

# LEGISLATIVE COMMISSION ON MINNESOTA RESOURCES 2003 TERMS AND CONDITIONS – ALL PROJECTS

“Pass-through” projects also have this information in the LCMR Agreement.

## 1. ELIGIBLE COSTS

Eligible costs are those costs directly incurred through Project activities that are solely related to and necessary for producing the work products described in the approved Work Program during the appropriation period. All dollars are awarded on a reimbursement basis, unless specifically authorized.

Eligible costs may include the following and are eligible only if specified in the approved Attachment A of the Work Program. Eligible costs must be documented as specified in the Reimbursement Manual available from the authorized contract person for the State:

- a) Expenditures incurred only after the effective date in the approved Work Program. No expenditures will be allowed after June 30, 2005 or 2006 unless approved by specific law;
- b) Advertising costs solely for (1) Recruitment of personnel; (2) Solicitation of bids; (3) Disposal of scrap materials; (4) Other purposes specifically provided for in the approved Work Program;
- c) Capital expenditures for facilities, equipment and other capital assets as expressly approved in the Work Program. For expenditures greater than \$3,500, the Recipient must include in the Work Program an explanation as to how all the equipment purchased with the appropriation will continue to be used for the same program through its useful life, or, if the use changes, a commitment to pay back to the Environment and Natural Resources Trust Fund an amount equal to either the cash value received or a residual value approved by the director of the LCMR if it is not sold;
- d) Actual communication costs incurred for telephone calls, postage, and similar services. Purchase of durable communication devices such as computers, pagers, cell phones, personal data assistants (PDAs), etc. must be specifically provided for in the approved Work Program;
- e) Materials and supplies and incoming freight charges for them;
- f) Publication and printing costs (including the process of composition, plate-making, press work, and binding and the end products produced) necessary for contract administration; work products production; and biennial reports relating to work program accomplishments;
- g) Transportation and travel expenses such as lodging, meals, and mileage of personnel involved in the Project in the same manner and in no greater amount than provided for in the current "Commissioner's Plan" promulgated by the Commissioner of Employee Relations and as provided by LCMR or, for University of Minnesota (U of M) projects, the University of Minnesota plan found at <http://www.fpd.finop.umn.edu/groups/ppd/documents/policy/travel.cfm>.

Allowable meal and lodging expenses are for employees only. Purchasing meals for others is not an allowable expense. All out of state travel must be explicitly approved in the Work Program;

- h) Wages and expenses of salaried Recipient employees if specified and documented in the Work Program. For State Agencies: use of unclassified staff only OR request approval for the use of classified staff accompanied by an explanation of how the agency will backfill that part of the classified staff salary proposed to be paid for with this appropriation. This is subject to specific discussion and approval by LCMR;
- i) Fringe benefit costs limited to salary, FICA/Medicare, retirement, and health insurance of Recipient's employees if specified in the Work Program;
- j) Professional services specified in the approved Work Program that are rendered by individuals or organizations not a part of the Recipient;
- k) Eligible expenditures incurred after the effective date of the approved Work Program and before the effective date of their Agreement.

## **2. NON-ELIGIBLE COSTS**

Non-eligible costs for reimbursement mean all costs not defined as eligible costs, including but not limited to the following:

- a) Any costs incurred before the project is authorized, July 1, 2003 or Work Program approval, whichever is the later;
- b) Fund raising;
- c) Taxes, except sales tax on goods and services;
- d) Insurance, except title insurance;
- e) Attorney fees; except for acquisition and clearing title to land;
- f) Loans, grants, or subsidies to persons or entities for development;
- g) Bad debts, late payment fees, finance charges or contingency funds;
- h) Interest;
- i) Lobbyists;
- j) Political contributions;
- k) Investment management fees;
- l) Memberships – (including subscriptions and dues);
- m) Indirect costs – (such as office maintenance, office utility costs, refreshments for staff, decorations);
- n) Directors or officers salary unless expressly approved in the Work Program together with a plan of activities and actual work products;
- o) Office rental fees - (including storage space rental);
- p) Food and refreshments, unless expressly approved in the Work Program together with a plan of activities;
- q) Publications and periodicals;
- r) Merit awards and bonuses;
- s) Employee worksite parking;
- t) Entertainment;
- u) Gifts and prizes.

**3. WORK PROGRAM AMENDMENTS**

Any Amendments to the work program must be submitted in writing to and formally approved by the LCMR Director or Commission before they are effective. These will include changes in planned activities in the Results section of the Work Program or changes in budgeted line items.

**4. REPORTS**

The Recipient shall submit periodic Work Program status reports to the LCMR in a form prescribed by the LCMR on or before the reporting dates stated in the Work Program.

**5. ACKNOWLEDGMENTS**

The Recipient agrees to acknowledge the State's financial support for this Project. Any statement, press release, bid, solicitation, or other document issued describing the Project shall provide information on the amount and proportion of State funds supporting the total cost of the Project and will contain the following language:

Funding for this project was recommended by the Legislative Commission on Minnesota Resources from (the) \_\_\_\_\_(Fund)  
(Insert name of funding source).

