each authorization. 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. In general, separate accounts for federal funds are required when federal programs are identified by unique Catalog of Federal Domestic Assistance (CFDA) numbers.

Eligible and Ineligible Capital Expenses

Agencies and grantees may only use general obligation bond proceeds and general fund cash appropriations limited to capital expenditures for eligible or conditionally eligible capital expenditures as detailed below. Agencies must pay ineligible expenses from funds other than general obligation bond proceeds. Ineligible expenses may be paid with general fund cash if not prohibited by law. The table below provides examples of eligible and ineligible capital expenses, although it is not an exhaustive list.

Eligible Capital Expenses	Ineligible Capital Expenses	Conditionally Eligible Capital Expenses
Land acquisition, predesign, design, construction, and other improvements or acquisitions of tangible fixed assets of a capital nature.	General operating expenses and general administration or similar costs, moving and relocation expenses, overhead, master planning, maintenance, operating costs, software and personal property such as computers.	Major remodeling IF it adds to the value or life of a building AND is not of a recurring nature
Agencies (not grantees) given legislative authority to use general obligation bond proceeds to pay for capitalizable agency staff costs according to Generally Accepted Accounting Principles.	Depreciation, amortization, or overhead.	Equipment ONLY IF purchased and installed upon initial acquisition and construction of a building, expansion or major remodeling AND needed for the governmental program to operate in the project.

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. The staff costs must be properly capitalizable under generally accepted accounting principles. Agencies must obtain Minnesota Management and Budget's (MMB) approval prior to expending any bond appropriations for capitalizable staff costs. 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 the Capital Budget Coordinator and to the Capital Bonding Coordinator for approval by MMB-Debt Management, which outlines their proposed plan for tracking and reporting all agency staff time funded with general obligation bond proceeds and an estimate of total staff time to be charged to each project.

After approval of its plan by MMB-Debt Management, each agency must submit a quarterly report to its EBO and to and to the Capital Bonding Coordinator detailing the staff costs being charged to each capital project. MMB has prepared a quarterly reporting template for agencies that can be obtained from the Capital Bonding Coordinator. 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.

Requirements Before Spending Capital Appropriations

Capital appropriations may be expended once Minnesota Statutes 16A.695 and 16A.502 documentation requirements have been submitted by agencies and reviewed and approved by MMB, as applicable. Requirements vary by type of capital appropriation and are detailed below (an appropriation may fall into more than one category):

1. **Capital Appropriations with Matching Requirements; Project Full Funding**

    - **For capital appropriations with matching requirements, including both direct earmarks and agency grant programs 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 or relevant state statute and has all the necessary funds to complete the project.**

    - **For capital appropriations where the project budget is greater than the appropriation amount, documentation must be received and approved by MMB which shows all of the necessary funds to complete the project are available.**

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. Nonstate matching sources may include federal, local and private funds. If the appropriation bill requires nonstate match, the account will be set up as a contingent account (i.e., the budget status will be put on "hold") and will only be opened once match documentation has been provided to and approved by 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 [of MMB] has determined that the commitment is sufficient."

It may become necessary to create a control and an operational account when an agency has received a capital appropriation to be disbursed to multiple grantees. The original appropriation account will serve as a control account; the new account will function as an operational account. Once the Capital Bonding Coordinator has approved the match or full funding requirement, an agency may submit AMA transactions to increase budget authority in the operational account, and decrease budget authority in the control account. Expenditures will be made only from the operational account.

For projects that will be owned, developed or managed by political subdivisions, nonstate 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 nonstate funds necessary to complete the projects have been secured or are legally committed. State agencies should collect this information from grantees and submit to the Capital Bonding Coordinator for approval.

The table below shows the required method of documentation for different types of funding commitments, including federal, local, and in-kind contributions (when permitted by law). 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.

Type of Funds	Method of Documentation	Applicable Conditions (if any)
Federal	An appropriation in federal law or a grant award letter from a federal agency.	
Local Government	Funds in a segregated account, an approved budget line item, or a full funding resolution enacted by the local governing body.	
In-Kind Contributions (when permitted by law)	Provide the name of the contributor, a description of the contribution, and the detail on how the amount of the in-kind contribution or service was determined. The value of land or buildings donated to a project must be established by a qualified appraisal.	The value of land or buildings donated to a project must be included in estimates of total project costs and may be considered a part of a matching contribution IF used exclusively for the purpose of the new capital project.

Type of Funds	Method of Documentation	Applicable Conditions (if any)
Pledges	Cash in a restricted, segregated account; or loan or irrevocable letter of credit from a third-party financial institution.	Pledges to be collected in the future do not qualify.

2. **Capital Appropriations with Program Funding Review Requirements**

   - **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.**

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 encumbering funds in 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 nonstate 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.

Specific questions on program funding review requirements of Minnesota Statutes 16A.695 and this MMB Operating Policy may be addressed to the Capital Bonding Coordinator.

3. **Capital Grants to Local Governments**

    - **When capital appropriations are authorized to be used as project grants for distribution to local governments based on various matching formulas, the agency named in the appropriation bill is responsible for releasing grant funds and must ensure grantees satisfy applicable matching requirements.**

Grant agreement templates approved by the Office of the Attorney General are available on [MMB's website](). Agencies are responsible for preparing grant agreements, and may choose either the end grant template, where state payments are disbursed to the grantee at project completion, or the construction grant template, where state payments are disbursed to the grantee as costs are incurred, in consultation with the grantee. Regardless, agency prepared grant agreements must clearly identify the methodology and schedule for state payments to local grantees.

4. **Capital Appropriations with other Legal Requirements**

    - **Capital appropriations with other legal requirements should meet all requirements of the statute as well as the Commissioner's Order[1], when applicable, and may also be approved by the Attorney General's office and MMB.**

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

[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 Order"). It was issued on July 14, 1994 and has since been amended.

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 Minnesota Statutes 16A.695 and 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 MMB-Debt Management.

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.

Related Policies and Procedures

MMB Statewide Operating Policy 0301-01: Establishing Budgets (http://mn.gov/mmb-stat/documents/accounting/fin-policies/chapter-3/0301-01-establishing-budgets-policy.pdf)

MMB Statewide Operating Policy 0308-01: Moving and Relocation Expense for Capital Projects (http://mn.gov/mmb-stat/documents/accounting/fin-policies/chapter-3/0308-01-capital-project-moving-expense-policy.pdf)

MMB Statewide Operating Policy 0402-02 Single Audit: Accounting for and Reporting of Federal Financial Assistance (http://mn.gov/mmb-stat/documents/accounting/fin-policies/chapter-4/0402-02-single-audit-policy.pdf)

See Also

MMB Policy Regarding Use of General Obligation Bond Proceeds to Fund Staff Costs (https://mn.gov/mmb/debt-management/capital-projects/staff-costs/)

After the Bonding Bill Memo (https://mn.gov/mmb/debt-management/capital-projects/after-the-bonding-bill/)

State of Minnesota Capital Grants Manual (https://mn.gov/mmb/debt-management/capital-projects/capital-grants-manual/)

MMB Post-Issuance Compliance Guidelines (https://mn.gov/mmb/debt-management/bonding/post-issuance-compliance/)

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

Order of the MMB Commissioner issued July 14, 1995, as amended (https://mn.gov/mmb/assets/fourth-order_tcm1059-127605.pdf)