

8820.1500 CONSTRUCTION FUNDS.

Subpart 1. [Repealed by amendment, 8 SR 2146]

Subp. 2. **State-aid contracts.** Upon receipt of an abstract of bids, a certification as to the execution of a contract that includes a requirement for bond, and a payment request, the commissioner shall promptly release from the funds available to the county or urban municipality up to 95 percent of the state-aid portion of the contract. Upon further receipt of a signed supplemental agreement, change order, or work order, including by means of an electronic signature, for a major addition to the contract, or appraised values for additional right-of-way costs, the commissioner shall promptly release from the funds available to the county or urban municipality up to 95 percent of the state-aid portion of the supplemental agreement, change order, work order, or right-of-way appraised value. The commissioner shall keep the remaining percentage of the state-aid share of the contract, except of approved right-of-way claims which will be paid in full upon proof of acquisition and availability of funds, until the project is 95 percent or more completed as substantiated and requested by the county or city engineer.

Upon receipt of the final project acceptance and final cost determination by the county or city engineer, and upon concurrence of project acceptance by the district state aid engineer, the commissioner shall promptly release from the funds available any remaining money due to the state-aid portion of the contract.

Subp. 3. **Federal-aid contracts.** Under authority of an agency agreement and acting as its agent in federal-aid operations, the commissioner may release from available state-aid funds for transfer to the state-aid agency account up to 100 percent of the county's or urban municipality's state-aid-eligible share of any contract obligations for which the commissioner is not reimbursed by the federal government, county, or urban municipality. When the commissioner is also contracting for work as agent for a county or urban municipality, and when the county or urban municipality is using funds other than federal aid funds, state or state-aid funds, or transportation revolving loan funds, 100 percent of the contract amount to be paid by those other funds must be deposited in the state-aid agency account before the contract is awarded.

Subp. 4. **Force account agreements.** Upon receipt of an approved force account agreement and a payment request, the commissioner shall promptly release from funds available for these approved projects 95 percent of the agreement amount. The commissioner shall keep the remaining percentage of the agreement amount until the project is 95 percent or more completed as substantiated and requested by the county or city engineer, or until the final cost is determined and the project accepted by the district state-aid engineer.

Subp. 5. **Payment limitations.** Approval of state-aid projects by the commissioner does not imply that state-aid payments will be made in excess of the construction funds available from current state-aid allotments. A county or urban municipality having depleted its currently available funds during the calendar year will not be eligible for reimbursement from future allotments unless a request for an advance has been approved or a project is completed in a subsequent year and funds are available.

Subp. 6. **Engineering costs.** Requests for reimbursement of project development costs may be submitted at any time after the costs have been incurred. The commissioner, upon receipt of this request supplemented by documentation as may be requested, shall authorize the reimbursement for actual documented project development costs. Requests for reimbursement must be processed at least semiannually, except that payments requested with the report of state-aid contract, report of final estimate, force account partial payments, or force account final payments must be made at the time the reports are processed.

Requests for payment of actual construction engineering costs must be documented and submitted along with the final estimate report. The commissioner, upon receipt of this request, shall authorize a construction engineering payment.

The sum of the project development and construction engineering charges must be limited to 25 percent of the eligible construction costs. Limitations for project development costs paid before a contract is awarded must be based upon the engineer's estimate of the eligible construction costs.

Subp. 7. **Right-of-way.** State-aid payments for right-of-way costs on approved projects must be limited to 95 percent of the approved claim until the acquisition of right-of-way parcels required are actually completed and the final costs established. Each parcel contained in an approved right-of-way plan must be considered as separate entities in regard to payment eligibility.

Subp. 8. **Advance from county funds.** When the commissioner approves a request from the county board for constructing an approved county state-aid project requiring county state-aid highway funds in excess of the county's available balance, the county may make advances from any state-aid or local funds available to the county for the construction of that project. The request for an advance must be in the form of a resolution. Advances repaid from the turnback account must be processed according to part 8820.2900, subpart 4. The commissioner shall repay the advanced funds out of subsequent county construction account apportionments or turnback account apportionments in accordance with the terms and conditions specified in the approved request.

Subp. 9. **Advance from county state-aid highway fund.** When the commissioner approves a request from the county board for constructing an approved county state-aid project requiring county state-aid highway funds in excess of the county's available balance, the county may request to advance funds from the county state-aid highway fund. The request for an advance must be in the form of a resolution. The commissioner shall restore the county state-aid fund in accordance with the terms and conditions specified in the approved request.

On an annual basis, the County Screening Board shall recommend to the commissioner guidance for advance funding.

Subp. 9a. **Advance from town bridge account.** When the commissioner approves a request from the governing body of a county for the replacement, reconstruction, or rehabilitation of a town bridge requiring funds in excess of the county's available town bridge account, the commissioner shall reimburse those expenditures in accordance with the terms and conditions specified in the approved request.