Any site developed or improved by this Project shall display a sign, in a form approved by the State, stating that the site has received funding from (the) \_\_\_\_\_(Fund) (Insert name of funding source).

**6. SUBCONTRACTORS**

The Recipient agrees that if they subcontract any portion of this Project over \$2,500 to another entity that the agreement or contract with the subcontractor will contain all provisions of the approved LCMR Agreement in its entirety. Copyrights, patents, services, and trademarks will be protected and owned by the same percentage as if the Recipient had obtained the intellectual rights. This limitation does not apply to supplies and materials that are purchased from vendors.

**7. PUBLICATIONS**

Researchers engaged in this Project are encouraged to present at symposia, national or regional professional meetings, and to publish methods and results of the project in journals, theses or dissertations or otherwise of their own choosing provided necessary steps have been taken to protect the patents, copyrights, and other intellectual property rights resulting from the Project. Research results must include an acknowledgment statement as provided in the Section entitled "Acknowledgements".

The Recipient shall provide advance notification to the LCMR two weeks before publicizing any data or information derived from the Project in a press release, publication, or presentation.

## 8. LAND ACQUISITION

Minn. Stat 116P.15 [LAND ACQUISITION RESTRICTIONS.]

Subdivision 1. [Scope] A recipient of an appropriation from the trust fund or the Minnesota future resources fund who acquires an interest in real property with the appropriation must comply with this section. If the recipient fails to comply with the terms of this section, ownership of the interest in real property transfers to the state. For the purposes of this section, "interest in real property" includes, but is not limited to, an easement or fee title to property.

Subdivision 2. [RESTRICTION; MODIFICATION PROCEDURE.]

- (a) An interest in real property acquired with an appropriation from the trust fund or the Minnesota future resources fund must be used in perpetuity or for the specific term of an easement interest for the purpose for which the appropriation was made.
- (b) A recipient of funding who acquires an interest in real property subject to this section may not alter the intended use of such interest in real property or convey any interest in the real property acquired with the appropriation without the prior review and approval of the commission. The commission shall establish procedures to review requests from recipients to alter the use of or convey an interest in real property. These procedures shall allow for the replacement of the interest in real property with another interest in real property meeting the following criteria:
  - (1) the interest is at least equal in fair market value, as certified by the commissioner of natural resources, to the interest being replaced; and
  - (2) the interest is in a reasonably equivalent location, and has a reasonably equivalent usefulness compared to the interest being replaced.
- (c) A recipient of funding who acquires an interest in real property under paragraph (a) must separately record a notice of funding restrictions in the appropriate local government office where the conveyance of interest in real property is filed. The notice of funding agreement must contain:
  - (1) a legal description of the interest in real property covered by the funding agreement;
  - (2) a reference to the underlying funding agreement
  - (3) a reference to this section; and
  - (4) the following statement:

"This interest in real property shall be administered in accordance with the terms, conditions, and purposes of the grant agreement or work program controlling the acquisition of the property. The interest in real property, or any portion of the interest in real property, shall not

be sold, transferred, pledged, or otherwise disposed of or further encumbered without obtaining the prior written approval of the legislative commission on Minnesota resources or its successor. If the holder of the interest in real property fails to comply with the terms and condition of the grant agreement or work program, ownership of the interest in real property shall transfer to this state.”

## **9. DATA COMPATIBILITY**

All data collected by this appropriation that have value for planning and management of natural resource, emergency preparedness, and infrastructure investments must conform to the enterprise information architecture developed by the office of technology. Spatial data must conform to geographic information subsystem guidelines and standards outlined in that architecture and adopted by the Minnesota geographic data clearinghouse at the land management information center. A description of these data must be made available on-line through the clearinghouse, and the data themselves must be accessible and free to the public unless made private under the Data Practices Act, Minnesota Statutes, chapter 13.

To the extent practicable, summary data and results of projects funded by this appropriation should be readily accessible on the Internet.

As part of the project expenditures, recipients of land acquisition appropriations must provide the information necessary to update public recreation information maps to the department of natural resources in the specified form.

## **10. ACCESSIBILITY**

Any new structures built under this Project must be shown to meet the design standards in the Americans with Disabilities Act Accessibility Guidelines. Nonstructural facilities such as trails, campgrounds, picnic areas, parking, play areas, water sources, and the access routes to these features should be shown to be designed using guidelines in the Recommendations for Accessibility Guidelines: Recreational Facilities and Outdoor Developed Areas.

Copies of accessibility guidelines can be ordered from the U.S. Access Board at (202) 272-5434, or downloaded off their web site at <http://www.access-board.gov>.

## **11. OWNERSHIP OF MATERIALS AND INTELLECTUAL PROPERTY RIGHTS**

All rights, title, and interest to all intellectual property rights, including patents, copyrights, services and trade marks, in all materials conceived or originated by the Recipient either individually or jointly with others, which arise out of the performance of this agreement, are jointly owned by the Recipient and the State. The State's ownership shall equal the percentage of the total Project cost paid for by state funds under this appropriation. The Recipient's contribution must be for actual and direct costs for the Project. All Recipient's contributions must be approved in advance to be eligible to qualify as the Recipient's contribution to the total Project costs for delivery ownership and regular percentages. This

ownership interest shall not be reduced by any reimbursements to the Fund made by the Recipient Sales of Products or Royalty Payments requirements. Any report, study, computer software, data base, model, invention, photograph, negative, audio or video recording, or other item or document, in whatever form, created or prepared by the Recipient in the performance of its obligations under this Agreement are the exclusive property of the Recipient of the appropriation and the State except where stated otherwise in this appropriation. The Recipient of the appropriation, at the request of the State, shall execute any necessary documents needed to transfer ownership rights to the State.

Whenever any invention, improvement, or discovery (whether or not patentable) is made or conceived for the first time, actually or constructively reduced to practice by the Recipient or its employees in the course of or in connection with this appropriation, the Recipient shall immediately give the LCMR written notice thereof, and shall promptly furnish the LCMR with complete information thereon. The LCMR and the Recipient have the sole right to determine whether or not and where a patent application shall be filed.

The Recipient and the State reserve the right to use for their own purposes any intellectual property right produced as the result of the Project without payment to the other party. The party using said product shall protect the intellectual property rights to the product and advise the other party of its use.

The State reserves "march-in" rights which can be exercised if the Recipient fails to market or offer to market any product resulting from activities undertaken pursuant to this Agreement within three (3) years from the termination of this Agreement, notwithstanding the above provisions of this section. The Recipient shall, upon request of the State, execute and provide the necessary documents for this purpose.

## **12. OWNERSHIP OF RESEARCH RESULTS**

If, within three (3) years of the termination of this agreement, the Recipient elects not to commercialize any product derived from the research conducted under this Project, the research materials shall be returned to the State without cost and free and clear of any obligation to the Recipient.

The Recipient represents and warrants that the material produced under this Agreement does not and will not infringe upon the intellectual property rights of another, including patents, copyrights, trade secrets, trade and services marks and names. The Recipient will defend and indemnify the State at the Recipient's expense in any claims or actions brought against the State to the extent that it is based on a claim or action that all or part of the material infringes upon the intellectual property rights of another. The Recipient is responsible for obtaining any necessary licenses to use the intellectual property rights of another.

## **13. SALE OR LICENSE OF PRODUCTS**

The Recipient agrees to reimburse the Fund revenues it receives from licenses, transfers, or other income generated from products based upon materials derived from this Project up to

the amount of State funds provided under this appropriation unless expressly approved under the work program. Such reimbursement will be made by the Recipient upon first sale of any product worldwide whether or not such products are patentable.

The Recipient, for itself and its licensees, agrees to sell any product derived from this appropriation and not subject to ownership by the State to the State of Minnesota for the royalty-free wholesale price less a ten percent (10%) discount. This clause shall continue to be in effect after all State funds have been repaid to the State.

The Recipient agrees that if revenue is generated from putting on workshops, conferences, etc. under this Project, eligible project expenses will be offset with this revenue and reimbursement will not be requested for expenditures covered by this revenue.

#### **14. ROYALTY PAYMENTS**

The State owns and shall take title to the percentage of a royalty, copyright or patent resulting from this Project equal to the percentage of the project's total funding provided by this appropriation subject to the provisions of Minnesota Statutes Chapter 116P.10. Cash receipts resulting from royalties from the licensing of copyright, patent, or other intellectual properties shall be paid to the Fund on a quarterly basis within thirty (30) days after the end of each calendar quarter. The Recipient shall not license the intellectual property rights without the express written agreement of the State.

#### **15. PURCHASE OF RECYCLED AND RECYCLABLE MATERIALS**

The Recipient shall use this appropriation in compliance with Minnesota Statutes Chapter 16B.121 to 16B.122 requiring the purchase of recycled, repairable, and durable materials, the purchase of uncoated paper stock, and the use of soy-based ink, the same as if it were a state agency. The Recipient shall ensure that all sub-recipients comply with this requirement.

#### **16. ENERGY CONSERVATION**

Any capital improvements made under this Project shall comply with the applicable energy conservation standards contained in law, including Minnesota Statutes Chapter 216C.19 to 216C.20 and rules adopted thereunder. The Recipient may use the energy planning, advocacy, and state energy office units of the Department of Commerce to obtain information and technical assistance on energy conservation and alternative energy development relating to the planning and construction of the capital improvement Project.

#### **17. NATIVE PLANT SPECIES**

Vegetation planted must be native to Minnesota and preferably of the local ecotype unless the work program approved by the commission expressly allows the planting of species that are not native to Minnesota.

#### **18. OTHER CONDITIONS**

It is a condition of acceptance of the appropriation that any agency or entity receiving the appropriation must comply with Minnesota Statutes, Chapter 116P.