Subp. 10. **Advance from urban municipal funds.** When the commissioner approves a request from the governing body of an eligible urban municipality for constructing an approved municipal state-aid street project requiring funds in excess of the urban municipality's available balance, then, subject to limits of the law, the urban municipality may make advances from any state-aid or local funds available to the urban municipality for the construction of that project. The request for an advance must be in the form of a resolution. Advances repaid from the turnback account must be processed according to part 8820.2900, subpart 4. The commissioner shall repay the advanced funds out of subsequent urban municipal construction account apportionments or turnback account apportionments in accordance with the terms and conditions specified in the approved request.

Subp. 10a. [Renumbered subp. 9a]

Subp. 10b. **Advance from municipal state-aid street fund.** When the commissioner approves a request from the governing body of an eligible urban municipality for constructing an approved municipal state-aid project requiring municipal state-aid street funds in excess of the urban municipality's available balance, then the urban municipality may request to advance funds from the municipal state-aid street fund. The request for an advance must be in the form of a resolution. The commissioner shall restore the municipal state-aid street fund in accordance with the terms and conditions specified in the approved request.

On an annual basis, the Municipal Screening Board shall recommend to the commissioner guidance for advance funding.

Subp. 11. **County or municipal bond account.** With regard to a county or municipal bond account, a county or urban municipality that resolves to issue bonds payable from the appropriate state-aid fund in accordance with law for the purpose of establishing, locating, relocating, constructing, reconstructing, or improving state-aid streets or highways and, for a county only, constructing buildings and other facilities for maintaining a county state-aid highway under its jurisdiction, shall certify to the commissioner within 30 days following issuance of the bond, the amount of the total obligation and the amount of principal and interest that will be required annually to liquidate the bonded debt. The commissioner shall set up a bond account, itemizing the total amount of principal and interest involved and shall annually certify to the commissioner of management and budget the amount needed from the appropriate state-aid construction fund to pay the principal due on the obligation, and the amount needed from the appropriate state-aid maintenance fund to pay the current interest. The total maximum annual repayment of funds loaned from the transportation revolving loan fund plus state-aid bond funds that may be paid with state-aid funds is limited to 90 percent of the amount of the county's or urban municipality's last annual construction allotment preceding the bond issue. Proceeds from bond sales are to be expended only on approved state-aid projects and for items determined to be eligible for state-aid reimbursement. A county or urban municipality that intends to expend bond funds on a specific state-aid project shall notify the commissioner of this intent without delay upon awarding a contract or executing a force account agreement. Upon completion of each such project, a statement of final construction costs must be furnished to the commissioner by the county or the urban municipality. Counties may only fund the portion of maintenance buildings and structures related to state-aid transportation maintenance operations. If a building or structure or any portion of it is used for other than state-aid maintenance

purposes during its useful life, the commissioner may determine an amount the county shall pay back to the county's maintenance account.

Subp. 11a. **Transportation revolving loan fund.** The commissioner shall set up a payment schedule that matches the transportation revolving loan fund repayment schedule, itemizing the total amount of principal and interest. The amount needed from the appropriate state-aid construction fund to pay the principal due on the loan and the amount needed from the appropriate state-aid maintenance fund to pay the current interest must be paid to the county or urban municipality.

The total maximum annual repayment of funds loaned from the transportation revolving loan fund and state-aid bond funds subject to reimbursement from state-aid funds due in any calendar year is limited to 50 percent of the amount of the county's or urban municipality's last annual construction allotment at the time of the loan.

The loaned funds subject to reimbursement from state-aid funds are to be expended only on approved state-aid projects and for items determined to be eligible for state-aid reimbursement.

A county or urban municipality that intends to borrow funds for a specific state-aid project shall notify the commissioner of this intent without delay upon awarding a contract or executing a force account agreement and submittal of a Report of State Aid Contract.

Upon completion of each state-aid project, a statement of final construction costs must be furnished to the commissioner by the county or the urban municipality in the form of a Report of Final Estimate.

Subp. 12. **Municipal state-aid funds; county or trunk highway projects.** The governing body of an urban municipality desiring to use a portion of its state-aid funds for improvements within its boundaries on a state trunk highway or county state-aid highway, must have the plans approved by the state-aid engineer before bids are opened for these purposes. The extent of state-aid participation must be determined on the same basis as a regular municipal state-aid highway project, including engineering and right-of-way costs.

Statutory Authority: *MS s 14.386; 14.389; 161.082; 161.083; 162.02; 162.09; 162.155; L 1983 c 17*

History: *8 SR 2146; 15 SR 2596; 20 SR 1041; 23 SR 1455; 24 SR 1885; 29 SR 449; 32 SR 608; L 2009 c 101 art 2 s 109; 36 SR 925; 42 SR 485*

Published Electronically: *November 20, 2017*